

TAX BOARD OF REVIEW MEETING MINUTES – FEBRUARY 9, 2022

State of Rhode Island

County of Washington

In Hopkinton on the ninth day of February 2022 A.D. the said meeting was called to order by Chairman Jeffrey Hall at 6:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

PRESENT: Sitting as Board: Jeffrey Hall, Michael Brocato

Interim Tax Assessor: John Majeika

Tax Board Clerk: Tiana Zartman

*Reference:* Solar Real Estate Holdings LLC

Attorney for the Property Owner, Hamza Chaudary, was present via teleconference.

Appeal of Valuation of Lot 003/000/0053D as of 12/31/2020

Chairman Hall explained to the applicant that, typically, the Tax Board of Review will allow the applicant to speak first, then the Assessor will explain his position. After the meeting, Chairman Hall and Member Brocato will discuss how to move forward and when a decision has been made, the applicant will receive a letter confirming their decision.

Mr. Chaudary spoke on behalf of the applicant, stating he was representing the owner of the property, Solar Real Estate Holdings, LLC. Mr. Chaudary explained he wanted to provide a history of the parcel in order for the Board to fully understand the argument. The property is currently assessed at \$2,969,300, which is a \$1,350,000 increase from the previous assessment. The property was acquired on February 2, 2018 and was developed into a solar array. The certificate of occupancy was issued on December 12, 2019, and the project went online a few weeks later on December 31, 2019. This was the date of the last revaluation in Hopkinton, as well. As a result of the certificate of occupancy being issued and the project going online, the new assessment as of December 31, 2019 was \$1,750,700. The increase, Mr. Chaudary stated, is as a result of the certificate of occupancy being issued and the project going online. Mr. Chaudary explained they are appealing the current assessment as of December 31, 2020, which is tax year 2021. The Town issued a revised assessment in the middle of a tax cycle resulting in a new assessment of \$2,969,300 without a trigger for reassessment for 2021. Mr. Chaudary claimed there was not a change in the property to justify an increase in assessment and was illegally reassessed. Mr. Chaudary continued

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to say the assessment is selective, arbitrary and in violation of Rhode Island General Law. Attorney Chaudary explained there was a recent case as of November 2021 that the Rhode Island Supreme Court reaffirmed the test for a selective, arbitrary, and discriminatory reassessment. The Supreme Court has instructed that selective assessments occur when the municipality singles out one taxpayer or a small group of taxpayers for the revaluation when similar property is not assessed for any tax liability. Mr. Chaudary said he has reviewed other similar projects in Hopkinton and found no increases like the one that occurred for this property. Mr. Chaudary goes on to say that the assessment is illegal because the land and the tangible property are both being taxed. Mr. Chaudary explained that, effectively, his client is being taxed twice. Mr. Chaudary wanted to bring to the attention of the Board that legislation will be reintroduced this session to address taxation of green energy projects which may impact this project's assessment. This legislation was proposed previously and passed the Senate, but did not pass the House. Mr. Chaudary concluded his argument saying that this project is also disproportionately assessed and overvalued compared to other similar projects in Hopkinton.

Chairman Hall asked for clarity on the date of issuance of the certificate of occupancy. Mr. Chaudary answered that the certificate of occupancy was issued on December 12, 2019. Chairman Hall asked how much did the taxes go up at that point. Mr. Chaudary said the previous assessment was \$305,000 and it went up to \$1,750,700. Chairman Hall asked if the price was just the raw land. Mr. Chaudary said yes. Chairman Hall explained that the owner of the property paid \$1.6 million, so an assessed value of \$1.7 million isn't out of line. Mr. Chaudary explained that he wasn't arguing that assessed value. Chairman Hall stated that once the array was operating, that's when it increased to the \$2.9 million value. Mr. Chaudary explained that the project was already operating as of December 31, 2019. As a result of the project going online and the certificate of occupancy being issued, the reassessed value, including the project being online, was \$1.75 million.

Chairman Hall asked if any information was provided in regards to the argument of it being an illegal reassessment. Mr. Chaudary believed he included the basis for the appeal in the application. Chairman Hall read that both the land and equipment have been taxed. Mr. Chaudary stated they were taxed as of December 31, 2019 and then again, it appeared mid-cycle without a trigger for reassessment, the assessment was illegally increased for tax year 2021.

Chairman Hall invited the interim tax assessor to speak after confirming with Mr. Chaudary that he was finished detailing his argument.

Mr. Majeika explained that the property was previously residential and was changed to commercial special. At that time, the value increased due to the change of the status. Mr. Majeika said that the assessor's office was unaware the project was online. The property would have been assessed at the full valuation, but the office did not receive that information until after. Mr. Majeika explained that the valuation is half until the certificate of occupancy is issued. Once the CO is issued, the parcel is then valued at 100%. Mr. Majeika disagrees that the assessment was illegally assessed. He said it was not arbitrary and has affected all property owners who received a zone change to commercial special. Any property owner who changed from a residential zone to a commercial special zone saw an increase in value. Mr. Majeika explained that after receiving all the information provided from the revaluation company and their expertise in valuing solar projects, the valuation was

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determined by the revaluation company on the per acre value for 50% of it being used and at 100% being used. Mr. Majeika continued to say that if the companies provided the assessor department with upfront costs paid to the people they rent from, the income generated from the facility, then a better understanding of the property value could be determined. He said no other information was provided to otherwise change the valuation that was set. Mr. Majeika stated that in regards to the court case Mr. Chaudary mentioned, he was unsure of the details and what is involved, but it is a separate issue until it is pertinent to these hearings.

Mr. Chaudary asked the Board if he could respond to a point made by the interim assessor. He stated that the argument wasn't in regards to the parcel changing from residential to commercial special, since that happened during the previous tax cycle. Mr. Chaudary stated he didn't think that was relevant to this appeal.

Mr. Majeika asked for clarification in the attorney's argument going from the \$1.3 million assessment to the \$2.9 million assessment in mid-year. Mr. Chaudary said that was correct. Mr. Majeika explained that when a CO is issued, it will trigger a change in assessment to bring the parcel to full value, which applies to every property in town. Mr. Chaudary reminded the Board that the CO was issued on December 12, 2019 and was incorporated in the increase in value for tax year 2020.

Chairman Hall stated the Town was taxing the property at 50% of the assessed value. Mr. Chaudary stated he didn't agree. Mr. Majeika explained that even if a CO was issued, the project wouldn't necessarily be online. Mr. Majeika explained that, though he wasn't there at the time, he could presume the previous assessor went out and saw the project wasn't online and therefore didn't raise the assessment.

Chairman Hall explained that the Board will discuss the matter and render a decision after the meeting.

*Reference:* HML LLC

Attorney for the Property Owner, Helen Anthony was present via teleconference.

Appeal of Valuation of Lot 004/000/00025 as of 12/31/2020

After Chairman Hall explained the procedure of the Board, he invited Ms. Anthony to speak.

Mrs. Anthony spoke on behalf of the applicant, stating she represents HML LLC and Green Development LLC. The property is 136.84 acres total, 68 of which are zoned commercial and 68.84 are zoned industrial. Green Development LLC maintains a long-term lease with HML LLC for the construction and operation of a 10.63 megawatt solar array, which covers approximately 67 acres of the property. The development of the solar project was completed and operational in December 2019. Prior to construction of the project, the town assessed the whole 138.84 acres at \$497,900. After the solar development was complete, the assessment for the entire parcel was \$1,786,500. Ms.

Anthony stated the increase in value was due to the 67 acres upon which the solar array is located. She states the field card shows that 67 acres was valued at \$22,500/acre with a notation that it will be solar. The assessed value increased again in 2021 to \$3,301,000 because now the 67 acres containing the solar array are valued at \$45,000/acre with a notation stating “solar farm.” Ms. Anthony stated that the increase in assessed value is clearly due to the location and development of the solar array on the property. Ms. Anthony claimed the increase in assessed value is illegal because the solar array is considered manufacturing equipment and is therefore exempt from taxation. Ms. Anthony stated that the case previously mentioned by Mr. Majeika is the one that the court did rule that renewable energy equipment is manufacturing equipment and is exempt from taxation. Ms. Anthony cited that Rhode Island General Law 44-5-3C stating that municipalities may tax renewable energy only pursuant to rules and regulations established by the Office of Energy Resources in consultation with the Division of Taxation after the rules are adopted. Ms. Anthony explained that the Rhode Island Office of Energy Resources adopted rules and regulations for commercial renewable energy systems effective January 1, 2017. They established a tangible tax formula that municipalities must adopt by ordinance in order to tax renewable energy systems. Hopkinton passed an ordinance adopting the formula which is \$5/kilowatt, which results in an annual tax bill of \$53,150 for the equipment. Ms. Anthony stated that if renewable energy projects can only be taxed by an ordinance adopting O.E.R.’s formula, then the classification and valuation of the underlying real estate cannot include the tangible asset. Ms. Anthony explained that the underlying real estate is being taxed and the tangible property is being taxed that is on top of the real estate. She continued to say that the underlying real estate should be taxed as if the tangible property is not there. Ms. Anthony explained that using the valuation of the 68 acres that are not hosting the solar array, the adjusted unit price should be \$3,000/acre. Ms. Anthony claimed that the value of the property needs to revert to the prior value of the property prior to the solar development being there. The purpose of the O.E.R.’s rules and regulations is to create a simple framework that provides both municipalities and developers certainty regarding taxation of renewable energy systems. Ms. Anthony stated that increasing the value and reclassifying the underlying property hosting a renewable energy system solely due to the presence of the renewable energy system is leading to an unauthorized increase in taxation of renewable energy systems that is both in conflict with the O.E.R.’s rules and regulations and undermines the certainty that O.E.R. set out to achieve. Ms. Anthony explained that an additional tax on the project could make it economically unfeasible. Ms. Anthony stated the property owners are not arguing the right for the Town to assess the property underneath the system, but the property must be valued as if the solar array was not present on the land. Ms. Anthony claimed that the valuation increase under the renewable energy system is only due to the presence of the system and is therefore illegal. She stated that her firm is currently in a tax appeal pending before the Supreme Court with a case that is related to this issue. She also explained that the proposed legislation that was introduced last year will be introduced again and it confirms that O.E.R. intended taxation through the tangible property only and prohibits an increase in valuation of the property where it is located.

Mr. Majeika admitted the state law is unclear. In one circumstance, a taxation as tangible property is allowed and in another, the property is considered manufacturing equipment which is exempt from taxation. Mr. Majeika said the state should clarify if and how the property should be taxed, but until then, the Town is assessing the solar projects the same way throughout town, including when it’s

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approved for development and when the project is online. Mr. Majeika explained that increases in value occur for every business. The value of the land increases for a money-making venture, which includes solar. Mr. Majeika suggested that since the owners of these solar arrays are there to make money, they should be paying their fair share in the commercial sections of town. Mr. Majeika claimed that the assessing department has treated each solar array project evenly and fairly.

Chairman Hall asked the assessor if the 67 acres was previously zoned as residential. Mr. Majeika answered that he was unsure what the zoning was at the time. Chairman Hall asked what the tax implications are if it was residential and turned into commercial. Mr. Majeika explained that it would be an increase in value, and if the land was formerly in the Farm, Forest, and Open Space program, the previous value was even lower.

Ms. Anthony asked if she could respond. Ms. Anthony agreed that there should be a new value on the property, especially if the land was taken out of the Farm, Forest, and Open Space program, but the assessed value cannot be related to the location of the solar development on the property. Ms. Anthony agreed that it is something the state needs to solve, but that her firm as a number of pending appeals before the court and the judge presiding over those cases are staying those until there is a resolution on the issue.

Chairman Hall asked for clarification on the addendum stating the applicant's opinion of value on the 67 acres is \$3,000/acre for the solar farm. Ms. Anthony explained that to calculate that figure, they used the land line value for the 68 acres that don't host the system. There is a unit price of \$15,000/acre, but there is also an adjust unit price of \$3,000/acre and that is the figure they used.

Chairman Hall explained that a discussion between the Board members will happen after the meeting and she will be notified of the decision.

*Reference:* Gordon Excavating Inc., Donald G Gordon, Hopkinton Land 1 LLC

Attorney for the Property Owner, Robert Craven was present via teleconference.

Appeal of Valuation of Lots 018/000/00008, 018/000/00013, and 018/000/00014, respectively, as of 12/31/2020

Mr. Craven spoke on behalf of the applicants, stating he represents Gordon Excavating Inc, Donald Gordon, and Hopkinton Land 1 LLC. He explained that the three parcels are part of one single solar manufacturing facility, so he will treat them as one appeal. He explained that the issue is before the Planning Board now and could be a year away from receiving a certificate of occupancy. The property contains no panels, nothing has been cleared, and in the case of Hopkinton Land 1 LLC's parcel, it is exactly as it was before the house was demolished. Mr. Craven stated the parcel for Gordon Excavating Inc. was previously assessed at \$134,700 for the 19.2 acres of land and the current assessment is \$250,000, which is an 85% increase, or an increase of \$115,300. Mr. Craven explained that the parcel for Mr. Gordon on Lisa Lane was previously assessed at \$251,600 for the 57.2 acres of land and the current assessment is \$569,100, which is an increase of 126%, or an

increase of \$317,500. Mr. Craven said that Mr. Tefft's property was purchased by Hopkinton Land 1 LLC and is located on Skunk Hill Road. The previous assessment for the property was \$615,900 for 171 acres of land and the new assessed value is \$970,500, an increase of 57% or \$354,600. Mr. Craven explained that the property owners received a temporary zone change for a period of 35 years for the installation of a solar array. At the end of that period, after decommissioning the project, the land goes back to its previous residential zone. Mr. Craven stated there is a temporary use for solar arrays only. The details of the project, e.g. how dense, how much, where the array is located, have yet to be decided by the Planning Board. Mr. Craven stated that the limits that can be placed by the Planning Board could restrict the profitability of the project.

Mr. Craven explained the details of the case that was brought up by Ms. Anthony. The case involved a wind turbine located on the corner of Route 102 and Route 2 that was taxed as tangible property. Mr. Craven stated that the wind turbine was part of the production of electricity and is therefore exempt from taxes. Mr. Craven stated that after the case, the Governor's energy office and the general assembly got involved and wanted to be fair to the cities and towns in the state. In reference to this project, Mr. Craven assured the Board the project will cover far less than the combined 171 total acres. Mr. Craven estimated this project will be in between fifteen and sixteen megawatts. The tax on the array would be \$5,000/megawatt to the Town of Hopkinton. Mr. Craven explained that the equipment that will be on the land is not on the land now and will not be there for at least another year. Mr. Craven said that when the panels are connected to the land, the Town will receive tax money from the panels. Mr. Craven disagreed with Mr. Majeika's theory that land becomes more valuable when the equipment is on the property. Mr. Craven admitted that Vision Appraisal may come to a conclusion that a property can be more valuable when it has a solar array attached, but the tax cannot be on both the panel when it is already subject to a tax of \$5,000/megawatt as being the basis for which when it is attached to the land, it makes the land more valuable. Mr. Craven argued that when the array is being taxed as a tangible property and the land under the solar array is also increasing in value, the property owner is being taxed twice.

Mr. Craven mentioned the proposed legislation that creates limitations on what municipalities can tax in reference to these types of projects. Mr. Craven explained that, if passed, municipalities won't have the ability to tax beyond what the original previous assessment was as raw land. Mr. Craven explained that the land may not even be used for the full 35 years and that once the panels are removed, the zone change will go away. Mr. Craven stated the increase in valuation should not be taxed on top of the land when you put the panels on it. Mr. Craven argued that the assessment of the land should stay as it previously was before the new assessment. Mr. Craven stated that the increase in value is being paid for through the general assembly's passing of the recommendations of the Office of Energy Resources \$5,000/megawatt.

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*Reference:* Atlantic Control System Inc. and James R Grundy

Attorney for the Property Owner, Robert Craven was present via teleconference.

Appeal of Valuation of Lots 011/000/00035 and 007/000/00032 (owned by Atlantic Control System Inc) and 010/000/00087 (owned by James R Grundy)

Mr. Craven explained that the total of all three parcels equated to 28 acres of land. Mr. Craven said it was a small project and expected it to be around 4 megawatts. Mr. Craven stated that by the impetus by the Supreme Court, the valuation of the solar array will be \$20,000 per year. The first parcel at 0 Main Street is 12.9 acres. The valuation of the property went from \$104,600 to \$337,300, an increase of 222%. The next property owned by Atlantic Controls contains 12.238 acres and went from a valuation of \$106,200 to \$215,200, an increase of \$109,000 or a 102% increase. The last parcel contains 3.3 acres and went from a value of \$79,500 to \$188,500, which increased \$109,000 or 137%. Mr. Craven explained he wanted to use the last parcel as an example of what he has tried to explain to the Board. Mr. Craven suggested the lot could be a house lot, and if there was relief granted or a density bonus, there might be two lots. Mr. Craven said that any theory set forth by the Town to justify an increase in value from \$79,000 to \$188,000 wouldn't make sense.

Mr. Craven explained that if there was a reason that the previous version of the proposed legislation didn't pass, it was because municipalities had to pay back the excess taxes charged with standard interest. Mr. Craven said that stipulation has been removed from the newly proposed bill. Mr. Craven stated that this is a penalty to the land owner, but not to the Town. Mr. Craven concluded that to increase the value of the lot simply because the owners had received permission from the Town Council to have the opportunity to build a solar array on the land is unfair and he believes, is arbitrary and is not consistent with typical assessment procedures used by Vision Appraisal in other cities and towns.

Chairman Hall asked for clarification on where exactly the last three lots were located in Town. Attorney Craven suggests the three lots about interstate 95. Mr. Majeika provided the Board with the map to locate the properties.

Mr. Majeika explained that the case Attorney Craven brought up was in reference to a windmill. Mr. Majeika stated that windmills use a mechanical process to create and manufacture electricity. He claimed that solar arrays do not have this mechanical process and, therefore, should not be considered manufacturing equipment. Mr. Majeika explained that once approval for the zone change was received, the site was valued at \$100,000/acre, and the excess acreage is valued at \$15,000/acre. When the project starts, that value is changed to \$22,500/acre and finally set at \$45,000/acre when the project is complete. Mr. Majeika clarified that the intent of the assessor office is not to collect revenue, but to assess every property owner in town fairly and evenly. Mr. Majeika said if the companies would provide information in regards to income and expenses, assessors could use that information to analyze land value, but it is rare to receive that information.

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Mr. Craven clarified that the project still has to be approved and as such, the allowable lot coverage of the solar panels has not yet been decided. Mr. Craven said he could not provide any accurate information in regards to the income that would be produced by the project and when that income would start being generated.

Mr. Majeika stated that in reference to one of Mr. Gordon's properties, it was being assessed at \$15,000 per acre for only 1.2 acres and the rest of the property was only being assessed at \$3,000 per acre, which is the value it was previously assessed.

A MOTION WAS MADE BY MICHAEL BROCATO TO APPROVE THE MINUTES OF THE APRIL 15, 2021 MEETING.

IN FAVOR: BROCATO, HALL

OPPOSED: NONE

SO VOTED

A MOTION WAS MADE BY MICHAEL BROCATO TO ADJOURN THE MEETING AT 6:58 P.M.

IN FAVOR: BROCATO, HALL

OPPOSED: NONE

SO VOTED

Decisions made by the Board for Meeting:

**LR-6-A Owner, LLC**

**AP 32 Lots: 1, 4, 6, 8, 10, 12, 14, 16, 17, 19, 21, 23, 25, 27, 30, 32, 34, 36, 38, 40, 41, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, 71**

Tax Board felt the assessment was fair.

Decision: No Change to Assessment.

Vote: Unanimous

**Solar Real Estate Holdings LLC**

**Lot 003/000/0053D**

Tax Board felt the assessment was fair.

Decision: No change to Assessment

Vote: Unanimous



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**HML LLC** **Lot 004/000/00025**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

**Gordon Excavating Inc.** **Lot 018/000/00008**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

**Donald G Gordon** **Lot 018/000/00013**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

**Hopkinton Land 1 LLC** **Lot 018/000/00014**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

**Atlantic Control Systems LLC** **Lots 011/000/00035 and 007/000/00032**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

**James R Grundy** **Lot 010/000/00087**

Tax Board felt the assessment was fair.

Decision: No change to assessment

Vote: Unanimous

Respectfully Submitted,  
Tiana Zartman  
Tax Board Clerk