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Case Law Review
Municipal Tax – Quebec



9185-6617 Québec Inc c. Cour du Québec, 2017 QCCS 1648

- Following the discovery of a latent defect, namely pyrite, in its commercial building located in the City of Longueuil, the Appellant, 9185-6617 Québec inc. (“9185”) sought a reduction of the assessment of the property based on sections 174(6) and 131.2 of the Municipal Tax Act (“MTA”).

Section 174(6) MTA provides that the assessor shall alter the assessment roll to indicate “*a decrease in the value of a unit of assessment which results from a fire in or the destruction, demolition or disappearance of all or part of an immovable comprised in the unit.*” Section 131.2 provides that “*an application for review may be filed at any time in the course of a fiscal year in which an event justifying an alteration to the roll under section 174 or 174.2 occurs ...*”

The City of Longueuil brought before the Administrative Tribunal of Quebec a motion to dismiss 9185’s application for review. The Administrative Tribunal granted this motion. While recognizing that pyrite may lead to the eventual destruction of a building, the Tribunal decided that its presence, in itself, did not constitute an “event” leading to an alteration of the roll for one of the reasons provided for under section 174(6); pyrite was not tantamount to destruction. According to the TAQ, it is the culmination of the physical deterioration which constitutes the “event”, and not its progression. Moreover, only the physical destruction, as opposed to the destruction of the building’s value, can justify a reduction in the value at the roll.

The case was appealed to the Court of Quebec. The appeal was dismissed on the basis that the Administrative Tribunal’s interpretation of sections 174(6) and 131.2 of the MTA was part of the acceptable range of applicable interpretations.

The case was then appealed by way of judicial review to the Superior Court of Quebec. The Superior Court confirmed both previous judgements as well as the restrictive interpretation applied by both lower level Courts.

Appeal to the Court of Appeal of Quebec has been granted. The case has not yet been set for hearing.

Agropur Coopérative c. Ville de Longueuil, 2017 QCTAQ 11374

- Agropur Cooperative (“Agropur”) filed an application for review contesting the assessment for the 2013 and 2016 triennial rolls of its commercial property located in the City of Longueuil. During the administrative review process, the City of Longueuil requested from Agropur, at various occasions, a number of documents pertaining mainly to the costs of improvements brought to the building. These requests were left unanswered. The City’s decision to maintain the value on the roll was appealed by Agropur before the Administrative Tribunal of Quebec. The City is once again requesting the communication of the same documents by Agropur.

The City’s motion is granted; the Administrative Tribunal explains 1) that the Municipal Tax Act (“MTA”) gives the assessor large powers to request information that is necessary to prepare the roll and 2) that the Tribunal has an obligation, when the value of a property is contested, to analyse the situation globally and take into consideration all the aspects that may affect the assessment. Consequently, the Tribunal orders Agropur to communicate the information requested by the City to allow for the proper administration of justice

É.V.I. (Énergie Valero inc.) c. Ville de Lévis, 2017 QCTAQ 11494

- Energie Valero inc. (“Valero”) filed an application for review challenging the assessment of its oil refinery located in the City of Lévis. Pursuant to numerous requests made by the City to Valero during the administrative review process to provide various documents pertaining to the replacement and maintenance of oil tanks on the property, the City makes a motion to the Administrative Tribunal of Quebec seeking an order for the communication of these documents.

The Tribunal partially grants the City’s motion. It highlights the jurisprudential principle which favors the exchange of information and evidence between parties and experts before trial, in an attempt to limit the



debate only to the essential issues. When deciding on a request for documents or information, the Court must consider their relevancy for the issue at hand, as well as balance in obtaining, preparing and providing the information. In this case, some of the information had to be specifically prepared in order to answer the City's request and only to demonstrate the accuracy of an expert report; the Tribunal refused to order communication of this information.

Fiducie Gilles Champagne c. Ville de Shawinigan, 2017 QCTAQ 08498

- Fiducie Gilles Champagne (“Champagne”) filed an application for review challenging the assessment of its residential property located in the City of Shawinigan. The property was qualified as a “luxury home” and had been assessed at over \$1,2 million. Based on the sale value of various similar properties in Shawinigan, and on the listings of other such similar properties that were for sale at the date of reference, Champagne argued that the property should have been assessed at \$850,000.

The City of Shawinigan filed a report based on the market approach, in an attempt to show that the assessment should have surpassed \$1,2 million dollars, thus admitting to an inaccurate value on the roll. The Administrative Tribunal refused to consider the evidence provided by Champagne on the grounds that it was not sufficiently probative, since there was no way to ensure the accuracy of the values – it must be mentioned that Mr. Champagne represented himself – and retained only one of the sales submitted in the City's report. On the basis of this one sale, the Tribunal calculated the value of the property to be a little under the actual assessment, but determined that since the difference did not result in a real prejudice, the initial assessment should be maintained.

Champagne is currently seeking leave to appeal before the Court of Quebec, on the grounds that the Administrative Tribunal has an obligation to determine the actual value of a property, especially when there is an admission to the inaccuracy of the assessment, such as is the case here, and that the Tribunal should have considered Champagne's evidence and requested it be completed, in the event that was necessary, which it has discretion to do.

Ville de Longueuil c. 9198-2405 Québec inc., 2017 QCCQ 2191

- Appeal of five decisions rendered by the Administrative Tribunal of Quebec. Each of these appeals touch upon the interpretation and application of section 129 c) of *the Act Respecting the Barreau du Québec* (“ARB”) regarding the right for a private body (such as a corporation, a non for profit organization, etc.) to be represented by its officers, instead of lawyers, before the Administrative Tribunal when contesting municipal tax assessments.

In Quebec, the act of representing parties and pleading before the Courts is reserved exclusively to lawyers, members of the Quebec Bar (Section 128 ARB), but subject to some exceptions. In certain cases, private bodies are allowed to be represented by their officers. Historically, conflicting case law resulted in ambiguity on the question of whether or not a private body required a lawyer's representation when acting before the Administrative Tribunal.

In this particular case, the Administrative Tribunal decided that a private body may act through its officers for all stages of representation (including preparation and drafting of introductory motions or proceedings to the closing of the file) except for legal pleadings. The Court also decided that the term “private body” is large enough to include legal persons as well as entities that do not have legal personality, and any private body that is not an individual. Also, considering the broad interpretation given to the term “private body”, the term “officer” should receive a broad interpretation as well, even though the determination of who is a valid officer is determined on a case by case basis, based on the facts before the Court. The Court also reaffirmed the principle according to which only lawyers can plead legal arguments before the Tribunal. The decision of the Administrative Tribunal on this issue was appealed before the Court of Quebec, which confirmed the Tribunal's position.

The decision of the Court of Quebec has been appealed by way of judicial review to the Superior Court of Quebec.



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