

**MINUTES OF THE  
EQUALIZATION STANDARDS BOARD**

**Approved as Amended**

**DATE:** September 15, 2009

**TIME:** 1:00 p.m.

**LOCATION:** Training Room, 109 Pleasant Street, Concord, NH

**BOARD MEMBERS:**

Robert Estey, Chair NHAAO

Robert Gagne, NHAAO

Dean Michener, NH School Boards Association

George Maglaras, NH Association of Counties

Stephan W. Hamilton, NH DRA

Colleen Brickley, Public Member

John McSorley, Public Member

Richard Rugg, Public Member

**MEMBERS OF THE PUBLIC:**

Gail Bartlett, NH DRA

Linda Kennedy, NH DRA

Barbara Reid, LGC

Chair Estey called the meeting to order at 1:05 p.m.

**Minutes**

Mr. Hamilton apprised the Board the minutes from the June 22, 2009 meeting are not available at this time. They will be available in draft format in the near future for review and approval by the Board.

Chair Estey asked if the Board had finalized what would be presented at the public forms at the last meeting. Mr. Hamilton stated the Board had determined there would not be any changes to the process for this equalization season. There would likely be changes to the rules pertaining to procedure.

Chair Estey asked if these changes were due to the discussion of sales chasing and proposed changes to the equalization manual. Mr. Hamilton replied they were not. The potential changes discussed were in Section 3.05.04 (b), (c), (e)(3) and (f) as well as clarification of the definition of comprehensive property review program. Conversation was anticipated for this meeting about the kind of reviews that are occurring within the communities including the use of resources such as multiple listing and aerial photography among others.

Chair Estey spoke of an e-mail received from Ms. Bartlett pertaining to a proposed rule by the Current Use Board presented at JLCAR last year to change the words "minutes taken" to "record taken". Senator Cilley vetoed the rule due to a part of the same rule that limited media access in the event a room was not large enough to accommodate the Board, public and all media. As the ASB and ESB are modeled after the CUB, the Esb 100 and Esb 200 rules, which mirror Cub 1, would need to be changed.

Chair Estey asked for more information about the situation. Ms. Bartlett stated Senator Cilley did not agree with the Chair having the authority to limit the number of media in the room as she felt it was against freedom of the press. Mr. Hamilton stated this has happened in the past. A meeting had to be rescheduled and relocated to a larger facility due to attendance exceeding the maximum capacity. Although the situation is not likely for this Board, it is a possibility therefore the rules need to be corrected technically within each of the Board's rules.

Mr. Hamilton suggested initiating the rule-making process by the end of November in order for the changes to take place before next season's public forums. Mr. Gagne inquired if this would take a quorum of seven members versus five. Mr. Hamilton confirmed stating all business could be conducted with a quorum of five members with the exception of rule making which required seven members. Ms. Bartlett added the Board could not commence rule making until all public forums had been held. The issues can be discussed however no decisions could be made.

Mr. Gagne asked if this topic should be brought to the public forums this year. Mr. Hamilton agreed and suggested it would be appropriate to entertain a motion to include changes to Esb rules 104.04, 203.05, 206.03, 206.04 and 205.04 in the ESB presentation at the public forums. Mr. Gagne *motioned* to disclose the proposed changes to the above Esb rules at the public forums. Mr. Hamilton *seconded the motion*. All approved.

Mr. Michener asked for clarification if this was the first time these rule changes had been presented and if presented at the public forums would they be open to public comment. Mr. Hamilton stated it was and described the process of receiving public input at the forums, the Board would meet to discuss what was heard and then the Board would open the formal rule-making process.

### **Forum Dates and Locations**

Chair Estey suggested a summary of the topics to be presented at the forums including a review of the NH Code of Administrative Rules and the proposed rule changes with regard to media access in Esb 100 and 200 rules. Mr. Hamilton suggested a discussion regarding the issue of sales chasing and determining whether or not changes were necessary to the current process. After extensive discussion in the previous meeting it is understood that prior year assessments be provided on all property assessments as well as an explanation for changes in the assessments to protect the equalization process itself from sales chasing activity.

Mr. Hamilton explained the Department has a relatively standard PowerPoint presentation used at public forums in prior years as an overview of the equalization process that can be modified to include the two issues. Mr. Michener suggested once the Department makes the changes, to e-mail the presentation to the Board members in lieu of a meeting, to review the presentation as well as to allow time to offer comments or suggestions if any.

Chair Estey asked for a member to present the information at the Lebanon forum. Mr. McSorley stated he would present at the Lebanon forum on November 3<sup>rd</sup>.

Chair Estey asked for a member to present the information at the Laconia forum. Mr. Gagne stated he would present at the Laconia forum on November 10<sup>th</sup>.

Chair Estey asked for a member to present the information at the Manchester forum at the NHMA-LGC Conference. Mr. Gagne stated he would present at the Manchester forum on November 18<sup>th</sup>.

Ms. Reid asked for clarification of the Laconia and Lebanon forum dates. She stated the ASB notification of dates had Lebanon scheduled on November 3<sup>rd</sup> and Laconia on November 10<sup>th</sup>. Mr. Hamilton researched and confirmed those dates. Mr. McSorley stated he would be able to present in Lebanon on November 3<sup>rd</sup>.

Chair Estey reminded the Board if they wished to be re-appointed to make sure they had submitted their paperwork and stated he would not be seeking re-appointment. Mr. Gagne stated he was going before the Executive Council next Thursday. No other attending members were up for re-appointment this year.

Discussion with regard to the direction of the ESB took place. Members attending were in agreement the Board had successfully completed all tasks given to them and outside rule changes pending it would be sufficient to meet once or twice a year for potential issues. Mr. Gagne suggested the possibility of dissolving this Board and becoming a sub-committee under the ASB.

Mr. Hamilton first stated clarification of the forum dates, Lebanon was on November 3<sup>rd</sup> and Laconia would be held on November 10<sup>th</sup>. In response to the Board's direction, he agreed the Board had collectively addressed all areas of concern pointed out in the Sorrell trial as well as the subsequent analysis of the equalization procedure by Wasserstein and Davis and the issues that could have been regarded as weaknesses in the procedure of indirect equalization. In addition, the Board has either adopted recommended changes or have analyzed the recommendations and determined them to be inappropriate for assessing in New Hampshire. In summary, all of the issues that have been identified have been addressed.

Mr. Hamilton continued, at this time, a maintenance program might be sufficient to continue the good work completed in equalization and to have a process available for any changes. It may be problematic to keep people engaged in the process as members if they were only to meet once or twice a year to validate what is done. It may be worth considering whether this maintenance work could be included in the work of the Assessing Standards Board as a sub-committee in the future.

Chair Estey suggested this idea be brought to the meeting with the Assistant Commissioner declaring the Board had addressed the issues that had been identified to date and did not have any future pending business. However, a mechanism to maintain an interest in the process at some level to address potential issues that may arise would be recommended. With regard to budget needs, Mr. Hamilton stated historically the ESB has not exceeded the budget.

Mr. Hamilton suggested the importance of trying to maintain an avenue for the public to interject its opinion into this process and keeping the "collective wisdom" that came together for the

equalization board. A sub-committee under the ASB could accommodate other outside members as well for example the non-members who were invited into the sub-committee process to help with the information included in the assessing manual. While the ASB does not have the complete variety of membership such as county and school representations, there would be enough viewpoints to accommodate a meaningful representation.

Chair Estey compared the make-up of the ASB to the ESB and despite the lack of participation by the public with the ESB, the county and school members could become very involved in the process if something were to go awry and there is no representation of either group on the ASB.

Ms. Reid suggested the ESB establish annual reporting requirements to be made available to the public in an effort to give them a better understanding of the equalization process therefore the ASB could more easily incorporate that information into their annual public forums.

Ms. Kennedy stated the information is available on the web. Mr. Hamilton added some of the reporting is statutorily required. The Department provides for all requests for information that are available including requests from municipalities, school districts and the Legislature among many others.

Chair Estey introduced the Superior Court update. Mr. Hamilton confirmed there were a series of consolidated cases pending in the Rockingham Superior court brought by taxpayers in Rye and Portsmouth challenging the constitutionality of the state enhanced education tax. The presiding Judge Davis heard the arguments on both sides regarding the merits of the fairness and equity that exist within the equalization process and ruled to dismiss the case due to lack of merit and sustained the constitutionality of what we are doing. Recognition of the significant improvements over where we were from the Sirell time frame was observed. No evidence had been brought forward to prove the equalization process now is not better or fairer than it was then. It was a ringing endorsement for what has occurred through this process and a recognition that the system is constitutional, is fair and is equitable to the taxpayers in the State

Chair Estey mentioned House Bill 2, plan to sunset all boards effective January 2011. Representative Patten had stated at an ASB meeting she believed all that was needed was a waiver request. Ms. Bartlett confirmed all boards are scheduled for sun setting with some exceptions.

Mr. Hamilton apprised the Board that a meeting would be required for rule making subsequent to the public forums. Ms. Bartlett stated it would need to take place immediately following the forum on November 18<sup>th</sup> in order to stay within the schedule set by the CUB to get them completed by the end of February. A vote on rule changes would need to be immediate. Mr. Hamilton asked if pushing the meeting to the week following the forum would push the rule making process back two weeks? Ms. Bartlett stated that was correct and added in doing so the Board may miss the February JLCAR meeting and be pushed to the March meeting. Mr. Hamilton affirmed the rule changes the ESB was proposing would need to be effective by the fall of next year therefore he does not see a problem in waiting an additional week. Due to the holiday, he suggested November 30<sup>th</sup> in order to get a quorum.

Chair Estey stated he did not believe he would be a member at that time. Mr. Gagne stated the new slate was being voted on by the Executive Council next Thursday, September 17<sup>th</sup>. Discussion followed as to whether or not a quorum would be attending the forum on November 18<sup>th</sup> and if so, could the meeting follow the quorum after receiving any public input. It was determined that a meeting would be scheduled following the forum at the conference, that it would be posted in the required places and an e-mail would be sent out. If a quorum were not available, the meeting would be recessed to a later date. Should a quorum be in attendance, the rules would be voted on.

With regard to the meeting with the Assistant Commissioner, Mr. Gagne stated he could attend.

Mr. Michener *motioned* to adjourn. Mr. McSorley *seconded the motion*. All approved.

Chair Estey adjourned the meeting at 2:10 p.m.

Next Meeting:

***Wednesday, November 18, following the ASB/ESB Joint Public Forum @ The NHMA-LGC Conference in Manchester, NH***

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

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

Telephone: (603) 271-2687

Facsimile: (603) 271-1161

Web: [www.nh.gov/revenue](http://www.nh.gov/revenue)

In person at 109 Pleasant Street, Concord  
In writing to: NH Dept of Revenue Admin.  
Equalization Standards Board  
PO Box 487  
Concord, NH 03302-0487