

Do listers need an owner's permission before entering property to conduct an appraisal?

Listers do not need permission unless they have been put on notice by the owner (in person communication, letter, telephone call or sign or placard reading "No Trespassing") that their entry onto the property would not be permitted. Still, as a matter of common courtesy, listers should always obtain an owner's consent prior to examining property for appraisal purposes. After all, who of us would like to come home from work only to find strangers with clipboards poking around our yards?

If a property owner refuses to grant permission, the listers can apply to superior court for a search warrant or, easier still, simply assess the property as accurately as possible from whichever information can be gathered by viewing the property from the town highway right of way, and wait. The most likely result will be that this appraisal will be on the high side and the owner will file a grievance with the Board of Listers. At the hearing, the Board may again request that a site visit be allowed. The owner may again refuse, but must bear in mind when doing so that it is he or she, not the town, who retains the burden of persuasion on appeal. This means that he or she must provide sufficient evidence to overcome the presumption that the law has placed in favor of the listers' assessed value. Failure to do so means the town prevails. If he or she introduces credible evidence (such as comparables, market studies or another appraisal) revealing a higher than fair market value appraisal, then the burden is met. Still, the burden of persuasion remains. The Board may still deny his or her appeal on the basis that, without being able to conduct a site visit, it was not sufficiently persuaded that the initial appraisal was inaccurate.

The next step in the appeal process would be to the Board of Civil Authority, where site visits are mandatory. Under the law, "(e)ach property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal ..." 32 V.S.A. § 4404(c). If the owner continues to refuse permission, his or her appeal must be deemed withdrawn. Eventually, a property owner must allow a site visit to successfully challenge a town's appraisal; otherwise the appeal is dismissed and the appraisal stands.

- Garrett Baxter, Senior Associate, VLCT Municipal Assistance Center

VLCT News, June 2006