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June 5, 2008

Vermont Department of Taxes,
Division of Property Valuation & Review
Attention: Suzanne M. Monte
P. O. Box 429
Montpelier, VT 05601-0429

Offices of the Unified Towns & Gores
Attention: Howard Walker, Chair
P. O. Box 417
Island Pond, VT 05846-0417

Regarding: Valuation Appeals Board, in re Appeal of the Unified Towns &
Gores, Appeal of 2007 EEPV & COD (Grand List 2006)

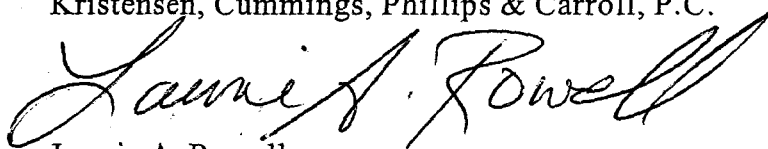
Dear Attorney Monte and Mr. Walker:

Enclosed please find the Decision of the Valuation Appeal Board in the above referenced matter. The decision has been signed by the four members of the Valuation Appeal Board and the original signatures are in my office.

An appeal from a decision of the Valuation Appeal Board must be brought within 30 days of the date of Entry of Judgment to the Superior Court of the County in which the municipality is located, V.R.A. P.4 and 32 V.S.A. § 5408 (d).

Sincerely,

Kristensen, Cummings, Phillips & Carroll, P.C.



Laurie A. Rowell

LAR/tep
Enclosures

cc: James H. Douglas, Governor (with enclosure)
Valuation Appeal Board Members (with enclosure)

STATE OF VERMONT
VALUATION APPEAL BOARD

In Re:)
Appeal of the Unified Towns and Gores) Appeal of 2007 EEPV & COD
) (Grand List 2006)

The above captioned appeal came for hearing before the State of Vermont- Valuation Appeal Board on October 16, 2007 in the Unified Towns and Gores' (UTGs) Municipal Office, Railroad Building, 23 Brighton Street, Island Pond, Vermont. Present at the hearing were Valuation Appeal Board members: Board Chair Laurie Rowell; Sonia Alexander; Bruce Taylor and Michael Welch. Present on behalf of the UTGs were Chair of the Board of Governors Howard Walker; former Chair of the Board of Governors David Lafoe; former supervisor to the UTGs David Snedeker and economist Richard Heaps. The Division of Property Valuation and Review (PVR), Vermont Department of Taxes was represented by Suzanne Monte, Special Assistant Attorney General. Testifying on behalf of PVR were: Director William Johnson; District Advisor John Westinghouse and economist William Smith.

ISSUES and PROCEDURAL HISTORY

Prior to the present appeal, the UTGs had filed a petition for Redetermination of their equalized education property values (EEPV) based on PVR's 2005 Equalization Study. Though the UTGs raised many issues in their earlier appeal, the Director of PVR William Johnson found that the primary problem with the 2005 study was that the sales sample was "lacking in terms of comparability across the six (6) UTGs as most of the sales [fell] within a relatively confined geographic area within the Town of Averill". Appeal to the Director of PVR by the UTGs of Essex County, decision dated June 21, 2006, Page 5.

The Director Johnson noted that the UTGs were working toward a reappraisal for the 2006 grand list and directed PVR to work to correct the issue of sample representativeness in the future. Id.

The Director then charged PVR to recalculate the class ratio for each of the UTGs in the 2005 Study. Due to a lack of relevant information, Director Johnson directed that Ferdinand's V1, R1, R2, MHU and MHL properties be equalized using a 100 percent ratio. And again, citing insufficient information to assemble a comparable sales sample the Director Johnson directed PVR to equalize the listed value of Warren Gore's V1 properties using a 100 percent ratio.

The recalculations ordered by the Director resulted in a substantial increase to the Common Level of Appraisal figures for every entity comprising the UTGs, except Warner's Grant. In Averill, for example, the CLA increased from 53.36% to 90.29%, resulting in a decrease of the equalized education property value for the Town of Averill from \$31,367,000.00 to \$18,223,000.00. The common Coefficient of Dispersion (COD) for the UTGs decreased from 32.87% to 29.67%. The UTGs did not appeal the recalculations from the 2005 Study to the Valuation Appeal Board.

The present appeal is before the Valuation Appeal Board based on the next year's Equalization Study. The UTGs filed a Petition for Redetermination of the 2006 Study in January 2007. The Petition was heard by the Director of PVR on April 12, 2007, and the Director issued a seven page decision on June 14, 2007. A July 9, 2007 letter appealing the June 2007 decision of the Director of PVR to the Valuation Appeal Board was received by PVR on July 11, 2007.

The June 14, 2007 Decision states that the "common element and complaint" of the UTGs is summarized in a letter from Dave LaFoe, Chair of the UTGs' Board of Governors to Director Johnson dated April 11, 2007, which states as follows: "The Board of Governors maintains that Averill, Lewis, Ferdinand, Warren Gore, Avery's Gore and Warner's Gore are separate and unique entities unto themselves. We request that the equalization process be conducted in a manner that treats each of the six (6) UTG entities as an individual municipality. We fully believe that the equalization process, as applied to the UTG entities today, is flawed and patently unfair and we request that changes be made."

FINDINGS OF FACT

The UTGs consist of six (6) entities namely: Averill, Avery's Gore, Ferdinand, Lewis, Warner's Grant and Warren Gore. The UTG's are located in the northeast corner of Vermont, known as the Northeast Kingdom. Properties within the UTGs vary from large tracts of woodland; to year round vacation properties with full utilities and road access; to rustic camps with no utilities miles from road access.

The UTGs are governed by a Board of Governors and the six (6) grand lists for the towns and gores are maintained by one Board of Appraisers. The six (6) towns and gores were reappraised in 1999 and 2007 by the same mass appraisal firm. The six (6) towns and gores have the following property counts:

	<u>Town</u>	<u>Property Count</u>
1)	Averill	269
2)	Avery's Gore	14
3)	Ferdinand	91
4)	Lewis	40
5)	Warner's Grant	2
6)	Warren Gore	59

The 2007 town-wide reappraisal referred to in the Director's June 2006 redetermination letter was not completed by the town the following year as anticipated. The new reappraisal of the UTGs is being completed by the same mass appraisal company based on a common land schedule and cost tables.

There were twenty three (23) valid sales in the UTGs' sales sample for the 2006 Equalization Study. In accordance with the directive issued in last years appeal for Redetermination, PVR conducted over forty (40) appraisals to supplement the 2006 Equalization Study. PVR made efforts to appraise properties that were representative of the diverse type of property located throughout the UTGs. Although there were no sales or appraisals of property in Lewis or Avery's Gore, these two

entities comprise less than ten (10%) percent of the value of non-electric utility property in the UTGs. Similarly, there were no sales or appraisals of unlanded camps or commercial properties because these properties also comprise a very small percent of the total grand list values.

In order to determine the Equalized Education Property Value (EEPV) PVR uses “indirect equalization” where the total market value of a jurisdiction is estimated, rather than “direct equalization” where individual property values are adjusted.

DECISION

The standard of review for appeals of property tax equalization cases is provided for by statute and caselaw. 32 V.S.A. 5405(d) and Town of Killington v. Department of Taxes, 176 Vt. 70 (2003). Statute provides that a municipality’s equalized education grand list is to be based on “such methods, as in the judgment of the commissioner, and in view of the resources available for that purpose, shall be appropriate to support the determination.” 32 V.S.A. 5405(d).

The UTGs request that PVR calculate CODs for each of the six towns and gores; in other words they ask PVR to treat the UTGs as six separate entities rather than one unified entity. This Board finds that the unified towns and gores are indeed unified. While the representatives from the UTGs make a case that the UTGs are more unique than unified, their practices prove otherwise. Every taxing district in Vermont is unique in some respects. Some towns are comprised of a number of villages, each with their own characteristics. Some Vermont villages, within towns, have their own post offices, markets, sewer and water systems, and some have their own small village schools. This Board recognized that there is great diversity within Vermont towns: from downtown Main Street pedestrian shopping, to commercial strips with every fast food option, to suburban neighborhoods (planned and not) to large tracts of farmland and forestland all within a common town limits. In addition, many towns have properties “off the grid” whether by choice or necessity.

Towns control the various districts and neighborhood valuations within their limits. Therefore, the Board of Listers for the UTGs can distinguish the graduations in value within their own territories.

The Board appreciates the uniqueness of the Northeast Kingdom area, but does not believe the diversity justifies six separate Grand Lists each with their own COD, especially given the small number of parcels within each of the six (6) entities comprising the UTGs. Five of the six UTGs have less than one hundred parcels on their Grand Lists, Warner's Grant has just two.

This Board is guided by the language of 32 V.S.A. § 5405(d). The UTGs through testimony request literally hundreds more appraisals be undertaken. Such a request appears unreasonable to this Board particularly in light of the statutory constraints that PVR's methods be based on "resources available". *Id.* Further, the Board questions whether hundreds of additional appraisals would achieve a different result.

This Board finds that much effort has been made by both the State and the UTGs in working to establish a fair and equitable tax structure for the taxpayers of the UTGs. Last year's decision by PVR acknowledged problems on parts of both the State and the UTGs and ordered what might be characterized as a "stop-gap" measure to address the problems. Such measures resulted in a somewhat artificial EEPV which benefitted five (5) of the entities within the UTG. The State upheld their obligation to complete additional appraisals. The UTGs did not complete the town-wide reappraisal for the 2007 Grand List. The UTGs alternate request to have last year's EEPV reinstated for an additional year is understandable, but not fair to other towns in Vermont. The UTGs must finalize their reappraisal and make corrections to inequities through the grievance and appeals process.

The UTGs' emphasize the unique considerations involved in valuing unlanded camps to support their argument that the State's equalization process is unfair. The UTGs then rely on the number of unlanded camps within the various entities to arrive at a percentage of total parcel counts affected by the uniqueness of particular properties. Yet, the equalization process is, in fact, based on property value, not parcel count and the total value of the unlanded camps comprise a small percentage of the overall equalization study. This Board expects that the Board of Listers will address the valuation of the unlanded camps in light of deed and market restrictions. The alternative is that the owners of the unlanded camps grieve their valuations and bring to the listers copies of the deeds with the restrictive language and any evidence of comparable sales.

The Board finds that the procedures used by PVR in conducting additional appraisals to supplement the 2007 Equalization Study for the UTGS are consistent with State practices throughout Vermont.

CONCLUSION

The Board holds that the appeal of the 2007 Equalization Study filed by the UTGs is denied.

VALUATION APPEAL BOARD

Dated: June 4, 2008

Laurie A. Rowell
Laurie A. Rowell, Chair

Dated

Sonia A. Alexander

Dated

Bruce A. Taylor

Dated

Michael A. Welch

The Board finds that the procedures used by PVR in conducting additional appraisals to supplement the 2007 Equalization Study for the UTGS are consistent with State practices throughout Vermont.

CONCLUSION

The Board holds that the appeal of the 2007 Equalization Study filed by the UTGs is denied.

VALUATION APPEAL BOARD

Dated: _____

Laurie A. Rowell, Chair

May 28, 2008

Dated

Sonia R. Alexander

Sonia R. Alexander

Dated

Bruce A. Taylor

Dated

Michael A. Welch

The Board finds that the procedures used by PVR in conducting additional appraisals to supplement the 2007 Equalization Study for the UTGS are consistent with State practices throughout Vermont.

CONCLUSION

The Board holds that the appeal of the 2007 Equalization Study filed by the UTGs is denied.

VALUATION APPEAL BOARD

Dated: _____

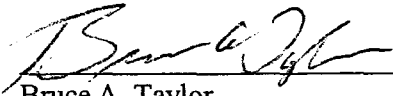
Laurie A. Rowell, Chair

Dated

Sonia A. Alexander

Dated

5/28/2008



Bruce A. Taylor

Dated

Michael A. Welch

The Board finds that the procedures used by PVR in conducting additional appraisals to supplement the 2007 Equalization Study for the UTGS are consistent with State practices throughout Vermont.

CONCLUSION

The Board holds that the appeal of the 2007 Equalization Study filed by the UTGs is denied.

VALUATION APPEAL BOARD

Dated: _____

Laurie A. Rowell, Chair

Dated

Sonia A. Alexander

Dated

Bruce A. Taylor

Dated

6/4/08

Michael A. Welch

Michael A. Welch