



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



PA 490 and Selective Caselaw summaries for Farmland Tax Appeals

PA 490 is primarily codified as CGS 12-107c for farmland designation under municipal property valuation and assessment. Caselaw related to farmland designation falls into two main categories: Timeliness of appeals of contested assessments, and disputes over whether or not the property qualifies for classification as farmland under CGS 1-1(q) and CGS 12-107c. The cases summarized below generally focus on the latter category, however synopses of all cases related to CGS 12-107c follow the statute quoted in full at the end of this summary.

The first CT Supreme Court case ruling on this issue was *Marshall.v.j.Newington*, 156 Conn. 107 (1968) which ruled on whether property could be classified as farmland even though it was zoned for industrial use. The court held that the trial court erred in predicating its decision as to a proper classification of the land on the fact that its highest and best use would be for industrial purposes. The court concluded that Conn. Gen. Stat. § 12-107c specified that the proper criterion for the determination of classification was the actual use of the land. The court rejected the town's claim that Conn. Gen. Stat. § 12-111 did not give boards of tax review jurisdiction in the matter of the reclassification of farmland.

In a case from 1970, *Johnson.v.j.Board.of.Tax.Review*, 160 Conn. 71, the CT Supreme Court considered whether a nursery qualified for classification as farmland under CGS 12-107c. The court held that the legislative purpose of the statutes was sufficiently broad to include nurseries. The court noted that nurseries encouraged the preservation of farmland and that they did conserve natural resources. The court further noted that the terms "open space land" and "wasteland" made the statute unambiguous in stating that its purpose related to the condition of the land as much as it did to the type of products produced thereon.

Lower court decisions in this area have focused on the actual use of the property to determine if the property qualifies for designation as farmland.

In *Holloway.Bros;?Inc.v.j.Avon*, 26 Conn. Supp. 160 (1965) the court looked at whether a detached parcel (Parcel C) that was a wooded area could be considered part of nearby parcels (Parcels A and B) that were used for hayfields, pasture lands, and farm buildings. A fourth parcel (Parcel D) was used for a loam and gravel business that involved stripping the topsoil for sale and then removing the underlying gravel, also for sale. The court held that, under the standards set forth in Conn. Gen. Stat. § 12-107c, the assessor correctly rejected the petition as to Parcel C, as it was a wooded area detached from Parcels A and



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



B that was agriculturally nonproductive. The court held that Parcels A and B should be classified as farmland, as the fact that the corporation's major income was from the nonfarming operation on Parcel D did not deprive Parcels A and B of their farmland status. The court held that Parcel D, despite the corporation's designation of its business as "loam farming," was not a farming operation.

In a more recent decision from 2003, Superior Court judge in *Cecarelli v. Bd. of Assessment Appeals of Town of N. Branford*, 49 Conn. Supp. 1257 held that property subject to encumbrances had a market value less than an otherwise similar property not subject to encumbrances. A residential-lot-sized portion of the land immediately surrounding a dwelling on land restricted to agricultural use was not to be given the same value as other residential lots in the area that were not subject to the same restrictions on use and alienation as the encumbered residential lot. The taxpayer's residential land and a dwelling on property that had to be preserved as agricultural land was improperly valued in a mass appraisal. The appraisal did not account for the encumbrances on the land's use in assigning the land and the dwelling on the land a value as if the land were unencumbered. This decision was affirmed by the CT Supreme Court in *Cecarelli v. Bd. of Assessment Appeals*, 272 Conn. 485.

In an unreported superior court case, *Paletksy v. Morris*, 1992 Conn. Super. LEXIS 2475, (unreported decisions do not have precedential effect in CT law) the judge held that the property owner missed the filing deadline of 2 months to appeal their assessment leaving in place the town's higher valuation under market valuation principles.

In *NFTM W. Cooke Ltd. Partnership v. Branford*, 2009 Conn. Super. LEXIS 3437 the court found that the property owner failed to timely refile for classification after changing the type of farming as required by CGS 12-504h. Thus, even though the property owner did not receive notice of the pending assessment did not excuse them from appealing the declassification within 90 days of the assessment, as required by Conn. Gen. Stat. § 12-107c, because they were obliged under Conn. Gen. Stat. § 12-504h to file a new application when they changed the type of farming they conducted on the land if they intended to maintain farm land classification.

In *Sayers v. City of Danbury*, 2012 Conn. Super. LEXIS 2423, the property owners appealed the removal of a farm land classification from their land. The court found, *inter alia*, that the owners were mixing soils brought to their land and were not merely allowing the land to remain unused as part of a farming operation. This is in direct conflict with Conn. Gen. Stat. § 12-107c to retain a farm land classification on land that no longer qualified as such and then assess it based on its non-farm current use.



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



In *Betts.Island.Oyster.Farms?LLC.v;.City.of.Norwalk*, 2012 Conn. Super. LEXIS 2366, a farming operation on Bett's Island was reclassified by the tax assessor, for the following reasons:

- (1) Insufficient acreage for active farming business, and lack of full parcel utility.
- (2) Insufficient income and/or expense to substantiate agri-business endeavor.
- (3) Lack of farming implements and equipment.
- (4) No agricultural outbuildings on assessment record.

The court disagreed with the town's assessor's factual allegations, or found them to be immaterial to the determination for farmland classification purposes (the error in the acreage, and lack of outbuildings), and agreed with the property owner's evidence about continued farm use, and maintained the classification of the property as farmland.

There are not any cases addressing the assessments and reclassification of property as not being farmland since the amendment of CGS 12-107c in 2024, which added "provided any advisory opinion issued by the Commissioner of Agriculture pursuant to section 22-4c, stating that such land constitutes farm land, shall be prima facie evidence that such land is classified as farm land for purposes of this section."

A copy of these cases and several other similar cases can be found in this Dropbox link:

<https://www.dropbox.com/scl/fo/4f1up5la8h90o4858ow9h/AIRR5HE0st0jUwqSd-u4xoc?rlkey=d3lfp6ahwnf6tykw6b4655jxx&dl=0>



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



Sec. 12-107c. Classification of land as farm land.

(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, provided any advisory opinion issued by the Commissioner of Agriculture pursuant to [section 22-4c](#), stating that such land constitutes farm land, shall be prima facie evidence that such land is classified as farm land for purposes of this section. The assessor shall not deny the application of an owner of land for classification of such land as farm land if such land meets the criteria for classification as farm land pursuant to this subsection. The assessor shall not deny the application for any portion of such land on account of any minimum acreage requirement for residential parcels or agricultural use established under municipal zoning regulations.

(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.

History



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



1963, P.A. 490, S. 3; P.A. 73-585, S. 3; P.A. 77-614, S. 139, 610; P.A. 79-513, S. 1, 6; 79-610, S. 3, 47; [P.A. 94-201, S. 1](#), 7; [P.A. 95-283, S. 45](#), 68; [P.A. 00-120, S. 2](#), 13; [P.A. 01-195, S. 116](#), 181; June 30 Sp. Sess. [P.A. 03-6, S. 146\(e\)](#); [P.A. 04-189, S. 1](#); [P.A. 05-190, S. 3](#); [P.A. 18-176](#), § 1, effective October 1, 2018; [P.A. 24-70](#), § 2, effective July 1, 2024.

▼ Annotations

Notes

Amendment Notes

2018 amendment, by P.A. 18-176, effective Oct. 1, 2018, added the fourth and the last sentences of (a).

2024 amendment, by P.A. 24-70, effective July 1, 2024, in (a), added “provided any advisory opinion issued by the Commissioner of Agriculture pursuant to section 22-4c, stating that such land constitutes farm land, shall be prima facie evidence that such land is classified as farm land for purposes of this section” in the third sentence.

Applicability

Applicable to assessment years commencing on or after October 1, 2018.

Notes to Decision

- [⬇ Administrative Law: Judicial Review: Reviewability: General Overview](#)
 - [⬇ Civil Procedure: Appeals: Reviewability: Time Limitations](#)
 - [⬇ Environmental Law: Zoning & Land Use: Agriculture & Farmland](#)
 - [⬇ Tax Law: State & Local Taxes: Administration & Proceedings: General Overview](#)
 - [⬇ Tax Law: State & Local Taxes: Personal Property Tax: Exempt Property: General Overview](#)
 - [⬇ Tax Law: State & Local Taxes: Real Property Tax](#)
 - [⬇ Tax Law: State & Local Taxes: Real Property Tax: General Overview](#)
 - [⬇ Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview](#)
 - [⬇ Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Assessment Methods & Timing](#)
- [⬆ Administrative Law: Judicial Review: Reviewability: General Overview](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



Trial court did not have jurisdiction over a taxpayer's appeal from a ruling of a board of tax review because the taxpayer did not file the appeal within the time allowed after the board's ruling; an appeal under [Conn. Gen. Stat. § 12-107c\(d\)](#) was not the type of action that came within the saving protection of [Conn. Gen. Stat. § 52-592](#). [Holloway Bros., Inc. v. Avon](#), 26 Conn. Supp. 164, 214 A.2d 701, 1965 Conn. Super. LEXIS 167 (Conn. Super. Ct. 1965).

📌 Civil Procedure: Appeals: Reviewability: Time Limitations

Trial court did not have jurisdiction over a taxpayer's appeal from a ruling of a board of tax review because the taxpayer did not file the appeal within the time allowed after the board's ruling; an appeal under [Conn. Gen. Stat. § 12-107c\(d\)](#) was not the type of action that came within the saving protection of [Conn. Gen. Stat. § 52-592](#). [Holloway Bros., Inc. v. Avon](#), 26 Conn. Supp. 164, 214 A.2d 701, 1965 Conn. Super. LEXIS 167 (Conn. Super. Ct. 1965).

📌 Environmental Law: Zoning & Land Use: Agriculture & Farmland

Both [Conn. Gen. Stat. § 12-107c\(a\)](#), governing classification of property as farmland, and [Conn. Gen. Stat. §§ 12-107e](#) and [12-504h](#), governing classification and declassification of property as open space, require municipal assessors to determine whether the property at issue is being used in a way that entitles it to favorable tax treatment under [Conn. Gen. Stat. § 12-63\(a\)](#). Furthermore, all of the foregoing provisions are part of the same statutory scheme and are motivated by the same stated policy considerations contemplated by [Conn. Gen. Stat. § 12-107a](#). [Griswold Airport, Inc. v. Town of Madison](#), 289 Conn. 723, 961 A.2d 338, 2008 Conn. LEXIS 542 (Conn. 2008).

Property owner's request that a parcel of land used primarily for a business that involved the sale of topsoil and underlying gravel be classified as farmland, was properly denied by the tax assessor; neither the fact that the owner designated the operation as "loam farming," nor the fact that buckwheat was planted to enhance the soil, converted the use of the parcel into a farming operation. [Holloway Bros., Inc. v. Avon](#), 26 Conn. Supp. 160, 214 A.2d 699, 1965 Conn. Super. LEXIS 166 (Conn. Super. Ct. 1965).

📌 Tax Law: State & Local Taxes: Administration & Proceedings: General Overview

Trial court did not have jurisdiction over a taxpayer's appeal from a ruling of a board of tax review because the taxpayer did not file the appeal within the time allowed after the board's ruling; an appeal under [Conn. Gen. Stat. § 12-107c\(d\)](#) was not the type of action that came within the saving protection of [Conn. Gen. Stat. § 52-592](#). [Holloway Bros., Inc. v. Avon](#), 26 Conn. Supp. 164, 214 A.2d 701, 1965 Conn. Super. LEXIS 167 (Conn. Super. Ct. 1965).

📌 Tax Law: State & Local Taxes: Personal Property Tax: Exempt Property: General Overview

In a district's appeal from the trial court's judgment affirming the assessment of the district's real property by the board of tax review, the court remanded the matter to the trial court; although the land was not amenable to the farmland classification under [Conn.](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[Gen. Stat. §§ 12-107a](#) through [12-107c](#) as claimed by the district because the purpose of the tax relief under [§§ 12-107a](#) through [12-107c](#) was to aid the conservation effort, the trial court did not define the phrase “improved farmland” as used in the district’s charter for the valuation of property for tax purposes. [Metropolitan Dist. v. Barkhamsted, 3 Conn. App. 53, 485 A.2d 1311, 1984 Conn. App. LEXIS 727 \(Conn. App. Ct. 1984\)](#), aff’d, [199 Conn. 294, 507 A.2d 92, 1986 Conn. LEXIS 766 \(Conn. 1986\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax

In a district’s appeal from the trial court’s judgment affirming the assessment of the district’s real property by the board of tax review, the court remanded the matter to the trial court; although the land was not amenable to the farmland classification under [Conn. Gen. Stat. §§ 12-107a](#) through [12-107c](#) as claimed by the district because the purpose of the tax relief under [§§ 12-107a](#) through [12-107c](#) was to aid the conservation effort, the trial court did not define the phrase “improved farmland” as used in the district’s charter for the valuation of property for tax purposes. [Metropolitan Dist. v. Barkhamsted, 3 Conn. App. 53, 485 A.2d 1311, 1984 Conn. App. LEXIS 727 \(Conn. App. Ct. 1984\)](#), aff’d, [199 Conn. 294, 507 A.2d 92, 1986 Conn. LEXIS 766 \(Conn. 1986\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: General Overview

Taxpayer’s residential land and a dwelling on land that had to be preserved as agricultural land was improperly valued in a mass appraisal that did not account for the encumbrances on the land’s use, where the land and dwelling were assessed as if they were unencumbered. [Cecarelli v. Bd. of Assessment Appeals of Town of N. Branford, 49 Conn. Supp. 125, 863 A.2d 768, 2003 Conn. Super. LEXIS 2694 \(Conn. Super. Ct. 2003\)](#), aff’d, [272 Conn. 485, 863 A.2d 677, 2005 Conn. LEXIS 7 \(Conn. 2005\)](#).

In a district’s appeal from the trial court’s judgment affirming the assessment of the district’s real property by the board of tax review, the court remanded the matter to the trial court; although the land was not amenable to the farmland classification under [Conn. Gen. Stat. §§ 12-107a](#) through [12-107c](#) as claimed by the district because the purpose of the tax relief under [§§ 12-107a](#) through [12-107c](#) was to aid the conservation effort, the trial court did not define the phrase “improved farmland” as used in the district’s charter for the valuation of property for tax purposes. [Metropolitan Dist. v. Barkhamsted, 3 Conn. App. 53, 485 A.2d 1311, 1984 Conn. App. LEXIS 727 \(Conn. App. Ct. 1984\)](#), aff’d, [199 Conn. 294, 507 A.2d 92, 1986 Conn. LEXIS 766 \(Conn. 1986\)](#).

Property owner’s request that a parcel of land used primarily for a business that involved the sale of topsoil and underlying gravel be classified as farmland, was properly denied by the tax assessor; neither the fact that the owner designated the operation as “loam farming,” nor the fact that buckwheat was planted to enhance the soil, converted the use of the parcel into a farming operation. [Holloway Bros., Inc. v. Avon, 26 Conn. Supp. 160, 214 A.2d 699, 1965 Conn. Super. LEXIS 166 \(Conn. Super. Ct. 1965\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



Taxpayer's residential land and a dwelling on land that had to be preserved as agricultural land was improperly valued in a mass appraisal that did not account for the encumbrances on the land's use, where the land and dwelling were assessed as if they were unencumbered. [Cecarelli v. Bd. of Assessment Appeals of Town of N. Branford, 49 Conn. Supp. 125, 863 A.2d 768, 2003 Conn. Super. LEXIS 2694 \(Conn. Super. Ct. 2003\)](#), aff'd, [272 Conn. 485, 863 A.2d 677, 2005 Conn. LEXIS 7 \(Conn. 2005\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Assessment Methods & Timing

Both [Conn. Gen. Stat. § 12-107c\(a\)](#), governing classification of property as farmland, and [Conn. Gen. Stat. §§ 12-107e](#) and [12-504h](#), governing classification and declassification of property as open space, require municipal assessors to determine whether the property at issue is being used in a way that entitles it to favorable tax treatment under [Conn. Gen. Stat. § 12-63\(a\)](#). Furthermore, all of the foregoing provisions are part of the same statutory scheme and are motivated by the same stated policy considerations contemplated by [Conn. Gen. Stat. § 12-107a](#). [Griswold Airport, Inc. v. Town of Madison, 289 Conn. 723, 961 A.2d 338, 2008 Conn. LEXIS 542 \(Conn. 2008\)](#).

Notes to Unpublished Decisions

- 📌 Administrative Law: Judicial Review: Reviewability: Jurisdiction & Venue
- 📌 Environmental Law: Zoning & Land Use: Agriculture & Farmland
- 📌 Governments: Legislation: Interpretation
- 📌 Tax Law: State & Local Taxes: Administration & Proceedings: General Overview
- 📌 Tax Law: State & Local Taxes: Administration & Proceedings: Judicial Review
- 📌 Tax Law: State & Local Taxes: Administration & Proceedings: Taxpayer Protests
- 📌 Tax Law: State & Local Taxes: Real Property Tax: General Overview
- 📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview
- 📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Assessment Methods & Timing
- 📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Valuation

📌 Environmental Law: Zoning & Land Use: Agriculture & Farmland

Unpublished decision: That taxpayers did not receive notice of the pending assessment of their property did not excuse them from filing their appeal of the declassification of their land as farmland within 90 days of the assessment, as required by [Conn. Gen. Stat. § 12-107c](#), because they had an obligation under [Conn. Gen. Stat. § 12-504h](#) to file a new application when they changed the type of farming that was conducted on the land if they



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



intended to maintain farm land classification. [NF&W Cooke Ltd. P'ship v. Branford, 2009 Conn. Super. LEXIS 3437 \(Conn. Super. Ct. Dec. 16, 2009\)](#).

Unpublished decision: As taxpayers did not appeal the declassification of their land as farmland within 90 days of the assessment, as required by [Conn. Gen. Stat. § 12-107c](#), the court lacked subject matter jurisdiction over their claim seeking reclassification of their land as farm land and a corresponding reduction in the amount of tax owed. [NF&W Cooke Ltd. P'ship v. Branford, 2009 Conn. Super. LEXIS 3437 \(Conn. Super. Ct. Dec. 16, 2009\)](#).

📌 **Governments: Legislation: Interpretation**

Unpublished decision: [Conn. Gen. Stat. § 12-107c\(a\)](#) specifically authorized only “an owner of land” to apply for farmland classification, in contrast with other assessment statutes, and where a lessee of a property owner contested a real property assessment, the court dismissed the action as the lessee did not have standing and was not the person aggrieved. [El-Hachem v. Morris, 1992 Conn. Super. LEXIS 3095 \(Conn. Super. Ct. Oct. 30, 1992\)](#).

📌 **Tax Law: State & Local Taxes: Administration & Proceedings: General Overview**

Unpublished decision: Provisions of [former Conn. Gen. Stat. § 12-118](#) (now [Conn. Gen. Stat. § 12-117a](#)) governed an appeal from the denial of a farmland classification pursuant to [Conn. Gen. Stat. § 12-107c](#). [Paletksy v. Morris, 1992 Conn. Super. LEXIS 2475 \(Conn. Super. Ct. Aug. 18, 1992\)](#).

Unpublished decision: Two month period for an appeal applied to the denial of a farmland classification pursuant to [Conn. Gen. Stat. Ann. § 12-107c](#). [1992 Conn. Super. LEXIS 2416](#).

Unpublished decision: Court found that the statutory two-month period for an appeal applied to the board of tax review's denial of a farmland classification pursuant to [Conn. Gen. Stat. Ann. § 12-107c](#). [1992 Conn. Super. LEXIS 2473](#).

📌 **Tax Law: State & Local Taxes: Administration & Proceedings: Judicial Review**

Unpublished decision: Taxpayers contesting the reclassification of the taxpayers' land from farmland to excess acreage did not show the taxpayers were aggrieved by the reclassification because the taxpayers waived the issue when the taxpayers did not timely seek to have the land classified as farmland, pursuant to [Conn. Gen. Stat. § 12-107c](#), after the land's prior agricultural classification terminated, by operation of [Conn. Gen. Stat. § 12-504\(1\)](#), when the land's prior agricultural use as a vineyard was abandoned. [Gosselin v. Lisbon Bd. of Assessment Appeals, 2011 Conn. Super. LEXIS 2913 \(Conn. Super. Ct. Nov. 16, 2011\)](#).

Unpublished decision: That taxpayers did not receive notice of the pending assessment of their property did not excuse them from filing their appeal of the declassification of their land as farmland within 90 days of the assessment, as required by [Conn. Gen. Stat. § 12-107c](#), because they had an obligation under [Conn. Gen. Stat. § 12-504h](#) to file a new application when they changed the type of farming that was conducted on the land if they intended to maintain farm land classification. [NF&W Cooke Ltd. P'ship v. Branford, 2009 Conn. Super. LEXIS 3437 \(Conn. Super. Ct. Dec. 16, 2009\)](#).



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



Unpublished decision: As taxpayers did not appeal the declassification of their land as farmland within 90 days of the assessment, as required by [Conn. Gen. Stat. § 12-107c](#), the court lacked subject matter jurisdiction over their claim seeking reclassification of their land as farm land and a corresponding reduction in the amount of tax owed. [NF&W Cooke Ltd. P'ship v. Branford, 2009 Conn. Super. LEXIS 3437 \(Conn. Super. Ct. Dec. 16, 2009\)](#).

Unpublished decision: Property owners' filing of an appeal from a town's tax assessment on their properties, based on a change of the classification from farm land to industrial land, was timely and appropriate under [Conn. Gen. Stat. § 12-119](#), as the assessor's change of the classification was based on his personal inspection of the property and his determination that it was no longer used for farm land, rather than having been based on reasons under [Conn. Gen. Stat. §§ 12-504h](#) and [12-107c](#), and the notice of the declassification of the property by the assessor was untimely for the particular year pursuant to [Conn. Gen. Stat. § 12-55\(c\)](#); further, as the property was transferred from one corporate entity to another for no consideration, the property was not considered "sold" by the record owner for purposes of [Conn. Gen. Stat. § 12-504h](#). [Chappaqua Realty, LLC v. Town of New Milford, 2007 Conn. Super. LEXIS 2241 \(Conn. Super. Ct. Aug. 15, 2007\)](#).

⬆ Tax Law: State & Local Taxes: Administration & Proceedings: Taxpayer Protests

Unpublished decision: Although the taxpayer missed the statutory deadline to appeal to the board of assessment appeals, the right of appeal presupposed notice so that the taxpayer could properly know what it was appealing. The collective actions of the town's tax assessor and board of assessment appeals were improper where, while it may be disputed whether notification of attempted delivery was left at the property, it was undisputed that receipt was not accomplished and the town retained the notification originally sent to the taxpayer without attempting to resend it; thus, the taxpayer was never personally served. [NFW Assocs. v. Town of Branford, 2012 Conn. Super. LEXIS 2802 \(Conn. Super. Ct. Nov. 15, 2012\)](#).

⬆ Tax Law: State & Local Taxes: Real Property Tax: General Overview

Unpublished decision: Because the owners were mixing soils brought to their land and were not merely allowing the land to remain unused as part of a farming operation, it would be in direct conflict with [Conn. Gen. Stat. § 12-107c](#) to retain a farm land classification on land that no longer qualified as such and then assess it based on its non-farm current use. [Sayers v. City of Danbury, 2012 Conn. Super. LEXIS 2423 \(Conn. Super. Ct. Sept. 27, 2012\)](#).

Unpublished decision: Property owners' appeal of a town's assessment of property taxes against them was not authorized by Conn. Gen. Stat. § 12-207c due to the fact that the owners failed to timely appeal the town's denial of their application for farmland classification. [Humphrey v. Morris, 1993 Conn. Super. LEXIS 1059 \(Conn. Super. Ct. Apr. 21, 1993\)](#).

Unpublished decision: [Conn. Gen. Stat. § 12-107c\(a\)](#) specifically authorized only "an owner of land" to apply for farmland classification, in contrast with other assessment statutes, and where a lessee of a property owner contested a real property assessment, the court



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



dismissed the action as the lessee did not have standing and was not the person aggrieved. [El-Hachem v. Morris, 1992 Conn. Super. LEXIS 3095 \(Conn. Super. Ct. Oct. 30, 1992\)](#).

Unpublished decision: Provisions of [former Conn. Gen. Stat. § 12-118](#) (now [Conn. Gen. Stat. § 12-117a](#)) governed an appeal from the denial of a farmland classification pursuant to [Conn. Gen. Stat. § 12-107c](#). [Paletksy v. Morris, 1992 Conn. Super. LEXIS 2475 \(Conn. Super. Ct. Aug. 18, 1992\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview

Unpublished decision: Although the taxpayer missed the statutory deadline to appeal to the board of assessment appeals, the right of appeal presupposed notice so that the taxpayer could properly know what it was appealing. The collective actions of the town's tax assessor and board of assessment appeals were improper where, while it may be disputed whether notification of attempted delivery was left at the property, it was undisputed that receipt was not accomplished and the town retained the notification originally sent to the taxpayer without attempting to resend it; thus, the taxpayer was never personally served. [NFW Assocs. v. Town of Branford, 2012 Conn. Super. LEXIS 2802 \(Conn. Super. Ct. Nov. 15, 2012\)](#).

Unpublished decision: Because the court concluded that there had been no change of use from farming to nonfarming, the termination of the farm classification was illegal and contrary to [Conn. Gen. Stat. §§12-63\(a\), 12-107c](#) and [12-504h](#). [Betts Island Oyster Farms, LLC v. City of Norwalk, 2012 Conn. Super. LEXIS 2366 \(Conn. Super. Ct. Sept. 18, 2012\)](#).

Unpublished decision: Property owners' appeal of a town's assessment of property taxes against them was not authorized by Conn. Gen. Stat. § 12-207c due to the fact that the owners failed to timely appeal the town's denial of their application for farmland classification. [Humphrey v. Morris, 1993 Conn. Super. LEXIS 1059 \(Conn. Super. Ct. Apr. 21, 1993\)](#).

Unpublished decision: [Conn. Gen. Stat. § 12-107c\(a\)](#) specifically authorized only "an owner of land" to apply for farmland classification, in contrast with other assessment statutes, and where a lessee of a property owner contested a real property assessment, the court dismissed the action as the lessee did not have standing and was not the person aggrieved. [El-Hachem v. Morris, 1992 Conn. Super. LEXIS 3095 \(Conn. Super. Ct. Oct. 30, 1992\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Assessment Methods & Timing

Unpublished decision: Taxpayers contesting the reclassification of the taxpayers' land from farmland to excess acreage did not show the taxpayers were aggrieved by the reclassification because the taxpayers waived the issue when the taxpayers did not timely seek to have the land classified as farmland, pursuant to [Conn. Gen. Stat. § 12-107c](#), after the land's prior agricultural classification terminated, by operation of [Conn. Gen. Stat. § 12-](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[504\(1\)](#), when the land's prior agricultural use as a vineyard was abandoned. [Gosselin v. Lisbon Bd. of Assessment Appeals, 2011 Conn. Super. LEXIS 2913 \(Conn. Super. Ct. Nov. 16, 2011\)](#).

Unpublished decision: Property owners' filing of an appeal from a town's tax assessment on their properties, based on a change of the classification from farm land to industrial land, was timely and appropriate under [Conn. Gen. Stat. § 12-119](#), as the assessor's change of the classification was based on his personal inspection of the property and his determination that it was no longer used for farm land, rather than having been based on reasons under [Conn. Gen. Stat. §§ 12-504h](#) and [12-107c](#), and the notice of the declassification of the property by the assessor was untimely for the particular year pursuant to [Conn. Gen. Stat. § 12-55\(c\)](#); further, as the property was transferred from one corporate entity to another for no consideration, the property was not considered "sold" by the record owner for purposes of [Conn. Gen. Stat. § 12-504h](#). [Chappaqua Realty, LLC v. Town of New Milford, 2007 Conn. Super. LEXIS 2241 \(Conn. Super. Ct. Aug. 15, 2007\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: Valuation

Unpublished decision: In plaintiffs' appeal from a town's assessment on their property, their claim that all of their property should have been classified as farm land under [Conn. Gen. Stat. § 12-107c](#) lacked merit, as allegations that the property had been used as a farm unit in the past was irrelevant; the evidence did not show that the land was farm land, as it was a wooded area that was not even part of a farm unit. [NF&W Cooke Ltd. P'ship v. Town of Branford, 2012 Conn. Super. LEXIS 2545 \(Conn. Super. Ct. Oct. 11, 2012\)](#).

Research References & Practice Aids

Hierarchy Notes:

[Conn. Gen. Stat. Title 12](#)

[Conn. Gen. Stat. Title 12, Ch. 203](#)

State Notes

Notes

History Notes:

P.A. 73-585 required that application include statement of potential tax liability under Secs. 12-504a to 12-504e; P.A. 77-614 substituted commissioner of revenue services for tax commissioner, effective January 1, 1979; P.A. 79-513 allowed filing of application within 90



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



days after assessment date in years in which revaluations become effective, effective July 1, 1979, and applicable to sale of any land classified for first time as farm, forest or open space land on or after that date; P.A. 79-610 substituted secretary of the office of policy and management for commissioner of revenue services, effective July 1, 1980; P.A. 94-201 amended Subsec. (b) to change the officer responsible for administration of that Subsec. from the secretary of policy and management to the commissioner of agriculture, effective July 1, 1994; P.A. 95-283 amended Subsec. (d) to replace board of tax review with board of assessment appeals, effective July 6, 1995; P.A. 00-120 amended Subsec. (a) by substituting grand list for assessment list and making technical changes, effective May 26, 2000, and applicable to assessment years commencing October 1, 2000; P.A. 01-195 made technical changes in Subsecs. (a) and (b), effective July 11, 2001; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Agriculture with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 05-190 amended Subsec. (b) by replacing reference to Sec. 12-504e with reference to Sec. 12-504f, effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after that date.

Case Notes:

When owner applied under section for classification of land as farm land, criteria to be applied is actual use of land and it was reversible error for court to predicate classification on its highest and best use. [156 Conn. 107](#). Since plaintiffs had not applied for classification of their land as farm land hereunder, town assessors correctly valued their farm at its fair market value. Id., 437. Cited. [160 Conn. 71](#); [168 Conn. 319](#); [173 Conn. 328](#); [174 Conn. 10](#); [178 Conn. 100](#); [199 Conn. 294](#); [241 Conn. 382](#).

Cited. [3 Conn. App. 53](#).

A wooded area, detached from parcels of land used for farming, not within statutory definition of farm land. [26 Conn. Supp. 162](#). Land used for loam and gravel business does not qualify as farm land. Id. That plaintiff's major income was from a nonfarming operation on one parcel of land did not, ipso facto, deprive two other parcels of their status as farm land. Id., 163. Where plaintiff had brought a timely appeal under [Sec. 12-118](#) which was nonsuited, he is not entitled to rely on [Sec. 52-592](#) to bring a new appeal on the same course of action after the two-month limitation had run, since the proceeding, involving an appeal under this section, is not the type of action which comes within the saving protection of [Sec. 52-592](#). Id., 168. Capitalization of rentals is best method of assessment under section. [28 Conn. Supp. 97](#).



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



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

(a) Not later than June 1, 2006, the Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, regarding standards for forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land. Standards and procedures regarding forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land shall be implemented by the State Forester while the commissioner is in the process of establishing such regulations, provided notice of intent to adopt the regulations is published not later than twenty days after the date of implementation. The standards and procedures implemented by the State Forester shall be valid until June 1, 2006, or until regulations are adopted, whichever date is earlier.

(b) A certified forester may evaluate land proposed for classification as forest land and attest to the qualifications of such land for classification as forest land, provided such certified forester has satisfactorily completed training by and obtained a certificate from the State Forester or his or her designee related to policies and standards for evaluating land proposed for classification as forest land and, in the opinion of the State Forester, the certified forester acts in conformance with such policies and standards.

(c) An owner of land seeking classification of such land as forest land shall employ a certified forester to examine the land to determine if it conforms to forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of this section. If the certified forester determines that such land conforms to such standards, such forester shall issue a report to the owner of the land pursuant to subsection (g) of this section and retain one copy of the report.

(d) Fees charged by a certified forester for services to examine land and determine if said land conforms to the standards of forest stocking, distribution and condition established by the State Forester shall not be contingent upon or otherwise influenced by the classification of the land as forest land or the failure of such land to qualify for said classification.

(e) Upon termination of classification as forest land, the assessor of the municipality in which the land is located shall issue a notice of cancellation and provide a copy of such notice to the owner of the land and to the office of the assessor of any other municipality in which the owner's land is classified as forest land.

(f) An owner of land may apply for its classification as forest land on any grand list of a municipality by filing a written application for such classification accompanied by a copy



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



of the certified forester's report described in subsection (g) of this section with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date and, if the assessor determines that the use of such land as forest land has not changed as of a date at or prior to the assessment date such assessor shall classify such land as forest land and include it as such on the grand list, 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 in such year.

(g) A report issued by a certified forester pursuant to subsection (c) of this section shall be on a form prescribed by the State Forester and shall set forth a description of the land, a description of the forest growth upon the land, a description of forest management activities recommended to be undertaken to maintain the land in a state of proper forest condition and such other information as the State Forester may require as measures of forest stocking, distribution and condition and shall include the name, address and certificate number of the certified forester and a signed, sworn statement that the certified forester has determined that the land proposed for classification conforms to the standards of forest stocking, distribution and condition established by the State Forester. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the Commissioner of Energy and Environmental Protection and shall set forth a description of the land and the date of the issuance of the certified forester's report and a statement of the potential liability for tax under the provisions of [sections 12-504a](#) to [12-504e](#), inclusive. The certified forester's report shall be signed and dated by the certified forester not later than October first and shall be attached to and made a part of such application.

(h) Failure to file an application for classification of land as forest land within the time limit prescribed in subsection (f) of this section and in the manner and form prescribed in subsection (g) of this section shall be considered a waiver of the right to such classification on such assessment list.

(i) The municipality within which land proposed for classification as forest land is situated or the owner of such land may appeal to the State Forester for a review of the findings of the certified forester as issued in the certified forester's report. Such appeal shall be filed with the State Forester not later than thirty business days after the issuance of the report and shall be brought by petition in writing. The State Forester shall review the report of the certified forester and any information the certified forester relied upon in developing his or her findings and may gather additional information at his or her discretion. The State Forester shall render the results of his or her review of the certified forester's report not later than sixty calendar days after the appeal was filed.



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



- (j)** An owner of land aggrieved by the denial of any application to the assessor of a municipality for classification of land as forest 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.
- (k)** During the month of June each year the assessor of a municipality within which land classified as forest land is situated shall report to the State Forester, in a format prescribed by the State Forester, the total number of owners of land classified as farm land, forest land or open space land as of the most recent grand list and a listing of the parcels of land so classified showing the acreage of each parcel, the total acreage of all such parcels, the number of acres of each parcel classified as farm land, forest land or open space land, and the total acreage for all such parcels.

History

1963, P.A. 490, S. 4; P.A. 73-585, S. 4; P.A. 74-187, S. 3; P.A. 76-436, S. 304, 681; P.A. 77-614, S. 139, 610; P.A. 78-280, S. 1, 127; P.A. 79-513, S. 2, 6; 79-610, S. 3, 47; [P.A. 95-283, S. 46](#), 68; [95-307, S. 6](#), 14; [P.A. 00-120, S. 3](#), 13; [P.A. 01-195, S. 117](#), 181; [P.A. 04-115, S. 3](#); [P.A. 05-190, S. 4](#); [P.A. 11-80, S. 1](#); [P.A. 14-33](#), § 3, effective October 1, 2014.

▼ Annotations

Notes

Effective Dates

[P.A. 14-33](#), which amends this section, is effective Oct. 1, 2014 and applicable to assessment years commencing on or after Oct. 1, 2014.

Amendment Notes

2014 amendment, by P.A. 14-33, effective Oct. 1, 2014, in (g), inserted “signed and dated by the certified forester not later than October first and shall be” in the last sentence, and deleted the former last sentence, which read: “No later than October first, such application shall be submitted to the assessor.”



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



Notes to Decision

- [Environmental Law: Natural Resources & Public Lands: Forest Management](#)
- [Tax Law: State & Local Taxes: Personal Property Tax: Exempt Property: General Overview](#)
- [Tax Law: State & Local Taxes: Real Property Tax: General Overview](#)
- [Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview](#)

[Environmental Law: Natural Resources & Public Lands: Forest Management](#)

[Conn. Gen. Stat. § 12-504h](#) (allowing an assessor to reclassify [Conn. Gen. Stat. § 12-107d](#) forest land (FL) if its use changed or the land was sold) did not override [Conn. Gen. Stat. §§ 12-99, 12-107a](#) through [12-107e](#), which, after the highest court's in depth review and construction of all pertinent and related sections, and policy, did not empower the assessor to deny developer's application to continue the FL classification without the Connecticut Forester cancelling his original designation of the land as FL. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

1974 Conn. Acts 187, § 3 amendment to [Conn. Gen. Stat. § 12-107d\(a\)](#) provided no basis for permitting an assessor to deny a subdivider, developer owner's application to continue a classification of property as forest land without the cancellation of the forest land designation by the Connecticut Forester. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

Under [Conn. Gen. Stat. § 12-504h](#) and with respect to the contention that it was impractical to require the input of the Connecticut Forester in decisions as to the continued classification of property as forest land because assessors had direct access to information regarding changes in the condition or use of property that is not immediately available to the Forester, this contention failed because assessors could notify the Forester of any newly acquired information under [Conn. Gen. Stat. § 12-107d\(b\)](#) and seek the cancellation of the forest land designation as soon as such information came to light. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

Landowner's direct appeal to the superior court of the declassified tax assessment of his property, despite its classification by the state forester as forest land under [Conn. Gen. Stat. § 12-107d](#), was affirmed because the direct appeal was proper under [Conn. Gen. Stat. § 12-119](#) and the tax assessor was without authority to declassify the land, pursuant to [Conn. Gen. Stat. § 12-504h](#). [Timber Trails Assocs. v. New Fairfield, 226 Conn. 407, 627 A.2d 932, 1993 Conn. LEXIS 215 \(Conn. 1993\)](#).

Where the City of Meriden owned several acres of land in the Town of Berlin and the land was used for City water-supply purposes, the Town's tax assessor properly assessed the land as improved farmland that was subject to taxation under the provisions of [Conn. Gen. Stat. § 12-76](#); the City was not entitled to have the land classified as forest land under [Conn.](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[Gen. Stat. § 12-107d](#) because the Town's inhabitants did not share in the water supply owned by the City and because the forest land classification did not apply to municipalities that owned water supply land in other municipalities. [Meriden v. Board of Tax Review, 161 Conn. 396, 288 A.2d 435, 1971 Conn. LEXIS 574 \(Conn. 1971\)](#).

📌 Tax Law: State & Local Taxes: Personal Property Tax: Exempt Property: General Overview

Where the City of Meriden owned several acres of land in the Town of Berlin and the land was used for City water-supply purposes, the Town's tax assessor properly assessed the land as improved farmland that was subject to taxation under the provisions of [Conn. Gen. Stat. § 12-76](#); the City was not entitled to have the land classified as forest land under [Conn. Gen. Stat. § 12-107d](#) because the Town's inhabitants did not share in the water supply owned by the City and because the forest land classification did not apply to municipalities that owned water supply land in other municipalities. [Meriden v. Board of Tax Review, 161 Conn. 396, 288 A.2d 435, 1971 Conn. LEXIS 574 \(Conn. 1971\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: General Overview

[Conn. Gen. Stat. § 12-504h](#) (allowing an assessor to reclassify [Conn. Gen. Stat. § 12-107d](#) forest land (FL) if its use changed or the land was sold) did not override [Conn. Gen. Stat. §§ 12-99, 12-107a](#) through [12-107e](#), which, after the highest court's in depth review and construction of all pertinent and related sections, and policy, did not empower the assessor to deny developer's application to continue the FL classification without the Connecticut Forester cancelling his original designation of the land as FL. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

Under [Conn. Gen. Stat. § 12-504h](#) and with respect to the contention that it was impractical to require the input of the Connecticut Forester in decisions as to the continued classification of property as forest land because assessors had direct access to information regarding changes in the condition or use of property that is not immediately available to the Forester, this contention failed because assessors could notify the Forester of any newly acquired information under [Conn. Gen. Stat. § 12-107d\(b\)](#) and seek the cancellation of the forest land designation as soon as such information came to light. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

1974 Conn. Acts 187, § 3 amendment to [Conn. Gen. Stat. § 12-107d\(a\)](#) provided no basis for permitting an assessor to deny a subdivider, developer owner's application to continue a classification of property as forest land without the cancellation of the forest land designation by the Connecticut Forester. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem, 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

Landowner's direct appeal to the superior court of the declassified tax assessment of his property, despite its classification by the state forester as forest land under [Conn. Gen. Stat. § 12-107d](#), was affirmed because the direct appeal was proper under [Conn. Gen. Stat. § 12-](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[119](#) and the tax assessor was without authority to declassify the land, pursuant to [Conn. Gen. Stat. § 12-504h](#). [Timber Trails Assocs. v. New Fairfield](#), 226 Conn. 407, 627 A.2d 932, 1993 Conn. LEXIS 215 (Conn. 1993).

Application to a town assessor for designation of property as forest land was properly denied because the certificate from the state forester designating the property as forest land was dated after the date of the town's assessment list. [Renz v. Monroe](#), 162 Conn. 559, 295 A.2d 558, 1972 Conn. LEXIS 902 (Conn. 1972).

📌 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview

[Conn. Gen. Stat. § 12-504h](#) (allowing an assessor to reclassify [Conn. Gen. Stat. § 12-107d](#) forest land (FL) if its use changed or the land was sold) did not override [Conn. Gen. Stat. §§ 12-99, 12-107a](#) through [12-107e](#), which, after the highest court's in depth review and construction of all pertinent and related sections, and policy, did not empower the assessor to deny developer's application to continue the FL classification without the Connecticut Forester cancelling his original designation of the land as FL. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem](#), 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 (Conn. 2004).

1974 Conn. Acts 187, § 3 amendment to [Conn. Gen. Stat. § 12-107d\(a\)](#) provided no basis for permitting an assessor to deny a subdivider, developer owner's application to continue a classification of property as forest land without the cancellation of the forest land designation by the Connecticut Forester. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem](#), 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 (Conn. 2004).

Under [Conn. Gen. Stat. § 12-504h](#) and with respect to the contention that it was impractical to require the input of the Connecticut Forester in decisions as to the continued classification of property as forest land because assessors had direct access to information regarding changes in the condition or use of property that is not immediately available to the Forester, this contention failed because assessors could notify the Forester of any newly acquired information under [Conn. Gen. Stat. § 12-107d\(b\)](#) and seek the cancellation of the forest land designation as soon as such information came to light. [Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem](#), 269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 (Conn. 2004).

Landowner's direct appeal to the superior court of the declassified tax assessment of his property, despite its classification by the state forester as forest land under [Conn. Gen. Stat. § 12-107d](#), was affirmed because the direct appeal was proper under [Conn. Gen. Stat. § 12-119](#) and the tax assessor was without authority to declassify the land, pursuant to [Conn. Gen. Stat. § 12-504h](#). [Timber Trails Assocs. v. New Fairfield](#), 226 Conn. 407, 627 A.2d 932, 1993 Conn. LEXIS 215 (Conn. 1993).

A town board of tax review was required to reclassify land as forest land where the landowner submitted a certificate from the state forester that the land was forest, along



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



with his application for reclassification and reassessment. [Torrington Water Co. v. Board of Tax Review, 168 Conn. 319, 362 A.2d 866, 1975 Conn. LEXIS 955 \(Conn. 1975\).](#)

Notes to Unpublished Decisions

- [↓ Environmental Law: Natural Resources & Public Lands: Forest Management](#)
- [↓ Governments: Local Governments: Employees & Officials](#)
- [↓ Tax Law: State & Local Taxes: Administration & Proceedings: General Overview](#)
- [↓ Tax Law: State & Local Taxes: Administration & Proceedings: Assessments](#)
- [↓ Tax Law: State & Local Taxes: Real Property Tax: General Overview](#)
- [↓ Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview](#)

[↑ Environmental Law: Natural Resources & Public Lands: Forest Management](#)

Unpublished decision: When a property owner makes use of his or her land inconsistent with the forest land designation under [Conn. Gen. Stat. § 12-107d](#), the Connecticut legislature has provided that such use of the land shall be made by the town assessor as required by [Conn. Gen. Stat. § 12-504h](#) and the town's zoning regulations, not by the state forester; the forester is only authorized to express his expert opinion as to the classification of land as forestry land, not to interpret the town's zoning ordinances. [Kronenberger v. Town of Haddam, 2012 Conn. Super. LEXIS 2678 \(Conn. Super. Ct. Oct. 26, 2012\).](#)

Unpublished decision: Town assessor had no authority to declassify two acres of an owner's 47.7-acre property classified as forest land under [Conn. Gen. Stat. § 12-107d](#), to increase the tax assessment of the property or to impose a penalty under [Conn. Gen. Stat. § 12-504h](#) as a shed the owner placed on the property was not a residence under Haddam, Conn., Town Regs. [§ 12-107d-3](#); the assessor had no authority to terminate the state forester's classification of forest land from two acres of the owner's property. [Kronenberger v. Town of Haddam, 2012 Conn. Super. LEXIS 2678 \(Conn. Super. Ct. Oct. 26, 2012\).](#)

Unpublished decision: As of October 1, 2003, assessor, appraiser, and court each properly valued 60.8 acres of forestland, which was part of a parcel that was zoned for and whose highest and best use was as a single family residence, at \$ 8,512 under [Conn. Gen. Stat. § 12-107d\(c\)](#) since the forestland's only designated use was as forestland. [Abington, LLC v. Town of Avon, 2005 Conn. Super. LEXIS 2994 \(Conn. Super. Ct. Oct. 27, 2005\)](#), *aff'd*, [101 Conn. App. 709, 922 A.2d 1148, 2007 Conn. App. LEXIS 242 \(Conn. App. Ct. 2007\).](#)

Unpublished decision: Clear language of [Conn. Gen. Stat. § 12-107d](#) provided that, as to forest land, the state forester and not the assessor, determined the designation; thus, the town board's actions in declassifying the taxpayer's forest land and computing an assessment based on that declassification resulted in an excessive assessment; there was nothing before the court to suggest that the state forester cancelled the forest land designation as to any of the property owned by the taxpayer on October 1, 1999. [Carmel Hollow Assocs. Ltd. P'Ship v. Town of Bethlehem, 2002 Conn. Super. LEXIS 3390 \(Conn.](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[Super. Ct. Oct. 9, 2002](#)), aff'd, [269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#)).

📌 Governments: Local Governments: Employees & Officials

Unpublished decision: When a property owner makes use of his or her land inconsistent with the forest land designation under [Conn. Gen. Stat. § 12-107d](#), the Connecticut legislature has provided that such use of the land shall be made by the town assessor as required by [Conn. Gen. Stat. § 12-504h](#) and the town's zoning regulations, not by the state forester; the forester is only authorized to express his expert opinion as to the classification of land as forestry land, not to interpret the town's zoning ordinances. [Kronenberger v. Town of Haddam, 2012 Conn. Super. LEXIS 2678 \(Conn. Super. Ct. Oct. 26, 2012\)](#).

📌 Tax Law: State & Local Taxes: Administration & Proceedings: General Overview

Unpublished decision: Clear language of [Conn. Gen. Stat. § 12-107d](#) provided that, as to forest land, the state forester and not the assessor, determined the designation; thus, the town board's actions in declassifying the taxpayer's forest land and computing an assessment based on that declassification resulted in an excessive assessment; there was nothing before the court to suggest that the state forester cancelled the forest land designation as to any of the property owned by the taxpayer on October 1, 1999. [Carmel Hollow Assocs. Ltd. P'Ship v. Town of Bethlehem, 2002 Conn. Super. LEXIS 3390 \(Conn. Super. Ct. Oct. 9, 2002\)](#)), aff'd, [269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#)).

Unpublished decision: Certain counts in a taxpayers' multi-count complaint against a town, which alleged violations of [Conn. Gen. Stat. §§ 12-62a, 12-40, 12-55\(a\), 12-55\(b\), and 12-107d](#), could not be stricken under the town's motion to strike because the counts incorporated the original count, which stated a recognized cause of action pursuant to [Conn. Gen. Stat. § 12-119](#). [Johnson v. Killingworth, 1993 Conn. Super. LEXIS 148 \(Conn. Super. Ct. Jan. 14, 1993\)](#).

📌 Tax Law: State & Local Taxes: Administration & Proceedings: Assessments

Unpublished decision: Town assessor had no authority to declassify two acres of an owner's 47.7-acre property classified as forest land under [Conn. Gen. Stat. § 12-107d](#), to increase the tax assessment of the property or to impose a penalty under [Conn. Gen. Stat. § 12-504h](#) as a shed the owner placed on the property was not a residence under Haddam, Conn., Town Regs. [§ 12-107d-3](#); the assessor had no authority to terminate the state forester's classification of forest land from two acres of the owner's property. [Kronenberger v. Town of Haddam, 2012 Conn. Super. LEXIS 2678 \(Conn. Super. Ct. Oct. 26, 2012\)](#).

📌 Tax Law: State & Local Taxes: Real Property Tax: General Overview

Unpublished decision: As of October 1, 2003, assessor, appraiser, and court each properly valued 60.8 acres of forestland, which was part of a parcel that was zoned for and whose highest and best use was as a single family residence, at \$ 8,512 under [Conn. Gen. Stat. § 12-107d\(c\)](#) since the forestland's only designated use was as forestland. [Abington, LLC v.](#)



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



[Town of Avon, 2005 Conn. Super. LEXIS 2994 \(Conn. Super. Ct. Oct. 27, 2005\)](#), aff'd, [101 Conn. App. 709, 922 A.2d 1148, 2007 Conn. App. LEXIS 242 \(Conn. App. Ct. 2007\)](#).

Unpublished decision: After board of assessment appeals valued owners' 29-acre parcel as non-forest land after 5 acres were sold, a court, applying the Carmel Hollow reasoning to interpret [Conn. Gen. Stat. §§ 12-107d](#), 12-504h decided that the 29-acre parcel was still to be valued as forest land since the state forester had not yet removed the forest land certification. [Williams v. Town of Litchfield, 2004 Conn. Super. LEXIS 1631 \(Conn. Super. Ct. June 16, 2004\)](#).

Unpublished decision: Clear language of [Conn. Gen. Stat. § 12-107d](#) provided that, as to forest land, the state forester and not the assessor, determined the designation; thus, the town board's actions in declassifying the taxpayer's forest land and computing an assessment based on that declassification resulted in an excessive assessment; there was nothing before the court to suggest that the state forester cancelled the forest land designation as to any of the property owned by the taxpayer on October 1, 1999. [Carmel Hollow Assocs. Ltd. P'Ship v. Town of Bethlehem, 2002 Conn. Super. LEXIS 3390 \(Conn. Super. Ct. Oct. 9, 2002\)](#), aff'd, [269 Conn. 120, 848 A.2d 451, 2004 Conn. LEXIS 203 \(Conn. 2004\)](#).

Unpublished decision: Certain counts in a taxpayers' multi-count complaint against a town, which alleged violations of [Conn. Gen. Stat. §§ 12-62a](#), 12-40, 12-55(a), 12-55(b), and 12-107d, could not be stricken under the town's motion to strike because the counts incorporated the original count, which stated a recognized cause of action pursuant to [Conn. Gen. Stat. § 12-119](#). [Johnson v. Killingworth, 1993 Conn. Super. LEXIS 148 \(Conn. Super. Ct. Jan. 14, 1993\)](#).

Unpublished decision: Where the state forester never cancelled designation of a corporation's land as forest land for tax purposes, the tax assessor was required by [Conn. Gen. Stat. §§ 12-107d\(c\)](#) and [12-504h](#) to continue the forest land classification without a formal application from the landowner, who was the corporation's sole shareholder and who received the corporation's assets following dissolution. [Timber Trail Assoc. v. Sherman, 1992 Conn. Super. LEXIS 3662 \(Conn. Super. Ct. Dec. 28, 1992\)](#).

🚩 Tax Law: State & Local Taxes: Real Property Tax: Assessment & Valuation: General Overview

Unpublished decision: As of October 1, 2003, assessor, appraiser, and court each properly valued 60.8 acres of forestland, which was part of a parcel that was zoned for and whose highest and best use was as a single family residence, at \$ 8,512 under [Conn. Gen. Stat. § 12-107d\(c\)](#) since the forestland's only designated use was as forestland. [Abington, LLC v. Town of Avon, 2005 Conn. Super. LEXIS 2994 \(Conn. Super. Ct. Oct. 27, 2005\)](#), aff'd, [101 Conn. App. 709, 922 A.2d 1148, 2007 Conn. App. LEXIS 242 \(Conn. App. Ct. 2007\)](#).

Unpublished decision: After board of assessment appeals valued owners' 29-acre parcel as non-forest land after 5 acres were sold, a court, applying the Carmel Hollow reasoning to interpret [Conn. Gen. Stat. §§ 12-107d](#), 12-504h decided that the 29-acre parcel was still to



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



be valued as forest land since the state forester had not yet removed the forest land certification. [Williams v. Town of Litchfield, 2004 Conn. Super. LEXIS 1631 \(Conn. Super. Ct. June 16, 2004\)](#).

Unpublished decision: Certain counts in a taxpayers' multi-count complaint against a town, which alleged violations of [Conn. Gen. Stat. §§ 12-62a](#), 12-40, 12-55(a), 12-55(b), and 12-107d, could not be stricken under the town's motion to strike because the counts incorporated the original count, which stated a recognized cause of action pursuant to [Conn. Gen. Stat. § 12-119](#). [Johnson v. Killingworth, 1993 Conn. Super. LEXIS 148 \(Conn. Super. Ct. Jan. 14, 1993\)](#).

Research References & Practice Aids

Hierarchy Notes:

[Conn. Gen. Stat. Title 12](#)

[Conn. Gen. Stat. Title 12, Ch. 203](#)

State Notes

Notes

History Notes:

P.A. 73-585 amended Subsec. (d) to require that application include statement of potential tax liability under Secs. 12-504a to 12-504e; P.A. 74-187 deleted provisions concerning examination or reexamination of the land itself in Subsecs. (a) and (b) by state forester; P.A. 76-436 substituted superior court for court of common pleas in Subsec. (f) and included reference to judicial districts, effective July 1, 1978; P.A. 77-614 substituted commissioner of revenue services for tax commissioner, effective January 1, 1979; P.A. 78-280 deleted reference to counties; P.A. 79-513 amended Subsec. (c) to allow filing within 90 days after assessment date in years in which revaluations become effective, effective July 1, 1979, and applicable to sale of any land classified for first time as farm, forest or open space land on or after that date; P.A. 79-610 substituted secretary of the office of policy and management for commissioner of revenue services, effective July 1, 1980; P.A. 95-283 amended Subsecs. (f) and (g) to replace board of tax review with board of assessment appeals, effective July 6, 1995; P.A. 95-307, in Subsec. (d), transferred authority to approve the form from the Secretary of the Office of Policy and Management to the Commissioner of Environmental Protection, effective July 6, 1995; P.A. 00-120 amended Subsec. (c) by substituting grand list for assessment list and making technical changes, effective May 26, 2000, and



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



applicable to assessment years commencing October 1, 2000; P.A. 01-195 made technical changes in Subsecs. (a) to (d), effective July 11, 2001; P.A. 04-115 added new Subsec. (a) re adoption of regulations re standards of forest stocking, distribution and conditions and procedures for evaluation of land by certified forester and implementation of standards and procedures by State Forester, added new Subsec. (b) re certified forester to evaluate land for classification as forest land, and re training and mandated certification of certified foresters, redesignated existing Subsec. (a) as new Subsec. (c) and amended same to require owner of land to employ a certified forester, added new Subsec. (d) prohibiting certified forester contingent fees, deleted former Subsec. (b) re issuance of triplicate certificate, added new Subsec. (e) re municipal assessors to provide notice re termination of forest land classification, redesignated existing Subsec. (c) as new Subsec. (f) and amended provisions therein re copy of certified forester's report and assessor's determination, deleted former Subsec. (d) re application, added new Subsec. (g) re contents of certified forester's report, deleted, redesignated existing Subsec. (e) as new Subsec. (h) and made technical changes therein, added new Subsec. (i) re appeals to the State Forester, deleted former Subsec. (f) re appeals, redesignated existing Subsec. (g) as new Subsec. (j) and added new Subsec. (k) re municipal assessors to report to State Forester, effective July 1, 2004; P.A. 05-190 amended Subsec. (g) to require that application be submitted to the assessor no later than October first, effective July 1, 2005, and applicable to sales, transfers or changes in use of land classified as farm land, forest land or open space land that occur on or after that date; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsecs. (a) and (g), effective July 1, 2011.

Case Notes:

Former section cited. [114 Conn. 724](#). Meriden reservoir land located in Berlin and used exclusively for Meriden cannot be classified as "forest land" because of exception created by [Sec. 12-76](#). [161 Conn. 396](#). Unnecessary for town assessor to appeal forest land designation under statute because burden is on the aggrieved after the assessor's denial. *Id.* Declaration after assessment date by state forester not to affect current assessment classification, when. [162 Conn. 562](#). Cited. [168 Conn. 319](#); [173 Conn. 328](#); [174 Conn. 10](#); [178 Conn. 100](#); [226 Conn. 407](#); [241 Conn. 382](#). Statute does not and need not specifically identify all officials, including town assessor, who may not declassify property as forest land, because it affirmatively provides that state forester is sole government official authorized to designate property as forest land and that property so designated shall be classified as forest land by the town assessor; an assessor may not deny an application to continue forest land classification unless state forester has cancelled the designation. [269 Conn. 120](#). Cited. [3 Conn. App. 53](#).



CONNECTICUT DEPARTMENT OF AGRICULTURE

450 Columbus Blvd, Suite 701 | Hartford, Connecticut 06103 | 860.713.2500

www.CTGrown.gov

Office of the Commissioner

Affirmative Action/ Equal Employment Opportunity Employer



APPENDIX E: SUPPLEMENTAL COURT CASES RELATED TO PA 490

■ SUMMARY OF IMPORTANT 490 COURT CASES

Case titles in **BOLD CAPS** indicate SUPREME COURT CASES; others are lower court cases, which have less precedential value.

■ DEFINITION OF FARMLAND

A broad analysis of the legislative intent in defining farmland:

JOHNSON v. BOARD OF TAX REVIEW TOWN OF FAIRFIELD,

November 23, 1970 160 Conn. 71

The Supreme Court articulated that the provisions of PA 490 are “as much conservation statutes as they are tax relief measures.” “The purpose of the tax relief is to aid the conservation effort, and not merely to aid food production itself.” The Court specified that the definition of farming in Section 1-1 applies. The case also supplies a definition of “farm unit” as referring to a geographical area used for the farming purpose. In the specific case, land used for a nursery was found to qualify.

HARRY MARSHALL v. TOWN OF NEWINGTON, January 30, 1968

156 Conn. 107

The Supreme Court states that the underlying industrial zoning of a property and the fact that the owner requested such zoning status has no bearing on whether the land qualifies for farmland classification under PA 490.

■ OPEN SPACE CLASSIFICATION

ROLLING HILLS COUNTRY CLUB, INC v. TOWN OF WILTON,

May 20, 1975 168 Conn. 466

A golf course sought to be classified as open space and was refused. The Supreme Court found that the Wilton Planning Commission had sufficiently designated the golf course as recreational open space and that, even though the land is not “in its pristine, natural state” nor “undeveloped,” that neither was a requirement for the open space classification. Nor is it required that the land be available for public use.

BIRCHWOOD COUNTRY CLUB, INC v. TOWN OF WESTPORT,

July 10, 1979 178 Conn. 295

The Supreme Court noted that it is possible for the Planning Commission to both add and subtract land it designates as eligible for open space classification from its Open Space plan, which would affect the PA 490 assessment of the particular property. It did not require certain formalities in the manner of reducing acreage eligible. Note that the requirement for approval of the open space plan by the legislative body was added after this case.

ASPETUCK COUNTRY CLUB, INC v. TOWN OF WESTON,

August 4, 2009 292 Conn. 817

The Supreme Court reaffirms that not only must the Planning Commission designate the property in its Open Space Plan as eligible for PA 490 but the legislative body of the town must also clearly approve the Plan’s use “for property tax purposes.”

■ DETERMINATION OF USE VALUE

The most thorough discussion of the method for determination of use value of farmland as opposed to fair market value can be found in:

Frank Bussa v. Town of Glastonbury, August 12, 1968 28 Conn. Supp. 97, which discusses the policies of PA 490 and the methodology of use value assessment. This case may provide valuable insight in any case where a local assessor might decide to determine use value my means other than adopting the recommended values from OPM.

RUSTICI v. TOWN OF STONINGTON, November 22, 1977
174 Conn. 10

The Supreme Court found that the assessor was not limited to reference farm land values in the determination of open space value, since Section 12-63 permits open space to be valued for more than farmland. Also the capitalization of rentals method for valuation was found to be inappropriate to represent the use value of a golf course. The landowner had the burden to prove the method used was unjust.

Stanley Gozdz v. Board of Tax Review, Town of Tolland,
November 16, 1976 Docket No. 4634.

In *Gozdz*, the plaintiff farmer and forestland owner lost because he was arguing about the method of determining use value. The holding is that an assessor can use “any method which would not utilize factors that may subject the land to a value reflecting a higher or better use than its actual use.” The Superior Court in this case approved use of the capitalization of income method for both farm land and forest land.

While technically, the following case is not interpretive of PA 490, it is still of interest in matters of valuation of a farm:

NELSON CECARELLI v. TOWN OF NORTH BRANFORD,

January 18, 2005 272 Conn. 485

The Supreme Court upheld the lower court’s decision that the assessed value of land under a residence that is included in a tract upon which the development rights have been sold and alienability has been thus restricted, is affected by the restrictions and should be given a lower value accordingly. Note that the Supreme Court merely affirmed the reasoning of the lower court judge, which can be referenced at 49 Conn. Supp. 125.

KROENBERGER v. TOWN OF HADDAM

2012 CV11-6011314

A Superior Court case involving whether an assessor could declassify 2 acres of forest land because the owner built a shed on the property. The court found the structure not to be a dwelling and ruled the assessor could not declassify any part of the forest land.

■ DECLASSIFICATION AND PAYMENT OF CONVEYANCE TAX

• **Interpretations of 12-504a-f regarding when conveyance tax may be owed:**

TIMBER TRAILS ASSOCIATION v. TOWNS OF NEW FAIRFIELD AND SHERMAN, July 13, 1993 226 Conn. 407

Forest land was transferred from a corporation into the individual name of its sole shareholder for no consideration. The actual use of the property did not change. The Supreme Court held that such a

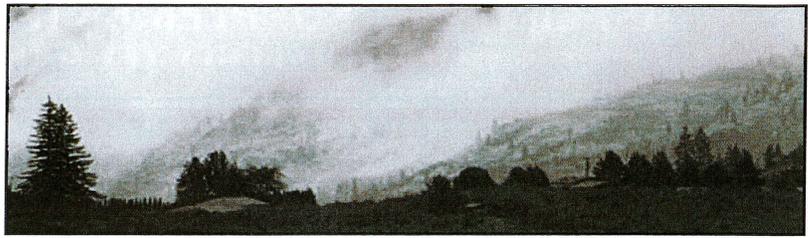
PA
490

APPENDIX E: SUPPLEMENTAL COURT CASES RELATED TO PA 490

transfer did not result in the declassification of the property or in the imposition of the PA 490 recapture tax because it was not a sale for a price.

Hyman Birnbaum v. Town of Madison,
January 9, 1996 Docket No. 379635

An owner of land classified as forest land had transferred the land for no consideration to a revocable trust of which he was the grantor, one of the trustees and the beneficiary. In this unreported Superior Court case, the court held that such a transfer would not be a sale giving rise to the obligation to pay the PA 490 recapture conveyance tax.



- **Interpretation of when 10 year holding period starts again:**

Ramsay v. Town of Southington, August 13, 1996
CV96-0473690S

The Superior Court ruled that the exemption of Section 12-504c with respect to transfers upon death does not start a new 10-year holding period for the beneficiary, require a new farmland application or generate an automatic declassification.

STEPNEY POND ESTATE LTD. v. TOWN OF MONROE,

June 4, 2002 260 Conn 406

Forest land was classified under 490 in 1971. Such land transferred in succession from a husband to his wife when he died in 1983. The wife died in 1986, and then in 1990, the wife's Executors transferred the same land for no consideration to a corporation created by her two children who were the beneficiaries of the wife's estate. The Supreme Court held that none of the transfers either declassified the land, started a new holding period or generated the PA 490 recapture tax. The decision is based upon the exemption in 12-504c(11) and the particular "tacking" provision which allows dating the classification back to the decedent's date of acquisition.

The Supreme Court clarified that automatic declassification happens only when a "triggering event," meaning a sale or a change of use, occurs during a period when the PA 490 recapture conveyance tax would otherwise be due.

There is language in the case suggesting that the legislature should revisit the statutes to clarify for all the exemptions in 12-504c as to which ones reset the ten-year holding period.

Note: *Diane M. Lathrop v. Board of Tax Review Town of Lyme*, June 13, 1989 18 Conn. App. 608, a case involving open space, appears to have been overruled by Stepney above.

- **DECLASSIFICATION ON SUBDIVISION OR APPLICATION FOR OTHER LAND USE APPROVAL**

- **Interpretation of 12-504h Change of use:**

The importance of the actual use of the classified property not changing is crucial.

Willis Maynard V. Town of Sterling, October 27, 1994
12 Conn. L. Rptr 559

The Superior Court determined that a landowner of classified farmland who obtains a 15 lot subdivision, files the subdivision plan and then commences construction upon or sells eight of those lots, holding the remainder out for immediate sale and construction, by openly marketing the lots, has changed the use, even though the

unsold lots are still being used to grow corn. However, the mere approval of the subdivision does not necessarily equal a change of use under PA 490.

Carmel Hollow Associates, LP v Town of Bethlehem,
October 9, 2002 CV00-0082591S

The Superior Court held that under the statutory scheme of the time, only the State Forester could declassify forest land, even if the land had been subdivided and lots were being sold. Note that the statutes now provide that a private certified forester determines whether land is eligible for forest land certification, a decision which can be appealed by the assessor or the land owner to the State Forester.

GRISWOLD AIRPORT, INC. v TOWN OF MADISON,

December 23, 2008 289 Conn. 723

Land used as an airport had been classified as open space under PA 490. A contract purchaser obtained special exception approval from the Town to build 127 condominiums on the property. The town then declassified the property, even though the actual use as an airport had not changed. The landowner argued that the approvals were not final. The Supreme Court held that what mattered is whether the actual use of the open space had changed as of the declassification date, not whether approvals had been obtained for potential future uses. In an appeal under 12-119 the plaintiff had only to prove that the assessment was illegal, and this appeal is therefore appropriate to claims of improper declassification.

- **FAILURE TO FILE 490 APPLICATION ON TIME**

- **Interpretation of 12-107d (forest land) regarding initial filing:**

MARY W. RENZ v. TOWN OF MONROE, March 22, 1972
162 Conn. 559

The State Forester completed the certification that certain land was designated as forest land after October 1st but prior to October 31st. The Supreme Court held that such certification had to be completed on or before October 1st to apply to that grand list year.

- **Interpretation of 12-107e (open space) regarding initial filing:**

George McColgan v. Town of Woodstock, April 3, 1998
Docket CV97-0056641S

Buyers purchased property in September that had been classified as open space while owned by the previous owner. The new owners did not file to reclassify the land until after October 31st of the same year. The Superior Court held that the sale automatically declassified the land and that the new owners had to file for reclassification by October 31st. Since they had not, they were obliged to pay taxes based upon the full fair market value of the property.

■ TIME TO FILE APPEAL

• Interpretation of 12-107c(d) regarding appeal from denial by assessor of farmland classification:

Samuel Paletsky v. Town of Morris, August 18, 1992
7 Conn. L. Rptr 735

If an owner of land is refused classification as farmland and appeals to the town Board of Tax Review, which also denies classification, he has an appeal to the Superior Court under Section 12-188 which must be commenced (served) within two months of the date the Board of Tax review made its decision.

Note: See also Griswold Airport above as to the correct type of appeal for improper declassification.

■ ASSESSMENT

Canterbury Farms, Et al. v. Waterford Board of Tax Review, May 9, 1979 Docket No. 029183

The Superior Court adopted the statewide values for farmland generated using farm lease data as a more correct basis for use value than the method adopted by the Waterford Assessor, who, finding no farm lease data available in Waterford, had sought opinions of value from local certified appraisers, newspaper articles, property owners and his own experience. The court accepted that farmland was similar enough throughout the state, except in River-Valley towns, to validate statewide analysis. Methods which involve the least number of estimates are preferable. The court also found that unless there was a structure currently in use as a house on a parcel of land classified as farm or forest land, no "house lot" should be assessed.

■ LISTING ADDITIONAL COURT CASES RELATED TO PA 490*

• Assessment

<i>Burnett v. Town of Kent, Board of Tax Review</i>	No. 1 35 25
<i>Camp Et Al v. Town of Kent</i>	No. 1 35 26
<i>Canterbury Farms Et Al v. Waterford Board of Tax Review</i>	No. 029183
<i>DuPont, III v. Board of Tax Review, Town of Fairfield</i>	No. 9 63 69
<i>Goffi v. Board of Tax Review, West Haven</i>	No. 31 76 47
<i>Hambleton Et Al v. Town of East Windsor</i>	No. 94229
<i>Hill Et Al v. Town of Redding</i>	No. 89644
<i>Indian Spring Land Company v. Condemnation Commission, Town of Greenwich</i>	No. 1 74 44
<i>MacDonald v. Town of Sharon</i>	No. CV-81-0033717s
<i>Mazur v. Town of Colchester</i>	No. 51 93 80
<i>Mueller II Et Al v. Salisbury Board of Tax Review Et Al</i>	No. 0056760
<i>Newton Et Al, Exec. v. Town Kent Board of Tax Review</i>	No. 1 35 28
<i>O'Brien, Trustee v. Board of Tax Review Town of Groton</i>	169 Conn 129
<i>Parmelee v. Board of Tax Review Town of Middlefield</i>	No. 4215
<i>Ralston Purina Company Et Al v. Board of Tax Review of the Town of Franklin</i>	203 Conn 425
<i>Waldron Et Al v. Town of South Windsor</i>	No. 92700
<i>Wilsea vs. Town of Kent</i>	No. 1 35 27
<i>Hyman B. Birnbaum Et Al. v. Town Of Madison</i>	1996 Conn. LEXIS 54
<i>George M. McColgan Et Al. v. Town of Woodstock</i>	1998 Conn.881
• Change of Title	
<i>Timber Trails Associates v. Town of New Fairfield</i>	226 Conn 407
<i>Stepney Pond Estates Ltd. v. Town of Monroe</i>	1999 Conn. 170
• Conveyance Tax	
<i>East Village Associates, Inc. v. Town of Monroe</i>	173 Conn 328
<i>Lathrop v. Board of Tax Review of the Town of Lyme</i>	18 Conn App.608
<i>McKinney Et Al v. Town of Coventry Et Al</i>	176 Conn 613

• Denial of Classification

<i>Bussa v. Town of Glastonbury</i>	28 Conn. Sup 97
<i>Gawrych Et Al. v. Town of Killingworth Board of Tax Review</i>	No. 5477
<i>Holloway Bros., Inc. v. Town of Avon Et Al</i>	No. 91810
<i>Johnson Et Al v Board of Tax Review of the Town of Fairfield</i>	160 Conn 71
<i>Marshall Et Al v. Town of Newington</i>	156 Conn 107
<i>Renz v. Town of Monroe</i>	162 Conn 559
<i>Scheer Et Al v. Town of Berlin</i>	No. 96 26
<i>Matthew Stewart Ramsay v. Town of Southington</i>	1996 Conn. 2296
<i>Carmel Hollow Associates LP v. Town of Bethlehem</i>	2002 Conn. 3390

• Open Space

<i>Birchwood Country Club Inc. v. Board of Tax Review of the Town of Westport</i>	178 Conn 295
<i>Rolling Hills Country Club Inc. v. Board of Tax Review of the Town of Wilton</i>	168 Conn 466
<i>Rustici Et Al v. Town of Stonington</i>	174 Conn 10

• Utilities vs. Municipalities

<i>City of Meriden v. Board of Tax Review of the Town of Berlin</i>	161 Conn 396
<i>The Metropolitan District v. Town of Barkhamsted</i>	199 Conn 294
<i>New Haven Water Company v. Town of North Branford</i>	174 Conn 566
<i>New Haven Water Company v. Board of Tax Review of the Town of Prospect</i>	No. 087323
<i>City of Norwich, Department of Public Utilities v. Town of Lebanon</i>	200 Conn 697
<i>City of Norwich, Department of Public Utilities v. Town of Lebanon</i>	193 Conn 342
<i>Torrington Water Company v. Board of Tax Review of the Town of Goshen</i>	168 Conn 319

* List has appeared in previous Connecticut Farm Bureau Association PA 490 Guides