TO: Walter Wright
FROM: JD Bruning
RE: Environmental Blog Post – *AFL-HBAN Solar Trust c/o the Huntington National Bank v. Town of Griswold*
DATE: 05/22/24

Discussion

The Superior Court of Connecticut ("Superior Court") in a May 7th Opinion addressed a tax issue involving renewable energy requirements. *See AFL-HBAN Solar Trust c/o the Huntington National Bank v. Town of Griswold*, 2024 WL 2076168.

The question discussed is whether the solar panels and other similar equipment satisfy the requirements to be found tax exempt under Connecticut law.

Here, the Plaintiff was operating their solar equipment and contributing the excess electricity produced by the equipment to participate in Connecticut's Virtual Net Metering (VNM) program. Under this program, municipalities and solar power equipment operators may be eligible for credits when excess electricity generated by the privately owned solar equipment is transferred to the general grid and utilized by other end-users. This process is known as "net metering."

In order for the Plaintiff's solar equipment to be tax-exempt, it must meet the requirements laid out in the Connecticut General Statutes § 12-81(57)(D)(iii). Those requirements mandate that the solar thermal renewable energy source must (I) be installed on or after January 1, 2014, (II) be used for commercial or industrial purposes, (III) not allow the nameplate capacity of the source of electricity to exceed the load where such generation or displacement is located or the aggregate load of the beneficial accounts participating through the VNM program and (IV) limit the exemption to be applicable only to the amount by which the assessed valuation of the real property equipped with such source exceeds the excess assessed valuation of such real property equipped with a conventional portion of the source. Conn. Gen. Stat. § 12-81(57)(D)(iii).

The town of Griswold ("Defendant") argued that Plaintiff's solar equipment did not meet the requirements detailed in (II) and (III) of § 12-81(57)(D)(iii) but provided no specific, material facts to dispute the Plaintiff's assertions. Therefore, the court concluded that the summary judgment decision rested on whether the Plaintiff could present undisputed material facts to establish that their solar equipment meets the requirements of (II) and (III) of § 12-81(57)(D)(iii). In order to be granted summary judgment, the moving party must show that there is no genuine issue as to any material fact, and therefore, the moving party is entitled to judgment as a matter of law. Conversely, the party opposing a motion for summary judgment must assert an evidentiary basis that establishes a genuine issue of material fact.

The court determined that there was no genuine issue of material fact and granted summary judgment to the Plaintiff. Because the Plaintiff's solar equipment generates energy that is transferred to another source and distributed to various end users of the electricity for compensation, the court determined that the Plaintiff's equipment was being used for a

"commercial" purpose, satisfying § 12-81(57)(D)(iii)(II). Additionally, the court determined that the Plaintiff's nameplate capacity did not exceed the total aggregate load for the end users, which in this case were the towns of Newton and Stamford. Therefore, the Plaintiff's equipment also satisfies § 12-81(57)(D)(iii)(III).

Since the Defendant offered no material facts to contradict or rebut the Plaintiff's claims, the court granted the Plaintiff's summary judgment motion.