

DIVISION OF PROPERTY VALUATION AND REVIEW

Rule on Required Reappraisals

Reg. §1.4041a

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Reg. §1.4041a-1 Summary of 32 V.S.A. §4041a

32 V.S.A. §4041a requires a municipality to reappraise its education grand list properties if the Director of the Division of Property Valuation and Review determines that the municipality’s education grand list is at a common level of appraisal below 80 percent or has a coefficient of dispersion greater than 20. It further provides that if the Director orders a reappraisal, the municipality shall have 30 days to contest the Director’s finding or develop a compliance plan or both. If the Director accepts a proposed compliance plan, Section 4041a precludes the Director from ordering commencement of the reappraisal until the municipality has had one year to carry out the plan. Section 4041a also requires the State to withhold education, transportation and other funds from non-complying municipalities until such time as the Director certifies that the municipality has carried out an acceptable plan.

Reg. §1.4041a-2 Purpose

The purpose of this Rule is to: 1) establish the timeline and notice requirements for ordering a reappraisal and the procedure by which a municipality may contest the Director's finding that a reappraisal must be performed; 2) establish parameters for acceptable compliance plans; 3) establish a procedure for notifying the Commissioners of Education and Transportation and the State Treasurer of a municipality's failure to submit an acceptable plan or carry out an accepted plan; and 4) establish a procedure for notifying the Commissioners of Education and Transportation and the State Treasurer of a municipality's subsequent adherence to an accepted compliance plan.

32 V.S.A. §5408 establishes a municipality's right to appeal the determination of the municipality's equalized education property value, which establishes the municipality's common level of appraisal, and the municipality's coefficient of dispersion. This Rule does not create additional rights of appeal beyond those contained in Section 5408 with respect to the Director's determination of a municipality's equalized education property value, common level of appraisal or coefficient of dispersion.

Reg. §1.4041a-3 Definitions

Appraisal means the estimation of the fair market value of property.

Coefficient of Dispersion shall have the same meaning as that provided in 32 V.S.A. §5401 (1).

Compliance Plan means a plan for completing a reappraisal of all properties on a municipality's education property tax grand list.

Director means the Director of Property Valuation and Review.

Education Grand List shall mean "education property tax grand list" as defined in 32 V.S.A. §5401 (5).

Estimated Fair Market Value of a property shall have the same meaning as that contained in 32 V.S.A. §3481.

Reappraisal means the mass appraisal of all property included on a municipality's education grand list.

Reg. §1.4041a-4 Order to Reappraise and Form of Order

Not later than January 1 of each year, the Director shall notify each municipality of the Director's determination of its common level of appraisal and coefficient of dispersion, in accordance with 32 V.S.A. §5406. Each municipality shall have the right to appeal the Director's determination, as provided in 32 V.S.A. §5408.

On or about July 1 of each year, if the Director finds that the municipality's most recently determined common level of appraisal is less than 80 percent or that its most recently determined

coefficient of dispersion is greater than 20 percent, the Director shall order the municipality to reappraise. However, the municipality shall not be required to immediately commence reappraisal if, within 30 days of the Director's order, the municipality notifies the Director in writing that it is developing and will submit a detailed compliance plan, as described in Section 1.4041a-7 of this Rule. Such notification shall be signed by the chair of the legislative body of the municipality or his or her designee.

The Director's order to reappraise shall be mailed to the town or city clerk with copies to the chair of the selectboard and the chair of the board of listers. The order shall contain a finding of the most recently determined common level of appraisal and coefficient of dispersion established by the Director or the Valuation Appeal Board and a copy of this Rule. The order shall inform the municipality of its right to contest the finding, develop and submit a compliance plan to the Director, or do both.

Reg. §1.4041a-5 Contesting an Order to Reappraise

A municipality may, within 30 days of the date of an order to reappraise, appeal the order. Such appeal must be based upon a claim that the finding supporting the order to reappraise contains clear error.

Examples of clear error include: reversing a numerator and denominator in the calculation of a regressivity index; transposing digits in a sequence of numbers; and equalizing the use value of current use property or the stabilized value of property subject to a qualified stabilization agreement in the determination of the equalized education property tax grand list of a municipality. Examples of clear error do not include: inclusion or exclusion of specific property sales in the determination of the equalized education property tax grand list of a municipality or a decision to combine two or more categories of property in determining a measure of central tendency for such categories.

An appeal under this Section shall be taken by filing with the Director a notice of appeal within 30 days of the date of the order to reappraise, shall be signed by the chair of the legislative body of the municipality or his or her designee and shall contain a statement describing the error or errors contained in the finding. If the finding was made by the Director, the Director shall decide the appeal within 15 days of the date the Director receives the appeal and shall notify the municipality in writing of his or her decision. If the Director determines that the finding he or she made in support of the order to reappraise contained clear error and that the municipality's common level of appraisal and coefficient of dispersion are within the threshold limits set forth in Section 4041a, the Director shall rescind the order to reappraise.

If the finding in support of the order to reappraise was made by the Valuation Appeal Board, the Director shall promptly transmit the appeal to the chair of the Board for its decision. If the Valuation Appeal Board determines that the finding it made in support of the order to reappraise

contained clear error, the Valuation Appeal Board shall promptly notify the Director and the Director shall rescind the order to reappraise.

A decision of the Director or the Valuation Appeal Board under this Section shall be final and shall not be subject to further appeal. Nothing in this Rule shall be construed to limit a municipality's appeal rights as established by 32 V.S.A. §5408 or other applicable law. A municipality shall not use the procedure contained in this Section to raise matters previously raised or which could have been raised through an appeal under 32 V.S.A. §5408.

Reg. §1.4041a-6 Deferring an Order to Reappraise

If the municipality's common level of appraisal is between 70 and 80 percent, and its coefficient of dispersion is 20 percent or less, the municipality may request the Director to defer the order to reappraise. Such request shall be made to the Director on or before July 1 of the year in which the order is made, shall be in writing, and shall be signed by the chair of the legislative body of the municipality or his or her designee. The Director may grant the request provided he or she believes that there is a reasonable possibility that the municipality's common level of appraisal in the following year will be 80 percent or greater and its coefficient of dispersion will be 20 percent or less.

The Director shall not grant a municipality's request under this Section if the Director granted the municipality a similar request at any time during the prior four years. A decision by the Director to reject a request to defer an order under this Section shall be final and shall not be subject to further appeal.

Reg. §1.4041a-7 Developing a Compliance Plan

A. Detailed Compliance Plan

Within 150 days of the Director's order to reappraise under Section 1.4041a-4 of this Rule, the municipality shall submit a detailed compliance plan to the Director. The detailed compliance plan shall include the following:

- i.* a detailed budget for completing the reappraisal and evidence that the municipality has dedicated sufficient funds to complete the reappraisal;
- ii.* a list of all individuals responsible for data collecting, performing appraisals and providing project supervision and evidence of each individual's qualifications and abilities to perform such work. In the event the municipality has or intends to contract with outside vendors to perform some or all of the reappraisal work, the detailed compliance plan shall include copies of the contracts or proposed contracts with outside vendors;

iii. a detailed schedule showing completion dates of various appraisal activities including, but not limited to, the date by which all properties shall be inspected, the date by which all estimates of value shall be made, the date by which all estimations shall be reviewed by the listers, and the date by which the abstract of individual lists shall be lodged. A municipality is encouraged to incorporate modeling, such as mini-ratio studies, into its detailed compliance plan in order to test the accuracy and reliability of values as they are developed.

B. Draft Compliance Plan

In order that the Director may provide municipalities with assistance in developing satisfactory and workable detailed compliance plans, municipalities are encouraged to submit draft compliance plans to the Director for review. A draft compliance plan should outline the municipality's approach for completing a reappraisal of all property on the municipality's education grand list and should include a summary of the following:

- i.* performance objectives and production standards for data collection and field work;
- ii.* a schedule of events, a listing of critical tasks, and estimated completion dates for each scheduled event and critical task;
- iii.* an organizational chart that reflects the division of responsibilities between groups and individuals expected to perform various events and critical tasks associated with the reappraisal; and
- iv.* a preliminary budget.

Within 45 days of receipt of a draft compliance plan, the Director shall provide the municipality with comments with respect to the plan. The Director's reply shall be designed to assist the municipality in developing an acceptable detailed compliance plan. However, the Director's comments regarding a draft compliance plan shall not relieve the municipality from its obligation to submit and receive approval for a detailed compliance plan as provided in Sections 1.4041a-7A and 1.4041a-8.

Reg. §1.4041a-8 Acceptance or Rejection of Compliance Plan

The Director shall provide written notice to the municipality of his or her acceptance or rejection of a municipality's detailed compliance plan within 60 days of the Director's receipt of the plan. If the Director accepts a detailed compliance plan, the municipality shall have one year from the Director's acceptance to carry out the plan.

In the event the Director rejects a detailed compliance plan, the Director's notice shall contain an explanation of the reasons for rejecting the plan. The Director shall immediately notify the Commissioners of Education and Transportation and the State Treasurer of his or her rejection of

a detailed compliance plan. A decision by the Director to reject a detailed compliance plan under this Section shall be final and shall not be subject to further appeal.

Reg. §1.4041a-9 Alternative Plan

If a municipality's most recent reappraisal is not more than ten years old and the municipality reasonably believes that its common level of appraisal or coefficient of dispersion does not comply with the threshold requirements of Section 4041a due to discrete market factors peculiar to the municipality that can be corrected through sound, professionally acceptable adjustments to its appraisal methods without undergoing a complete reappraisal, the municipality may submit an alternative plan for the Director's consideration.

An alternative plan shall be submitted within 60 days of the Director's order to reappraise and shall specify the date by which the alternative plan will be completed. In addition, an alternative plan shall detail the bases for the municipality's noncompliance with the threshold requirements contained in Section 4041a and shall fully describe the proposed method or methods for adjusting a municipality's current system of appraisal in order to bring the municipality's common level of appraisal and coefficient of dispersion into compliance with Section 4041a.

The Director shall provide written notice to the municipality of his or her acceptance or rejection of a municipality's alternative plan within 45 days of the Director's receipt of the plan. If the Director rejects an alternative plan, the municipality shall be required to submit and receive approval for a detailed compliance plan as provided in Sections 1.4041a-7A and 1.4041a-8 above. A decision by the Director to reject an alternative plan under this Section shall be final and shall not be subject to further appeal.

Reg. §1.4041a-10 Noncompliance

A. Failure to Adequately Respond to an Order to Reappraise

If the Director orders a reappraisal and that order is not subsequently rescinded as provided for in Section 1.4041a-5 of this Rule, and the municipality fails to notify the Director of its intent to submit a detailed compliance plan as required by Section 1.4041a-4 of this Rule, the Director shall order commencement of a reappraisal and shall immediately notify the Commissioners of Education and Transportation and the State Treasurer of the municipality's noncompliance with 32 V.S.A. §4041a. The Director shall request that all state funds be withheld from the municipality until the Director certifies that the municipality is in compliance with 32 V.S.A. §4041a.

B. Failure to Submit an Accepted Detailed Compliance Plan

If a municipality fails to submit a detailed compliance plan within 150 days of the date of the order to reappraise, or if the Director rejects a municipality's detailed compliance plan, the Director shall order commencement of a reappraisal and shall immediately notify the Commissioners of Education and Transportation and the State Treasurer of the municipality's noncompliance with 32 V.S.A. §4041a. The Director shall request that all state funds be withheld from the municipality until the Director certifies that the municipality is in compliance with 32 V.S.A. §4041a.

A municipality's failure to submit or receive approval for a detailed compliance plan within 150 days of the date of the Director's order to reappraise shall not preclude a municipality from submitting a detailed compliance plan to the Director for his or her review at any time. As provided in Section 1.4041a-7 above, the Director shall accept or reject such plan within 60 days of the Director's receipt of such plan.

C. Failure to Carry Out an Accepted Detailed Compliance Plan

If the municipality fails to carry out a detailed compliance plan within one year of the Director's acceptance of such plan, the Director shall order commencement of a reappraisal and shall immediately notify the Commissioners of Education and Transportation and the State Treasurer of the municipality's noncompliance with 32 V.S.A. §4041a. The Director shall request that all state funds be withheld from the municipality until the Director certifies that the municipality is in compliance with 32 V.S.A. §4041a.

D. Failure to Carry Out an Accepted Alternative Plan

If the municipality fails to carry out an alternative plan accepted by the Director under Section 1.4041a-9 of this Rule by the date specified in the plan, the Director shall order commencement of a reappraisal and shall immediately notify the Commissioners of Education and Transportation and the State Treasurer of the municipality's noncompliance with 32 V.S.A. §4041a. The Director shall request that all state funds be withheld from the municipality until the Director certifies that the municipality is in compliance with 32 V.S.A. §4041a.

E. Subsequent Compliance with Section 4041a

A municipality determined by the Director to be out of compliance with 32 V.S.A. §4041a may, at any time, submit to the Director evidence of its compliance with 32 V.S.A. §4041a. If the Director finds that the municipality is in compliance with Section 4041a, the Director shall immediately certify to the Commissioners of Education and Transportation and the State Treasurer that the municipality is in compliance with Section 4041a and shall request that any state funds previously withheld from the municipality be released to the municipality.

Reg. §1.4041a-11 Severability

If any provision of this Rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this Rule and the application of such provision to other persons or circumstances shall not be affected.