

## **INSPECTION NECESSARY TO PROPERTY TAX ASSESSMENT APPEAL**

In June 2007, the Town of Brookfield completed a town-wide appraisal of properties. One property owner, Michael Garbitelli, refused to allow the Brookfield listers to inspect two of his properties. The listers initially appraised the properties at \$248,900 and \$1,921,900. After Mr. Garbitelli filed grievances, the listers reduced the appraised values to \$236,800 and \$1,691,800. He appealed both appraisals to the board of civil authority (BCA).

A hearing was held before the BCA and Mr. Garbitelli again refused to allow the BCA to inspect the properties. Because it could not conduct inspections, the BCA kept the assessments at \$236,800 and \$1,691,800. Mr. Garbitelli appealed both assessments to the director of Property Valuation and Review. For one property, Mr. Garbitelli allowed the state appraiser access only to a building attached to the main dwelling. For the second property, he allowed the state appraiser access to only the foyer and the basement.

At the conclusion of the hearings, the state appraiser found that because 32 V.S.A. § 4467, which governs appeals from BCA decisions, requires the state appraiser to inspect the property prior to making a determination, and because the owner refused to allow a full interior inspection of either property, “it is not possible for the State Appraiser to make a determination as required by statute” and he dismissed both appeals. Mr. Garbitelli requested the state appraiser to reconsider the dismissal of his appeal, and that request was denied. Mr. Garbitelli then appealed to the Vermont Supreme Court, arguing that the state appraiser abused his discretion by dismissing the appeal for refusal to allow a full interior inspection of the two properties.

The Supreme Court noted that under 32 V.S.A. § 4404(c), the BCA was required to inspect the interior and exterior of any structure on the property: “If an adequate inspection is necessary for the BCA to make its decision, then the state appraiser, to make a ‘de novo’ determination, must also be able to conduct an adequate inspection. The importance of the inspection to the valuation of the property is evidenced by the fact that it is a mandatory part of the state appraiser’s determination. [32 V.S.A. § 4467] ... In the absence of an adequate inspection, there is simply no way that the taxpayer can present the evidence needed to extinguish this presumption.” The limited inspections that the taxpayer finally allowed the state appraiser were not enough to provide him with evidence sufficient to overcome the presumption in favor of the BCA’s determination. In the absence of an adequate inspection, neither the BCA nor the state appraiser had enough information upon which to change the listers’ appraisals.

This case underscores the importance of site inspections for properties subject to an appeal before the BCA. According to 32 V.S.A. § 4404(c), “Each 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 and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal

shall be deemed withdrawn.” Taxpayers cannot reasonably expect to appeal their appraisals to the board of civil authority (and beyond) and not allow a full inspection of their property. Not only do owners risk a “deemed withdrawal” of the appeal, but they also cannot overcome the presumption that the lister’s appraisal is valid.

A copy of the decision, *Garbitelli v. Town of Brookfield*, 2009 VT 109, is at <http://info.libraries.vermont.gov/supct/current/eo2008-412.html>.

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