

Form PVR-4404-ON
OFFICIAL NOTICE
Decision of Board of Civil Authority

TO:

ERIK E. MIALKOWSKI
 ALEXIS M. JOHNSON
 1147 HARRINGTON RD
 WINDHAM, VT 05359

Appellant notified by certified mail on:

Date of Notice: August 8, 2024

Your appeal to the Board of Civil Authority (BCA) concerning the appraisal of your property, identified in the Grand List Book with school property account number (SPAN) 765-243-10278, parcel ID # 040441, has been given careful consideration, with the following results:

Result of Grievance		Value(s) Set by BCA	
Total Listed Value*	272600.00	Total Listed Value*	272600.00
Non-Homestead Allocation	21300.00	Non-Homestead Allocation	21300.00
Homestead Allocation	272600.00	Homestead Allocation	272600.00
Housesite Value	251300.00	Housesite Value	251300.00

*If the parcel is enrolled in the Use Value Appraisal Program ("Current Use"), the BCA must establish the allocated values as required by 32 V.S.A. § 3756(d). Attach a copy of the Current Use printout the listers filed with the Division of Property Valuation and Review with any changes made by the BCA and/or complete attachment PVR-4404-ON, Attachment U.

Date Appeal Filed June 10, 2024

BCA Hearing Notice Date July 8, 2024

BCA Hearing

Date: July 11, 2024

Time: 6:34 pm

Place: Windham Meeting House, Windham, Vermont

BCA Members Present: John Hoover, Kord Scott, Philip McDuffie, Ellen McDuffie
Meredeth Tips-McClaine, Michael Pelton, George Dutton, Marsha Clinton

Appearing for Listers: Al Koonradt (NEMRC Appraiser), Bill Casey, Ron Cohen

Appearing for Appellant: Erik Mialkowski

Summary of Testimony/Argument by:

Appellant: Sales-Comparison appraisal provided by Appellant after 1st hearing
No testimony given to back up the Appellellant's appraisal

Listers: Cost-Approach appraisal method used for town-wide reappraisal
Original appraisal reduced by 15.7% as a result of grievance hearing

Property Inspected by:	<u>John Hoover</u>	<u>JP</u>
	Name	Position
	<u>Kord Scott</u>	<u>Selectman</u>
	Name	Position
	<u>Philip McDuffie</u>	<u>JP</u>
	Name	Position

Statute requires
minimum of
three members.

Date of Inspection: July 22, 2024

Report of Inspection Committee (Use attachment, if necessary)

See Attachment 1

Board's Decision with Reasons (Use attachment, if necessary)

See Attachment 2

Check this box if this parcel is enrolled in the Use Value Appraisal Program (must fill out Attachment U).

Certificate

I hereby certify that this is a true record of the action taken on this appeal by the Board of Civil Authority of the town/city.

Philip McDuffie, Chairman (Philip McDuffie)
Board of Civil Authority

Filed in the town/city clerk's office on August 8, 2024 at 10:30AM to be recorded
in the Grand List Book of April 1, 2024 (year).

Attest Ellen A. McDuffie
Town/City Clerk

32 V.S.A. § 4461. Time and manner of proposal.

If you are aggrieved by this decision, you may appeal either to the Director of the Division of Property Valuation and Review or to the Superior Court of the county in which the property is situated. The appeal to either the director or the superior court is governed by Rule 74 of the Vermont Rules of Civil Procedure and is commenced by filing a notice of appeal with the town clerk within 30 days of the day this decision was mailed to you by the town clerk (date of entry noted on reverse). The town clerk transmits a copy of the notice to the director or to the superior court as indicated in the notice and shall record or attach a copy of the notice in the grand list book.

Be sure your appeal indicates which avenue of appeal you wish to pursue (court or director), clearly identifies the property under appeal, and is accompanied by the correct filing fee. The appeal to the Superior Court shall be accompanied by a \$295 fee for each parcel being appealed; the fee is \$70 per parcel on appeal to the Director. If the property under appeal is enrolled in the use value appraisal program, please indicate that in your appeal. If the property under appeal contains a homestead, please include that information.

Attachment 1

**Town of Windham Vermont
Board of Civil Authority (BCA) Hearing
of Erik Mialkowski's Property Appraisal Appeal
Held on July 11, 2024**

**BCA Site Inspection Report
Presented into Evidence
at Second Hearing
Held on August 01, 2024**

Town of Windham, Vermont
Board of Civil Authority (BCA)
Site Inspection Report

The BCA inspection of Erik Mialkowski's property occurred on July 22th, 2024¹. The property is located at the intersection of Windham Hill Road and Harrington Road. The BCA inspectors were John Hoover, Kord Scott, and Phil McDuffie. Al Coonrad, the appraiser who prepared the contested appraisal was also present, as was Erik. The inspectors viewed the property to determine the number of permanent structures on it, walked around the perimeter of the home, inspected the first and second floors of the residence, and inspected the cellar crawl space (partial basement) as observed from an outside access panel located on the north side of the home.

There was no communication between the BCA inspectors and Al concerning the property. Erik answered three questions for the inspectors: He indicated:

- 1) The masonry fireplace was nonfunctional, owing to the damage from the tornado that he testified to at the first hearing,
- 2) What appeared to be a broken section of a cement foundation in the cellar dirt floor is indeed part of the foundation that the house slipped off of during the tornado.
- 3) That the wood stove in the cellar was also nonfunctional, due to the movement of the house during the tornado.

The property surrounding the residence is overgrown with vegetation that doesn't appear to have been mowed thus far this year. There is no landscaping or orchards. There are six (6) permanent structures on the property. The residence, a timber frame barn (large shed) on the other side of Harrington Road from the residence, three smaller storage sheds on the west side behind the residence, and what appears to be a damaged aluminum trailer, also across Harrington Road. The larger barn (shed) appeared old, but intact, and had material stored in it. The three storage sheds behind the house appeared dilapidated. The trailer appeared significantly damaged and likely not functional. None of the structures outside of the residence were inspected.

The outside of the residence appeared to be in relatively good condition with respect to the siding and windows. No defects to the foundation were observed with the exception of the northeast corner of the residence where the external part of a foundation that was built with brick and mortar showed some cracks on the surface. The exact nature of the foundation is unknown, and it could be a hybrid of the original foundation, as well as poured concrete that may have been added to address settling issues over time. There was some masonry finishing work on a small area of the foundation on the back of the house that hadn't been completed. There is an attached wooden deck on the north side of the residence with stairs leading down to the ground and a door leading to the house. Access to the deck via the outside stairs was impeded by debris. The structural integrity of the deck is unknown, but questionable from its appearance.

The first floor of the residence is an open plan with a dining area, a kitchen including a relatively large pantry, a large living room and a bathroom. The kitchen appears to be functional, but the

woodwork, finishing and trim work appear worn and in need of refurbishing. The kitchen floor is constructed of painted lumber and the wide-plank pine floor in the living room appears to be the original flooring from the time the house was built and looks to be in relatively good condition. The hearth in front of the masonry fireplace that is in the living room is noticeably tilted with respect to the floor and may have shifted during the tornado event. In general, the walls and trim work downstairs are finished and painted, but also appear to be dated, faded and worn. The downstairs bathroom has an old wall-mounted porcelain sink, a flushing toilet, and a nonfunctional pre-built shower stall that appears to be used for storage. There is a standing wood stove in the living room that apparently replaces the fireplace. Wooden stairs from the living room lead up to the second floor.

The second floor has two bedrooms (one of which has a large walk-in closet), a small alcove with steep stairs that lead up to an insulated cover that seals the attic access opening, in addition to what appears to be a combined utility/bathroom. The attic was not inspected. The bath/utility room contains a washer and dryer, a double vanity with sinks, a small shower stall, and a flushing toilet. There is an old-fashioned bathtub in the room, but it appears to be nonfunctional and is currently used as a storage bin. The floors upstairs are painted plywood. The walls upstairs are largely unfinished sheetrock, and it appears that much of the upstairs is still undergoing wall and sheetrock repairs to address the shifting and the still observable misalignments of surfaces that likely resulted when the house was pushed off from at least part of its foundation during the tornado.

The partial basement was observed from the outside of the house. It had a very low ceiling, a dirt floor with a lot of residual foundation debris, as well as an electrical service panel. No furnace or boiler was observed, which leads to the opinion that the house is likely heated by wood stoves and possibly electric space heaters.

In conclusion, the exterior of the house appears to be intact, relatively new and in good shape compared to the rest of the house. The interior of the residence appears to be significantly dilapidated and in need of many repairs to the walls and built-in fixtures. The upstairs is largely unfinished, and the downstairs is in need of substantial refurbishment to the trim and finish of the walls, doors, etc. Observation of the misalignments of walls, floors, as well as the fireplace, leads to some level of speculation as to the structural soundness of the house.

Submitted to the BCA clerk on 01August2024

John Hoover, Justice of the Peace (signature on file)
Kord Scott, Select Board Chair (signature on file)
Philip McDuffie, Justice of the Peace (signature on file)

¹ The original report submitted to the BCA at the second hearing erroneously stated July 15, 2024.

Attachment 2

**Town of Windham, Vermont
Board of Civil Authority (BCA) Hearing
of Erik Mialkowski's Property Appraisal Appeal
Held on July 11, 2024**

**BCA Decision
With Reasons**

Board's Decision with Reasons

The Town of Windham's Board of Civil Authority (BCA) has set the Grand List Value of the Appellant's property at the same value submitted in Lister's Exhibit #1 (\$272,600) for the following reasons-

1. The Appellant did not submit any evidence at the first hearing. The Appellant testified he had obtained another appraisal that set the value of his property at \$250,000. Since the appraisal was not presented and offered into evidence, neither the BCA nor the Listers were able to examine it, ask questions, or in the case of the Listers, offer a rebuttal to the Appellant's appraisal.
2. The Appellant did not attend the second hearing, but the BCA obtained the Appellant's appraisal between those hearings and offered it into evidence on behalf of the Appellant, at the second hearing. Since it was introduced into evidence, the Lister's appraiser offered a rebuttal to the Appellant's appraisal indicating that the cost-approach appraisal method (which was used for Windham's town-wide reappraisal) is more accurate than the sales-comparison method that was used by the Appellant's appraiser.
3. While the Appellant's appraiser inspected both the interior and exterior of the Appellant's home, and the Lister's appraiser inspected only the exterior of the home when the first appraisal was made, the Lister's appraiser was allowed to inspect the interior of the home while the BCA performed their inspection of the Appellant's property. When asked if he cared to comment on his observations during the second hearing, he declined to do so, and stood firm on the Lister's current appraisal that had been reduced from an original valuation of \$323,300 to \$272,600, based upon the tax-payer's previous grievance-hearing with the Listers.
4. The BCA's examination of the Appellant's appraisal revealed that the "intended use" of the appraisal was for the "dissolution of marital assets". Testimony by the Appellant during the first hearing indicated that his appraiser told him this was a very difficult appraisal to produce, owing to the lack of property sales near Windham that were in a similar condition to his. This testimony is interpreted by the BCA as an expression of a lower level of confidence in the property valuation as determined by the Appellant's appraiser, when compared to that of the Lister's appraiser. Additionally, two of the comparable properties that the Appellant's appraiser submitted in preparing the appraisal were from other towns outside of Windham. The comparable properties submitted by the Listers as Exhibits 2 and 3 were both from Windham, as required by the town-wide reappraisal, and included a relatively recent sale of a home with significant structural issues that the new owner has elected to address since purchasing the property.
5. Owing to the complete town-wide reappraisal that has occurred during the past year, the BCA finds significant validity in the fact that the Lister's appraiser used the same method for performing an appraisal for every property in town and has thereby brought the aggregate of town properties into a consistent state of appraised values- despite the large spectrum of property conditions found throughout Windham. The Appellant's evidence, which by circumstance had to stand on its own, without expert testimony to support it, failed to convince the BCA that the appraisal which was submitted into evidence on behalf of the Appellant was more accurate than the Lister's appraisal, or that the cost-approach method utilized by the Lister's appraiser is less accurate than the method utilized in the Appellant's appraisal.