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It is hereby declared (1) that it is in the public interest to encourage the preservation of farm land, forest land, open space land and maritime heritage land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (2) that it is in the public interest to prevent the forced conversion of farm land, forest land, open space land and maritime heritage land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land, open space land and maritime heritage land, and (3) that the necessity in the public interest of the enactment of the provisions of sections 12-107b to 12-107e, inclusive, 12-107g and 12-504f is a matter of legislative determination.

NOTES OF DECISIONS

Purpose 1

1. Purpose

Preferential tax treatment is statutorily afforded farm, forest and open space lands for the purpose of encouraging the preservation of property so designated by insuring against the conversion of such land to more intensive uses as a result of higher property tax assessments. *Rustici v. Town of Stonington* (1977) 381 A.2d 532, 174 Conn. 10. Taxation ⚡ 2521; Taxation ⚡ 2523

Purpose of Tax Relief Act for preservation of farm, forest and open space land was to aid conservation effort and conserve state's natural resources. *Torrington Water Co. v. Board of Tax Review of Town of Goshen* (1975) 362 A.2d 866, 168 Conn. 319. Taxation ⚡ 2461

Intention of legislature in enacting section 12-107a basing taxes on farmland upon current use value and basing taxes on all other property upon actual value was to grant special privilege to land devoted to agricultural use. *Bussa v. Town of Glastonbury* (1968) 251 A.2d 87, 28 Conn.Supp. 97. Taxation ⚡ 2461

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- (1) The term "farm land" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;
- (2) The term "forest land" means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d, and consisting of (A) one tract of land of twenty-five or more contiguous acres, which acres may be in contiguous municipalities, (B) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres, or (C) any tract of land which is contiguous to a tract owned by the same owner and has been classified as forest land pursuant to this section;
- (3) The term "open space land" means any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farm land, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands, beaches or tidal marshes, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) enhance public recreation opportunities, (F) preserve historic sites, or (G) promote orderly urban or suburban development;
- (4) The word "municipality" means any town, consolidated town and city, or consolidated town and borough;
- (5) The term "planning commission" means a planning commission created pursuant to section 8-19;
- (6) The term "plan of conservation and development" means a plan of development, including any amendment thereto, prepared or adopted pursuant to section 8-23;
- (7) The term "certified forester" means a practitioner certified as a forester pursuant to section 23-65h; and
- (8) The term "maritime heritage land" means that portion of waterfront real property owned by a commercial lobster fisherman licensed pursuant to title 26, when such portion of such property is used by such fisherman for commercial lobstering purposes, provided in the tax year of the owner ending immediately prior to any assessment date with respect to which application is submitted pursuant to section 12-107g, not less than fifty per cent of the adjusted gross income of such fisherman, as determined for purposes of the federal income tax, is derived from commercial lobster fishing, subject to proof satisfactory to the assessor in the town in which such application is submitted. "Maritime heritage land" does not include buildings not used exclusively by such fisherman for commercial lobstering purposes.

NOTES OF DECISIONS

Farm land 1 Open space land 2

1. Farm land

Land leased to nursery and used for growing plants, trees and shrubs was entitled to classification as farmland under tax statute (section 12-107c) which did not define farmland but general statutes defined "agriculture" and "farming" as raising or harvesting any agricultural or horticultural commodity and defined "farm" so as to include nurseries, greenhouses or structures used primarily for raising of agricultural or horticultural commodities. *Johnson v. Board of Tax Review of Town of Fairfield* (1970) 273 A.2d 706, 160 Conn. 71. Taxation ⚡ 2478

Term "farm", as used in tax statute (§ 12-107c) for purpose of classifying lands for taxation, included farm buildings. *Holloway Bros., Inc. v. Town of Avon* (1965) 214 A.2d 701, 26 Conn.Supp. 164.

Land on which corporation conducted "loam farming" operation and sale of gravel was not farmland within § 12-107c concerned with classification of land as farmland for tax purposes. *Holloway Bros., Inc. v. Town of Avon* (1965) 214 A.2d 699, 26 Conn.Supp. 160. Taxation ⚡ 2478

2. Open space land

Inclusion in statutory definition of "open space land," which is entitled to reduced valuation, of land which would "enhance public recreation opportunities" did not indicate a legislative intent that a use which would enhance private recreation would not qualify for open space classification, where land such as that used by plaintiff country club as a golf course, whether private or public, would fall clearly with other alternative categories, enumerated in this section since such land would, inter alia, tend to "maintain and enhance the conservation of natural or scenic resources," and would "enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces." *Rolling Hills Country Club, Inc. v. Board of Tax Review of Town of Wilton* (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2478

There was no minimum zone requirement applicable to the open space zone in which airport company's property was located and no minimum zone requirement applicable to the special exception permit that allowed for airport use of the property, and therefore, there was no minimum area condition on company's property that would preclude assessor from granting company's application to have 43.04 acres of its total 57.12 acreage categorized as "open space land" for purposes of valuation and taxation; the 43.04 acres were within area that town planning commission recommended for open space development. *Goodspeed Airport, LLC v. Town of East Haddam* (2006) 2006 WL 3359690, Unreported, opinion clarified 2006 WL 3878124. Taxation ⚡ 2523

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(a) An owner of land may apply for its classification as farm land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farm land and, if such assessor determines that it is farm land, he or she shall classify and include it as such on the grand list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

(b) An application for classification of land as farm land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as farm land within the time limit prescribed in subsection (a) and in the manner and form prescribed in subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as farm land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

NOTES OF DECISIONS

Actual use for farming 3
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Mandatory nature of section 2
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Purpose 1

1. Purpose

Purpose of tax relief as contained in this section giving preferential tax treatment to farmland was to aid conservation effort, and not merely to aid food production itself. *Johnson v. Board of Tax Review of Town of Fairfield* (1970) 273 A.2d 706, 160 Conn. 71. Taxation ☞ 2461

2. Mandatory nature of section

When owner had applied for classification of land as farmland for tax purposes, it was duty of assessor to determine whether land qualified for such classification. *Dickau v. Town of Glastonbury* (1968) 242 A.2d 777, 156 Conn. 437. Taxation ☞ 2478

3. Actual use for farming

Mere designation by landowner that it used parcel of land for loam farming did not convert use to which land was put into farming operation for purpose of classifying land for tax purposes. *Holloway Bros., Inc. v. Town of Avon* (1965) 214 A.2d 699, 26 Conn.Supp. 160. Taxation ☞ 2478

Where land which corporation sought to have classified as farmland for tax purposes was wooded area which was not part of farm unit and was completely detached from other land parcels held by corporation, assessor correctly rejected corporation's petition for farmland classification of such land. *Holloway Bros., Inc. v. Town of Avon* (1965) 214 A.2d 699, 26 Conn.Supp. 160. Taxation ⚡ 2478

4. Land used for reservoir purposes

See, also, Notes of Decisions under § 12-76.

Section 12-107c, permitting owners of land to apply to tax assessor to have their lands classified as farmland was inapplicable to town's assessment of land owned by metropolitan district and used for reservoir purposes, since land in question did not meet definition of "farmland," contained in § 12-107b since factors specified in § 12-107c for determining what is farmland were clearly inapplicable to district's land, and since conservation purpose of § 12-107a et seq. would not be enhanced in any way by giving district benefit of favorable farmland assessment because district's water supply land was subject to restrictions on its sale. *Metropolitan Dist. v. Town of Barkhamsted* (1984) 485 A.2d 1311, 3 Conn.App. 53, certification granted 487 A.2d 564, 195 Conn. 801, affirmed 507 A.2d 92, 199 Conn. 294. Towns ⚡ 58

5. Failure to file application

If an unplanted residential lot has not been altered from its natural state in order to enhance or promote its use for farming, it should not be taxed as "farm land," but should be taxed based on its actual market value rather than on the market value of some different, purely hypothetical parcel of land. *Cecarelli v. Board of Assessment Appeals of Town of North Branford* (2003) 863 A.2d 768, 49 Conn.Supp. 125, affirmed 863 A.2d 677, 272 Conn. 485. Taxation ⚡ 2523

Residential land surrounding dwelling was valued at \$14,325 for tax purposes due to deed restrictions on the 130-acre parcel which required that dwelling's inhabitant use rest of parcel for agricultural purposes; town valued land at \$78,400 based on value of similar sized residential lots in surrounding area. *Cecarelli v. Board of Assessment Appeals of Town of North Branford* (2003) 863 A.2d 768, 49 Conn.Supp. 125, affirmed 863 A.2d 677, 272 Conn. 485. Municipal Corporations ⚡ 972(3)

Where landowners did not apply to assessor for classification of their land as farmland for tax purposes, their land was properly valued at its true and actual valuation unless owners' claim that owners were estopped from seeking classification by assessor was valid. *Dickau v. Town of Glastonbury* (1968) 242 A.2d 777, 156 Conn. 437. Taxation ⚡ 2523

Where assessor did not state to taxpayers that he was not going to increase assessment on taxpayers' land, assessor did not counsel, suggest or advise taxpayers not to file application for reclassification of their land and assessor had no intent to mislead, deceive or misrepresent, and taxpayers did not decide not to file application for reclassification at time of their conference with assessor, but came to that decision later on advice of their own independent advisor, town was not estopped from altering pre-existing valuation on taxpayers' land. *Dickau v.*

Town of Glastonbury (1968) 242 A.2d 777, 156 Conn. 437. Taxation ⚡ 2567

6. Method of valuation

Farmland residence and .92 acres of unplanted land surrounding it should have been valued for tax purposes in light of conveyance of development rights to state and prohibition against use other than as agricultural land; town improperly valued the land based on the market value of a typical residential builder's lot of approximately .92 acres. *Cecarelli v. Board of Assessment Appeals of the Town of North Branford* (2005) 863 A.2d 677, 272 Conn. 485. Taxation ⚡ 2523

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Connecticut General Statutes Annotated Currentness

Title 12. Taxation

* Chapter 203. Property Tax Assessment (Refs & Annos)

→→ § 12-107d. Regulations re evaluation of land as forest land. Implementation of standards and procedures. Certification requirement. Fees. Notice of termination of forest land classification. Application for classification as forest land. Appeal. Report to State Forester

NOTES OF DECISIONS

Authority to cancel classification 2

Designation by assessor 1

Watershed lands 3

1. Designation by assessor

The designation of property as forest land requires the property owner to file a written application seeking the designation and a determination by the state forester that the property is so qualified; the classification of designated property as forest land on the grand list of a municipality requires the property owner to file an application with the town assessor to obtain the preferential tax treatment afforded to such classified property. *Wysocki v. Town of Ellington* (2008) 951 A.2d 598, 109 Conn.App. 287, certification denied 958 A.2d 1248, 289 Conn. 934, on remand 2009 WL 242361. Taxation ↪ 2524

That this section permits annual application for forest land classification to be filed during period beginning 30 days before assessment date and ending 30 days after assessment date in no way affected requirement that land must be designated as forest land on assessment date. *Renz v. Town of Monroe* (1972) 295 A.2d 558, 162 Conn. 559. Taxation ↪ 2369(2)

Owner of land which, after date of assessment list, was certified by state forester as forest land was not entitled to exemption for that land on earlier assessment list even though state forester's certification was within 30 days after date of assessment list. *Renz v. Town of Monroe* (1972) 295 A.2d 558, 162 Conn. 559. Taxation ⚡ 2369(2)

Town assessors making general revaluation of realty were unauthorized to list tree growth on lands previously certified under former statute concerning tree growth land. *Walsh v. Town of Lebanon* (1932) 158 A. 232, 114 Conn. 723. Taxation ⚡ 2319

2. Authority to cancel classification

Issue of whether state forester lacked legal authority when taxpayer's real property was originally designated as forest land was irrelevant in taxpayer's appeal of town assessor's denial of application for continuation of forest land classification for property tax purposes; issue had no bearing on whether assessor had requisite authority to deny application, and claim regarding erroneous designation had to be directed to state forester. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2699(1)

Town's property tax assessor lacked authority to deny taxpayer's application to continue classification of property as forest land; there had been no change in status of forest land designation by state forester. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2524

While a property tax assessor or the state forester may initiate a proceeding to reexamine property classified as forest land if there is reason to believe that the property no longer qualifies, the authority to cancel the classification lies solely with the state forester. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2524

Property tax assessor may not deny an application to continue forest land classification unless the state forester has cancelled the forest land designation. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2524

3. Watershed lands

Where private water company obtained certificate from state forester designating 3,539 acres of watershed land as forest land, town board of assessors were required to reclassify subject land as forest land and did not have discretion to classify such land as improved farmland. *Torrington Water Co. v. Board of Tax Review of Town of Goshen* (1975) 362 A.2d 866, 168 Conn. 319. Taxation ⚡ 2478

Tax relief measure providing for preservation of forest lands upon application by an "owner of land" to state forester for designation of land as forest land did not exclude privately owned water supply lands from its operation. *Torrington Water Co. v. Board of Tax Review of Town of Goshen* (1975) 362 A.2d 866, 168 Conn. 319. Taxation ⚡ 2478

Connecticut General Statutes Annotated Currentness
Title 12. Taxation
Chapter 203. Property Tax Assessment (Refs & Annos)
→ → § 12-107e. Classification of land as open space land

NOTES OF DECISIONS

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Terms used, designation 4
Validity 1

1. Validity

This section allowing a planning commission, as part of its development plan, to designate areas for preservation as open space land is not void for vagueness on ground that it offers no guidelines demonstrating how and in what manner the planning commission's recommendations are to be arrived at; before designating any land as open space the planning commission must first find that the land meets certain statutory criteria and commission must follow the statutory procedures for adopting a plan of development. *Curry v. Planning and Zoning Commission of Town of Guilford* (1977) 376 A.2d 79, 34 Conn.Supp. 52. Statutes ¶ 47

2. Purpose

When valuing open space land, market value, a fundamental rule or standard of valuation of property taxation, must give way to an assessment based on the current use of the property because the declared purpose of the statute is intended to grant favorable treatment to such property to prevent its forced conversion to more intensive use. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ¶ 2523

In view of fact that property not classified as farm land, forest land or open space land was to be valued at its fair market value for tax purposes, in enacting statute providing that the value of land classified as open space shall be based upon its current use, the legislature intended that the current use value of open space land be less than its fair market value might be. *Rustici v. Town of Stonington* (1977) 381 A.2d 532, 174 Conn. 10. Taxation ¶ 2521

3. Designation--In general

Taxpayer's property was eligible for classification as open space, for purposes of town's property tax assessment, even though a portion of the property was used as a commercial airport, since town's land use plan and associated maps included taxpayer's property in area designated as existing and proposed open space; town had been aware of airport's existence at time it designated open space areas, and existence of airport did not by itself render the remaining portion of property ineligible for open space classification. *Goodspeed Airport, LLC v. Town of East Haddam* (2011) 24 A.3d 1205, 302 Conn. 70. Taxation ¶ 2523

An initial "designation" of areas of open space land by a local planning commission is to be distinguished from "classification" of such land by town assessor. *Birchwood Country Club, Inc. v. Board of Tax Review of Town of Westport* (1979) 422 A.2d 304, 178 Conn. 295. Taxation ⚡ 2461

Designating all land in town of Guilford as open space, with certain exceptions, did not go beyond intent of the open space enabling act; whether planning commission chose to describe the proposed open space by designating each individual parcel or by creating boundaries was beside the point so long as all of the land so designated as open space land fell within the statutory definition; furthermore, amendment did not confer a tax advantage on any lots located in subdivision because on such use any tax advantage under open space zoning ceased to have any validity. *Curry v. Planning and Zoning Commission of Town of Guilford* (1977) 376 A.2d 79, 34 Conn.Supp. 52. Taxation ⚡ 2478; Zoning And Planning ⚡ 1033

There was no minimum zone requirement applicable to the open space zone in which airport company's property was located and no minimum zone requirement applicable to the special exception permit that allowed for airport use of the property, and therefore, there was no minimum area condition on company's property that would preclude assessor from granting company's application to have 43.04 acres of its total 57.12 acreage categorized as "open space land" for purposes of valuation and taxation; the 43.04 acres were within area that town planning commission recommended for open space development. *Goodspeed Airport, LLC v. Town of East Haddam* (2006) 2006 WL 3359690, Unreported, opinion clarified 2006 WL 3878124. Taxation ⚡ 2523

4. ---- Terms used, designation

The initial "designation" of areas of open space land by a local planning commission is to be distinguished from the "classification" of such land by the town assessor; open space designation occurs within a municipality's plan of development, which is merely advisory and contains only recommendations for land use, but, on the other hand, open space classification for tax assessment purposes is more than a mere recommendation for land use, and instead, it is a status that leads to a lower tax assessment. *Aspetuck Country Club, Inc. v. Town of Weston* (2009) 975 A.2d 1241, 292 Conn. 817. Taxation ⚡ 2523

Because the designation of landowner's property as open space land in the town's plan of development over 30 years ago never had been approved by a majority of the town's legislative body, landowner's current application for open space classification based on its open space designation over 30 years ago was necessarily beyond the sixty day time limit imposed by property tax statute, and thus, landowner waived, pursuant to the time limitation, any vested right it might have had to open space classification for tax assessment purposes. *Aspetuck Country Club, Inc. v. Town of Weston* (2009) 975 A.2d 1241, 292 Conn. 817. Taxation ⚡ 2523

If any ambiguities exist, under this section relating to classification of land as open space land, with respect to specific term to be applied by planning commission before property qualifies for designation as open space land, such ambiguities must be construed in favor of taxpayer. *Rolling Hills Country Club, Inc. v. Board of Tax Review of Town of Wilton* (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2478

Land of plaintiff country club, at time of country club's application to tax assessor for classification as "open space land" on 1971 tax list, was designated on plan of development of the town as an area of "open space land" within provisions of statute, where any uncertainties concerning planning commission's designation of such land as open space land in June, 1963, when maps of town plan of development were filed which did not designate any property in the town as "open space," but which designated several areas, including country club's property as "private recreation," were resolved sometime during or prior to 1966 by designation of country club's land on

printed plan of development map as "recreation-open space private." *Rolling Hills Country Club, Inc. v. Board of Tax Review of Town of Wilton* (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2478

5. --- Alteration of, designation

Municipal tax assessor acted illegally when she terminated open space classification of property, which was being used as airport but upon which proposed housing development was to be constructed, and revalued it on basis of its approved use as condominium units; neither statute governing open space classification directed assessor to consider planned or potential use of property when determining whether it qualified as open space, both statutes directed assessor simply to consider property's use, and assessor's termination of open space classification for property on basis of its proposed use, as opposed to its current use, was improper. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

In the absence of any change in an open space area adversely affecting its essential character as such since the time of its designation, the assessor must classify such land as open space and include it as such on the assessment list. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

When determining whether a property should retain a previously existing open space classification, an assessor must determine whether the property's owner actually has begun to use the property in a way that somehow has altered its essential open space character. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

In absence of any change in an open space area adversely affecting its essential character as such since time of its designation, assessor must classify such land as open space and include it as such on assessment lists, but there is no corresponding restriction precluding a local planning commission from altering its designation of areas in which open space classification has been made available in first instance. *Birchwood Country Club, Inc. v. Board of Tax Review of Town of Westport* (1979) 422 A.2d 304, 178 Conn. 295. Taxation ⚡ 2521

6. Taking of property

Open space amendment of town of Guilford, which ordinance designated all land in the town as open space, with specified exceptions, did not constitute a taking of property without compensation where landowners were not prevented from using their land and there was no showing that the amendment destroyed the value of the land. *Curry v. Planning and Zoning Commission of Town of Guilford* (1977) 376 A.2d 79, 34 Conn.Supp. 52. Eminent Domain ⚡ 2.10(1)

7. Public use

Mere fact of private ownership and use of land, such as that leased by plaintiff country club for golf course, would not disqualify land from open space classification, which would entitle such land to reduced valuation, since such ownership and use are implicit in the entire structure of open space legislation; otherwise there would be no purpose in even considering preferential tax treatment for privately owned farm land, forest land and other lands which qualify physically as open space land under statutory definitions. *Rolling Hills Country Club, Inc.*

v. Board of Tax Review of Town of Wilton (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2478

Public use is not one of the criteria of statute permitting reduced valuation for "open space land," where such legislation clearly was directed toward privately owned and privately used properties, as shown by the total absence of any requirement that designated properties be open to use by members of the general public. *Rolling Hills Country Club, Inc. v. Board of Tax Review of Town of Wilton* (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2478

8. Persons aggrieved

Taxpayer was aggrieved by town's improper refusal to classify taxpayer's property as open space, and thus taxpayer was entitled to correction of town valuation of property for tax purposes, even though town subsequently reclassified a portion of property as open space, since town's assessment of property remained the same as prior to open space classification. *Goodspeed Airport, LLC v. Town of East Haddam* (2011) 24 A.3d 1205, 302 Conn. 70. Taxation ⚡ 2523

It is not sufficient for a taxpayer alleging aggrievement by the denial of an application for open space classification merely to establish that the application was improperly denied; to be aggrieved, the taxpayer must establish that the denial resulted in an overassessment. *Goodspeed Airport, LLC v. Town of East Haddam* (2009) 973 A.2d 678, 115 Conn.App. 438, certification granted in part 982 A.2d 1082, 294 Conn. 907, reversed 24 A.3d 1205, 302 Conn. 70. Taxation ⚡ 2726

Location of taxpayer's airport on a wetlands and flood hazard plain did not entitle taxpayer, in itself, to open space classification and assessment of that land comprising airport; city's proposed land use plan for open space classifications did not intend that an operating commercial airport, located on wetlands and flood plain under a special exception, would qualify as open space land under the plan's environmental goals of conserving natural resources, shaping community design, and providing outdoor recreational areas. *Goodspeed Airport, LLC v. Town of East Haddam* (2009) 973 A.2d 678, 115 Conn.App. 438, certification granted in part 982 A.2d 1082, 294 Conn. 907, reversed 24 A.3d 1205, 302 Conn. 70. Taxation ⚡ 2523

Country club had standing, as a long-term lessee, to appeal refusal of tax assessor to classify and assess as open space land on tax list a tract of land used by country club as a golf course, under statute providing that any person aggrieved by assessors' denial of any application for open space classification may appeal therefrom. *Rolling Hills Country Club, Inc. v. Board of Tax Review of Town of Wilton* (1975) 363 A.2d 61, 168 Conn. 466. Taxation ⚡ 2650

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C

Connecticut General Statutes Annotated Currentness

Title 12. Taxation

⌘ Chapter 203. Property Tax Assessment (Refs & Annos)

→ → § 12-107f. Open space land

(a) **Declaration of policy encouraging preservation by tax exempt organizations.** It is hereby found and declared that it is in the public interest to encourage organizations which are tax-exempt for federal income tax purposes to hold open space land in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general.

Connecticut General Statutes Annotated Currentness
Title 12. Taxation
Chapter 223. Real Estate Conveyance Tax (Refs & Annos)
→ § 12-504h. Termination of classification as farm, forest, open space or maritime heritage land

NOTES OF DECISIONS

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Purpose 1
Review 4
Use of land 3

1. Purpose

When valuing open space land, market value, a fundamental rule or standard of valuation of property taxation, must give way to an assessment based on the current use of the property because the declared purpose of the statute is intended to grant favorable treatment to such property to prevent its forced conversion to more intensive use. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ↪ 2523

Principal purpose of tax statute providing that property may retain its classified status as forest land until its sale or change in use is to eliminate need for filing annual applications for classification by requiring filing of new

application only upon occurrence of one of the two specified events. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ↪ 2524

2. Forest land

While a property tax assessor or the state forester may initiate a proceeding to reexamine property classified as forest land if there is reason to believe that the property no longer qualifies, the authority to cancel the classification lies solely with the state forester. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ↪ 2524

Property tax assessor may not deny an application to continue forest land classification unless the state forester has cancelled the forest land designation. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ↪ 2524

This section providing that land classified by record owner as forest land shall remain so classified without filing of any new application could properly be relied upon by private water company for tax purposes concerning its classified forest land used as a water shed for reservoir for 1974, where water company had obtained certificate of its acres as forest land, applied to assessor in 1970-1973 for such classification, such classification had been illegally refused by assessor and water company appealed that refusal. *New Haven Water Co. v. Board of Tax Review of Town of Prospect* (1979) 422 A.2d 946, 178 Conn. 100. Taxation ↪ 2524

Town board of tax review, in determining "current use value" for tax assessment purposes of classified forest land used by integrated private water company as a water shed for reservoir, improperly attributed all of water company's business income, and hence business value, to one asset, that is, the water company's forest and reservoir land; the capitalization of net income method used required a determination of the allocation of the value of the forest land as it functioned as a component part of water company's other assets necessary in production of income. *New Haven Water Co. v. Board of Tax Review of Town of Prospect* (1979) 422 A.2d 946, 178 Conn. 100. Taxation ⚡ 2524

3. Use of land

Municipal tax assessor acted illegally when she terminated open space classification of property, which was being used as airport but upon which proposed housing development was to be constructed, and revalued it on basis of its approved use as condominium units; neither statute governing open space classification directed assessor to consider planned or potential use of property when determining whether it qualified as open space, both statutes directed assessor simply to consider property's use, and assessor's termination of open space classification for property on basis of its proposed use, as opposed to its current use, was improper. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

In the absence of any change in an open space area adversely affecting its essential character as such since the time of its designation, the assessor must classify such land as open space and include it as such on the assessment list. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

When determining whether a property should retain a previously existing open space classification, an assessor must determine whether the property's owner actually has begun to use the property in a way that somehow has altered its essential open space character. *Griswold Airport, Inc. v. Town of Madison* (2008) 961 A.2d 338, 289 Conn. 723. Taxation ⚡ 2523

Change in use of real property that has been classified as forest land for tax assessment purposes does not automatically result in property losing its classified status. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2524

For purposes of tax statute providing that property may retain its classified status as forest land until its sale or change in use, which would require filing of new application, property designated and classified as forest land cannot be deemed to have changed in use until state forester makes requisite determination that land no longer qualifies as forest land. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2524

Town could not declassify forest land that had been transferred without consideration pursuant to corporate dissolution under statute regarding classification of forest land, and thereby increase property tax assessment, where use of the land did not change, and land was not "sold" but was instead transferred for no consideration. *Timber Trails Associates v. Town of New Fairfield* (1993) 627 A.2d 932, 226 Conn. 407. Taxation ⚡ 2524

4. Review

Supreme Court's review of issue of whether town's assessor was entitled to terminate real property's forest land classification without seeking prior approval from state forester would be plenary in town's appeal of trial court's decision reducing taxpayer's property tax assessment; issue raised question of statutory interpretation. *Carmel Hollow Associates Ltd. Partnership v. Town of Bethlehem* (2004) 848 A.2d 451, 269 Conn. 120. Taxation ⚡ 2704

Document 8

Connecticut General Statutes Annotated Currentness

Title 12. Taxation

Chapter 203. Property Tax Assessment (Refs & Annos)

→→ § 12-111. Appeals to board of assessment appeals

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1. Purpose

All provisions designed to give taxpayer opportunity of review of assessment, whether by assessors themselves or on appeal from their conclusions, were exclusively in his interest, as respects whether such provisions were mandatory. *Rocky Hill Inc. Dist. v. Hartford Rayon Corp.* (1937) 190 A. 264, 122 Conn. 392. Taxation ¶ 2640

This section contemplated that taxpayer should seasonably ascertain whether valuation placed on his property was correct, and, if it was erroneous, resort to appeal. *Pitt v. City of Stamford* (1933) 167 A. 919, 117 Conn. 388. Taxation ¶ 2642

2. Construction with other laws

Taxpayer that failed to use statutory procedures for challenging assessments on lots in developed subdivision could not use Connecticut Unfair Trade Practices Act (CUTPA) to indirectly challenge assessments, in city's actions to foreclose tax liens. *City of Danbury v. Dana Inv. Corporation/Lot No. GO8065* (1999) 730 A.2d 1128, 249 Conn. 1. Taxation ¶ 2926

3. Mandatory nature of section

Taxpayer who has failed to utilize available statutory remedies concerning property tax assessment may not assert in action to collect a tax that the tax has not been properly assessed. *Town of Redding v. Elfire, LLC* (2003) 812 A.2d 211, 74 Conn.App. 491, on remand 2004 WL 3090656. Taxation ¶ 2853

Taxpayer's complaint was unnecessary to compel board of relief to assess land. *State v. Bartholomew* (1925) 132 A. 30, 103 Conn. 607. Taxation ¶ 2711

4. Remedial nature of section

Supp.1941, § 165f (§ 12-119), which provided a remedy when property was wrongfully assessed for taxation, was not intended as a remedy alternative to appeal to board of tax review, where claim was merely that property had been overassessed, but was designed to give taxpayer a remedy where there was misfeasance or nonfeasance by the taxing authorities. *Mead v. Town of Greenwich* (1944) 38 A.2d 795, 131 Conn. 273. Taxation ⚡ 2713

The statutory remedy for applying for relief to the superior court within one year from the time tax was due for a reduction of assessment was not intended as a remedy alternative to an appeal to the board of review, where the claim was merely that the property had been overassessed, but it was a remedy to meet situations of a different character. *Cohn v. City and Town of Hartford* (1944) 37 A.2d 237, 130 Conn. 699. Taxation ⚡ 2713

Where the basis of claim for relief to the superior court was the illegal overvaluation of the property, recourse apart from remedy by appeal to the board of review could only be had to equity, since the only remedies which could be afforded were those obtainable in an equitable proceeding. *Cohn v. City and Town of Hartford* (1944) 37 A.2d 237, 130 Conn. 699. Taxation ⚡ 2713

5. Board of assessment appeals--In general

Taxpayers have two primary methods for challenging town's assessment or revaluation of their real property: (1) taxpayer claiming to be aggrieved by action of assessor may appeal to town's board of tax review and then appeal adverse decision of board to superior court, and (2) taxpayer may, prior to payment of tax, make application

for relief to superior court. *Interlude, Inc. v. Skurat* (1999) 734 A.2d 1045, 54 Conn.App. 284, certification granted in part 738 A.2d 657, 250 Conn. 927, reversed 754 A.2d 153, 253 Conn. 531, on remand 787 A.2d 631, 67 Conn.App. 505. Taxation ⚡ 2640

City board of tax review, to which appeals from action of assessor may be taken, also has power to unilaterally equalize and adjust valuations and assessment lists submitted by assessor. *Albert Bros., Inc. v. City of Waterbury* (1985) 485 A.2d 1289, 195 Conn. 48. Taxation ⚡ 2625

Remedy for relief against assessors' overvaluation of personal property owned by taxpayer was an appeal to board of tax review. *Cooley Chevrolet Co. v. Town of West Haven* (1959) 148 A.2d 327, 146 Conn. 165. Taxation ⚡ 2647

Board of relief, being administrative body, did "ministerial acts." *State v. Bartholomew* (1925) 132 A. 30, 103 Conn. 607. Taxation ⚡ 2655

The taxation board of relief was an administrative and not a judicial body. *Bugbee v. Town of Putnam* (1916) 96 A. 955, 90 Conn. 154. Taxation ⚡ 2655

After the assessors had completed their valuation of property, their work was subject to review and correction by the board of relief, and by them only. *State v. Fyler* (1880) 48 Conn. 145.

6. ---- Addition to list, board of assessment appeals

Under the statutes relating to the assessment of taxes, authorizing the board of relief to add threefold to the list of any person where the assessor shall omit to assess and set in the list the taxable estate of any person, and such estate shall afterwards be discovered, the board of relief in adding threefold to the list of any person must give reasonable notice and an opportunity to each person to show that the omission was made by mistake. *Whittelsey v. Town of Clinton* (1840) 14 Conn. 72. Taxation ⚡ 3213

7. ---- Equalization of list, board of assessment appeals

Fact that one person, the assessor, ultimately approves all of the assessments on the grand list is no assurance that uniform standards have been followed; where assessor relies in large part upon appraisals furnished by an independent appraisal firm, equalization may be necessary even though the assessment is set by a single assessor. *Chamber of Commerce of Greater Waterbury, Inc. v. Lanese* (1981) 439 A.2d 1043, 184 Conn. 326. Taxation ⚡ 2622

8. ---- Assistance by revaluation companies, board of assessment appeals

Where board of tax review had received approximately 5,000 appeals, instead of the normal 250 to 300, after the grand list was filed, where all but 100 to 150 involved assessments upon residential property, and where board sought to determine whether the burden of taxation had been unfairly shifted to residential properties, work of

person hired to review the valuations of commercial and industrial properties had a reasonable relationship to the function of the board in equalizing tax assessments. *Chamber of Commerce of Greater Waterbury, Inc. v. Lanese* (1981) 439 A.2d 1043, 184 Conn. 326. Taxation ⚡ 2434

9. ---- Classification of land, board of assessment appeals

Property tax assessor was required to declassify parcels as forest land on basis of earlier, unchallenged decision rendered by state forester, and thus could assess property according to its highest and best use as opposed to as forest land. *Wysocki v. Town of Ellington* (2008) 951 A.2d 598, 109 Conn.App. 287, certification denied 958 A.2d 1248, 289 Conn. 934, on remand 2009 WL 242361. Taxation ⚡ 2524

Issue of proper classification of land subject to real estate tax was properly raised through appeals to board of tax review and on appeal to court of common pleas from board's decision; not only assessor was authorized to classify land. *Marshall v. Town of Newington* (1968) 239 A.2d 478, 156 Conn. 107. Taxation ⚡ 2645

10. Notice

Notice required by statute providing that a municipal board of assessment shall mail a written or printed notice to any person subject to a property tax assessment increase at least one week before making such increase is a mandatory condition precedent to the municipal board's decision to increase an assessment. *Wysocki v. Town of Ellington* (2008) 951 A.2d 598, 109 Conn.App. 287, certification denied 958 A.2d 1248, 289 Conn. 934, on remand 2009 WL 242361. Taxation ⚡ 2571

Increase in property tax assessment by town board of assessment appeals, based on declassification of the parcel as forest land, was illegal due to board's failure to provide mandatory notice of its intention to increase the assessment at least one week before holding a hearing, even if landowners participated in the hearing; board's failure to provide notice prevented landowners from preparing any objections relating to the propriety of the board's intention to increase the assessment. *Wysocki v. Town of Ellington* (2008) 951 A.2d 598, 109 Conn.App. 287, certification denied 958 A.2d 1248, 289 Conn. 934, on remand 2009 WL 242361. Taxation ⚡ 2571

Before limitation period for filing appeal could begin, board of tax review had to send notice of board's decision in appeal of assessment for property taxes to property owner's agent who had been appointed to represent property owner before board and who had specifically requested board to send notice of its decision to agent, despite board's argument that property owner's address was exclusive mailing address for notice of its decision. *Trap Falls Realty Holding Ltd. Partnership v. Board of Tax Review of City of Shelton* (1992) 612 A.2d 814, 29 Conn.App. 97, certification denied 617 A.2d 170, 224 Conn. 911. Administrative Law And Procedure ⚡ 504; Taxation ⚡ 2672

11. Timeliness of appeal

Taxpayer's failure to timely challenge validity of property tax assessments precluded taxpayer from raising special defense of invalid tax assessment in town's property tax foreclosure action. *Town of Redding v. Elfire, LLC* (2003) 812 A.2d 211, 74 Conn.App. 491, on remand 2004 WL 3090656. Taxation ⚡ 2926

Appellate Court would address taxpayer's claim that trial court improperly determined that taxpayer's special defense of invalid tax assessment was time barred in town's property tax foreclosure action, even though Appellate Court had already held that a genuine issue of material fact precluded summary judgment in favor of town, because issue of taxpayer's special defense was likely to arise on remand. *Town of Redding v. Elfire, LLC* (2003) 812 A.2d 211, 74 Conn.App. 491, on remand 2004 WL 3090656. Taxation ⚡ 2937

If owner of properties at times of assessments wanted to challenge assessments, owner was required to follow appropriate statutory procedures, either by (1) timely appealing from assessments to city's board of assessment appeals, and from there by timely appealing to trial court, or (2) timely bringing direct action. *City of Danbury v. Dana Inv. Corporation/Lot No. GO8065* (1999) 730 A.2d 1128, 249 Conn. 1. Taxation ⚡ 2640

Taxes that have not been timely challenged cannot be subject of perpetual litigation, at any time, to suit convenience of taxpayer; taxpayer who has not sought redress in appropriate manner is foreclosed from continuing litigation outside those statutes. *City of Danbury v. Dana Inv. Corporation/Lot No. GO8065* (1999) 730 A.2d 1128, 249 Conn. 1. Taxation ⚡ 2642

Taxpayer, as subsequent owner of real property on which city sought to foreclose tax liens, could not raise untimely challenge to assessment on basis that taxpayer was not in existence or did not have legal standing to mount such challenge at time of original assessment. *City of Danbury v. Dana Inv. Corporation/Lot No. GO8065* (1999) 730 A.2d 1128, 249 Conn. 1. Taxation ⚡ 2926

12. Appearance

See, also, Notes of Decisions under § 12-113.

Appearance by taxpayer before board of relief for examination touching taxable property, under Gen.St.1902, § 2348 (§ 12-113), was not condition precedent to exercise of board's power to equalize assessment. *Bugbee v. Town of Putnam* (1916) 96 A. 955, 90 Conn. 154. Taxation ⚡ 2676

Where the board of relief of the town of E added to the plaintiff's tax list "\$1,264" in a column headed "Additions," but with nothing to indicate the property intended, and the plaintiff had however money at interest and a draft due for more than that amount, which he had not put into his list, and had been notified by the board of relief to appear and show reason why their amount should not be added to his list, but had failed to appear, the addition was legally made and sufficient in form. *Lewis v. Town of Eastford* (1877) 44 Conn. 477. Taxation ⚡ 2587

13. Res judicata

Under Pub.Acts 1919, c. 320, § 1, and Pub.Acts 1921, c. 401, § 1, general validating acts, which provided that assessment lists in which omission on mistake had been made could at any time be corrected by assessors or board of relief, tax commissioner of Bridgeport had no authority to correct assessment after revision by board of relief, especially where no mistake in the revised assessment was shown. *Bridgeport Brass Co. v. Drew* (1925)

14. Waiver and estoppel

Taxpayer who has failed to utilize available statutory remedies may not assert, in action to collect tax, that tax has not been properly assessed. *City of Danbury v. Dana Inv. Corporation/Lot No. GO8065* (1999) 730 A.2d 1128, 249 Conn. 1. Taxation ⚡ 2926

While a property owner by the express provisions of 1905, P.A. c. 154, was entitled to a written notice of addition made to his tax list, failure to give him notice was waived by his appeal to the board of relief from the action of the assessor in making the addition. *Comstock v. Town of Waterford* (1911) 81 A. 1059, 85 Conn. 6. Taxation ⚡ 2673

The voluntary appearance of plaintiff before the board of relief in response to a notice of such board that he appear and show cause why certain property should not be added to his list, where, without objection to such notice, he was fully heard on the merits of the matter in question, obviated any defect in the notice required by statute, and all evidence tending to show that plaintiff was inconvenienced by reason of the shortness of the notice was properly rejected. *Appeal of Sanford* (1903) 54 A. 739, 75 Conn. 590. Appearance ⚡ 24(1); Taxation ⚡ 2673

Where land assessed was owned by plaintiff's wife, plaintiff having tenancy by the curtesy in it, his remedy for too high an assessment or for any irregularity or inequality in assessing it all to him was by appeal, but as he did not insist that his wife should be made a party to assessment, it would be presumed that he waived objection and consented to take whole burden upon himself. *Dann v. Woodruff* (1883) 51 Conn. 203. Taxation ⚡ 2699(3)

Nonresident whose personal property had been wrongfully included in assessment list, in town of his summer residence, had waived no rights with respect to property so added by neglecting to apply to board for relief. *Phelps v. Thurston* (1880) 47 Conn. 477. Taxation ⚡ 2652

Where taxpayers individually appealed tax assessments to board of relief, and city was not put in any worse position by reason of such appeal, and it did not appear that taxpayers intended to waive any of their rights, taxpayers were not estopped from asserting their rights in a subsequent action against the city for a judgment declaring grand list of city illegal and invalid. *Conzelman v. City of Bristol* (1936) 3 Conn.Supp. 448, affirmed 188 A. 659, 122 Conn. 218. Municipal Corporations ⚡ 974(2)

15. Record

An assessment list was not a record, and the grand list was the only record of the doings of the assessors, and this was not perfected until the board of relief had reviewed it, and made such changes in it as they thought proper, and the town clerk acted as the assistant of both boards, and properly made the corrections which the board of relief ordered. *Goddard v. Town of Seymour* (1862) 30 Conn. 394. Taxation ⚡ 2681

16. Mandamus

The legislature has established two primary methods by which taxpayers may challenge a town's assessment or revaluation of their property: first, any taxpayer claiming to be aggrieved by an action of an assessor may appeal to the town's board of tax review, and may then appeal an adverse decision of the town's board of tax review to the Superior Court; and second, a taxpayer has one year to bring a claim that the tax was imposed by a town that had no authority to tax the subject property, or that the assessment was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of the real property. *Interlude, Inc. v. Skurat* (2000) 754 A.2d 153, 253 Conn. 531, on remand 787 A.2d 631, 67 Conn.App. 505. Taxation ⚡ 2640

That appeal had been taken to board of relief constituted no defense to mandamus to compel assessors to list property for taxation in accordance with law. *State v. Bartholomew* (1928) 142 A. 800, 108 Conn. 246. Mandamus ⚡ 117