

TAXPAYERS FAIL TO PROVIDE ADEQUATE DATA IN TAX APPEAL

In this case, the appellants challenged the listers' valuation of a 12.58-acre parcel of land. (There was no challenge to the valuation of the structure on that land.) *Brown v. Town of Grand Isle*, Vt. Entry Order No. 2000-295 (May 10, 2001). After appeal to the BCA and then to the state appraiser, the Brown's lakefront lot and their additional bulk land were valued at \$194,799.

The first argument that the taxpayers raised was that after they had presented credible evidence that their land was worth only \$51,993, the Town had the burden to rebut that testimony, which it had failed to do because it had presented only its land value table and the listers' cards as evidence. The taxpayers argued that the Town must present sales data in order to determine the fair market value and so to prove the taxpayers' valuation wrong.

The Court rejected that argument, pointing out that the \$51,993 figure presented by the taxpayers was also derived solely from information on listers' cards of properties they considered comparable. Therefore, the taxpayers had not presented particularly persuasive evidence. In fact, the Town had shown that the "comparable" properties used by the taxpayers were really dissimilar and thus not persuasive at all. In addition to the non-persuasive nature of the taxpayers' evidence, the Town had introduced a land-value table, support for its equalization ratio and information on a comparable lakefront lot. This was sufficient evidence.

Next, the taxpayers argued that the Town had used different methods of appraisal for their property and the comparable properties which it used in its argument and, therefore, the state appraiser should not have accepted that data. The Court explained that the different methods of appraisal were appropriate because the types of properties were fundamentally dissimilar. For example, two of the taxpayers' comparables were agricultural and contained rental units and another one did not face the lake and was appraised mostly as non-lakefront property.

Finally, the taxpayers pointed out that the BCA had reduced their taxable land by one-half acre because of a road that bisected the property. They argued that the state appraiser should have done the same. The Court considered four factors:

- the tax map indicated the property was 12.58 acres;
- the town uses the tax map acreage in taxing all properties;
- a tax map is the best evidence of acreage except for a professional survey; and
- tax maps generally already exclude road rights-of-way from the acreage.

Therefore, it was proper for the state appraiser to treat the Browns' parcel the same as other parcels in the Town, absent any evidence that they had been treated unfairly. The appraiser's review was de novo and he was not bound by the BCA's unexplained acreage reduction.

The first point here is that the burden of proof is always with the taxpayers. They must present credible data that clearly raises a question as to the validity of the valuation. Then, the municipality has the burden to produce evidence to justify its valuation. A second point is to be sure that "comparables" really are comparable. And finally, be sure to treat all similarly situated taxpayers equally.

- *Libby Turner, VLCT Staff Attorney*