

**TOWN OF CAMBRIDGE**  
**P.O. BOX 127**  
**JEFFERSONVILLE, VT 05464**  
**802 644-2251**

**BOARD OF CIVIL AUTHORITY (BCA)**  
**TAX APPEAL HEARING**  
**MONDAY, JUNE 27, 2016**

**Tax Appeal Hearing:**

**Steven T. DePalma - Parcel IDs S108024-00.000, 0044000-00.000 and S108024-01.000.**

**Attendees:** BCA: Dana Sweet, Larry Wyckoff, Mark Schilling, Brian Albarelli, Charlotte Dennett, William Sander, Janet Sander, Munro Brook, Bob Eccles, Krista Huling. Appellant: Hans Huessy (for Steven T. DePalma) Witnesses: Joan Nagy, Cora Conly, Carroll Peters, Ted Nelson, Jr.,

Meeting convened at 6:30 by Larry Wyckoff. Larry entertained a motion to nominate Dana Sweet as Chair, so moved, seconded, so voted. Town Clerk Mark Schilling issued the Oath of Affirmation by voice and in writing to BCA members. Larry then recused himself due to conflict of interest and left the meeting. Hans Huessy appeared as representative for the appellant. Clerk issued the Oath of Affirmation by voice and in writing to witnesses and Mr. Heussy. Clerk read the appeal letter of Steven T. DePalma dated June 7, 2016 in reference to Parcel IDs S108024-00.000, 0044000-00.000 and S108024-01.000

The listers identified the properties and distributed their report which was entered as Exhibit A. Mr. Heussy asked if the appraisal he forwarded was included and if additional copies were needed. Listers responded that due to size they would provide their copy as needed, and it was entered by the clerk as Exhibit B. On the first issue, the listers have agreed to lower the assessment of the 46-acre bulk land S108-024-01 from \$356,300 to \$244,800, a reduction of \$111,500.

Mr. Heussy then introduced the second issue. An error in the deed conveying remaining property from Steven DePalma to Steven and Jennifer DePalma failed to include both 108024-00 and 108024-01. A corrective deed was filed after April 1, 2016, and his clients take the position that the property should be taxed on the combined value due to their original intent, and should not include a second homestead.

Carroll Peters, town mapper, was introduced and described how he discovered the error of the unnumbered lot while reviewing the maps prior to April 1. Peters and the listers contacted Mr. DePalma by phone. Peters described the issue and asked him to correct the deed prior to the April 1, 2016 deadline. When Peters reviewed final changes on April 2 he found that no corrected deed had been filed. Heussy stated that the corrected deed was filed on April 18, and the delay was due to clearance from the banks and refinancing the mortgage. Dana Sweet asked how the change fit with the town's April 1<sup>st</sup> deadline requirement. Ted Nelson, representing the listers, responded that the owner of record on April 1 is responsible for the taxes in the next year, and that is how the value is set by law. Huessy stated that by law a corrected deed can relate back to the original date to clarify a mistake of intent. Bill Sander asked for the pertinent dates for the original conveyance and subdivision. Listers stated that these were included in the executive summary of Exhibit A and reviewed. Charlotte Dennett asked if case law was available stating that a corrected deed takes precedence. Huessy stated that he was not able to find this in Vermont, and that the Vermont title standards do not address this. Huessy asked if his June 21<sup>st</sup> letter was part of their package; the listers stated that it was not, and the clerk added it to Exhibit B. Dennett asked when the mistake was found; Peters stated that he believed it was March 29<sup>th</sup>, and Huessy confirmed. Joan Nagy explained that what is recorded on April 1 is what they go by, and that there is nothing they can change legally. Nelson clarified that the dispute was \$90,000, based on a 2-acre site valuation applied to nearly every piece of vacant land unless landlocked or crossing

town boundaries. Additional discussion centered on the subdivision and the determination of the lots. Dennett asked what the tax impact equaled; Conly responded \$1,820.

Discussion moved onto the third issue, the assessment of the 3<sup>rd</sup> property, 0044000. Huessy referenced his client's appraisal report (Exhibit B), which is \$570,000 less than the town's appraisal, both at 100% completion. He further stated that the client appraisal was based on the event barn on 2 acres, and the actual property is 23 acres. Huessy feels that the difference of acreage is negligible since the owner can only use the additional property for agricultural purposes due to Act 250 restrictions. Krista Huling asked about the comparable properties used in the appraisal, and Huessy referred to Exhibit B.

Joan Nagy then introduced Ted Nelson, on behalf of the listers. He objected to the introduction of Exhibit B for four reasons. First, the appraisal was prepared for bank use and not for taxation. Page 10 of the appraisal explicitly prohibits other use without written consent. Second, the property is fundamentally different from what is covered by the Act 250 permit. Third, the appraisal is basically hearsay, as the preparer is not present to answer questions about some of the assumptions. Finally, the report is based on a completed barn in January, not a review made on April 1. In conclusion, Nelson stated that the listers met with DePalma at length, lowering the assessment of the bulk land, and would have liked to have heard what DePalma thought the property was worth on April 1<sup>st</sup>. Huessy responded that the page 10 language was exactly the same as every appraisal report, that he called Mr. Martin and obtained express permission to use the report from him and the bank, and that Martin's fundamental intent was to determine fair market value. When Huling questioned about the express permission in writing, Huessy stated that he was under oath, and could possibly access the email giving that permission. Dennett asked why Mr. Martin was not in attendance; Huessy stated that they were reserving the expense of his appearance for a possible future appeal. Dennett asked the listers for comment; they responded that they pay for people too. Bill Sander asked Huessy if there was anything in the action of the listers which was contrary to their standards. Huessy did not know what the listers used as methodology but the bottom line was what the property could be sold for in an arm lengths transaction.

The listers asked Nelson to comment. He summarized the issue as whether to accept Martin's report for consideration. Bill Sander asked to review the town's methodology and at this point Peters asked to be dismissed. Various aspects of the methodology in both Exhibit A and B were discussed. The comparable properties were also discussed.

Huling brought a Point Of Order: Would a review committee be necessary? Additional discussion ensued concerning the valuation methods, comparables used in the client's assessment, reevaluation based on completion of the building, and allowable usage based on the Act 250 permit. Brian Albarelli stated that the valuation issue revolved around acceptance of the client's assessment as part of the decision. It was decided by the board that a site visit would not be necessary. Huling made a motion to keep the current town values for this year and reevaluate for next year. It was pointed out that such decisions were usually made in deliberative session. There was no second and Huling withdrew the motion. A motion was made to go into deliberative session, seconded, so voted. The board went into deliberative session. The board exited deliberative session and a motion was made to adjourn, seconded, so voted. The meeting was adjourned.

Mark Schilling, Town Clerk