

## **Kasica v. Town of Columbia and Need for Legislation**

**Issue:** When can municipalities raise the valuation of property for tax assessment purposes while a home (or any other building) is being constructed?

**Summary:** In Kasica v. Columbia, the town assessor increased the tax assessment during construction of a 9,620 sq. ft home on a 3.44 ac. lot (part of a larger 186 acre parcel owned by Gene Kasica). When fully completed, the value is estimated to be \$1.6 to 1.7 million. Mr. Kasica appealed the assessment. He won in trial court, with the court finding, based on its interpretation of state statutes, that “the assessor should not have placed an assessment on the partially constructed house until its completion and the issuance of a certificate of occupancy.” The town is appealing the decision.

**State Statutes & Court’s Interpretation:** Two state property tax statutes are at issue, as follows: **Section 12-53a(a)** states, “Completed new construction of real estate completed after any assessment date shall be liable for the payment of municipal taxes from the date the certificate of occupancy is issued or the date on which such new construction is first used for the purpose for which same was constructed, whichever is earlier, ....” **Section 12-55(b)** states, “The assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last-preceding grand list, ....”

The town in the Kasica v. Columbia tax appeal claims it has the authority under 12-55(b) to raise the valuation of a home under construction at the time of tax revaluation. Mr. Kasica claims the town is bound by the limitations in 12-53a(a) and must wait for the home to obtain a C.O.

**The trial court held for the property owner**, adopting the reasoning in a 2009 tax appeal case (Evans v. Guilford) regarding an assessor’s authority to make interim assessments. The judge in Kasica explained: “In Evans, the court discussed how ‘[t]he assessor could not legally increase the assessed value of the property based solely on the new construction because interim assessments for new construction are governed by [sec.] 12-53a(a). It is a well-settled principle of [statutory] construction that specific terms governing [a] given subject matter will prevail over general language of ... another statute which might otherwise prove controlling. Here, the specific terms of [sec.] 12-53a(a), governing new construction, prevail over the broad terms of [sec.] 12-55. Because an interim assessment under [sec.] 12-53a(a) cannot commence until after new construction is completed, the assessor acted outside of his statutory mandate by performing an interim assessment when the property was 69 percent completed.’”

The trial court further explained, “If, as the town argues, the assessor is required to include ‘any property’ within the town on the date of revaluation, pursuant to [sec.] 12-55(b), without qualification, the language in [sec.] 12-53a(a), providing for interim assessment on new construction, would be superfluous.”

**Legislation: Many towns are ignoring the trial court decision**, saying it applies to only the town of Columbia. Rather than wait for the outcome of an uncertain appeal, the statutes should be clarified to codify the trial court decision, so that towns do not confuse their different tax authorities. Given the new economic realities, where builders must hold homes for a lengthy period before closing a sale, adopting the trial court’s rationale is now more critically important. And, towns provide very limited services to such properties before a C.O. is issued or people move into the home.