

**2019 TAX APPEAL HEARINGS
Town of Hartford/Board of Civil Authority**

MINUTES

Members Present: Kevin Raleigh, Chair; Nancy Howe, Vice Chair; Lisa O’Neil, Clerk; Mike Morris; Roy Black; Dick Ballou; Sue Buckholz; Alan Johnson; Ken Baldwin; Don Foster; Richard Grassi; Jameson C. Davis; Dan Fraser. **Assessor Present:** Michelle Wilson.

8:03am: Meeting called to order. Meeting was videotaped by CATV.

BCA members expressed frustration the assessor and some appellant information was not provided to the Clerk in a timely way. Lisa will review the statute to see whether it provides any stipulation requiring reasonable advance submission of information to the BCA for Tax Appeals.

Beth Long/Andrew Winter Overlook Housing LP	374 South Main St. Parcel ID #46/67 SPAN # 285-090-15431
Beth Long/Andrew Winter Overlook Housing LP	36 Overlook Dr. Parcel ID# 9/176/1 SPAN #285-090-10560
Rick Bove/Jon Semard 5573 Woodstock Rd. LLC	10 Quechee Gorge Village Dr Parcel ID #13/36 SPAN #285-090-13827
Dan Goldstein/Nick Camenker & Angela Zizza Terrace Communities Norwich LLC	2820 Christian St. Parcel ID# 4/31/1 SPAN #285-090-15655
Susan Keugel Bridge & Main Housing LP	27 North Main St. Parcel ID #45/123/BMC/1 SPAN #285-090-17007
Brooke Ciardelli/Jack Candon & Brian Underwood The Village at White River Junction	101 Currier St. Parcel ID #45/181/1 SPAN #285-090-13653

After taking testimony, the hearing was recessed at 12:35pm for the purposes of performing site visits. The following teams were established: Team 1-Dick Ballou; Sue Buckholz; & Mike Morris (assigned to The Village at White River Junction); Team 2-Ken Baldwin; Don Foster; & Roy Black (assigned to Bridge & Main LP); Team 3-Nancy Howe; Alan Johnson; & Jameson Davis (assigned to 5573 Woodstock Rd. LLC); Team 4-Kevin Raleigh; Dan Fraser; Dick Grassi (assigned to The Overlook LP properties & Terrace Communities).

The hearing resumed at 2:30pm. Site visit reports were presented and each of the Appeals discussed.

8:15am/Hearing 1: Overlook Housing, LP-374 South Main St.
Andrew Winter & Beth Long

Michelle Wilson, Assessor: The subject property is eligible for VHFA. There are three qualified rent restricted units. There are 2 one-bedroom unit and one two-bedroom. Current Assessment = \$90,500.

Beth Long provided an introductory statement about the properties: In December 2018 Twin Pines purchased limited partnership ownership of Overlook Housing, LP. Owns 99%; the entity is wholly owned by non-profit. Our review of the State Statute does not prohibit an affordable housing organization from getting an exemption. There are two available options we are choosing to qualify under the charitable qualification. BCA may ask why we don't see this for all affordable housing in town. A for profit entity must be in place to get subsidized housing (at end of 15 yrs. non-profit can purchase the entity). Twin Pines qualifies as a non-profit. We are asking to enter into a discussion with town to make a payment in lieu of taxes (PILOT) rather than not paying taxes. The assessment/tax increase is no longer sustainable for the property. The state software now bases the calculation on an assumed revenue rather than actual revenues as has been done in the past. We are here to making housing affordable. The tax is too high for this property. Andrew Winter: When Twin Pines purchased it, we made the decision to ask to be considered as a tax exempt so we may continue to pursue our mission to provide affordable.

Kevin Raleigh asked if the PVR-317 Do you feel you meet all three criteria. Do you meet the unrestricted population? It seemed ambiguous.

Beth Long: Based on median you will always have people who qualify. Anyone can apply. We go through an income qualification and use fair housing law. The income qualification meets the public good.

Michelle Wilson: Rec'd application for exemption. We ran it by our legal counsel about whether we should grant the exemption. When a property qualifies for subsidies it has covenants which inhibit the bundle of rights. Their rights are restricted. Unless they change the structure of their deeded rights, they could not qualify for an exemption because it is not legally permissible. The covenant restriction supersedes the exemption rights. Therefore, the application for exemption was denied. Statute outlines how subsidized housing will be assessed. We have to use specific guidelines and rents set by HUD. There is a vacancy rate set within the law; MW discussed the formula used to calculate. Assessors received the VHFA application this year so we assumed this is the route they were going.

Kevin Raleigh: Two issues: 1) calculating VHFA/HUD formulas for assessment and, 2) then the Exemption request-they seem to meet all three criteria for exemption. Michelle Wilson: they do not meet the three criteria because they are not eligible/not legally permissible for an exemption because they are covenant restricted subsidized housing.

Nancy Howe asked to talk about her contact with legal counsel. I did contact PVR and our Attorney Charlie Merriman. We also consulted our Finance Director who was a former CFO for a Housing Authority. They gave same recommendation. Because they qualify for "this" they cannot apply for that. That is how the law applied. KR: As a possibility, Twin Pines mentioned a PILOT...is it within the scope of possibilities to consider PILOT. Is the law such that we as a board cannot have you come together to come to a compromise? Michelle Wilson: It is my professional opinion you cannot; you do not have a legal basis to create a PILOT because it does not meet the requirements. And, if you did, you would only be able to affect the town portion and but not the education portion of property taxes.

Kevin Raleigh: What law would be violating? Michelle Wilson: It would be violating 3208 and it would be setting a precedent. They are not legally exempt, so they are unable to enter a PILOT. Our recommendation is to deny the request. We cannot be influenced by the good to the community coming from the property when we are assessing.

Beth Long: My reading of the law and my call to the tax dept and the statute the assessor is using is about methodology rather than qualification under the charitable section. Our case is based on that distinction. But there is nothing in the statute that says you cannot use one or the other.

Kevin Raleigh: Asked Twin Pines if, hypothetically, the BCA headed in the direction of PILOT, what does that look like? Beth Long: I would go back to what we were taxed at three years ago. That worked for the financial stability. AW: I take seriously our responsibilities to all the towns who host our communities. It is important that affordable housing agencies pay taxes, but we believe can avail ourselves to the exemption but, we are requesting a PILOT approach instead. KR: Are there other communities who have adopted the PILOT approach. Andrew Winter/Beth Long: In NH only; they have similar criteria. Nancy Howe: The property taxes for the education portion who must still be paid. The only portion we could do would be related to the municipal taxes. Sue Buckholz: covenant restrictions run with the property. Beth Long would have to go back to state agencies to approve a change.

The Assessor/Appellant/BCA have heard the testimony for both properties. All agree.

By agreement of all parties the discussion between the Appellants and BCA for both Overlook Housing LP Properties were discussed jointly because the request/arguments were/are the same. Report and decision made for the two Overlook Housing, LP.

TEAM REPORT: Dan Fraser presented the summary of the inspection. We visited the Twin Pines properties. We determined this is not an assessment issue. The exemption question would need to be decided in the future by the appellant by pursuing release of the subsidy/covenants to make them eligible for exemption. Dan Fraser made a motion to uphold the assessor's valuation. Dick Ballou seconded the motion. The motion carried unanimously.

Hearing 2: Overlook Housing, LP-36 Overlook Dr.
Beth Long/Andrew Winter

36 Overlook: 10-unit rental property: 4 one-bedrooms; 4 two-bedrooms; 2 three bedrooms; MW-give a The assessment history is 2017: \$256,000; 2018 575,500 2019 575,500. These were appealed from previous owners. This value was negotiated with the party. We cannot combine them for taxation because they are not contiguous. We had to separate out the income and expense information provided accordingly. There was a lot of ambiguity about what went with which property.

Beth Long/Andrew Winter: on an aggregate, the two properties are currently \$666,000 (three years ago was \$382,000). In the aggregate, is 122% increase). Our ability to pass those costs on are limited. We bought out the limited partnership in 2018 but Twin Pines has operated the property since it was built. The purchase price was "assumption of debt"/at an affordable price to include tax liability and assumption of debt.

TEAM REPORT: Team determine this is not an assessing issue; rather the exemption qualification. Dan Fraser moved to uphold the assessor's value; Dick Ballou seconded the motion. The motion carried unanimously.

Hearing 3: 5573 Woodstock Rd., LLC-10 Quechee Gorge Village Dr.
Rick Bove/Jon Semard

Michelle Wilson overview: The property is a 5 building commercial property with 18.66 acres with 34,328 gross square feet of commercial space. The assessment history: 2017-\$2,423,500; 2018-\$2,423,500; 2018-\$4,080,000.

Jon Semard: I am a Tax Consultant who works with Rick Bove. Most of the information we are providing to you was only available to us within the past five day; it was not provided at the time Mr. Bove purchased the property as part of a 1031 exchange. Rick paid too much for the property. This is not the board's problem. In a 1031 exchange, if reinvestment does not occur by deadline there are tax implication/capital gains from a previous real estate transaction. In addition, we contend the bank appraisal was factually incorrect. We have provided a copy in the packet for the BCA. They are not NNN leases; they are gross leases. Taxes and leases were capped. They do not financially absorb this increase in property taxes. We have shown comparable rents in the market for gross leases. Rick Bove commented the tenants are at the top of the market for gross leases right now. We have provided actual expenses rather than the appraiser provided info. All this expense data was understated in the appraisal and effected the valuation. The reserve was severely understated (reserves can be deducted). We recognize an increased assessment from previous ownership is due but, the increase realized after purchase is not a fair representation of value. We suggest an assessment of \$3,500,000.

Michelle Wilson: No information was provided for income & expenses and has not been for several years including from the new owner in January. Annually, we send out an Income & Expense form to every commercial property. We look at sale price and, additionally, permits applied for thus triggering an Assessor inspection of the property. We did make some adjustments based on grades, etc. A valuation should be done based on Income & Expense as the preferred methodology. There are comparable properties for the sale price that would lead one to believe the valuation is in line with market. Mr. Bove grieved but, he did not appear, nor did he provide a written grievance. The grievance was denied due to lack of information to lead Assessor to any other conclusion. If this information had been provided to us, we would have used them. We are looking at the real estate not the going concern (we use income & expense). The land value is may be different going forward. This year we based it on 18.66 acres but, we have learned it is actually 19.6 acres. When assessing we start with income/expense approach then add the land. We do the whole property. We cannot separate them out. We have comparables in the \$5 million range. We think the \$4,088,000 is more in line with overall value.

9:50am Dick Ballou made a motion to go into executive session to discuss specific financial information from appellant. Motion was seconded. Motion carried.

9:55am back in open session. Mike Morris asked why appellant paid twice the assessed value for the property. Rick Bove: made the decision based on taxes, relied on appraisal and the income information provided. at taxes and the income info.

Inspection Report QUECHEE GORGE VILLAGE (Team: Nancy Howe; Jameson Davis & Alan Johnson)

Nancy Howe presented the inspection report on behalf of the inspection team (team included Nancy Howe; Jameson Davis & Alan Johnson). \$4,080,000. The Assessor had updated the property based on the physical review of the property. It appeared each building was occupied and fully stocked with merchandise. There is a large open field with potential access near the area used for Segway tours. We could not determine a change to the income approach the assessor used due to the lack of timely receipt of

the appellant's information. We also felt it was incumbent upon the appellant to seek remedy elsewhere for the other concerns he expressed about misleading information he received from the seller of the property rather than through the tax appeal process. Also, if he now has information that was not available at the time of his Grievance Hearing, at the next opportunity, he should include it when he provides his income/expense information to the Assessor. Our recommendation is to leave the Assessed value at \$4,080,000. Jameson Davis made a motion to approve Assessors amount of \$4,080,000 valuation. Dan Fraser seconded the motion. Motion carried unanimously.

Hearing 4: Terrace Communities Norwich, LLC-2820 Christian St.
Dan Goldstein/NickCamenker/Angela Zizza

Assessor summary: This is a 60-unit senior living housing development in Wilder situated on 8.6 acres. The building consists of 25 Alzheimer units; studios; 27 one-bedroom units including support rooms and amenities such as dining hall, etc. The assessment history: 2107-\$3,734,900; 2018-\$5,543,600; 2019-\$10,088,400.

Nick Camenker: The property is dated. The valuation equals \$165,000 per unit. The increase is almost tripled. The Village at WRJ is new/state of art facility and appears to be having an impact on our occupancy rate. We looked at the value using income approach. We also considered the cost and sales approach.

10:11am. Nancy Howe made a motion to go into executive session to discuss financial information. Don Foster seconded the motion. Motion carried.

10:20am. Came out of executive session.

Michelle Wilson: We requested completion of the Income & Expense Conditions from the Terraces; none were received as in previous years. Recently, we got more tenacious about requesting the information by including a copy of the statute allowing for the request. We don't make adjustments unless there are significant changes. So, we used the data provided by the Terrace. We did not add or take away anything from that. It calculated out to be triple. The former town manager and assessor gave them an increment valuation in 2018 with notice it would be increased again for this year to bring it to the full valuation. On income approach we don't make an adjustment in this particular setting for the furniture, fixtures & equipment (FFE) when doing assessment portion. we never deduct business concerns, furniture and equip; that is standard. I double-checked with PVR. It is the income to the property of the business; the facilities are included because it is considered income. We are doing actual complete income for the business then we subtract expenses. We do not include anything for debt servicing because it is considered outside of the operational expenses. That is how we arrived at the value. We did not receive a new form this year from Terrace for recalculation in January. They provided it when requested a second time in August. There is some formulation regarding CAP rate. We are using a cap rate of 10. Previously we used a 13.2 cap rate to help bring value down. We still come up with data to substantiate the \$10,088,000 value.

Michelle Wilson: The Appraisal Institute methodology is for appraisal; not assessment. It is not the application used for dealing with assessment. Nick Carmenker: We have represented others for assisted living facilities to the court level and they have deducted these items. Michelle Wilson: Town of Hartford does not tax Personal property. Mike Morris asked if the average vacancy rate was 10%. The appellant indicated the current vacancy rate is 16%. Jameson Davis asked Would occupancy change your valuation? Nick Carmenker: Yes, the higher vacancy brings revenue down.

TEAM REPORT: Kevin Raleigh presented the inspection report. The facility is impressive & well-maintained. Four wings on two levels. Includes a sunroom, pub, library, salon, dining; the outside has paved parking, walking paths and a substantial out-building for storage. The Assessor and former Town Manager had done an incremental assessment increase from the 2017 value of \$3.7million to \$5.5 million in 2018 then brought to full valuation in 2019 \$10,088,000. The Assessor used the income approach as main methodology. Appellant agrees with the approach including the same cap rate other than the appellant's deduction of \$135,000 in expense numbers. The Assessor stated the Town follows state PVR formulation by not deducting FFE but the Terraces did. Therefore, we recommend we uphold the assessor's valuation. Kevin Raleigh moved to sustain assessor's valuation. Dick Ballou seconded. The Motion carried unanimously.

Hearing 5: Bridge & Main Housing, LP-27 North Main St. (Note: Correction to Parcel ID # to 45/123/BMC/1).

Assessor summary of the property: The property is a new four-story apartment complex that qualifies for the VHFA Subsidized Housing program. There are 16 qualified rent restricted units and one unrestricted unit; all are one-bedroom units built in 2018. The assessment for the property is \$979,400.

Susan Keugel, VSHA: Bridge & Main qualifies under ACT 75 (income restricted). 16 units Restricted by low income tax credits (tenants must be below 60% of median income); 1 unit is not restricted. There is a formula issued every year to town appraiser. The formula uses the entire year's income. When the Assessor received the audit for 2018, the property had not been operating for a full year. We took 8 mos. of expenses and tried to annualize it but, there are some expenses that would not have been incurred, e.g., audit, elevator expenses, etc. So, our first concern that a projected full year of income was used, and an inaccurate estimate of expense was used. When 8 months of data is used value falls in the \$300,000 range. Appellant acknowledges that is not an accurate value. We asked the town to approach it projecting estimated full year is expenses including utility allowances and coming up with a value of \$624,300.

Michelle Wilson: We took 8 months of expenses and annualized them which is an acceptable method. We do not make any utility adjustments. We did recalculate at grievance \$979,400 taking into account the additional expenses presented by appellant. Initially, the builder requested an estimated value; it came in at \$1.3 million. I do review all expenses and all the income when we input into the formula. Education rate is at 9.41 because not all rentals are subsidized. If 100% subsidized it would be 10%. We will review it next year when a full year's worth of data is available. Susan Keugel: we would also want utility allowance to be considered. Michelle Wilson: I do not deviate from the formula; it does not have a utility allowance. Susan Keugel pointed out the place on the form where it is permitted (Michelle Wilson commented that this utility was not brought before us in grievance so, that calculation was not made). The Assessor was asked What difference it would make to use the utility allowance? Michelle Wilson commented our decision was made based on evidence presented. When elevator costs and coming audit costs were presented, we did make that adjustment. We could correct with Errors and Omissions without the BCA. Susan Keugel stated there are other expenses not included. The Assessor said those have not yet been expended. The Appellant stated the Assessor was using uncollected income in the calculation.

TEAM REPORT: (Ken Baldwin; Roy Black & Don Foster).

Ken reported VHFA letter provided in pkt. Commented 100% of building is residential, but the first floor is not. It was clarified that the building is condominiumized (the one apt. unit is at commercial rate). Community room laundry rm storage one vacancy. The utility allowance \$80/month for each tenant. The Appellant did not provide all information to Assessor so, could not be included in the income/expense calculation. There were some other expected expenses so, income/expense may need to be recalculated.

Assessor indicated they can review it through Errors & Omissions. The recommendation is to decline request to change assessment but look to errors and Omissions through the assessors' office to make adjustment with the additional information. Ken moved to uphold the assessment with the caveat that the assessor/appellant revisit via Errors and Omissions. Don Foster seconded. The Motion carried unanimously (one abstention-Dick Grassi because he was not present for the Hearing for Bridge & Main).

Hearing 6: Village at White River Junction-101 Currier St.
Jack Candon/Brian Underwood(appraiser)/Brooke Ciardelli
Corrected Parcel ID #45/181/1

Kevin Raleigh Recused himself from this hearing. Nancy Howe conducted the hearing.

Assessor summary: Property is an 80-unit, 82,323 square foot senior living housing development in downtown White River Jct. situated on .93 acres. The building consists of 17 Studios; 9 two-bedroom units; 24 one-bedroom units; and, 30 Memory care units. The building includes support rooms and amenities such as a full-size gym; physical therapy rooms; men's and women's hair salons; dog grooming; library; bar lounge; theatrical theatre; movie theatre; Art Gallery; Dining Hall; professional kitchen, multiple deck and parking garage.

Assessment history: 2017 (land only)-\$110,600; 2018-\$14,420,100 (75% complete); 2019-\$18,856,100.

Jack Candon, legal representative for, explained Byron Hathorn was not able to be here because his daughter was getting married. (Brian Underwood made the presentation on behalf of appellant): The facility opened at the end of January 2019. Assessment was \$18,856,100 for April 1st. The assessor has accurately applied the income formula however the challenge is that there are amenities and services above and beyond just renting a room. The fees the tenants pay are not just for the room they are for 3 meals/day/365/travel svcs./activities, etc. So, you don't see a true rental income. What you have then is a going concern value. It was constructed as a going concern. Three components: real estate; furniture, fixtures & equipment component; and, good will component (intangibles-trademark, services, assisted care, etc.). The bottom line is, the income section on the tax card is gross income and is based on what the business charges the tenants (not broken out as rent and then other services/fee for service). The rates we are charging are more or less like competitors. We need to come up with a rent only value to calculate income & expense. This is basically an apartment building without kitchens. Brian Underwood stated he did a calculation using the highest rents for comparable properties in the upper range to try to assess value for income, but it is difficult to calculate true real estate only operating expenses. So, we decided to calculation based on best case scenario of 90% occupied, using assessor cap rate but, use true rent income using top rents (units without kitchens; no washer/dryer). We calculated Net operating \$9.4million not \$18,000,000. CAP rate used by assessor 9.78% Lower cap rate increases valuation. April 1st vacancy was 93.8% (5 residents). This property isn't even worth the \$9.4 million today because you would use a discounted cash flow.

Jack Candon stated they are formally submitting information from The Village at White River Jct. Brian Underwood stated he used Timberwood Commons as comparable property because of the rental amounts and square footage. The Operating expenses used in calculation are taken from national study typical of professionally managed similar rental properties. Dick Ballou asked if there was an appraisal done? Appellants stated only a Pre-construction appraisal was done and was done as a going concern appraisal.

Sue Buckholz asked appellant if they have tried to extrapolate out the Village expenses so, it is more specific to this property rather than relying on national data. Brian Underwood stated this is a pure real

estate only. Dick Ballou asked if they would you sell it for 9.4? Brian Underwood replied, Yes, if it was an apt. building. This analysis assumes stabilized occupancy at 90%. All I did was deduct 10% vacancy the assessor used. Dan Fraser: both facilities are claiming the competition is taking the others' clients...if they are both where are people going? Brian Underwood stated, "we did not say that". Brooke Ciardelli stated, "our performance is on track with our projections."

Michelle Wilson: Assessment of commercial properties are based on the income approach which we have done here. A request for information was made. The request was denied; a copy of letter stating their reasons for denial. Main arguments at grievance were being one of highest assessed properties in town and vacancy very low. When doing an assessment for property, the fact they opened in January does not necessarily mean we will use the 98% vacancy rate. We are trying to get at the value of real estate as it is effected by the business. We are using operating income and expense to get at a value. When data not present, we use estimates which were provided by the owners. Their pro-forma included their estimates for value for assessment which is higher than what we have assessed it at. Absence of information does not equal an absence of value. We utilized information from Lori Hirshfield, Director of Planning & Zoning; We also used newspaper reports. We use market rents as advertised and verified by Byron Hathorn. We don't consider ramp up time. We just look at operating income with a vacancy rate. It does not include debt servicing. Apartment buildings are different in nature than assisted living; they are not comparable. The one in Randolph is valued at \$11,000,000. It is important to compare apples to apples; facilities to facilities not to apartments.

Brooke Ciardelli stated Morgan Orchards in Randolph is not similar. They were set up as a buy-in model; so, they have converted about 12 to rentals. There is independent living market rate with no additional services and Full nursing home; we do not do either of those

Michelle Wilson replied to a comment from Jack Candon that the first request for Income & Expense information was August 6th by clarifying the Income and Expense Form was requested in January but, the appellants were also made aware they could provide the information after grievance. The request on August 6th was the third request. They did not send the information. Byron and I negotiated the cap rate from 7% to 9%. 10% is probably more correct.

Jack Candon stated we believe our numbers are correct rather than what has been presented by assessor. We believe \$9.4m is correct.

TEAM REPORT: Sue Buckholz presented on behalf of the team. Each unit has a kitchenette (no oven/range but a microwave; small refrigerator; sink, etc.; except for memory units); We were told the rooms did not have kitchens. Units with two-bedrooms units have a bath for each bedroom. The hallways are wider than those in a typical apartment building. There are laundry rooms on each floor. We did not feel welcome there. We had to insist on seeing the whole bldg.; they were only going to show us two units. They did not want us to see the rest of the building. There is a kitchen on the 3rd floor available to all tenants. Everything is done to the highest standard. They have an art gallery; an Art studio, movie theater, performance space. We were not allowed in commercial kitchen. It is not like Valley Terrace. There is no overlap and the appellants kept trying to tell us they were similar. We find the assessor did her due diligence using standard income and expense method used in assessing; the appellant did not agree with the assessor's methodology. Team recommendation is to Affirm the assessment. Mike Morris moved to uphold the assessment based upon information provided. Don Foster seconded the motion. Motion carried unanimously (Kevin Raleigh was not present and had recused himself from the hearing).

3:30pm: Mike Morris Moved to adjourn; Ken Baldwin seconded the motion. Motion carried.

