



State of Vermont
Department of Taxes
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Agency of Administration

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By Hand Delivery

July 10, 2008

Felicia Martineau, Program Services Clerk
Vermont Department of Taxes,
Property Valuation and Review Division
PO Box 1577
133 State Street
Montpelier, Vermont 05601-1577

Re: Response to Unified Towns and Gores' Motion for Reconsideration

Dear Felicia:

This letter is in response to the Unified Towns and Gores' (the "UTGs") letter dated June 30, 2008, requesting that the Valuation Appeal Board reconsider its decision entered June 5, 2008. The Tax Department opposes the UTGs' request for the following reasons.

The UTGs' request is untimely. Motions to Alter or Amend a Judgment and Motions to Amend Findings must be served no later than 10 days after entry of the motion. V.R.C.P. 59(e) and V.R.C.P. 52(b). The Valuation Appeal Board's decision was entered June 5, 2008. The UTG's motion was dated June 30, 2008, and was received by the Valuation Appeal Board on July 1. The UTGs' request is therefore untimely and should be denied on this basis alone.

The UTGs' request is unauthorized. The UTGs' request was made by the listers ("The listers in the Unified Towns and Gores want the Appeals Board to know...") and was signed by Sally Lafoe on behalf of the listers. The *municipality*—not the listers—is authorized to appeal to the Valuation Appeal Board, 32 V.S.A. § 5408(c), and actions on behalf of a municipality, if not otherwise committed by law to a particular officer of the town, are within the authority of the selectboard. 24 V.S.A. § 872. In the case of the Unified Towns and Gores in Essex County, the Board of Governors shall perform those functions. 24 V.S.A. § 1351b (Supp. 2007).

The UTGs' request is an impermissible attempt to have additional testimony admitted as evidence after the close of the hearings.

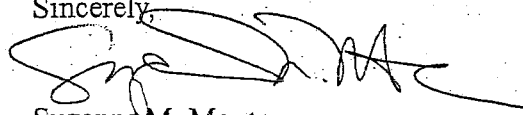
 VERMONT

In addition to the above-described procedural defects, the Tax Department opposes the substance of the UTG' motion. The UTGs' first contention in paragraph 2 is a quote from the UTGs' 2005 Equalization Study Redetermination Decision where PVR noted that the UTGs were working toward a reappraisal for the 2006 grand list. First, the UTGs have not shown how this quote is relevant or how, if at all, it impacted the Board's decision. Second, the quote is in the Issues and Procedural History section of the decision; it is not a Finding of Fact on which the Board's decision is based. Third, it is simply a quote from a document that is part of the record. The UTGs did not appeal the 2005 Redetermination Decision containing this quote. They also did not object to the Board's reliance on this document or claim that it is not part of the record. Fourth, the UTGs are trying to admit additional evidence. The UTGs provided no evidence at the hearing that it had filed an official plan for reappraisal or signed a contract with a reappraisal firm. The UTGs had adequate opportunity to present evidence at the hearing and cannot now add to or qualify that evidence.

In the fourth paragraph, the UTGs inaccurately attribute the quote that they did not complete their 2007 reappraisal to the June 21, 2006 Redetermination Decision. This quote is actually from the Board's June 5 Findings of Fact. This finding is likely based on the testimony of UTG witness David Lafoe who testified at the hearing that their 2007 reappraisal was unsatisfactory. Again, the UTGs had adequate opportunity to present evidence at the hearing and cannot now reopen the evidence if they did not testify accurately or clearly. Moreover, the UTGs have not shown that the timing of the UTGs' reappraisal is material to the outcome of the appeal or that it had an effect on the Board's decision 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."

For the reasons stated herein, the Tax Department opposes the UTGs' request for reconsideration of the Valuation Appeal Board's decision. Please bring this response to the attention of the members of the Valuation Appeal Board. Thank you for your assistance with this matter.

Sincerely,



Suzanne M. Monte

Assistant Attorney General and

Attorney for the Vermont Department of Taxes

c: Valuation Appeal Board Members
William E. Johnson, PVR
Howard Walker, Chair, UTG Board of Governors