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Memorandum

To: House Committee on Ways and Means
From: Jill Remick, Director of Property Valuation and Review, Department of Taxes
Date: February 15, 2023
Re: Department of Taxes Comments – Bill 23-0161 – Categorizing Nonhomestead Property

The Department offers the following written testimony on the above-referenced bill.

Current Practice and challenges with identification of present-day use:

Property must be listed at fair market value. A fundamental principal of this value is that property must be appraised at the highest and best use – the use that would produce the highest value if sold, regardless of its actual present-day use. The highest and best use is the use that is reasonably probable and legal, and physically and financially feasible, and results in the highest value. Furthermore, the category is meant to correspond with the how the parcel is expected to sell on the open market and allows the comparison amongst other sales in that category. The Department is not clear on what the long-term goal of adjusting these categories is, but doing so via present-day use may run counter to the current proper manner of assessment to identify the highest and best use and assign a value from that analysis.

Local officials, in many cases, do not know the present use of property, particularly with respect to the more detailed categories, like between seasonal and secondary residences. It will require substantial work to make this identification. If there are no practical reasons for the categorization, this work may not be prioritized by busy local officials. Further, this work will always be ongoing, as uses change over time. These challenges are exacerbated if local officials are tracking multiple uses across a single property.

It's also unclear to the Department how this new categorization would interact with the Homestead/Non-Homestead designation under current law. What could be categorized as a secondary residence in one year could become a Homestead in the next year, and



vice versa. In fact, most of the existing categories on the grand list can be designated as a Homestead.

See “Real Property Highest and Best Use Codes” in the Lister Handbook linked here: <https://tax.vermont.gov/sites/tax/files/documents/GB-1143.pdf#page=31>

Inconsistency across the State:

If each municipality must interpret the categories of uses, and apply them to the situations they encounter in their community, there is likely to be varying interpretations of the same categories. We experience this challenge today with the smaller number of existing categories. Further, local ordinances for zoning, subdivision, and other land use restrictions may align to varying degrees with these categories. However, the definitions and categories contained in those local ordinances will not necessarily align completely with the legislative intent in implementing these categories, or from one community to another. This may lead to more inconsistency, and varying precision in use identification across the state, all of which could undermine the desire for better data.

Some local definitions and data sources of utilization will appear helpful to towns for this new categorization, while being imperfect or inconsistent definitions with what is intended under this bill. For example, a larger municipality may have building permits and certificates of occupancy to rely on for the data. However, the use as seasonal versus a secondary residence, for example, may not be clear from the existing treatment in local regulation or permitting, or have different definition than intended in bill 23-0161. Nevertheless, these inconsistent definitions will be readily available and tempting for towns to use in fulfilling their requirements under this bill. Conversely, and equally problematic, many smaller communities will have no building permit or land use data at all, because they do not have these regulatory frameworks, and will have to start from scratch to identify specific uses.

With no incentive or penalty structure, compliance may be impacted. For instance, even in issues of Homestead and Non-Homestead, we recognize a degree of inaccuracy in the data. It is speculated that most of the non-compliance is in areas where the Homeowner does not have an incentive to file a Homestead Declaration, despite the law compelling them to do so (and a penalty for failure to file), where local officials and



the Tax Department either spend resources correcting the issue, or are unaware of the noncompliance.

CAMA issues and challenges for municipal officials:

Currently Vermont municipalities use their own Computer Assisted Mass Appraisal program to establish local property values. These CAMA systems interface with the state's new grand list and tax administration system, the Vermont Property Information Exchange (VTPIE).

CAMA systems would need to be reprogrammed to accommodate these codes, and listers and assessors would be required to reclassify their existing properties in their CAMA system. This category change would need to originate at the local level to properly classify these properties, then filter up accordingly to the State system. This would require the existing listers to recategorize thousands of properties, when it is already challenging for them to categorize them currently. The Committee should hear from local stakeholders to understand what this statewide reclassification would do to their workloads.

An effective date requiring this change by the April 1, 2024 grand lists may not provide enough time for training of assessing officials and identifying uses of all property.

Challenges for the Equalization Study:

The Equalization Study uses the existing categories as a basis for groupings of properties for purposes of the study. For a small state like Vermont, further subdividing the categories results in smaller and smaller sets of sales data. The current number of categories already creates grouping challenges in many communities around the state, due to the small number of transactions in each category, particularly in small towns. This change could make the equalization study less reliable, as we would be relying on a smaller set of sales to determine the ratio of sales price to listed value. Inconsistent categorization, as described above, may exacerbate this problem.