$10M Home Owner Appeals Taxes

By Hans Huessy

(Editor's Note: The firm for which Huessy works, Murphy Sullivan Kronk, represented the homeowners in this article.)

How should a home that cost close to $10 million to build, but could never be sold for that amount, be assessed for property tax purposes?

This is the dilemma that arises when a property owner builds an extremely expensive home in an area or neighborhood where no similar homes exist.

Recently, there was a property tax appeal in southern Vermont involving a home that cost in excess of $10 million to build.

While located relatively close to a ski area, it was built on a relatively small lot and was adjoined by smaller, much less impressive homes.

The town assessed the home at a very high value, resulting in an annual tax bill that approached the six figure mark.

The homeowner grieved the assessment, arguing that the true test of fair market value had very little to do with cost of construction, but rather with what the house would sell for on the open market.

The property had little or no privacy, no adjoining lands, and no outbuildings. One of the comparable properties cited by the homeowner was gated 150 acre estate, with about the same square footage of finished space, with guesthouses, ponds and other features.

That property was assessed for less than the home in question, primarily because it was a 15 minute drive to the mountain, whereas the grieving owner could walk to the slopes.

Both the listers and Board of Civil Authority declined to make any meaningful reduction in the property's value and the case was appealed

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to the State Tax Department.

On appeal, the homeowner presented an appraisal that supported a significant reduction in assessed value.

The appraiser's primary contention was that any buyer spending this much money would be looking for a property that afforded much more privacy and land, and that buyers with the means to purchase such properties were few and far between.

The appraiser acknowledged that the value he was supporting was about half the cost of construction, but argued that this was irrelevant to a determination of fair market value.

The appraiser testified that this home could never sell for its appraised value due to the neighborhood in which it was located and the paucity of buyers for such properties in Vermont.

He noted that very few Vermont residential properties had ever sold for more than $5 million, no matter where they were located.

The Town countered that its formula, based on relative level of finish, proximity to the mountain, overall square footage and views, had produced a valid value.

The hearing officer found the homeowner's presentation more convincing and ordered a very significant reduction in the property's assessed value, to a value less than half the cost of construction.

There was a similar case in northern Vermont.

That case also involved a home that was very expensive to build and was located in a neighborhood made up of much less expensive homes. This case was eventually settled and the property's value was also reduced to half the cost of construction.

The homeowner in that case relied on the same argument, namely that the house was significantly overbuilt for its market and that no arms-length buyer would ever pay that much for the home.

These cases both underline the fact that cost of construction is an extremely unreliable means of determining property value and that location is much more important than cost of construction.

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