

Board of Civil Authority
7/24/18

Board of Civil Authority (BCA): Chuck Martel (Chuck), Michael Jordan (Mike), Tom Bisbee (Tom), Patti Lewis (Patti), Lisa Koitzsch (Lisa)

Listers: Doug Mosle (Doug), Sarah Stavraky (Sarah)

Appellants: Richard King, Esq. (Richard), Agent for Property Owner Michael Miskulin

Chuck called the meeting to order at 10:08 a.m.

He explained that the BCA was meeting to review the Inspection Committee's report, ask questions of Mr. Miskulin's representative Richard King, and come to a decision.

1. Lisa made a motion to accept the BCA meeting minutes of 7/10/18. Mike seconded. All in favor, no further discussion, motion carried.

2. Inspection Committee report. The Inspection Committee, Lisa, Chuck and Mike, met on July 13, 2018 at 1558 Tucker Hill Road and spent about an hour inspecting the property. They presented the attached report to the all BCA members, the Listers and Richard.

3. Chuck gave an overview of the last BCA meeting explaining that the Board had read Richard's letter at that time but had additional questions for him.

Richard expressed his appreciation to the BCA for its willingness to hold this additional meeting and allow an opportunity for him to speak on behalf of his client.

Richard stated that the Vermont Supreme Court held as a touchstone that the valuation of property had to be comparable throughout the Town and that the sales price of a property is a factor but not the sole determination of value. He cited two cases as an example, one involving a land purchase by a hydro company, the other a foreclosure. He said that Listers cannot simply substitute their evaluations of assessment over the sale price of a property. He said they could question transaction types but noted that in the BCA minutes of 7/10/18 it was written that the Listers agreed that this particular transaction was a bona fide sale. After some discussion, it was clarified that the words "bona fide" as written in the minutes could be confusing. The minutes were meant to reflect that the Listers agreed that this was a true arms-length transaction and that the words "bona fide" were not being used in the same legal manner as Richard was using it. The Listers reiterated that they do not see this transaction as a bona fide sale for sales study purposes as there were extenuating circumstances (bankruptcy) that could have affected the sales price.

Lisa asked Richard to clarify that in his opinion should a bona fide sale price become the assessed value. Richard said yes and that there is no case that he is aware of that allows Listers to substitute their own judgement as to the sale price. In addition, the Listers should not care what the seller's motivating factor is.

Tom wanted to know if in the history of the Town any properties were valued by sale price. Doug responded that if the Listers were to unilaterally change values based on sales price that the Town would have a much larger grand list. He added that sale price is not a mechanism that allows Listers to

make mid-stream changes. He stated that the BCA may have misunderstood his words at the last hearing in that he did not argue the point that this was an arms-length transaction but rather at the end of the day the State agreed with him that this was not a bona fide sale and agreed with his invalidation of the property in the sales study due to external influences.

Tom asked if the BCA had been presented with this kind of request before. No Board members were aware of any.

Sarah pointed out to Richard that he himself had stated that sale price is not the sole factor in determining assessed value.

Doug stated he does not understand the argument that valuation should be based on sale price. The Listers would be constantly adjusting valuations if that were the case.

Discussion followed about the obligations of a bankruptcy trustee to get top dollar and lien holders who sometimes are forced to take a loss.

Chuck asked that if the BCA does what Richard is asking, is that not considered spot appraising. Lisa said that there was a Town wide reappraisal in 2017. If the BCA does as the appellants asked, then this would mean the Listers could spot assess anyone at any time.

There was much discussion about the equalization study system which the State uses, and the fact that it throws out extremes and invalidates properties that have extenuating circumstances that may affect value. There was much discussion about the CLA, how it would be affected by valuing properties by sale price, and the current system which considers all sales over the past three years.

Doug stated that it is also illegal to chase sales, whether it is higher or lower sale vs. assessment. Richard agreed that yes, there was some case law that says not to do it.

Lisa asked Doug what made him invalidate the sale. After discussion the bottom line was that he felt there were circumstances with this sale (bankruptcy) that would affect sale price and he reiterated that the State had agreed with him.

Doug also noted that the property was originally assessed at \$609,000.00. During reappraisal it was lowered to \$573,400.00. During the grievance process the value was again lowered to \$541,900.00 for functional depreciation. He said the property has an above average location and is of high quality but functional depreciation was appropriate.

Chuck made the point that Mr. Miskulin could turn around today and sell it for a higher price than he paid.

Mike said that the "sole determinative" language was bothering him. Sale price should not be the sole determinative factor.

More discussion followed about the sales study, how a property can be invalidated and excluded from it, and how the equalization study supports the Lister work. Richard stated that the sales study was important for statistical analysis but could skew numbers.

Chuck was concerned a decision to assess property solely on sale price would set a precedent in the Town.

Richard suggested taking the sale price and multiply by the CLA, to get a good representation of how the town wide reappraisals are holding up. Doug responded that Listers look at that every year.

11:00 a.m. – Tom made a motion to go into deliberative session. Lisa seconded. No further discussion, all in favor, motion carried.

11:45 a.m. – Lisa made a motion to come out of deliberative session. Chuck seconded. No further discussion, all in favor, motion carried.

DECISION:

Lisa made a motion to deny changing the current assessed value of \$541,900.00 for Michael Miskulin's property at 1558 Tucker Hill Road. Mike seconded.

Reasons were:

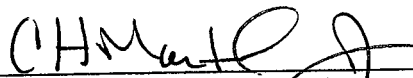
1. The Board agreed that sales prices was not the sole factor in determining assessed value.
2. The Board believes this transaction has extenuating circumstances that would affect sale price.
3. The Board also recognized the Lister's adjustments to the property during the 2017 reappraisal process (\$573,400.00) and then again during the grievance process (\$541,900.00).
4. Based on the site inspection the Board agrees with the Lister's determination of assessed value.
5. The Board noted the sale price, as a percentage of the assessment, was significantly lower than the five comparable properties as presented by the Listers.
6. The State has agreed to, by virtue of accepting, the Lister's decision to remove this transaction from the sales study due to it being a bankruptcy sale which could have influenced the final sales price.

No further discussion, all in favor, motion carried.

11:49 a.m. – Tom made a motion to adjourn. Chuck seconded. No further discussion, all in favor, motion carried.

Respectfully Submitted:

Patti Lewis



Approved: Chuck Martel