

**2020 Hartford Tax Appeal
MINUTES
August 24, 2020**

Present: *Kevin Raleigh; Mike Morris; Kim Souza; Susan Buckholz; Dan Fraser; Alan Johnson; Brett Mayfield; Roy Black; Ken Baldwin; Lisa O'Neil; Jeremiah Sund, Assessor; Cristina Tardie, Asst. Assessor.*

Kevin Raleigh was nominated as Chair for the Tax Appeal Hearing by Ken Baldwin; Kim Souza seconded the nomination. The BCA voted unanimously in favor of the motion.

The BCA discussed whether site visits for each property would occur. Kevin outlined the State has relaxed the requirement regarding site visits because of COVID-19. The BCA can require a virtual visit or waive a visit altogether; The Appellant also has the right to request the BCA make a site visit. Ken Baldwin made a motion to waive BCA site visits; Mike Morris seconded the motion. The BCA unanimously voted in favor of the motion.

Motion made and seconded to Amend Rules of Procedures to eliminate L-S related to inspection committee procedures.

Hearing 1 - QL RESORTS LIMITED PARTNERSHIP (Parcel ID 7-1000-Inv/SPAN # 285-090-14779):
Appellants/Representative: *P. Scott McGee, Attorney; Loesje Ophuis; Dmitriy Iokhvid*

Jeremiah Sund introduced the property: part of an inventory of lots within Quechee Lakes subdivision consisting of 114 vacant lots equaling +/-881.9 acres. QLLA Lot ownership allow for access to QLLA amenities. Current assessment is \$2,657,000; The valuation is being challenged for 680+/- acres of the overall parcel.

Scott McGee, attorney for the appellants, explained they are appealing assessment on parcel 5C. The appellant had the Parcel appraised. He stated they believe the value placed by the appraiser is high at \$1500 avg/acre the appraiser because they used some smaller, more easily developable lots in their comparison. Mr. McGee noted the Assessor reported in his value discussion \$1300 avg/acre in their report but, they are content with a \$1500 value. He stated they believe the value in the Grand List should be \$972,284.76.

Jeremiah Sund explained, per statute, the Assessor is required to assess property that is contiguous under the same ownership as one parcel with one valuation. He further explained that during the Grievance process "the Assessor's office could not produce the *work file* in order to dispute the valuation of \$1500/acre; the Assessor's office was not left with a valuation breakout for vacant inventory lots after the 2017" ...town wide reappraisal. "VISION has since been able to reproduce a valuation breakout for vacant lots." Based on sales, the average and median value is \$1300+/-.

Kevin Raleigh asked the Assessor to clarify if the Vision work-up done included the whole thing but, within that, \$884,000 is included in the valuation for this parcel (5C). Jeremiah Sund explained when QL Resorts grieved, they did not have this information. Now Vision has given the breakout. Vision/Town allocated \$884,000 to the 680 acres at \$1300/acre. Kevin Raleigh further asked if the appellants understood the impact of the new information. Scott McGee indicated they had not interpreted it that

way but, because of the new information/break out and perspective, they will discuss further. He indicated if the 680 acres is being carried at \$1300 they probably don't have an issue with the assessment for this portion of the overall parcel.

He indicated they would be prepared to discuss this further with Assessor and understood the BCA would move ahead with the review and Appeal decision.

After the hearing closed the BCA deliberated. After deliberation, Alan Johnson made a motion to uphold the Assessor's decision. Brett Mayfield seconded the motion. The motion passed unanimously.

Hearing 2 – PRAISE CHAPEL INC. (Parcel ID 31-70/SPAN #285-090-11530):

Appellant/Representative: *Stephen Girdwood, Attorney*

Sue Buckholz recused herself from this hearing.

Jeremiah Sund introduced the property as 14,256sf building built in the late 1800s and formerly used as the Elks building. The property is under renovation to accommodate the new use as a community center. The property is currently assessed at \$596,300.

Kevin Raleigh stated to the Appellant's representative, attorney Stephen Girdwood, the Appeal is not one of valuation rather its tax-exempt status. Mr. Girdwood agreed. Kevin Raleigh explained historically, the BCA has not made determinations about tax exempt status but, the court made a recent ruling giving the BCA the authority to do so.

Stephen Girdwood: We submitted the file to the Listers for Grievance and the Letter from Praise Chapel dated July 10th including floor plans representing proposed changes. The Clerk sent all information to BCA members electronically last week and she has hard copy of floor plans available for members if needed. The owners, Praise Chapel Inc., indicated the "predominant use of this property will be for educational and training purposes." Mr. Girdwood explained the Statute regarding tax exemption (32 VSA section 3832 Subsection 2 relates to schools as tax exempt). He further stated the statutory language goes back to 1950's. He asked, "what is the definition" and how has that changed in modern times. He added there have not been cases in the courts defining School; the only case relates to public vs non-public school. In addition to School and educational purposes, the property has been used for worship services for the past 30 days by First Baptist Church of Lebanon; this use will continue (this is a significant use). The Potter's House School also occupies a significant portion of the premises. It is a pre-school. Mr. Girdwood stated the Town has questioned whether a pre-school is a School. There is nothing in the statute that limits the age group. So, Praise Chapel contends it is a School. They also have kindergarten activities. The first floor and basement level are used by the Potter House School and kindergarten. There is also an after-school program. He further explained, schools have shifted to this opportunity to offer pre-school, kindergarten in our contemporary times. It supports working families in the community. There is a culinary academy proposed for the commercial kitchen for adult students. It is a cooking school and we argue it fits within the definition of a school. This building is adjacent to the original church and has expanded and is utilizing this premises for some of their services such as their food pantry. It is an expansion of the church business serving the community and an expansion for the Potter House School. Mr. Girdwood suggested the board should get past the label of a community center and look at how the building is being used. Other spaces are being used by various social service agencies plus the Educational/School opportunities. Mr. Girdwood contends it has all the earmarks of what you find in a public school these days; "there is a lot of good education going on here."

Jeremiah Sund commented he agreed with some of the goals and premise of Cornerstone Project. I don't think the worship services are relevant since it was not the usage as of April 1st of this year (that could be taken into consideration next year). He explained, that 32 V.S.A. section 3832 (2) does not seem to apply because it is best characterized as community center, owned by a religious society, which provides spaces to various groups of people. Mr. Sund pointed out this statute does not list daycare or preschool within the exempted use nor is there a court case exploring the question about whether pre-school meets the "meaning and intent" of 32 V.S.A. 3832 (2) when defining school. Without clear guidance from the courts defining pre-school/daycare as a school he did not feel he could exempt the property. He added, Community Centers, which are open to the public, can be exempted by a Town Vote.

Hearing 3 - THE VILLAGE AT WHITE RIVER JUNCTION (Parcel ID 45-181/SPAN # 285-090-13653):

Appellants: Byron Hathorn; Brooke Ciardelli

Kevin Raleigh recused himself from the hearing. Ken Baldwin acted as Chair for this hearing.

Jeremiah Sund introduced property and reviewed assessment history. Property is currently under appeal with the Superior Court from the 2019 BCA Tax Appeal decision.

Byron Hathorn testified only the real estate value should be considered rather than including the going concern. Although we are in appeal for 2019, we can exercise the right to appeal for any tax year, therefore we are appealing the 2020 assessment.

Jeremiah Sund agreed Mr. Hathorn does have the right to appeal, but he explained the court decision made for 2019 appeal will overrule the current valuation for two years.

Roy Black asked about the current # of residents at The Village; there are 39. Additionally, he asked what the capacity is when fully occupied. The appellants explained there are 80 apartments, (nine are two bedroom) so, conceivably, they could have 89 residents but, they consider it fully occupied at 80. The 2nd person in the two-bedroom unit pays a small, incremental fee.

Mike Morris stated he recalled Mr. Hathorn stating he had no problem with the assessed value at that time of their 2019 Tax Abatement Hearing. Mr. Morris asked what had changed about the opinion of valuation he offered at that time. Brooke Ciardelli stated that in the Abatement hearing, the process does not allow discussion of the valuation so, they did not respond to that question in that context. Mr. Hathorn added, he did not recall saying that and it was not reflective of his position otherwise they would not be appealing the current assessment.

Lisa O'Neil asked the appellants to describe the difference of going concern vs. the real estate approach stated in their written submission and asked what they are asking for. Byron Hathorn responded saying the assessment should be based on the real estate rather than services. He said, remove services provided to residents over and above the living space/apartment they are rented from the conversation. Transportation, nursing, meals provided, etc. are not normally provided if just renting an apartment; residents are paying for those services separately. Compared to a hotel room or apartment in the Upper Valley to try to determine what would be a fair value for the shelter for that apartment without any of those services. According to Mr. Hathorn, if you use gross income-expenses to get to net operating cost

(\$935,519 using a similar cap rate the assessor used, it calculates to \$914, 393 rather than the \$18, 856,100 it is currently assessed at).

He argued the valuation should be based on real estate only and not take the “business we are in” into account when considering valuation. He stated their business is not to provide apartments for seniors. Rather they are in the business of providing services to seniors. He added, the costs derived for those services has nothing to do with the value of the unit/real estate.

Jeremiah Sund said this is at the root of the problem that should be considered and handled by the court to determine how the value of the going concern is extracted from the real estate to determine the fair market value. He recommended the BCA wait for the court to rule because the court decision will supersede any decision made by the BCA today.

Byron Hathorn added if the BCA decided they agree with appellant for this tax year or, somewhere in between, we might consider withdrawing our 2019 appeal. We would save ourselves and the Town legal fees, which could be avoided, if we could come to a common value. He stated, “We have no problem paying our fair share”. He offered they are not paying a fair share compared to other commercial businesses in Hartford.

Jeremiah Sund said as far of the tax burden goes, which is a concern for every taxpayer, the job of the BCA and Assessor is the fair market value of the property. It was asked of Mr. Hathorn if there was an update this year to the appraisal that submitted in 2019. Mr. Hathorn stated there has not been an update and further clarified the consultant had done an analysis of the Assessor’s work last year and methodology of calculating the assessed value by the previous assessor, not an appraisal.

After the BCA held Hearings #2 (Praise Chapel, Inc) and #3 (The Village at White River Junction), the BCA deliberated on each.

Mike Morris made a motion to uphold the Assessor’s determination for the Praise Chapel, Inc. property located at 14 Elks St. Kim Souza seconded the motion. Further discussion on the motion occurred. Several board members questioned the statutory definition of a school; others felt the use of the building was not completely determined at this stage of the development of the facility because it is not fully operational. The motion carried unanimously.

Alan Johnson moved to sustain the decision of the Assessor for The Village at White River Junction. Sue Buckholz seconded the motion. The board discussed the motion and felt it was prudent to await the decision of Superior Court from the 2019 Appeal. The motion carried unanimously.

Alan Johnson moved to adjourn. Lisa O’Neil seconded the motion. The motion carried.

Respectfully Submitted,



Lisa M. O’Neil
Hartford Town Clerk