

Vermont Supreme Court Approves Partial Reappraisal

It seems that nearly every month this column reviews decisions in property tax appeal cases. Why are property tax matters so frequently litigated in Vermont? Two reasons come to mind. One, because state and local government rely heavily on the property tax for educational and municipal services, and, two, setting property tax values is not an exact science, making it an easy target for property taxpayers.

Taxpayer/appellants have many different angles to approach the issue from: taxpayers have a constitutional right to pay only their fair share of property taxes, municipal taxing authorities choose many different methods of keeping their grand lists current, and the real estate market is in constant flux, making appraisals rapidly-moving targets. In one of these challenges, the Town of Randolph has prevailed before the Vermont Supreme Court in a case where a mini-mart appealed its valuation, claiming the Town had unfairly targeted it for reappraisal. *M.T. Associates v. Town of Randolph*, 2005 VT 112 (Oct. 7, 2005). The Supreme Court reversed the lower court, so that the value would be reset to that which the Town had set.

In 1998, M.T. Associates purchased property, tore down existing buildings, and built a mini-mart consisting of a convenience store and gas pumps. The listers reappraised the property at \$411,300 in light of the new construction. M.T. Associates then grieved this valuation to the listers on the ground that the property was valued higher than that of other mini-marts in town. The listers concluded that this particular property was, in fact, valued disproportionately higher than other mini-marts, and temporarily lowered the assessed value to \$336,300. In a note attached to the grievance decision, the listers wrote: "This is a one-year adjustment. We will be looking at all minimart/gas station type properties in Randolph again next year."

The following year, the listers reviewed the values of all five mini-marts in town and found that they were only assessed at fifty-three to seventy percent of fair market value. To correct this underassessment, they raised all the values, including that of M.T. Associates' mini-mart to \$560,000, a figure that was later grieved and reduced to \$496,000.

Nevertheless, M.T. Associates appealed this valuation, on the theory that the Town could not selectively reappraise only mini-marts. The only fair reappraisal, in their view, would be a total reappraisal of all properties, or perhaps a partial reappraisal in the context of a "rolling reappraisal." The Orange Superior Court accepted this theory, concluding that the Town's reappraisal of only mini-marts was unconstitutional and consequently the listed value of M.T. Associates' property should be reset to the prior year's value. The Town appealed this decision to the Supreme Court, which overwhelmingly reversed the lower court. The Court, having recently decided another similar case involving the Town of Lyndon, summarized its holding in that case, stating, "the town's decision to reappraise a unique geographic area was rational and served the legitimate purpose of addressing the most under-assessed areas." Here, too, the Town's decision to reappraise a unique category of commercial properties was appropriate because it was rationally conceived and based on the legitimate purpose of reappraising undervalued properties.

The holdings in *M.T. Associates* and the Lyndon case turned on whether the towns had a rational basis for assessing only a certain class of properties, and whether

their actions to reappraise served a legitimate governmental purpose. In both situations, the Court found that the towns' goals were to "keep appraisals as current as possible within the resources available by attacking the worst underassessment problem areas." Additionally, there was a legitimate purpose behind these actions: to bring property values for the subject property closer to fair market value, as required by the property tax appraisal statute.

The lesson to take home from M.T. Associates is that towns should not be paralyzed with fear because of a grand list that has dipped far below fair market value. The Vermont Supreme Court has wholeheartedly endorsed the authority of towns to take small bites at the property appraisal apple, and has been deferential to the policy choices made by towns in choosing just how to reappraise. Whether your town is dealing with a particular geographic area that has become a hot real estate commodity, or you have a certain category of business in town that is expanding rapidly, it is within your authority to choose to reappraise only those sectors that you have the resources to take on.

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