

SALE PRICE VS. TAX ASSESSMENTS – DETERMINING FAIR MARKET VALUE

The Vermont Supreme Court has issued a ruling regarding tax assessments that all listers should review. *In re Barrett/Canfield, LLC v. City of Rutland*, Vt. No. 97-218 (May 2000) the Court held that when **certain** conditions exist the sale of real property should be used to determine the fair market value of the property for tax assessment purposes.

In *Barrett/Canfield*, two corporations negotiated for months over the sale of a manufacturing plant in Rutland. The negotiations resulted in the sale of the property for approximately \$1.8 million. The City of Rutland appraised the property at approximately \$4 million. The City did not place significant weight on the purchase price in appraising the property because the City was aware that the two parties exclusively negotiated over the property and that the property was never actively marketed.

At trial before the Rutland Superior Court, the taxpayer argued that an appraisal based on the purchase price should apply rather than the City's appraisal, which was more than double the contract price of the property. The Rutland Superior Court disagreed with the taxpayer, ruling that the City correctly determined that the sale price is not indicative of the fair market value of the property because the property was not actively marketed. The Vermont Supreme Court overruled the Superior Court decision and held that market exposure is not a necessary element in establishing a bona fide sale for the purposes of determining a property's fair market value.

The legal principle listers can extract from this decision is that it is not proper to dismiss a sale as indicative of a property's fair market value solely because the property was not actively marketed. Accordingly, listers do not have the discretion to ignore a recent sale of property just because the seller did not negotiate with multiple parties or market the property widely prior to completing the sale.

The decision does not mean, however, that listers must accept every sale of property as that property's fair market value. In its decision, the Court set forth the criteria for determining when the sale of real property should be used to determine the property's fair market value. These factors are as follows:

- The transaction is between a willing buyer and a willing seller;
- The agreement was made in good faith; and
- The sale was contemporaneous with the assessment date.

Listers should consider each of these criteria when deciding whether or not to accept the sale price of the property as that property's presumptive fair market value. If one of the criteria is not met, listers should not accept the sale price of the property as its fair market value. Each case is different and the criteria are open for interpretation. For example, it may not be clear that parties bargained in good faith. Accordingly, listers should exercise their judgement based on the criteria set forth by the Court on a case-by-case basis.