

MINUTES OF THE ASSESSING
STANDARDS BOARD

Approved as Amended

DATE: December 13, 2013

TIME: 9:30 a.m.

LOCATION: Department of Revenue, Training Room, 109 Pleasant Street Concord

BOARD MEMBERS:

Senator David Pierce ~ *Absent*
Representative Priscilla Lockwood
Len Gerzon, Public Member, Chairman
Robert J. Gagne, NHAAO, City, Vice-Chairman
Joseph Lessard, NHAAO, Towns >3,000
Todd Haywood, NHAAO, Towns <3,000 ~ *Absent*
Betsey Patten, Public Member
Vacant, Municipal Official, Towns >3,000

Senator Bette Lasky ~ *Absent*
Representative Peter Schmidt
Stephan Hamilton, NHDRA
Eric Stohl, Municipal Official, Towns <3,000
Marti Noel, NHAAO ~ *Absent*
Thomas Thomson, Public Member
Vacant, Municipal Official, City

MEMBERS of the PUBLIC:

Loren Martin, Avitar Associates
John Beardmore, NHDRA
Linda Kennedy, NHDRA

Mary Pinkham-Langer, NHDRA
Cindy Brown, BTLA
Lois Stohl

Chairman Gerzon convened the meeting at 9:41 a.m.

Introductions.

Introduction of DRA Commissioner

Commissioner John Beardmore introduced himself to the board and gave a brief background of his work experience. He stated that the department would continue to support the board and their important work.

Minutes

Ms. Patten *motioned to accept the minutes of October 18, 2013, as written*. Mr. Lessard *seconded the motion*. No discussion. Chairman Gerzon called the motion to accept the minutes of October 18, 2013, as written. *All Approved*.

Mr. Lessard *motioned to accept the minutes of the November 6, 2013, public forum as written*. Ms. Patten *seconded the motion*. No Discussion. Chairman Gerzon called the motion to accept the minutes of the November 6, 2013, public forum as written. *All Approved*.

Manual Update

Chairman Gerzon reported the manual subcommittee has not been meeting; a draft of the manual was distributed and added to the DRA website a few days prior to the public forum. Due to limited exposure, very few comments were received prior to the forum and a few others have been received to date. A minor setback pertaining to the on-line glossary occurred; rather than terms being linked to the IAAO's website glossary, a glossary of terms will be included in the manual with links provided within the manual. Chairman Gerzon

invited the members of the board to look at the draft manual and submit comments and/or suggestions to Ms. Derosier. An updated draft will be available prior to the January meeting that will include additional changes made from input received.

A brief discussion took place about whether or not to hold another public forum to give the public additional time and opportunity to submit comments. Mr. Thomson *motioned for the board to hold a public hearing prior to the January meeting to receive input on the manual*. Mr. Gagne *seconded the motion*. Mr. Thomson added a request that the public hearing information be sent to the communities with a request to post in a public area to promote further public exposure. Chairman Gerzon called the motion. *All Approved*.

Next Meeting

A public hearing will be held at the DRA on Friday, January 31, 2014, at 9:00 a.m. and will be immediately followed by a meeting of the regular board.

Equalization Subcommittee Update

Mr. Gagne reported the subcommittee met on Friday, December 6, to discuss revisions made/to be made to the Equalization Manual. The changes will be implemented into the manual and a complete *draft* copy will be distributed to the full board by next week for review, comments and suggestions. Any changes made from comments received will be implemented prior to the next subcommittee meeting. The subcommittee will vote on the final *draft* of the Equalization Manual and recommendation to bring to the full board as complete on January 31, 2014, just prior to the public forum and regular board meeting.

ASB Public Forum Summary

A discussion took place about comments received at the November 6, 2013, public forum.

USPAP Standards 1 and 2 (individual properties); Standard 6 (mass appraisal)

Concern was expressed at the public forum about increasing USPAP requirements and manuals for assessors and the lack of requirements for taxpayers and tax reps (companies and individuals that file abatements on behalf of taxpayers) that appeal assessments. Tax reps are not appraisers, yet they produce an opinion of value. They claim to have no bias but they are receiving a commission and they are not required to comply with the same set of standards (USPAP or other) that assessors are required to comply with in the abatement process.

Mr. Hamilton stated the discussion whether to consider using a more global application of USPAP or to keep it limited to Standard 6 has been on the ASB task list but has not taken place to date. However, it will be important to understand when considering the potential implementation of USPAP Standards 1 and 2 for an appraiser that the requirements for a taxpayer or tax rep and their valuation are the same.

Ms. Brown, representing the Board of Tax and Land Appeals (BTLA), stated tax reps need to have a certain level of knowledge and understanding of the rules and laws of appraising within the state, however, the board cannot nor does the legislature see fit to, regulate them. The BTLA has rules they must follow and sanctions for those who do not conduct themselves in an appropriate manner before the board.

Mr. Gagne added another concern is that if an appeal goes to a hearing and the assessor has to perform an appraisal and adhere to USPAP Standards 1 and 2, but the taxpayer/tax rep does not, it increases the cost and risk to the municipalities. The taxpayer is not required to supply evidence that an abatement is warranted, yet the assessor needs to provide the defense of their information in a way that the interpreter can understand.

Chairman Gerzon stated he does not feel that this board has the jurisdiction to do anything. The tax rep issue is dealt with, to some degree, by the BTLA. This board's mission is to create the standards for the execution of the

property tax, not to create the response which is the execution of the abatement process. Ms. Patten added this conversation has been had before in the legislative arena. The BTLA added rules pertaining to tax reps because that is the forum that they work within.

Ms. Martin stated that while the process is frustrating, time-consuming and expensive, it would be the same if a taxpayer went forward without any evidence. There may not be a solution to require tax reps to provide more information.

Definition of sales chasing should be put into rules and an addition of a remedy in the disciplinary section for the violation of the act.

Mr. Gagne reiterated the concern expressed with putting the sales chasing definition into statute that it would provide another tool for taxpayers/tax reps to use to challenge values in an abatement case. He suggested following the same process as the contribution formula; complete the statutory task and then have the obligation removed from the board's duties.

A discussion followed. A large part of the confusion is that there are three parts to this definition: 1. The Equalization Manual definition; 2. The Reference Manual definition; and 3. The statutory definition. None of the definitions have been voted on so there is a question as to what the definition really is. Whether in statute or administrative rules (which have the effect of law), the definition will have the same binding requirement. The LSR below was not available at the public forum and there was a misunderstanding as to what language was actually being proposed in statute.

The following proposed legislation – LSR 2014-H-2053-R – was distributed by Representative Lockwood.

14-2053
10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the penalty for sales chasing by certified assessors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Certified Assessors; Decertification; Sales Chasing. Amend RSA 21-J:14-g, I to read as follows:

I. The commissioner may decertify, suspend, or take other disciplinary action against any person for failure to comply with **assessing laws, including** the rules of the assessing standards board adopted pursuant to RSA 21-J:14-f, II.

2 New Section; Sales Chasing Prohibited. Amend RSA 21-J by inserting after section 14-g the following new section:

21-J:14-gg Sales Chasing Prohibited; Defined.

I. The practice of engaging in intentional sales chasing by assessors certified under this chapter is prohibited.

II. Sales chasing means the practice by assessors of using the sale of a property to trigger a reappraisal of that property at or near the selling price, without similar unsold properties being reappraised by a method that produces an appraisal level for unsold properties equal to the appraisal level of sold properties.

3 Effective Date. This act shall take effect 60 days after its passage.

The discussion continued as to why the definition of sales chasing is being put into statute rather than rules. Ms. Patten stated the legislature has made it a duty of this board to put the definition into statute. She added that here it will provide education to the legislature, as well as to the public, as to what the process is about. Chairman Gerzon added the sales chasing issue was primary in terms of what created this board and keeping it in statute will keep it primary and create an historical timeline.

Mr. Gagne stated assessing practices are a lot better today than 13-15 years ago. It is easier to spot with improved processes and tools that are available today and there is a better understanding of what it is and why it should not be conducted.

Mr. Hamilton added that whether in law or rule, how we communicate, educate and provide information about this potential activity of sales chasing, that we remain respectful of the hard work and difficult job the assessors do. Ms. Patten added it will be important to have the final definitions in the manuals, which should be completed and approved prior to going to the legislative committee.

Mr. Gagne inquired as to the timing of this bill so that the assessing community will know when the hearing will be so they may attend and voice their concerns, if any. Representative Lockwood stated most likely February maybe March.

DRA to calculate 2% of taxable properties

A brief discussion about where the calculation of 2% of taxable properties originated and why and what it is used for took place and why the department did not calculate it for every community. Mrs. Kennedy explained this was introduced when the former Equalization Standards Board was first created to help provide a minimum for the statistics to be calculated in a ratio study. The ESB then required at least 20 sales or the use of supplemental sales versus the 2%. Mrs. Kennedy stated she would calculate the 2% of taxable properties in each community and provide it to the board.

Mr. Hamilton stated the 2% calculation of taxable properties would only be used if there was a community that did not meet the standards and there was a need to make sure that the sample was representative of the entire population. This calculation is not relevant until the department knows whether or not there is a problem with a community meeting the standards. He added that some editorial language around this idea could be added to the existing standards to provide some clarification or at the beginning of the next assessment review cycle when the standards are reviewed by the board.

There is a requirement that inspection process requires assessors to be more accurate with the data but there are no statutory provisions to assist with that.

A discussion took place on the lack of enforcement for assessors who are refused entry into a property to gather data and how the department views this through the assessment review process. In the past there was a provision that if a property owner refused an assessor entry, it would be ordered by the BTLA. Due to revisions in the law, the BTLA no longer has that authority to order an inspection. Ms. Brown stated she is aware of only one case before the board but because it was settled and a decision was not rendered, there is no way to know how the board would have voted. She did confirm, however, that an administrative warrant was another option for an assessor.

Mr. Gerzon asked the board if they felt this was something that should be added to the task list. Mr. Gagne responded it would depend on how the department judges the quality of an assessor's effort as it pertains to data when entrance into a property is refused.

Mr. Hamilton responded that the department does take into consideration whether or not entrance was granted pertaining to accurate records and only checks the information that can be confirmed based on what the assessor was allowed to view. He added that the department has not seen any kind of pattern that involves refusal and

high failure rates. This is a topic that has gone back and forth in the legislature and should be incorporated in the discussion during the next review of the standards before the next cycle.

LIHTC

Mr. Hamilton stated the requirement included in the low-income housing tax credit statute, RSA 75:1-a, to report the net impact for communities had been overlooked by the department. The report distributed is a draft containing the number of communities that responded to the request for information, the number of properties receiving the tax credit and the values of those properties before and after the tax credit. Through discussion, it became apparent that the communities calculate this value differently and that it is not an easy program to employ.

Selectmen Stohl asked to see this information to show the impact on the communities who have this type of property that receive this credit. The smaller communities who have properties in this program appear to suffer a significant loss in value versus the larger communities and that was his concern. This value needs to be made up by the other taxpayers.

Mr. Hamilton indicated this report is a work in process and encouraged feedback on how to make it more meaningful. The department will continue to receive information and update the report.

Next Meeting

Friday, January 31, 2014, immediately following the public forum which begins at 9:00 a.m., at DRA

Mr. Gagne *motioned to adjourn*. Ms. Patten *seconded the motion*.

Chairman Gerzon adjourned the meeting at 11:42 a.m.

Respectfully Submitted, Stephanie Derosier
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by:

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In person at 109 Pleasant Street, Concord

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