

Wednesday, March 24, 2010

Community Collections

10:30 A.M. – 12:00 P.M.

- 1. Special Taxing Districts**
- 2. Mobile Homes**
- 3. Special Assessments**

COMMUNITY COLLECTIONS: Districts, Mobile Homes, and Special Assessments

10:30 a.m. – 12:00 p.m. Wednesday March 24, 2010

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1. Special Taxing Districts

A special taxing district is an independent special-purpose municipal government which provides services to property owners in a geographically-contiguous area.

Sec. 7-324. Definition. Continuation of former districts..
"[D]istrict" means any fire district, sewer district, fire and sewer district, lighting district, village, beach or improvement association and any other district or association, except a school district, wholly within a town and having the power to make appropriations or to levy taxes.

Sec. 7-326. Purposes.. To extinguish fires, to light streets, to plant and care for shade and ornamental trees, to construct and maintain roads, sidewalks, crosswalks, drains and sewers, to appoint and employ watchmen or police officers, to acquire, construct, maintain and regulate the use of recreational facilities, to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise and manage a flood or erosion control system, to plan, lay out, acquire, construct, maintain, operate and regulate the use of a community water system, to collect garbage, ashes and all other refuse matter in any portion of such district and provide for the disposal of such matter, to implement tick control measures, to install highway sound barriers..

The district is created and run by the residents, who want more or better services than their town government offers and are willing to pay for them with higher taxes. These kinds of districts are not to be confused with service districts, port authorities, historic districts, most WPCAs, and other entities which are created, controlled, and funded by towns themselves.

Sec. 7-147a. Historic districts authorized. Definitions..
(b) Any municipality may, by vote of its legislative body and in conformance with the standards and criteria formulated by the Connecticut Commission on Culture and Tourism, establish within its confines an historic district or districts to promote the

educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places associated with the history of or indicative of a period or style of architecture of the municipality, of the state or of the nation.

Sec. 7-273b. Legislative finding. Definitions. Formation of district. Withdrawal. (a) It is hereby found and declared that the development, maintenance and improvement of systems for the transportation of people and goods within the state, and particularly within the metropolitan areas of the state, by rail, motor carrier or other means of land transportation are essential for the welfare of the citizens of the state and for the development of the state's resources, commerce and industry..

(d) Any town, city or borough may, by itself or in cooperation with one or more other municipalities, form a transit district,

Sec. 7-339m. Purpose of special services districts. Any municipality may establish by ordinance of its legislative body as provided in this chapter, within its confines, a special services district or special services districts to promote the economic and general welfare of its citizens and property owners through the preservation, enhancement, protection and development of the economic health of such municipality.

Special taxing districts can cooperate with town or sign contracts with them to jointly conduct operations and services, or to share facilities and personnel.

Sec. 7-326. Purposes.. Any district may contract with a town, city, borough or other district for carrying out any of the purposes for which such district was established.

Sec. 7-148cc. Joint performance of municipal functions. Two or more municipalities may jointly perform any function that each municipality may perform separately under any provisions of the general statutes or of any special act, charter or home rule ordinance. Each participating municipality shall approve any agreement entered into pursuant to this section in the same manner as an ordinance is approved in such participating municipality or, if no ordinances are approved by such participating municipality, in the same manner as the budget is approved. The terms of each agreement shall establish a process for withdrawal from such agreement and shall require that the agreement be reviewed at least once every five years by the body that approved the agreement to assess the effectiveness of such agreement in enhancing the performance of the function that is the subject of the agreement. As used in this section, "municipality" means any municipality, as defined in section 7-187, or any district, as defined in section 7-324, located within the state of Connecticut.

Sec. 7-339b. Subjects of interlocal agreements. (a) Any [town, district, etc.] of this state may participate in developing and implementing interlocal agreements with any [others] providing for ... [t]he exchange, furnishing or providing by one or more of the participating public agencies to one or more of the other participating public agencies, or the furnishing or providing for the joint use or benefit of the several participating public agencies, of services, personnel, facilities, equipment or any other property or resources for [various public purposes].

Sec. 7-339d. Advisory board. Each participating public agency of this state shall be represented on any interlocal advisory board established by an interlocal agreement to which it is a party. Its representatives shall be appointed by the legislative body of the participating public agency of this state, or in such other manner as shall be prescribed by such legislative body.

Districts have the same powers to enact ordinances and levy real estate, personal property, motor vehicle, and utilities taxes as towns do, so long as they are reasonably related to their purposes. The district's treasurer (or a tax collector s/he appoints) has all the same powers to collect the taxes it levies as a town tax collector.

Sec. 7-328. Taxation. Bonds. (a) The territorial limits of the district shall constitute a separate taxing district, and the assessor or assessors of the town shall separate the property within the district from the other property in the town and shall annually furnish the clerk of the district with a copy of the grand list of all property in the district... When the district meeting has fixed the tax rate, the clerk shall prepare a rate bill, apportioning to each owner of property his proportionate share of the taxes, which rate bill, when prepared, shall be delivered to the treasurer; and the district and the treasurer thereof shall have the same powers as towns and collectors of taxes to collect and enforce payment of such taxes, and such taxes when laid shall be a lien upon the property in the same manner as town taxes, and such liens may be continued by certificates recorded in the land record office of the town, and foreclosed in the same manner as liens for town taxes.

A special taxing district and town which tax the same property usually have equal priority, so recoveries are split equally or proportionately. See Cordani v. Stramaglia, 14 Conn.L.Rptr. 164 (1995). They can, but need not, join in each other's tax foreclosures.

Sec. 12-181. Foreclosure of tax liens. [A]ll municipalities having tax liens upon the same piece of real estate may join in one complaint for the foreclosure of the same... If all municipalities having tax liens upon the same piece of real estate do not join in a foreclosure action, any party to such action may petition the court to cite in any or all of such municipalities as may be omitted, and the court shall order such

municipality or municipalities to appear in such action and be joined in one complaint... If one or more municipalities having one or more tax liens upon the same piece of property are not joined in one action, each of such municipalities shall have the right to petition the court to be made a party plaintiff to such action and have its claims determined in the same action... If one or more municipalities foreclose one or more tax liens on real estate and acquire absolute title thereto and if any other municipality having one or more tax liens upon such real estate at the time such foreclosure title becomes absolute has not, either as plaintiff or defendant, been made a party thereto, the tax liens of each of such other municipalities shall not be thereby invalidated or jeopardized.

2. Mobile Homes

Mobile homes are transportable long-term dwellings designed to be attached to leased lots.

Sec. 21-64. Definitions. As used in this chapter:

(1) "Mobile manufactured home" means a detached residential unit having three-dimensional components which are intrinsically mobile with or without a wheeled chassis ... containing sleeping accommodations, a flush toilet, tub or shower bath, kitchen facilities and plumbing and electrical connections for attachment to outside systems, and designed for long-term occupancy and to be placed on rigid supports at the site where it is to be occupied as a residence...

(2) "Mobile manufactured home park" or "park" means a plot of ground upon which two or more mobile manufactured homes, occupied for residential purposes are located;

(3) "Mobile manufactured home space or lot" means a plot of ground within a mobile manufactured home park designed for the accommodation of one mobile manufactured home...

Sec. 21-64a. Term "mobile home" means mobile manufactured home. Whenever the term "mobile home" occurs or is referred to in the general statutes, it shall be deemed to mean or refer to a mobile manufactured home.

Separate real estate tax assessments are imposed against the mobile home owner and park owner, respectively. Tax delinquencies on the underlying land are unusual in that the municipality's lien securing them do not take effect until after a continuation certificate is recorded.

Sec. 12-63a. Taxation of mobile manufactured homes and mobile manufactured home parks..(c) In determining the value of a

mobile manufactured home for the purpose of property taxation... each assessor shall assess mobile manufactured homes connected to utilities and used as a residence in the same manner as residential real property... The assessment for a mobile manufactured home shall be in the name of the owner of the mobile manufactured home and shall not alter in any way the assessment of the ground upon which the mobile manufactured home is situated, except that a mobile manufactured home situated upon land owned by the owner of the mobile manufactured home shall be assessed in the same manner as any dwelling house...

Sec. 21-73a. Owner's interest subject to tax lien. The interest of each owner of a mobile manufactured home park in such park shall be subject to any tax lien on such park continued pursuant to the provisions of section 12-173. No such lien shall be valid unless the tax collector of the municipality wherein such park is situated makes and files in the office of the town clerk a certificate of lien, pursuant to the provisions of section 12-173, giving notice of his intention to claim against such park. Such lien shall exist from the fifteenth day succeeding the date of entry of such certificate in the land records. Any such lien may be discharged in accordance with said section 12-173.

Sec. 21-73d. Order of precedence of liens. The liens filed pursuant to section 21-73a shall take precedence over any claim of right of an insured owner, mortgagee, assignee or other interested party.

Water and sewer assessments should be billed to the park owner, not the individual residents, since these

Sec. 21-82. Owner's responsibilities...(a) At all times during the tenancy the [park] owner shall... (11) Maintain all water and sewage lines and connections in good working order...

The owner of a mobile home may not remove it from a park without advance confirmation from the tax collector that no tax delinquencies encumber it.

Sec. 21-67a. Filing of documents re mobile manufactured homes and mobile manufactured home parks. ... (f) Removal statement. Any owner of a mobile manufactured home located in a mobile manufactured home park or on a single-family lot who desires to remove such home from the park or lot in or on which it has been situated shall file for recording with the town clerk of said municipality a certificate [a form for which is provided in this statute]...

(g) **Time period for filing removal statement.** The removal statement required under subsection (f) of this section shall be

filed with the town clerk of the municipality not later than seventy-two hours prior to the removal of such home from the park... Any person who fails to file such removal statement within the time period prescribed by this subsection shall be subject to a fine of five hundred dollars...

Mobile home parks and sellers must warn purchasers that the home might be liened for delinquent taxes.

Sec. 21-67a. Filing of documents re mobile manufactured homes and mobile manufactured home parks. ... (c) Conveyance requirements... (1) The document conveying the title shall contain ... (C) the amount due and owing, if any, for property taxes to the municipality in which the mobile manufactured home is located...

Sec. 21-70. Disclosure statement... [A] disclosure statement which shall be used by mobile manufactured home park owners ... shall include ... (10) notice that outstanding property taxes may be owed on the mobile manufactured home; and (11) notice that ... the resident or purchaser should check with the town clerk, tax assessor and tax collector to determine whether any taxes are due on the mobile manufactured home...

The park owner may evict a resident for failing to pay rent and, if the owner fails to remove it, obtain court permission to deem the home abandoned and auction it free and clear of other liens.

Sec. 21-80. Grounds for summary process action or termination of rental agreement. Procedure. Rent increases. Stay of execution. Sale of abandoned homes... (e) (1) If (A) a judgment for possession [eviction] has been entered against the resident and all occupants of a mobile manufactured home ... and ... the mobile manufactured home remains upon the lot, the owner of the mobile manufactured home park may initiate a petition to the Superior Court... (3) A copy of the petition and the notice of the hearing on the petition shall be given to ... the municipality ... by certified mail... (4) ... If such requirements have been satisfied and such home has been abandoned, the court shall order the owner of the mobile manufactured home park to conduct a public sale of the home... The order directing sale shall require notice which includes a conspicuous statement that the sale will extinguish all previous ownership and lien rights. Notice shall be given by certified or registered mail, return receipt requested, to all persons entitled to notice of the petition... Any person, including a lienholder or the owner of the mobile manufactured home park, may bid at the sale. The proceeds of such sale shall be applied first to the costs of the sale and then to the payment of lienholders in the order of the priority of their liens... The court, upon finding compliance with its order, shall issue a conveyance of title and release of liens, if any, to the purchaser for filing in the land records, which shall constitute

good title to the home, and no execution shall issue on the original summary process action.

A recent Connecticut Supreme Court case held that a park owner which auctions a mobile home in this manner extinguishes all tax liens. This means the tax collector is powerless to either block removal of the home or to use it as security to collect the tax, unless s/he completes a tax sale or tax foreclosure before the park completes its abandonment petition.

Fairchild Heights, Inc. v. Amaro, 293 Conn. 1, 9-10 & n.9 (Aug. 11, 2009):

The plain meaning of the language of § 21-80 (e) (4), therefore, clearly and unambiguously indicates that the legislature intended to provide the successful bidder at a public sale conducted pursuant to that statute with clear and good title to the abandoned mobile home, free from any and all encumbrances, including municipal tax liens.⁹ The statutory language does not provide that "the sale will extinguish all previous ownership and lien rights *except municipal tax liens*," nor does it provide that the purchaser will have "good title to the home *except that the title will remain subject to any outstanding municipal tax liens*."

⁹ That is not to say that municipal tax liens that are subject to § 12-172 lose their *priority* over other liens prior to their extinguishment. In the event that there are proceeds left over from the sale after the costs have been paid, for example, municipal tax liens maintain their priority over other liens, and those proceeds must first be applied to satisfy any outstanding municipal tax liens. See General Statutes § 21-80 (e) (4) ("[t]he proceeds of such sale shall be applied first to the costs of the sale and then to the payment of lienholders in the order of the priority of their liens"). When, as here, no proceeds are left over after the sale, however, the language of § 21-80 (e) (4) clearly and unambiguously provides that municipal tax liens are extinguished in the same manner as all other liens.

3. Special Assessments

A special assessment is imposed on people or property receiving a particular benefit which differs from that of the general public and for which the resulting tax revenue must be expended. Examples include assessments for sidewalks, sewers, lake management, flood control measures, and blight remediations.

Sec. 7-328. Taxation. Bonds. (a) ... If the district constructs any drain, sewer, sidewalk, curb or gutter, such proportion of the cost thereof as such district determines may be

assessed by the board of directors, in the manner prescribed by such district, upon the property specially benefited by such drain, sewer, sidewalk, curb or gutter, and the balance of such costs shall be paid from the general funds of the district.

Sec. 7-249. Assessment of benefits. At any time after a municipality, by its water pollution control authority, has acquired or constructed, a sewerage system or portion thereof, the water pollution control authority may levy benefit assessments upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby..

Sec. 7-148ff. Special assessment on blighted property. Liens. (a) Any municipality that has regulations preventing housing blight ... may, by ordinance adopted by its legislative body on recommendation of its board of finance or equivalent body, provide for a special assessment on housing that is blighted..

Sec. 25-87. Bond issue authorized. Assessments. At any time after voting to acquire, construct or reconstruct any flood or erosion control system or portion thereof, the board in its discretion may elect to defray the cost thereof by issuing bonds or other evidences of debt, or from general taxation, special assessment or any combination thereof. If it elects to defray any part of such cost from special assessment, it may apportion and assess such part upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut on such flood or erosion control system or not, and upon the owners of such lands and buildings..

Sec. 22a-339e. Municipal assessment for costs of lake management implementation measures. A municipality may, by vote of its legislative body, impose an assessment of a proportion of the cost of lake management implementation measures upon the owners of property specially benefited by such measures, provided no such assessment shall be in excess of the special benefit to the property.

With a few exceptions, the statutes give municipalities broad latitude to determine who is responsible to pay special assessments, how long they have to do so, and how much is owed. The consequences of nonpayment and procedures for collection are otherwise the same as for general real estate taxes.

Sec. 7-148. Scope of municipal powers..

(c) **Powers.** Any municipality shall have the power to do any of the following..

(2) (B) Assess, levy and collect taxes for general or special purposes on all property, subjects or objects which may be lawfully taxed, and regulate the mode of assessment and collection of taxes and assessments not otherwise provided for..

(G) When not specifically prescribed by general statute or by charter, prescribe the form of proceedings and mode of ...

making public improvements to be paid for, in whole or in part, by special assessments, and prescribe the manner in which all benefits assessed shall be collected..

Sec. 12-142. Installments; due date. ... [A]ny special tax shall be due and payable in a single installment. In case of failure of the legislative body to determine when such tax shall be due and payable or whenever the date on which such tax shall be due and payable has been determined, however, (1) the preparation and mailing of rate bills for such tax is delayed until after the date such tax is due or (2) such tax is not applicable to certain property until after the date such tax is due, such tax shall be due and payable, with respect to all property or property which becomes subject to tax after the date such tax is due, whichever is applicable, not later than thirty days following the date on which rate bills for such tax are mailed or handed to persons liable therefor..

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