

# VLCT WEBINAR Q&A: FAIR MARKET VALUE AND EQUALIZATION

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Presenters & Panelists:

## CONTENTS

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Q. Is the BCA limited to the same set of evidence presented as was presented during the listers appeal? .....	2
Q. So many times, we get bank appraisals and they think we should go by that. Sometimes they just don't get it.....	2
Q. How do you differentiate between land and buildings for value? Is there a difference? 2	
Q. If the CLA isn't brought up in testimony, can it be used to determine FMV? .....	2
Q. What's the statutory definition of "arm's length" sale? .....	2
Q. I'm a little confused when you say the Listers can use a category CLA, and not the actual CLA. ....	3
Q. Couldn't Listers use this when comps in other towns are presented?.....	3
Q.....	3
Q. Our BCA members are great people (volunteering their time) but know nothing about FMV; and will just take a chunk of money off an assessed value. ....	3
Q. What do the categories mean? .....	3
Q. Is there a list showing what each category (R1, R2, MHU, etc stand for and how they are defined? .....	4
Q. Where would a gravel pit go on the list? .....	4
Q. We often see "marketing history" data for the property. Does this have any relevance? .....	4
Q. What source is used for the 3 years of sales statistics?.....	4
Q. We use NEMRC to cost properties, how often is this updated? And what is the basis?..	4
Q. If towns enter a merged assessment district, would the equalization study then happen at the district level? Would towns still receive a town-specific equalization study?.....	4
Q. Can you say more about the merged assessment district? How would it work? Does it make sense?.....	5
Q. How is the 'time factor' typically accounted for when looking outside the town's assessments during a valuation appeal? .....	5
Q. With grievances and BCAs we have owners bringing an independent appraiser, using both the sales price as well as comparables. Seems like we need to have access to comparables if the sale passes the valid sale criteria.....	5

- Q. Say a BCA applies a 95% CLA to a \$100,000 listed value. Would they offer the owner to reduce the listed value to \$95,000 (and decrease their property tax)?..... 6
- Q. Actually, a 95% CLA means the listed value is lower than FMV, so what if the CLA was 105%, would they offer to decrease the listed value then?..... 6
- Q. To follow up if the BCA after determining FMV and equalizing that comes up with a value different from the listed value and the owner accepts that new value, would the Grand List change?..... 6
- Q. Why do Utility Companies get to use the CLA value to adjust assessed value when the applied ratio for utilities is 100%? ..... 6
- Q. So, the BCA value then becomes listed value? ..... 6

**Q. Is the BCA limited to the same set of evidence presented as was presented during the listers appeal?**

No. Either party can present new evidence at each level of appeal. Each level is considered de novo, meaning “anew” .

**Q. So many times, we get bank appraisals and they think we should go by that. Sometimes they just don't get it.**

Bank appraisals can be submitted as evidence and should be weighed by the body hearing the appeal (e.g., listers at grievances, BCA, etc.) as all other evidence is. Some items to consider might be what assumptions and limiting conditions were placed on the value determination, what is the date of the appraisal, and are the comparables good, or if better comparables were presented.

**Q. How do you differentiate between land and buildings for value? Is there a difference?**

For purposes of an appeal decision, these might be components of value. The charge of the body hearing the appeal, is to find the overall fair market value of the entire property based on evidence presented. So if a portion of value is discussed, then the question becomes, “what was proved about how that affects the overall fair market value of the property?” .

**Q. If the CLA isn't brought up in testimony, can it be used to determine FMV?**

Because it is the charge of the body hearing the appeal to find fair market value and equalize to the appropriate level, it would be within the purview of the body to ask what the current common level of appraisal is.

**Q. What's the statutory definition of "arm's length" sale?**

A. The property taxation statutes do not define an “arm's length” sale. The Vermont Supreme Court has said that, “A bona fide sale is one that occurs between a willing buyer and a willing

seller, **at arms-length**, in good faith, and not to 'rig' a fair market value. An 'arms-length' transaction is voluntary, generally takes place in an open market, and one in which the parties act in their own best interest." Barrett/Canfield, LLC v. City of Rutland, 171 Vt. 196, 198 (2000).

According to Black's Law Dictionary, 2<sup>nd</sup> ed., digital reference found here: <https://thelawdictionary.org/at-arms-length/> an "arm's length" transaction is: "Beyond the reach of personal influence or control. Parties are said to deal "at arm's length" when each stands upon the strict letter of his rights, and conducts the business in a formal manner, without trusting to the other's fairness or integrity, and without being subject to the other's control or overmastering influence."

**Q. I'm a little confused when you say the Listers can use a category CLA, and not the actual CLA.**

The board of appeals, beyond the lister level, is charged with finding fair market value and then equalizing that value using the **CLA** or an appropriate ratio. The listers or appellant could present information about the ratio it thinks would be more appropriate to use in lieu of the CLA. For example, your town CLA is 85% but your ratio for the R1 category is 92%. You might present to the BCA (as Listers) that you think it would be more appropriate to use the R1 ratio for this property because it is in this category and the ratio is more appropriate than the overall CLA.

**Q. Couldn't Listers use this when comps in other towns are presented?**

Since listers would be finding fair market value independent of their existing cost system and therefore applying their CLA to make it equitable to other properties in their town, yes, this might be a reasonable approach.

**Q. If there are concessions?**

It is good to find out if there are sales concessions, so that the sale price can be adjusted accordingly. It is always important to find out as much information about the sales in your town as possible for use as comparables, for ratio studies you might run in your office, and for the equalization study performed by PVR. A good way to find out more information is to develop a practice of sending sales verification forms to buyers and sellers.

**Q. Our BCA members are great people (volunteering their time) but know nothing about FMV; and will just take a chunk of money off an assessed value.**

The job of the listers (or appellant) is to use the evidence in your possession to demonstrate the Fair Market Value of the property.

**Q. What do the categories mean?**

There are 15 categories of property identified in the grand list. Categories are groupings of

similar property types. When we do a 'sales study', properties are grouped with and equalized with similar properties. For example, residential properties would not sell the same as commercial or industrial properties, so they are categorized and equalized separately whenever possible.

**Q. Is there a list showing what each category (R1, R2, MHU, etc stand for and how they are defined?**

Yes, the 2020 Listers and Assessor's Handbook has that information. It can be downloaded for free from the PVR website here: <https://tax.vermont.gov/sites/tax/files/documents/GB-1143.pdf>

**Q. Where would a gravel pit go on the list?**

It depends on whether it is an active gravel pit and would sell as such, then perhaps the commercial category, is it an inactive gravel pit and therefore more similar to land, or is it an incidental addition to a residential property and the highest and best use is more for residential overall.

**Q. We often see "marketing history" data for the property. Does this have any relevance? For example, the property was offered at a particular price and did not sell.**

A closed transaction is always better than a listing. Listing prices can be speculative and are not a true indication of market value until complete.

**Q. What source is used for the 3 years of sales statistics?**

The source of information for the sales study/equalization process are the PTTRs (Property Tax Transfer Returns). These are filed with the town and state whenever a property is transferred within a town. Towns are then asked to review this information and provide information as to the validity of the sale and its inclusion or exclusion from the study based on that status. Assessed values for these properties are then compared to the sales prices to develop the statistics for the Common Level of Appraisal (CLA) for the town.

**Q. We use NEMRC to cost properties, how often is this updated? And what is the basis?**

Values are produced in a cost value system typically. The CAMA (Computer Assisted Mass Appraisal) program that is owned by NEMRC is called Microsolve. This is updated whenever the town decides or is directed to complete a reappraisal. The basis is construction costs and those costs are then adjusted to the local market and the time of reappraisal. The result is a market adjusted cost value which should represent fair market value at the time of reappraisal.

**Q. If towns enter a merged assessment district, would the equalization study then happen at the district level? Would towns still receive a town-specific equalization study?**

What is currently available for towns to consider are "Merged Assessment Districts" that would

combine equalization amongst towns who have had their school governance structures merged. Merger would require a vote of each town in the affirmative and there is a five-year period after which any town could vote to leave the merger. This has not been requested to date, but it is my understanding that all towns would maintain their assessment responsibilities while their equalization processes would be combined to achieve a single CLA and COD for all. The result would be one education tax rate for the merged towns. For more information, see 32 V.S.A. § 5403 (added 2019, No. 51, § 26).

**Q. Can you say more about the merged assessment district? How would it work? Does it make sense?**

Again, no “Merged Assessment Districts” for equalization purposes have been requested since legislation passed in 2019 to allow them so it is still relatively early. PVR will be releasing guidance for towns. If you have questions or would like to pursue this option, please contact your district advisor.

**Q. How is the 'time factor' typically accounted for when looking outside the town's assessments during a valuation appeal?**

If sales comparables are used, that are not close to April 1 of the year of appeal, there should either be a time adjustment; or a mention that it was determined that no time adjustment was warranted. The town assessments should be defended with current market value sales.

**Q. When are the small towns going to be able to do a county-wide or regional CLA?**

There is currently no legislation presented to allow county-wide or regional CLAs. What is currently available for towns to consider are “Merged Assessment Districts” that would combine equalization amongst towns who have had their school governance structures merged. Merger would require a vote of each town in the affirmative and there is a five-year period after which any town could vote to leave the merger. This has not been requested to date but it is my understanding that all towns would maintain their assessment responsibilities while their equalization processes would be combined to achieve a single CLA and COD for all. The result would be one education tax rate for the merged towns. For more information, see 32 V.S.A. § 5403 (added 2019, No. 51, § 26).

**Q. With grievances and BCAs we have owners bringing an independent appraiser, using both the sales price as well as comparables. Seems like we need to have access to comparables if the sale passes the valid sale criteria.**

ATowns have access through [MyVTAX](#) to all sales in the state to find comparables. You can also use services such as [Neren.com](#).

**Q. Say a BCA applies a 95% CLA to a \$100,000 listed value. Would they offer the owner to reduce the listed value to \$95,000 (and decrease their property tax)?**

The appropriate CLA ratio should be applied to the fair market value as of April 1. First, the BCA must find what fair market value is. Second, they must equalize that value using the appropriate ratio or CLA. If that is what they determine, they would not be making an offer, that would be their decision.

**Q. Actually, a 95% CLA means the listed value is lower than FMV, so what if the CLA was 105%, would they offer to decrease the listed value then?**

When equalizing you are applying an appropriate ratio as an appeal board to make the value similar in relation to the rest of the properties in town, thus treating people equitably. If the CLA is above 100%, the Vermont Supreme Court has found numerous times that you only go to 100% and not above. Again, a decision by an appeal board is not an offer, it is a written decision.

**Q. To follow up if the BCA after determining FMV and equalizing that comes up with a value different from the listed value and the owner accepts that new value, would the Grand List change?**

Yes, and the grand list would change immediately when the decision was reached and would remain the value until or unless the appellant appealed to the next level.

**Q. Why do Utility Companies get to use the CLA value to adjust assessed value when the applied ratio for utilities is 100%?**

The applied ratio is not always 100% for utilities. Utility companies are typically allowed to apply the CLA to the value they furnish the towns each year because they are reporting all new inventory and in theory being reappraised. Therefore, to be equitable, the CLA is applied.

**Q. So, the BCA value then becomes listed value?**

Once a decision is reached by the BCA, that value becomes the listed value for the property for at least that grand list year. Until or unless the property owner or town appeals to the next level.