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Via E-mail (RulesCommittee@jud.ct.gov)

Honorable Andrew J. McDonald, Chair
And the Honorable Committee Members
Rules Committee of the Superior Court
P.O. Box 150474
Hartford, Connecticut 06115

Re: Comment concerning rules applicable to real property tax appeals

Dear Honorable Andrew J. McDonald, Chair and the Honorable Committee Members:

I respectfully write to suggest that this Honorable Committee consider amending the Connecticut Practice Book to include uniform standard interrogatories and production requests for real property tax appeals. I thank you in advance for your time and consideration.

For the last ten years, I have practiced in the area of real property tax appeals in both New Jersey and Connecticut. The adjudicatory schemes in both states are very similar, except that the New Jersey Rules of Practice (akin the Connecticut's Practice Book) has a part designed specifically for tax appeals and standard interrogatories and production requests, while Connecticut does not. See New Jersey Court Rules of Practice, Part 8 and R. 8:6-1(a)(6). New Jersey's standardized interrogatories and production requests, in my opinion, help to create an adjudicatory process that is streamlined, predictable and less litigious for all parties. Conversely, in my experience, the lack of standardized interrogatories and production requests makes tax appeals in Connecticut considerably more litigious. While each tax appeal will of course present unique factual issues for trial, the universe of information and documents that is relevant and probative to all property tax appeals is generally limited and can be easily obtained through standardized requests, with leave to serve a limited number of supplemental interrogatories.

Thank you again for your time and consideration. I offer my assistance should this Honorable Committee wish to move forward on my suggestion. For your convenience I have enclosed the New Jersey Tax Court's Standard Interrogatories to be Serve on Municipalities and Taxpayers.

Respectfully submitted,



Owen T. Weaver

OTW/otw
Enc.

Standard Interrogatories to Be Served On Taxpayer

1. State the name and address of the owner(s) of the subject property during the year of appeal and the preceding two years.
2. If you acquired the subject property during the time period set forth in Question No. 1, state:
 - a. the date of acquisition;
 - b. the consideration paid;
 - c. the amount and terms of any financing;
 - d. the name and address of the listing broker and the amount of time the property was listed;
 - e. the relationship, if any, between the buyer and seller;
 - f. attach hereto copies of the contract of sale (including all attachments and amendments), deed, mortgage, mortgage note and closing statements;
 - g. provide a detailed description of the land and improvements at the time of your acquisition including the number of acres and the size and type (e.g., office building, warehouse, shopping center) of all buildings; and
 - h. if you contend that your acquisition was not an arms-length purchase at fair market value, set forth in detail the factual basis for such contention.
3. State whether any portion of the subject property is suitable for subdivision, for additional development or for expansion of the existing improvements. If so:
 - a. State the amount of acreage which is suitable for such subdivision, additional development or expansion;
 - b. State whether any municipal approvals have been applied for or have been received concerning such subdivision, additional development or expansion;
 - c. Set forth the status of any application for approvals as of the assessing date and describe the subdivision, additional development or expansion which is the subject of the application;
 - d. Set forth the date each municipal approval was obtained and describe each approval; and
 - e. State whether any maps or site plans have been prepared. If so, attach a copy of any such map or site plan.
4. Describe in detail the land and improvements as of October 1 preceding the year of appeal, including the number of acres and the size and type (e.g., office building, warehouse, shopping center) of all buildings.
5. Describe the use of the buildings and improvements located at the subject property as of the assessing date.
6. As to each building and improvement on the subject property as of the assessing date, provide the following information:
 - a. total square footage;
 - b. total square footage devoted to manufacturing use;
 - c. total square footage devoted to warehouse use;
 - d. total square footage devoted to office use;
 - e. total square footage devoted to industrial use;
 - f. total square footage devoted to retail use;
 - g. total square footage devoted to any other use and a description of such use;
 - h. total number of residential apartment units;

- i. total number of hotel/motel rooms;
 - j. number of stories of each building;
 - k. as to each floor of each warehouse, manufacturing or industrial building, the ceiling height(s);
 - l. number and size of loading docks and bays at any warehouse, manufacturing or industrial building; and
 - m. whether floor plan(s) is/are available, and if so annex a copy(ies) hereto.
7. If the property is a residential apartment building:
- a. Attach hereto a copy of the rent roll as of October 1 of the year preceding the year of appeal and as of October 1 of each of the preceding two years. With regard to each rent roll, the following information is requested: identification by unit number of each apartment in the complex, number of rooms therein, monthly rental, and whether heat, hot water or other utilities are included in the monthly rental. If the requested information is not contained in the landlord's usual form of rent roll, set it forth separately;
 - b. For each apartment unit identified in response to the previous question, indicate whether there is any additional rental received, such as for a garage or storage space. If so, state the amount and the frequency of such payments; and
 - c. Set forth the average number of vacancies for the year of appeal and each of the preceding two years.
8. If the property is rented for manufacturing, warehouse, industrial, office or retail use:
- a. Attach a copy of the rent roll as of October 1 of the year preceding the year of appeal and as of October 1 of each of the preceding two years. With regard to each rent roll, the following information is requested: identification by unit number of each rental unit, the size of each rental unit, the date of commencement and expiration of each lease, the basic rent payable by each tenant and each item of additional rent (e.g., common area costs, operating costs, real estate taxes) payable by each tenant;
 - b. Attach copies of all leases which were in effect at the subject property during the tax year under appeal and the preceding two years. Copies should include all amendments, exhibits and work letters;
 - c. If tenants are separately charged for any item (e.g., heat, air conditioning, water, electricity) either under the lease agreement, or under any separate agreement, state with regard to each tenant the amounts charged on a monthly basis during the tax year under appeal and each of the preceding two years;
 - d. In the event the leased premises were improved, constructed, or renovated pursuant to a work letter included in a lease agreement, or pursuant to any other agreement, state all costs associated with the same, indicating the amount paid by the landlord and the amount paid by the tenant;
 - e. State whether any tenant has any relation to the landlord (e.g., family member) and whether the rent charged is in any way affected by said relationship;
 - f. State whether any leased portion of the subject property is subject to any sublease agreement or whether any lease has been subject to any assignment agreement, and, if so, state all details known about said sublease or assignment and attach copies of any and all documents relating thereto;
 - g. As to each lease attached hereto, state whether any rent concessions were given at lease inception (or as part of initial leasing negotiations), at lease renewal or any other time, and, if so, describe the concession granted, quantify any reduced rental, state the time period of any "free" or reduced rental, state what other type of concession may have been given (e.g., waiver of tenant contributions or "additional rent", assumption of fit-up costs by landlord); and
 - h. State the average amount of space vacant during the year of appeal and each of the preceding two years.
9. If any portion of the subject property is used for hotel/motel use, attach copies of detailed income and expense statements and departmental backup for the year under appeal and each of the preceding two years.
10. State whether any portion of the property is owner-occupied. If so, provide the total square footage and a

description of the portion occupied by the owner.

11. If any portion of the property is leased or rented, attach a copy of the income and expense statement relating to the subject property for the year of appeal and each of the preceding two years. If the property is owner-occupied, attach a copy of an expense statement of the same time period. If any of the above information is contained within any reports prepared by an accounting or financial firm, attach copies of such reports and all notes to which reference is made in the statement of income and expenses. (Income should include income from all sources, i.e., basic rent, additional rents, percentage rents, pass throughs, interest on security deposits, administrative charges, charges for providing or relating to utilities, maintenance, taxes, vending machine fees).
12. List the name and address of any person who either now holds or has held, at any time during the year of appeal or the preceding two years, an option to purchase the subject property, the date said option expires or expired, the amount paid for the option, the price at which said option can be exercised and the terms for payment of that amount. Attach a copy of the option agreement.
13. State whether the property has been offered for sale during the year of appeal or the preceding two years. If so, state: (a) when the property has been offered for sale; (b) the name and address of any brokers with whom the property has been listed; (c) the terms of any offers, either written or oral, that were received (attach copies of any written offers); and (d) whether the property was advertised in newspapers, brochures or otherwise and, if so, attach copies hereto.
14. State whether the property has been offered for lease at any time during the year of appeal or the preceding two years. If so, set forth the asking terms and attach any listing agreements.
15. State whether any offers to lease the subject property have been received at any time during the year of appeal or the preceding two years. If so, set forth the date and terms of each such offer and attach a copy of any written offer.
16. State whether any contract of sale has been executed during the year of appeal or the preceding two years for any interest in the subject property. If so, state the names and addresses of the parties to each contract, describe the interest being sold, state the amount of consideration to be paid for the property and the terms for payment of that amount. Attach a copy of any such contract.
17. State the name, address and field or area of expertise of each expert expected to testify on your behalf at the trial of this appeal, and set forth the qualifications of each.
18. Attach hereto copies of all appraisals and expert reports prepared on your behalf, or in your possession, covering the subject property or any portion thereof, which appraisals or reports were prepared by any expert named in answer to Question No. 17, during or with respect to the year of appeal or either of the preceding two years, in connection with this or any other proceeding or for any other reason.
19. State the name and address of each person known to you who has knowledge of facts bearing upon or relating to this appeal or the subject property, and summarize the facts known to each.
20. Attach a copy of or describe in detail each document of which you have knowledge and which relates to or bears upon the subject matter of this appeal. The term "document" shall include, but not be limited to, photographs. Include in such description the following:
 - a. the date of the document;
 - b. the nature of the document (e.g., letter, appraisal, memorandum, photograph, contract);
 - c. the name and address of the person who prepared the document;

- d. when the document was prepared;
- e. when the document was delivered;
- f. to whom the document was delivered;
- g. the name, address, employer and job title or position of the person having custody of the document; and
- h. a full summary of the contents of the document.

21. If you claim the value of the subject property is adversely affected by contamination by hazardous substances or wastes or by environmental clean-up costs:

- a. State whether any environmental assessments or studies of the subject property have been commenced or completed during the year of appeal or the preceding two years (including ECRA and ISRA compliance, toxic waste or spill clean up, wetlands, ground water contamination, etc.). If so, identify the type of study or assessment, the date of commencement, and provide a copy of the preliminary, interim or final conclusions;
- b. Attach hereto any such environmental assessments along with copies of all correspondence with NJDEP or USEPA relating to any possible or required environmental responsibility of the property owner for clean up of the subject property or any neighboring properties which may have been contaminated by activities conducted at the subject property; and
- c. State whether you or any previous owner of the subject property is subject to ECRA or ISRA regulations, and, if so, state whether any environmental clean-up has been required, whether any work has commenced, and the (estimated) cost of same.

22. State the name, address and job title of the person answering these interrogatories.

23. State the name, address and telephone number of the person to contact in order to arrange an inspection of the subject property.

These interrogatories may be supplemented with not more than ten (10) additional questions, with no subparts, without leave of court. Thereafter, additional interrogatories may be served only after application to the Tax Court which application shall be liberally granted by the Court taking into consideration the character of the property under appeal and the valuation issues presented.

CERTIFICATION

I hereby certify that the foregoing statements are true and that all documents and reports annexed hereto are exact copies of the entire original document or report. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

By: _____
Signature

STANDARD INTERROGATORIES TO BE SERVED ON MUNICIPALITY

1. State the name and present address of each person known to the municipality who has knowledge of facts bearing upon or relating to this appeal or the subject property and summarize the facts known to each.
2. State the name, address and field or area of expertise of each expert witness expected to testify on behalf of the municipality at the trial of this appeal and set forth the qualifications of each.
3. Attach hereto copies of all appraisals and expert reports prepared on behalf of the municipality, or in the possession of the municipality, covering the subject property or any portion thereof, which appraisals or reports were prepared by any expert named in answer to Question No. 2, during or with respect to the year of appeal or either of the preceding two years, in connection with this or any other proceeding, or for any other reason.
4. Attach a copy of all Property Record Cards for the subject property for the year under appeal and for the two prior years.
5. Attach a copy of or describe in detail each document of which the municipality has knowledge and which relates to or bears upon the subject matter of this appeal. The term "document" shall include, but not be limited to, photographs. Include in such description, the following:
 - a. the date of the document;
 - b. the nature of the document (e.g., letter, appraisal, memoranda, photograph, contract);
 - c. the name and address of the person who prepared the document;
 - d. when the document was prepared;
 - e. when the document was delivered;
 - f. to whom the document was delivered;
 - g. the name, address, employer and job title or position of the person having custody of the document; and
 - h. a full summary of the contents of the document.
6. State the name, address and job title or position with the municipality of the person answering these interrogatories.
7. State whether a revaluation was effected with respect to the year of the appeal.
8. State whether a reassessment was effected with respect to the year of appeal.

These interrogatories may be supplemented with not more than ten (10) additional questions, with no subparts, without leave of court. Thereafter, additional interrogatories may be served only after application to the Tax Court which application shall be liberally granted by the court taking into consideration the character of the property under appeal and the valuation issues presented

CERTIFICATION

I hereby certify that the foregoing statements are true and that all documents and reports annexed hereto are exact copies of the entire original document or report. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

By: _____
Signature