



Planning and Development Committee

March 15, 2019

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent 99% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

S.B. 1012 "An Act Concerning Certain Municipal Property Tax Appeals and Contingency Agreements for Expert Testimony in Such Appeals."

CCM requests that ***SB 1012 be amended*** under both Connecticut General Statutes section 12-117a and 12-119 to, (1) prohibit contingency fee agreements in all municipal tax appeal proceedings, and (2) include language to require that within ninety (90) days of the filing of the appeal, plaintiffs file an appraisal of the subject property completed by a person or a firm licensed to perform appraisals in the State of Connecticut. The failure to file such an appraisal within such time period shall be grounds for dismissal of the appeal.

This bill, as amended by the above, would assist municipalities in avoiding numerous and often frivolous property tax assessment appeals, especially following a revaluation. Municipalities in Connecticut have seen a large increase in tax assessment appeals, often at the instigation of out of state companies that file hundreds of nuisance tax appeals with the intent of getting a municipality to settle rather than expend limited financial resources fighting these frivolous claims in court.

The Connecticut Magazine published an article by Christopher Hoffman in December of 2014, on the subject. It is attached to our testimony. Here are some quotes from that article.

"The results were sobering. Connecticut municipalities are hemorrhaging at least \$20 million of tax revenue a year from unjustified tax appeals, an amount equal to the annual budgets of the many medium-sized towns"

"local tax appeals have become big business in Connecticut and nationwide. In Connecticut alone, tax representatives—companies that specialize in bringing tax appeals—and lawyers earn millions of dollars a year challenging local assessments."

“By working on contingency, tax representatives can swamp a town with questionable tax appeals at very little cost to them and none to their clients, assessors complain. Unable to litigate so many cases, assessors say they have no choice but to settle, even if appeals are meritless.”

“Facing deep-pocketed corporations, big potential legal bills, years of delay and pressure from the courts to avoid trials, assessors say they have no choice but to settle in all but the most egregious cases.”

“95 percent of appeals result in reductions, justified or not.”

In addition, the New Haven Register published an article by Christopher Hoffman in February of this year, on the subject. That article is also attached to our testimony. Here is an excerpt from that article.

“Once relatively rare, assessment appeals have morphed into a lucrative business dominated by specialized companies and law firms. So-called tax representatives typically work on contingency, blanketing towns with letters offering to file appeals for free, with the owner only paying if they win a reduction.

Missouri-based [Joseph C. Sansone Co.](#), a large tax representative company operating in Connecticut, boasts on its website that it files the most tax appeals in the state and is willing to take the cases to court.

“We have been identified as filing the most appeals in the state (Connecticut) annually,” its website reads.

According to the website, the company [takes up to 40 percent of its cases](#) “when deemed necessary” to Connecticut Superior Court “to achieve the highest results for our clients.”

Compounding the problem is the apparent policy of certain deep-pocketed national companies, including Target and Walgreens, to automatically appeal virtually every assessment.

As a result, local assessors are swamped by appeals, many of them baseless. Lacking the resources to take every questionable case to trial, they often grant reductions even when they feel they lack merit. The result is a steady drain on local tax revenue that assessors [estimate is at least \\$20 million annually](#), funds that must be made up either by tax increases on other taxpayers or budget cuts.”

CCM does not seek to limit any residents’ ability to appeal their assessment, we are seeking to repair a broken system that limits the filing of numerous costly and frivolous claims.

Again, we would ask the committee **to amend the language** under both Connecticut General Statutes section 12-117a and 12-119 to, (1) prohibit contingency fee agreements in all municipal tax appeal proceedings, and (2) include language to require that within ninety (90) days of the

filing of the appeal, plaintiffs file an appraisal of the subject property completed by a person or a firm licensed to perform appraisals in the State of Connecticut. The failure to file such an appraisal within such time period shall be grounds for dismissal of the appeal.

CCM urges the Committee to **amend S.B 1012 as suggested above.**

★★★★

If you have any questions, please contact Donna Hamzy Carroccia, Advocacy Manager of CCM at dhamzy@ccm-ct.org or (203) 843-0705.

The Connecticut Story

Love Target's Prices? How About Big Box Stores' Property Tax Appeals?

BY CHRISTOPHER HOFFMAN



Several years ago, Newington Assessor S. Steven Juda become concerned about the growing flood of property tax appeals swamping his and other towns.

Juda, widely recognized by his peers as one of the state's ablest assessors, began doing what he does best: collecting and analyzing data.

The results were sobering. Connecticut municipalities are hemorrhaging at least \$20 million of tax revenue a year from unjustified tax appeals, an amount equal to the annual budgets of the many medium-sized towns, Juda found.

"The number is probably greater than that," Juda says. "It's getting worse. Every time I go to (tax) court, I see assessors from other towns."

Manchester Assessor John Rainaldi, president of the [Connecticut Association of Assessing Officers](#), calls Juda's figure accurate. He added at least another \$200,000 a year is spent statewide fighting unwarranted tax appeals.

"It comes up all the time at our meetings," Rainaldi says. "What can be done about it? It's a major concern and a major issue."

"It's an Industry"

Once primarily the province of anti-tax ideologues and skinflints, local tax appeals have become big business in Connecticut and nationwide. In Connecticut alone, tax representatives—companies that specialize in bringing tax appeals—and lawyers earn millions of dollars a year challenging local assessments.

The state law firm of [Pullman & Comley](#), for example, whose clients include Target and Walgreens, employs four attorneys in a separate tax appeal division. [Joseph C. Sansone Company](#), a Missouri-based tax representative that operates nationwide, does so much business in Connecticut that it has a satellite office in Hartford.

“It’s absolutely an industry nationwide,” West Hartford Assessor Joseph Dakers Sr. says.

Both law firms and tax representatives openly recruit clients. Pullman & Comley sends emails to prospective customers already known to the firm. Sansone routinely uses the Freedom of Information Act to obtain a list of commercial property owners in towns undergoing revaluation, assessors say. It then blitzes taxpayers with letters and sometimes phone calls offering to reduce their taxes.

The offers are hard to resist because Sansone and other tax representatives charge taxpayers nothing up front, assessors say. The client only pays if the tax representative wins a reduction, the fee typically being a third to half of any savings.

By working on contingency, tax representatives can swamp a town with questionable tax appeals at very little cost to them and none to their clients, assessors complain. Unable to litigate so many cases, assessors say they have no choice but to settle, even if appeals are meritless.

“Tax representatives can be very, very frustrating for assessors,” says Colchester assessor John Chaponis, who tries to resist them. “My feeling is that they don’t care about fair market value at all, but rather what kind of reduction they can get for doing as little work as possible so they can charge a fee.”

Joseph C. Sansone Company did not respond to requests for comment for this article. Extax Consulting Group, LLC, of Massachusetts, another tax representative active in the state, also declined comment.

Big Tax Breaks for Big Corporations, None for Homeowners

Tax representatives aren’t the only problem, assessors say. Many large corporations, including Target and Walgreens, routinely appeal assessments, a practice viewed as a tax avoidance strategy instead of a dispute over value. Stop & Shop, Lowe’s and Home Depot also frequently sue to lower property values, court records show.

Assessors say that even before values are set, they can predict with 80 or 90 percent accuracy what businesses will appeal.

“An assessor is never always right,” Juda says. “But having said that, an assessor isn’t always wrong either. And the presumption by all these appeals is that the assessors in all these communities are always wrong.”

Target, for example, has appealed the assessments on 13 of its 20 Connecticut stores since 2007, winning reductions that have slashed its yearly local tax bill by hundreds of thousands of dollars.

Asked to comment on its tax appeal policies, Target spokesman Evan Lapiska said in a written statement that the Minnesota-based company “pays its fair share of taxes and utilizes available appeal procedures, when necessary, to ensure our properties are assessed at fair market value.”

Facing deep-pocketed corporations, big potential legal bills, years of delay and pressure from the courts to avoid trials, assessors say they have no choice but to settle in all but the most egregious cases. Juda estimates that 95 percent of appeals result in reductions, justified or not.

That's an argument that attorney Elliott Pollack of Pullman and Comley, whose firm has saved Target, Walgreens and others hundreds of thousands of dollars through tax appeals, does not buy. His clients' appeals are backed by data and have merit, he claims. He says assessors should go to trial if they believe reductions are unjustified.

"If they feel their numbers are correct, why do they settle?" Pollack says. "Value is an art as well as science. Tax appeals begin where the science ends."

While tax representatives and lawyers may be saving corporate America millions of dollars every year, don't expect them to knock on the door of your house any time soon. Appealing home assessments typically costs more than the potential savings, making them unattractive to tax-appeal specialists.

Meanwhile, homeowners and businesses get left holding the bag for successful appeals.

"For every stipulated judgment granting a reduction, a tax increase gets passed on to every other taxpayer in my town," Chaponis says.

"We Feel that the Deck is Stacked Against Us"

Assessors' biggest complaint is the failure of the Tax and Administrative Appeals Court in the New Britain Superior Court to make taxpayers provide documentation that municipal values are wrong.

During early pretrial conferences, judges do not require plaintiffs to present formal appraisals or detailed rebuttals of assessments. Instead, they let them submit rudimentary, often deeply flawed "analyses" supported by little or no data and prepared by un- or under-qualified consultants, according to assessors.

Judges give these often questionable values the same credence as the town's carefully calculated and voluminously documented assessments and then try to get the parties to meet in the middle. That effectively flips the burden of proof from the taxpayer, where the law puts it, to the town, say assessors.

"We feel that the deck is stacked against us," Bethel assessor Ann Marie Heering says. "Mine should be considered right until it's proven wrong, and that's what the law says it should be."

Assessors say the court will order taxpayers to provide appraisals, but only when initial talks fail and cases appear headed to trial.

Judges also let out-of-state appraisers unlicensed in Connecticut and brought in for the day by Sansone and other tax representatives render opinions on value. That's a possible violation of state law because appraisers must be licensed in Connecticut to do appraisals here. The practice also raises ethical issues because appraisers are prohibited from working on contingency, the basis of many tax representatives' business.

Juda and other assessors add that tax court judges are otherwise knowledgeable, fair and do a good job. But some assessors and lawyers who defend towns in tax appeals avoid the New Britain tax court, saying local courts are quicker to compel taxpayers to present hard evidence.

“New Britain is a problem for us,” says Milford assessor Dan Thomas, who tries to keep his cases in the Ansonia-Milford district.

New London attorney Jeffrey Londregan, who defends towns in tax appeal cases, also avoids the New Britain tax court. He has won relatively quick dismissals of three tax appeals since 2013 when Sam’s Food Stores failed to respond to local judges’ orders to present documentation that municipal assessments were wrong. Chaponis got a Sam’s appeal in Colchester tossed using the same approach.

The appeals were among 61 affecting at least 67 properties that Sam’s, through attorney Michael D. Reiner, one of the state’s most prolific tax appeal filers, has brought since 2012.

“My client didn’t respond in the time required by the court,” says Reiner, who works for tax representatives and himself and defended his client’s many appeals as based on solid evidence. “It was an oversight and as a result the court dismissed the cases.”

Reiner, who declines to say whether he is working for a tax representative in the Sam’s cases, has won the Wethersfield-based chain reductions in 32 of the cases so far, lowering its taxes by tens of thousands of dollars a year, court records show.

Asked for comment on assessors’ concerns, Chief Court Administrator Patrick L. Carroll III calls the New Britain tax court “a success.”

“Much of the feedback has been positive, as parties are able to have their matter addressed quickly,” Carroll said in a prepared statement. “I should note that if the parties choose not to settle, they always have the option of going to trial.”

Solutions

Assessors suggest much could be done to discourage abusive tax appeals: outlaw tax appeals on contingency; require taxpayers to provide appraisals or in-depth rebuttals before pretrial conferences; and enforce rules governing appraisers.

Other proposals include a separate court system for tax appeals at which judges would have independent real estate appraisers at their disposal.

“Both parties would go into a situation where the court is staffed with real estate appraisal professionals who are knowledgeable in all areas and could lend credibility to one side or the other,” says Juda.

Absent change, however, the steady erosion of local tax revenue will likely continue, assessors warn.

NEW HAVEN REGISTER

<https://www.nhregister.com/news/article/Courtroom-tirades-draw-rare-discipline-for-13646110.php>

Court tirades draw rare discipline for longtime CT judge

By Christopher Hoffman Updated 11:50 am EST, Wednesday, February 27, 2019



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Judge Trial Referee George Levine has been disciplined for his behavior during two pretrial hearings last year at state Superior Court in New Britain.

Municipal tax assessors have long cringed when entering the chambers of veteran tax court Judge Trial Referee George Levine.

For years, they and other property tax professionals felt they had no choice but to endure the powerful judge's imperious ways and short fuse.

Recommended Video



But in two pretrial conferences last year — including one when Levine's

berating and bullying behavior nearly brought a longtime appraiser to tears – the 80-year-old judge finally crossed the line, the Judicial Review Council has concluded.

In December, the council censured Levine in both cases, citing him for bias, intimidation, lack of judicial temperament and acting in “a discourteous and undignified manner.” During both incidents, the judge yelled and screamed at participants and even used profanity in one instance, according to probable cause hearing testimony.

“It was so egregious that I felt I couldn't let it go,” said Attorney Dale Clayton, who filed one of the complaints. “This was just beyond the pale for the way a judge should act.”

Levine acknowledged the misconduct and accepted the censures, the least serious discipline the council can impose, according to public notices published in the Connecticut Law Journal.

It's unusual for a Connecticut judge to be disciplined. None of the 630 complaints reviewed by the Judicial Review Council between July 1, 2013 and June 30, 2018 – the most recent data available – resulted in a finding of misconduct or disciplinary action, according to the council's annual reports.

For assessors, the discipline imposed on Levine was a long time coming. In addition to his behavior, they have also complained about how they say he stacks the deck against them in tax assessment appeals, costing their communities millions of dollars annually in tax revenue.

“This was not an isolated incident,” said Andover Assessor John Chaponis, who filed the other complaint after Levine pushed him to grant a value reduction. “What was happening was wrong, assessors were being stiff-armed into making settlements that they didn't want.”

‘Bullying and unprofessional treatment’

Levine has worked at the Tax and Administrative Appeals Court in New Britain Superior Court since 2002, Judicial Branch spokeswoman Rhonda Hebert said. The court is a clearinghouse

for lawsuits contesting values local assessors assign to properties for taxation. Judicial districts statewide refer their highest dollar and most contentious cases to the court. Their first stop is Levine's chambers, where he holds pretrial conferences aimed at mediating settlements to avoid costly, time-consuming trials.

It was during pretrial conferences in February and May of last year when the council found Levine repeatedly violated the state's Judicial Code of Conduct. According to testimony at probable cause hearings last year, Levine brought one appraiser to the point of tears, and threatened to file a complaint against him with state regulators. In his testimony to the council, Levine admitted bias against the appraiser and his work, saying he'd banned him from his chambers.

In that case, a taxpayer was challenging Hartford's property valuation. Clayton, the attorney for the plaintiff, said Levine's abuse, bullying and obvious bias against the appraiser, Alan Budkofsky – which occurred in front of Hartford officials – undermined his case. Budkofsky did not return a message seeking comment.

In the second case, Levine became incensed after falsely accusing Andover assessor Chaponis of failing to follow one of his orders, according to testimony at the probable cause hearing. The enraged judge threatened to find Chaponis in contempt of court.

Levine also said he would ban him from testifying if Chaponis continued to seek a trial in the case, essentially forcing him to grant an assessment reduction, according to testimony. Chaponis said the incident damaged his reputation after false rumors spread that he had been found in contempt of court.

"This type of behavior by the judge was not uncommon, and dozens of my colleagues complained about similar situations of bullying and unprofessional treatment only when they did not want to offer a settlement," said Chaponis, who is also Colchester's assessor. "I understand judge Levine has a goal of trying to resolve as many cases as possible without having them go to trial. However, the manner and lengths in which judge Levine goes to facilitate his goal have gotten worse and worse over the years."

Levine did not respond to a request for comment left at the New Britain tax court.

Levine's attorney, Steven Seligman, called the reprimand as "an appropriate resolution of this matter."

Seligman said these have been the only formal complaints filed against Levine, who he said has successfully mediated hundreds of settlements since he began serving on the bench in 1994.

Seligman rejected charges that his client skews cases against municipalities, noting that a lawyer seeking an assessment reduction filed one of the complaints.

Levine continues to conduct tax assessment pretrial conferences, but Hebert said officials "are monitoring the situation closely."

"Any new complaint that may arise will be brought before the chief court administrator for further action, including possible removal from presiding over tax appeal cases," Hebert said.

Broken system

Cromwell Assessor Shawna Baron, president of the Connecticut Association of Assessing Officers, said she has long heard complaints about Levine. She said the judge, however, is only part of a bigger problem — the state's **badly broken system for resolving property tax assessment disputes**.

Once relatively rare, assessment appeals have morphed into a lucrative business dominated by specialized companies and law firms. So-called tax representatives typically work on contingency, blanketing towns with letters offering to file appeals for free, with the owner only paying if they win a reduction.

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As a result, local assessors are swamped by appeals, many of them baseless. Lacking the resources to take every questionable case to trial, they often grant reductions even when they feel they lack merit. The result is a steady drain on local tax revenue that assessors **estimate is at least \$20 million annually**, funds that must be made up either by tax increases on other taxpayers or budget cuts.

While neither misconduct complaint against Levine involved tax representatives or large companies, he has worsened the problem by letting them and other plaintiffs present flimsy information to counter assessors' carefully calculated and extensively documented values, assessors say. He also lets tax representatives use out-of-state appraisers flown in for the day, a possible violation of state law, they say.

"He (Levine) allows plaintiffs to come in with weak information and unsupported documentation," Baron said. "They come in with a very low number that you have to work off of. In those regards, he's part of the problem."

The assessors association has for years lobbied the General Assembly to address the problem, including proposing a bill to ban filing tax appeals on contingency. The Legislature has yet to act.

"People don't pay attention to how much it's costing the towns in the long run," Baron said. "I don't think the towns are getting a fair shake in the whole process."

Correction: *An earlier version of this story incorrectly stated Joseph C. Sansone Co. takes cases to the Connecticut Supreme Court. The company takes the cases to Connecticut Superior Court.*

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