Challenging your Property Tax Assessment in Burlington, Vermont

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&
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Burlington Board of Tax Appeals

May, 2022
Overview

Scope of this Presentation
Property Valuation / Assessment Techniques
  - Cost Approach, Sales Comparison Approach, Income Approach, Special Statutory Approaches
Appeal Timeframe / Deadlines
Understanding the Lister Card
Diminishing Cost Curve
Making your case
  - Cost Approach
  - Sales Comparison
Equalization
Appeal Process Steps
Taxation: the 3 leg stool

1. Property/Assets

2. Income

3. Transactions
Homeowner Orientation
1. Single Family Residences
2. Duplexes, Triplexes
3. Condominiums

Not for Commercial Appeals
1. Four or more residential units
2. Commercial, Industrial, Farms

Mobile Homes not addressed here
Property Assessment
The 4 basic approaches

- Cost Approach
- Sales Comparison Approach
- Income Approach
- Special Statutory Approaches
32 V.S.A. § 3481. Definitions

The following definitions shall apply in this Part and chapter 101 of this title, pertaining to the listing of property for taxation:

(1)(A) "Appraisal value" shall mean, with respect to property enrolled in a use value appraisal program, the use value appraisal as defined in subdivision 3752(12) of this title, multiplied by the common level of appraisal, and with respect to all other property, except for owner-occupied housing identified in subdivision (C) of this subdivision (1), the estimated fair market value. The estimated fair market value of a property is the price that the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition that combine to give property a market value. Those elements shall include the effect of any State or local law or regulation affecting the use of land, including 10 V.S.A. chapter 151 or any land capability plan established in furtherance or implementation thereof, rules adopted by the State Board of Health, and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative.
The Cost Approach to Value

Most Common Approach in Mass Appraisals
Collects Multiple Data Points for Land and Buildings
Includes Property Location, Size and Characteristics
Applies an algorithm tested against actual sales to the data to determine a valuation
Cost Approach Algorithm
Sales Comparison Approach to Value

Identify recent, comparable sales that were bona-fide arms length transactions
Identify the critical components of each property
Evaluate the values of components that are different
Estimate the sales price of the subject property by adjusting the sales of other properties by the difference in value of the components that are different
Typical Fee Appraisal
Sales Comparison Report

<table>
<thead>
<tr>
<th>Address</th>
<th>Sale Date</th>
<th>Sale Price</th>
<th>Adjustments</th>
<th>Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>107 Lloyd St</td>
<td>12/20/2020</td>
<td>$275,000</td>
<td>+10,000</td>
<td>$285,000</td>
</tr>
<tr>
<td>123 Maple Dr</td>
<td>10/15/2020</td>
<td>$240,000</td>
<td>+5,000</td>
<td>$245,000</td>
</tr>
</tbody>
</table>

Note: Adjustments include tax credits and property improvements.

Uniform Residential Appraisal Report

<table>
<thead>
<tr>
<th>Property</th>
<th>Sale Price</th>
<th>Comparable Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 1</td>
<td>$180,000</td>
<td>1. Property A: $200,000, 2. Property B: $150,000</td>
</tr>
<tr>
<td>Lot 2</td>
<td>$200,000</td>
<td>1. Property C: $220,000, 2. Property D: $180,000</td>
</tr>
</tbody>
</table>

Analysis of Similarity:

- Location: Similar
- Condition: Good
- Size: 2000 sq ft
- Age: 5 years

Conclusion: Market Value: $285,000
**Assessment Methods – Income**

**Income Approach**

Used only for Multi-Family Residential units of 4 or more units

Commercial and Industrial properties

Estimates the price a property would sell for based upon the amount of income it would produce for an investor and then applies a capitalization rate typical for that investment.

Caution – While the Assessor’s Record Card, may show a building and land value breakout, they are not accurate for comparison purposes
6. [The taxpayers] presented several tables and charts comparing the assessed value of their property to several properties using Lister Card data. As described above, we are not permitted to use Lister Card data to determine the fair market value of the subject property. To illustrate this point, we note that the [Taxpayers] point out that 27 Adams Street is a property with a lot size of ~26,000 sq. ft where the land value is assessed at $143,200 while their lot is only ~4,200 sq.ft. but assessed at $231,900. While this disparity suggests that the valuation methodology is incongruous, the reason is because 27 Adams Street is an 11 unit apartment building and is therefore assessed using the income approach to valuation wherein the value is not determined by the value of the land and the building separately, but by the income production of the property in total. While there may be a land valuation shown on the Lister Card, it bears no relation to the valuation of the property. This is a telling and affirming example of why Lister Card data is not a reliable indicator of fair market value of a property.
Assessment Methods
Statutory Approaches

**Statutory**

- Perpetual Lease Lands 32 V.S.A. §§3609, 3610
- Subsidized Housing 32 V.S.A. §3481(1)(B)
- Housing Subsidy Covenant (Land Trust) 32 V.S.A. §3481(C)
- Solar Panels and Projects 32 V.S.A. §3802(17), 32 V.S.A. §3481(D)
- Current Use 32 V.S.A. §3750 et seq.
- Veterans 32 V.S.A. §3802(11)
Assessment Methods – Statutory
Most Common in Burlington

**Statutory Prescriptions**

Subsidized Housing

- Similar to income approach but with rules dictated by HUD
- May be less than 4 units and still qualify

Housing Subsidy Covenant Property (Land Trust)

- Market Value less leasehold, reduced by 30%

Caution – Don’t compare an assessment of either of these types of housing to a property type that is not the same
Identifying Special Statutory Assessments Methods

How can you identify properties that are assessed by the income approach or a special statutory method?

Look on the Lister Card

Land Trust Property

Income Approach Property

Subsidized Housing Property

- Everhome, Cathedral Sq., CHT
Practical Considerations

~10,500 property parcels in Burlington

Nearly Every Property is Different

500-1,500 properties transfer each year

~1,000 Zoning and ~1,800 Building permits issued each year

- Approximately 30% are for projects over $25,000

Market Prices constantly changing

Desirability of different housing types constantly evolve
The Appeal Timeframe

Grand List Lodged       May 5th
Deadline to appeal assessment to Board of Assessors      May 19, 2022
Deadline to Appeal to Board of Tax Appeals - 14 days after decision by Board of Assessors
Deadline to Appeal to State - 30 days after Board of Tax Appeals decision
Deadline to meet with Assessor to discuss your property assessment - Anytime
Understanding the Assessor’s Record Card a.k.a., the Lister Card

Finding your Lister Card
www.Burlingtonvt.gov

Search for the Property

Select the Assessor Record Card Tab
Understanding the Assessor’s Record Card a.k.a., the Lister Card

Property Address ➔

Land Section ➔

Assessed Value ➚
Understanding the Assessor’s Record Card a.k.a., the Lister Card

Building Information

Ignore this section, It’s not used to determine value
# Lister Card – Land Assessment Subdistricts

## Lakeview Terrace - West Side

| LUC | LUC Desc  | Ft  | # Units | Depth | U. Type | L. Type | Ft  | Base V | Unit Pr | Adj Pr | NBC | Ft  | Mod. | Inf 1 | Inf 2 | Inf 3 | Inf 4 | Appr  |
|-----|-----------|-----|---------|-------|---------|---------|-----|--------|---------|--------|-----|-----|-----|------|------|------|------|-------|------|
| R2  | 2 Family  | 1   | 11.6665 | SF    | SITE    | 1      | 27.66| 29.42  | LVT-9   | 1      | V   | 70  |     |      |      |      |      | 337200|

## Lakeview Terrace - East Side

| LUC | LUC Desc  | Ft  | # Units | Depth | U. Type | L. Type | Ft  | Base V | Unit Pr | Adj Pr | NBC | Ft  | Mod. | Inf 1 | Inf 2 | Inf 3 | Inf 4 | Appr  |
|-----|-----------|-----|---------|-------|---------|---------|-----|--------|---------|--------|-----|-----|-----|------|------|------|------|-------|------|
| R1  | Single Fam| 1   | 6.000   | SF    | SITE    | 1      | 27.66| 32.08  | LVT-6   | 1      |     |     | 160400|

## 5 Sisters Neighborhood

| LUC | LUC Desc  | Ft  | # Units | Depth | U. Type | L. Type | Ft  | Base V | Unit Pr | Adj Pr | NBC | Ft  | Mod. | Inf 1 | Inf 2 | Inf 3 | Inf 4 | Appr  |
|-----|-----------|-----|---------|-------|---------|---------|-----|--------|---------|--------|-----|-----|-----|------|------|------|------|-------|------|
| R1  | Single Fam| 1   | 6.125   | SF    | SITE    | 1      | 22.5 | 42.28  | ST-5    | 1      |     | 261830|

## Hayward Street

| LUC | LUC Desc  | Ft  | # Units | Depth | U. Type | L. Type | Ft  | Base V | Unit Pr | Adj Pr | NBC | Ft  | Mod. | Inf 1 | Inf 2 | Inf 3 | Inf 4 | Appr  |
|-----|-----------|-----|---------|-------|---------|---------|-----|--------|---------|--------|-----|-----|-----|------|------|------|------|-------|------|
| R2  | 2 Family  | 1   | 4.961   | SF    | SITE    | 1      | 22.5 | 30.22  | ST-5    | 1      |     | 146100|
# Lister Card – Land Property Characteristics

## East Side Convent Square

<table>
<thead>
<tr>
<th>LUC Desc</th>
<th>Ft</th>
<th>Units</th>
<th>Depth</th>
<th>U_Type</th>
<th>L_Type</th>
<th>Fl</th>
<th>Slab V</th>
<th>Unit Pro</th>
<th>Adj Prc</th>
<th>NBC</th>
<th>Ft</th>
<th>Mod</th>
<th>Inf 1 %</th>
<th>Inf 2 %</th>
<th>Inf 3 %</th>
<th>Appr A</th>
</tr>
</thead>
<tbody>
<tr>
<td>R2 2 Family</td>
<td>1</td>
<td>6,460</td>
<td>SF</td>
<td>SITE</td>
<td>1</td>
<td>204.6</td>
<td>17.420</td>
<td>CNE:3</td>
<td>1</td>
<td>T</td>
<td>5</td>
<td>T</td>
<td>5.5</td>
<td>5.5</td>
<td>5.5</td>
<td>113,100</td>
</tr>
</tbody>
</table>

- Slopes
- Ravines
- Wetlands
- Flood Plains
- Proximity to Economic Detriments, Hazards, etc.

## Elbow Street

<table>
<thead>
<tr>
<th>LUC Desc</th>
<th>Ft</th>
<th>Units</th>
<th>Depth</th>
<th>U_Type</th>
<th>L_Type</th>
<th>Fl</th>
<th>Base V</th>
<th>Unit Prc</th>
<th>Adj Prc</th>
<th>NBC</th>
<th>Ft</th>
<th>Mod</th>
<th>Inf 1 %</th>
<th>Inf 2 %</th>
<th>Inf 3 %</th>
<th>Appr A</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL Res Vac Land</td>
<td>1</td>
<td>3,800</td>
<td>SF</td>
<td>SITE</td>
<td>1</td>
<td>204.6</td>
<td>17.420</td>
<td>CNE:3</td>
<td>1</td>
<td>F</td>
<td>-90</td>
<td>F</td>
<td>-90</td>
<td>-90</td>
<td>-90</td>
<td>7,000</td>
</tr>
</tbody>
</table>
Lister Card – Building

Building Characteristics

- Building Style
- Building Components
- Building Quality
- Building Condition

← Building Sketch
← Floor Area Calculations
The Building Style determines the starting base rate for the Building.

<table>
<thead>
<tr>
<th>Building Style</th>
<th>Full Description</th>
<th>Base Rate</th>
<th>Alternate Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flat Condo</td>
<td>Flat Condo</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 1st Int</td>
<td>Flat Condo, 1st Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 2nd Int</td>
<td>Flat Condo, 2nd Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 3rd Int</td>
<td>Flat Condo, 3rd Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 4th Int</td>
<td>Flat Condo, 4th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 5th Int</td>
<td>Flat Condo, 5th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 6th Int</td>
<td>Flat Condo, 6th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 7th Int</td>
<td>Flat Condo, 7th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 8th Int</td>
<td>Flat Condo, 8th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 9th Int</td>
<td>Flat Condo, 9th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 10th Int</td>
<td>Flat Condo, 10th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 11th Int</td>
<td>Flat Condo, 11th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Flat 12th Int</td>
<td>Flat Condo, 12th Floor Interior Unit</td>
<td>$90,000</td>
<td></td>
</tr>
</tbody>
</table>
The Building Components Section captures the critical elements of a building that typically affect value.

The building sketch and sub area calculation captures the floor areas for valuation.
The Calc Ladder Contains **SOME** of the critical elements of the Cost Approach to Value calculation, but not all of them.

You **cannot** calculate all of the elements of your cost approach calculation based only on the Calc Ladder printed on the Lister Card.
In real estate, as well as many other commodity values, once a critical size has been reached, the overall value increases for additional units of size added, but the incremental value added by each additional unit decreases - resulting in a lower average value per total units. This is known as the diminishing cost curve.

For example, a single acre of rural land may cost $25,000.

But 50 acres of similar rural land may cost $100,000 or only $2,000 per acre.

The cost curve applied by the Assessor’s office is statistically derived from property sales for both land and building sizes.

You can do your own analysis, apply the statistical principles and argue your merits, or simply confine your comparables to very closely matched building/land sizes.
Making a Persuasive Case on Appeal: Challenging the Cost Basis Formula

Challenges to Uniformity

- Prices per sq.ft. of land, finished, unfinished space
- Standard valuations of amenities / components
- My neighbor’s house is nicer, but valued less

Challenging your assessment by comparison to the assessments of other properties is the least successful path – Why?

- Comparing only a small number of the components used in the cost approach formula. If all components were included, the resulting value would be the same.

Vermont Law prohibits the use of other property assessments as the basis for determining a property’s fair market value. City of Barre v. Town of Orange, 138 Vt. 484 (1980)
Making a Persuasive Case on Appeal: Correcting the Lister Card

This is the easiest and typically most effective route
Identify incorrect data and document property components on your Lister Card
Document steep, unbuildable or hazardous conditions on your land
Identify building/zoning permits that have been pulled but not performed
Identify elements that have been removed - pools, sheds, etc.
Re-evaluate Building Grade / Condition / Depreciation
Don’t be surprised if someone wants to visit your property to confirm your claims.
Correcting the Lister Card
Grade / Condition / Depreciation

**Grade** - the **Quality** of Building Construction - this helps determine the undepreciated cost approach value of the structure.

- **Very Good Grade** buildings exhibit use of superior materials and workmanship. They have special architectural highlights and are typically custom designed. They generally are built with at least three full three to five fixture bathrooms and generally exceed 3,000 square feet in size.

- **Average Grade** is considered Standard quality construction. Buildings in this classification are typical of today’s construction and materials and methods. This class will meet current building code standards. A developer typically builds this class of building on a mass production basis. Most buildings in this class will be plumbed for at least one full bathroom, and a full functioning kitchen.

- **Fair Grade** is considered below average in quality. Buildings in this classification will generally be found to have adequate electricity, heat, and plumbing, but the fixtures are commonly of below average quality. This class is considered to have the essential conveniences. Dwellings in this class are typically between 600 and 1,500 square feet in total size, though, again, there may be exceptions to this guideline.

- **Poor Grade** is the lowest class of construction providing minimal shelter. Most homes in this classification are not habitable year-round and are considered “camps” or “cabins”. They lack basic insulation and may lack minimal plumbing fixtures and central heat. They are generally considered only for seasonal occupancy and will not have been constructed, in most instances by a modern builder, nor will they meet current building codes for year-round occupancy.
Correcting the Lister Card
Grade / Condition / Depreciation

**Condition** - the extent of *deterioration* of the building and its principal components (Furnace, plumbing, electrical, etc.)

- **F = EXCELLENT** to indicate that the dwelling exhibits an outstanding standard of maintenance and upkeep in relation to its age.
- **G = GOOD** to indicate that the dwelling exhibits an above ordinary standard of maintenance and upkeep in relation to its age.
- **A = AVERAGE** to indicate that the dwelling shows only minor signs of deterioration caused by normal "wear and tear". The dwelling exhibits an ordinary standard of maintenance and upkeep in relation to its age.
- **F = FAIR** to indicate that the dwelling is in structurally sound condition, but has greater than normal deterioration relative to its age. Dwellings in "fair" physical condition may be characterized as having a noticeable degree of deferred maintenance.
- **P = POOR** to indicate that the dwelling shows signs of observable structural deterioration (like sagging roof, foundation cracks, uneven floors, etc.) usually caused by significant and chronic deferred maintenance.
- **VERY POOR** to indicate that the structure is barely livable and close to condemnation.
- **DELAPITATED** to indicate that the dwelling is structurally unsound, not suitable for habitation possibly condemned. It is unfortunately possible that some dwellings may be occupied, but still suitable for coding as unsound.
Correcting the Lister Card
Grade / Condition / Depreciation

**Depreciation** - The reduction from new construction values to account for the age and deterioration of the structure - driven by **Age** and **Condition**

This is the Single Family Residential Table
There are separate Tables for Multi-Family, Condominiums & Mobile Homes
Correcting the Lister Card

Building **Grade** and **Age**

Building **Condition** and **Depreciation**

Application of Depreciation to Structure to determine Depreciation amount and Depreciated value
Making a Persuasive Case on Appeal: Sales Comparison Approach

Hire a Professional Expert
  Fee Appraiser Report
  Realtor’s Opinion of Value

Do it yourself
  Identify Comparable Sales, 3-5 minimum
  Identify Components of each property
  Adjust for differences between Subject and Comparables
Making a Persuasive Case on Appeal: Sales Comparison Approach - DIY

Identify Relevant Comparable Sales
The More Recent the Better
Sales over 2 years old rarely relevant

Where to find them
-tax.vermont.gov/municipalities/reports/equalization-study

Recent Property Transfer Tax Returns
On file at City Hall
Making a Persuasive Case on Appeal: Sales Comparison Approach - DIY

Make a Chart of the Subject and Comparables
List the key Components
Ascribe values to differences
Adjust sales for market appreciation
Appraisal Valuation date is April 1
If Adjustment Ratios are not tight
look for better comparables
Making a Persuasive Case on Appeal: Sales Comparison Approach – DIY

Here is an example of the Sales Comparison Report generated by The City Assessor’s Office.
Equalization

An appeal to the Board is a de novo proceeding, and the Board must determine whether the listed value of the property corresponds to the listed value of comparable properties within the town. 32 V.S.A. § 4467. This is essentially a two-step procedure. First, the fair market value of the property must be determined. Bailey v. Town of Craftsbury, 144 Vt. 260, ---, 475 A.2d 1390, 1391 (1984) (citing Town of Walden v. Bucknam, 135 Vt. 326, 328, 376 A.2d 761, 763 (1977)). Next, the fair market value must be "equalized" to insure that the property is listed comparably to corresponding properties in town. 32 V.S.A. §§ 4467, 4601. See City of Barre v. Town of Orange, 138 Vt. 484, 487, 417 A.2d 939, 941 (1980); New England Power Co. v. Town of Barnet, 134 Vt. [144 Vt. 351] 498, 509, 367 A.2d 1363, 1370 (1976). When comparable properties exist, their current market value must be compared with their current listed value to arrive at an equalization rate. This rate must then be applied to the subject property's fair market value to produce the proper listed value. Village of Morrisville Water & Light Department v. Town of Hyde Park, 134 Vt. 325, 330, 360 A.2d 882, 885 (1976) (constitutional principles contained within § 4467 can be complied with by establishing fair market value and assessing a listed valuation on the same percentage basis as that applied to comparable properties).

Where to find the current Equalization Ratio

tax.vermont.gov/municipalities/reports/equalization-study
Gather your information, Review your Lister Card

Identify the Basis for your Appeal
  - Cost Approach - Identify incorrect data on the Lister Card
  - Sales Comparison - Identify and document comparable sales

Document your Case

File a Notice of Grievance with the Board of Assessors
The Appeal Process – Step 2

Appeal to the Board of Assessors (BOA)
  - Who is on the Board
  - Initial Submission
  - Review of the Response
  - Meeting with the Board
  - Site Visit
  - Decision
The Appeal Process – Step 3

Appeal to the Board of Tax Appeals (BOTA)
  Who is on the Board
Initial Submission
Review of the Response
Meeting with the Board
  Failure to attend hearing
Site Visit
Decision
The Appeal Process – Step 4A

Appeal to State of Vermont, Dept of Taxes, Division of Property Valuation and Review (PVR)

Notice of Appeal must be filed with the City Clerk
  - Within 30 days of BOTA Decision
  - Accompanied by payment of $70

Status Conference with Hearing Officer / Appraiser

Site Visit

Final Hearing

Decision
The Appeal Process – Step 4B

Appeal to Vermont Superior Court, Civil Division
Notice of Appeal must be filed with the City Clerk
- Within 30 days of BOTA Decision
- Accompanied by payment of $295

Status Conference(s)
Discovery
Trial
Decision
Impact of Final Determination

Final Decision may be higher, lower or the same as current Assessment

Tax bill will be retroactively revised for affected year

Future appeals limited by City Charter

(e) The decision of the Board of Tax Appeals, if not further appealed, shall become the basis for the grand list of the taxpayer for the year in question plus the next two years unless new information of a material nature about the property is discovered, the property is materially changed, or the City undertakes a rolling or complete reevaluation of real estate that includes the property in question.

Burlington City Charter Section 92(e)
This presentation and slide deck will be posted on the City’s website:

www.Burlingtonvt.gov

Vermont Secretary of State website:

www.sos.vermont.gov/municipal-division/laws-resources/

Vermont Department of Taxes

www.tax.vermont.gov/municipal-officials/certification-education-programs/materials