TAX - VERMONT

Missisquoi Assoc. Hydro v. Town of Sheldon

Supreme Court of Vermont - March 4, 2022 - A.3d - 2022 WL 628507 - 2022 VT 8

Town appealed from decision of hearing officer for Property Valuation Division and Review Board, determining fair market value (FMV) of taxpayer's property consisting of 69.5 acres of land improved with run-of-the-river hydroelectric generating plant, upon concluding that income approach (IA), rather than town's direct sale comparison (DSC) methodology, provided best estimate of FMV for property.

The Supreme Court held that:

- Hearing officer's findings were not internally inconsistent;
- Hearing officer sufficiently explained capitalization rate determination;
- Hearing officer's application of income approach was not erroneous; and
- Hearing officer acted within his discretion in rejecting town's approach.

Property Valuation Division and Review Board hearing officer's findings were not internally inconsistent, in determining fair market value (FMV) of taxpayer's property consisting of land improved with run-of-the-river hydroelectric generating plant upon concluding that income approach, rather than town's direct sale comparison methodology, provided best estimate of FMV, where hearing officer made typographical error in stating that town's 60-40% debt-to-equity ratio was more credible than taxpayer's 40-60% ratio, but he made clear in his discussion that he credited taxpayer's ratio and explained basis for that conclusion, and consistent with his rationale, he applied taxpayer's ratio in reaching his conclusion.

Property Valuation Division and Review Board hearing officer sufficiently explained why he rejected town's capitalization rate (CR) and adopted taxpayer's CR, in determining fair market value (FMV) of taxpayer's property consisting of land improved with run-of-the-river hydroelectric generating plant upon concluding that income approach, rather than town's direct sale comparison methodology, provided best estimate of FMV; hearing officer found it compelling that taxpayer's expert was consistent in identifying relevant companies as risk comparables in approaches to valuation, and hearing officer gave less weight to town's valuation approach that did not use same companies or include most comparable company in its CR analysis.

Property Valuation Division and Review Board hearing officer's application of income approach was not erroneous, in determining fair market value (FMV) of taxpayer's property consisting of land improved with run-of-the-river hydroelectric generating plant upon concluding that income approach, rather than town's direct sale comparison methodology, provided best estimate of FMV; hearing officer reasonably considered actual, rather than estimated, interconnection expenses, given significant differences between those figures, he was not required to justify actual figures or explain why he credited each particular expense identified by taxpayer's expert, and he explained how he calculated total expenses and why they differed from estimates.

Property Valuation Division and Review Board hearing officer acted within his discretion in rejecting town’s direct sale comparison (DSC) methodology and instead relying on income approach (IA), in determining fair market value (FMV) of taxpayer’s property consisting of land improved with run-o--the-river hydroelectric generating plant; officer deemed town’s expert’s proffered DSC value, that was calculated by adding $0.04 to medium value based on expert’s own judgment, unreliable and unsupported by evidence, officer referenced town’s failure to make any adjustments for differences between comparable sales and subject property, and officer’s failure to include outliers was not harmful because same median value, on which he relied, resulted with or without those outlying comparables.