STATE SUPREME COURT RULES METHOD OF APPRAISAL INEQUITABLE

The Vermont Supreme Court recently upheld the state appraiser's decision to reduce the listed values of five properties assessed by the Town of West Windsor in order to achieve tax uniformity. The case arose when the five property owners challenged the Town's 2001 assessment of their properties. *Allen, et al. v. Town of West Windsor*, 2004 Vt. 51 (May 28, 2004).

The property owners appealed the listed values of their homes to the state appraiser, alleging they did not correspond to the listed values of comparable properties in town and were therefore not equitable. In response to this challenge, the Town argued it properly assessed the taxpayers' properties at 100% of their fair market value just as it did for all other properties in town. The state appraiser and the Court, however, found "ample evidence …to conclude that the Town did not, in fact, list other properties…at 100% of their fair market value…"

The Court determined the source of the valuation discrepancies arose from the manner in which the listers used the Town's software program, which used the cost-based appraisal method. For example, the software allowed the listers to increase the appraised value of a property by increasing the quality-level input the software required. By doing so, the listers were able to arrive at an appraised value that approximated the price the taxpayers paid for their property. However, the listers failed to present any evidence that the properties in question had actually experienced a physical change using high-quality components. Moreover, the Court found that the listers did not apply the upward adjustment to the quality level input uniformly, and only applied it to recently purchased residential properties. The Court also found that the listers did not apply a depreciation adjustment to the improvements on the subject properties, but did on other residential properties. As a result of its findings, the Court stated "[I]t is apparent…that the Town used inputs for taxpayers' properties that increased the value resulting from the software computation, and that value was equivalent to the sales price taxpayers paid when they bought their properties. In contrast, properties that had not been the subject of recent sales were not treated in a similar manner."

The Court also emphasized that "the overriding goal is to ensure that, whatever the fair market value of a property might be, its listed value corresponds with the listed value of comparable properties so that no taxpayer pays more than his or her fair share of the property tax burden." The Town, however, failed to achieve this goal and the state appraisers found "an enormous disparity in listed values of comparable properties used for equalization purposes." The Vermont Supreme Court upheld the state appraiser's decision, ruling, "the Town did not treat all residential properties the same when it assigned values for listing purposes."

This case is important because it emphasizes the importance of the general principles governing property tax assessments, including: 1) property appraisals for tax purposes must reflect a property's fair market value; 2) where the listing of properties at fair market value is not practical, a difference between listed and fair market values is permissible so long as the ratio between them is consistent among properties; and 3) taxes on comparable properties must be uniformly and equitably assessed. These requirements are based on what the Court has termed the "constitutional command" of uniformity, which comes from Chapter I, Article 9 of the Vermont Constitution: "That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute the member's proportion towards the expense of that protection . . ."

- *Julie Fothergill, Attorney, VLCT Municipal Assistance Center*

VLCT News, July 2004