

*An Overview of Property Income and Expense
Information and its Impact on Property Assessments*

The Assessing Standards Board (ASB) established a subcommittee in 2015 to examine the availability of rental and expense information in the process of valuation of income producing property, and prepare a whitepaper to convey the issues to the ASB and the public. We would like to acknowledge and thank all those who took the time to attend meetings or provide valuable insight in the construction and assembly of this report.

The accurate valuation of rental (income producing) property requires the ability to understand the market dynamics. In requesting the report, the ASB hopes to improve everyone's understanding of the importance, usefulness, and challenges of the collection and use of this type of information.

The ASB and the Subcommittee acknowledge that this topic has been, and remains, controversial. Accordingly, this report may not fully represent the opinions of the individual members of the Assessing Standards Board or the Subcommittee. This paper is intended to provide insight and information to assist the conversation about this important topic, both now and in the future.

-The Members of the Assessing Standards Board and the Members of the Subcommittee



An Overview of Property Income and Expense Information and its Impact on Property Assessments

ASB Subcommittee Report



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Executive Summary

With property tax rates creeping upwards and increased scrutiny on municipal budgets throughout the state, it is critical to explore all possible efficiencies in government management. Tightening budgets and effective stewardship can be enhanced with careful consideration of existing systems currently in place. What stakeholder roles can be reconsidered? What regulation can be revisited? What changes can be implemented to enhance those efficiencies necessary to effect beneficial changes? The focus of this paper is to inform and educate the reader on one area of the property tax system which may benefit from a more intensive examination.

“When folks refer to the New Hampshire advantage, they often think about the fact that, unlike our immediate neighbors (and most other states), New Hampshire manages to pay for its government without a state income or sales tax. By default, that leaves the property tax as the major source of revenue in New Hampshire. Historically rejecting “broad based” taxes, New Hampshire relies most heavily on the property tax to fund local services and public education. The role of property taxes in New Hampshire is substantial. Given our State’s reliance on it, it is imperative that we in the

Why this issue is Important



FAIR AND EQUITABLE:

RSA 21-J:14-b charges the Assessing Standards Board with the establishment of standards for revaluations based on the most recent edition of The Uniform Standards of Professional Appraisal Practice (USPAP) Standard 6: Mass Appraisal, Development and Reporting. USPAP Standard 6 requires that “In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.” This paper explores what practices and procedures are necessary for assessors to comply with statute, how best to produce credible results in the most efficient and cost effective manner, and whether legislation should be introduced to promote that effort.



tax assessing community get it right.”¹ This paper explores practices and procedures necessary to ensure the appropriateness of property assessments so that all taxpayers are treated with fairness and equity.

The NH Courts and the NH Board of Tax and Land Appeal have consistently recognized the validity of the income approach to value. Paras v Portsmouth (1975), Desmoulas v. Salem (1976), Brickman v Manchester (1979) Rollsworth Tri-City Trust v Somersworth, (1985) and J.C. Penny Properties Inc v. Manchester are a few examples of decisions citing reliance on the Income Approach to value as an appropriate valuation method, commenting that “all relevant factors to property value should be considered. “

The Assessing Standards Board has been given authority to recommend standards and appropriate legislation relative to property assessment practice in order to ensure uniformity and equity. To that end, RSA 21-J:14 (I)(c) incorporates the Uniform Standard of Professional Appraisal Practice (USPAP) Standard 6², as relevant to meet the goals and expectations of mass assessment practice in NH. USPAP Standard 6 requires that “In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.” Standard Rule 6-5 further states that “In developing a mass appraisal, when necessary for credible assignment results, an appraiser must:

(a) collect, verify, and analyze such data as are necessary and appropriate to develop:

- i. the cost new of the improvements;
- ii. accrued depreciation;
- iii. value of the land by sales of the comparable properties;
- iv. value by the capitalization of income or potential earnings – i.e. rentals, expenses, interest rates, capitalization rates, and vacancy data;

(b) base estimates of capitalization rates and projections of future rental rates and/or potential earnings capacity, expenses, interest rates, and vacancy rates on reasonable and appropriate evidence. “

¹ *Understanding NH Property Taxes: THE OFFICIAL NEW HAMPSHIRE ASSESSING REFERENCE MANUAL, 2014*

² The Uniform Standards of Professional Appraisal Practice is promulgated by The Appraisal Foundation, authorized by the US Congress as the source of Appraisal Standards and Appraiser Qualifications, originally created in 1987. It has been adopted by major appraisal organizations, including the International Association of Assessing Officials. Standard 6 relates specifically to mass appraisal practice. It is foreseeable that at some point in the future additional USPAP standards, relating to other types of appraisal assignments, may be incorporated into NH legislation, and to that end, the NH Assessing Standards Board supports a proposed legislative change to adopt USPAP in its entirety.



When the authors of this paper first met, we were a diverse group with strong opinions and concerns. Our initial composition was chosen deliberately, knowing we would echo the concerns and discussions held in prior years by proponents and opponents of past attempts to introduce bills proposing the implementation of additional tools to provide assessors the necessary resources to do their job effectively. The hope with which this paper is written is that information and education can affect a coming together of diverse parties and resolve issues, ultimately providing a more equitable way of assessing property within our communities. A property owner whose assessed valuation is too high has recourse through the abatement and appeal process to correct that inaccuracy, but there can be significant cost associated with that to both the individual and the municipality. And what about the cost to all other taxpayers in a community when a large commercial property, or several, are assessed too low?

Overview

Consider the following situations:

- An assessing office of one municipality received an unsolicited independent appraisal report, confirmed by a recorded mortgage, indicating a single commercial property may be under assessed by over \$15 million dollars.
- In another community, an elected official publicly discouraged commercial property owners from completing income and expense surveys for the revaluation update being conducted in that community.
- Another community conducted a revaluation of all properties, and received not a single abatement request for commercial properties – a highly unusual situation indicating that perhaps the commercial values are set too low.

Identified Concerns



The goal is to correct asymmetrical errors, prevent an undue shift in tax burden, and protect the individual's (or entity's) confidential information.



Such incidents are indicative of underlying erosion to the property tax system, where cumulative legislative actions have inhibited the collection of necessary data to ensure the standard of “fair and equitable.” It is most apparent in the valuation of commercial properties³, where many communities in NH have limited sales in any given year. Yet, when commercial properties are not appropriately valued, all taxpayers suffer the burden in higher tax rates and/or costly appeals. The current system allows for asymmetrical errors, where commercial property owners can take a “wait and see” approach – property income and expense information is withheld, then, if they are valued too high, this is corrected through the appeal process. This is often costly in terms of time and money for both the

³ Commercial means a type of real property which is used or intended to be used for any purpose other than one to four family residential use (NHREAB Part 101-101.01 (m))



property owner and the municipality. Ironically, if an appeal is pursued, the income and expense information must ultimately be provided. However, if the value is too low, there is no indicator or way to correct the situation.

Set against the necessity of municipal assessing officials for appropriate property income and expense information is the concern for the rights of a property owner to maintain confidentiality of business income. Sometimes there is confusion between business income and property rental income concerning the qualifying expense information necessary to develop a fair valuation. In some cases, they may seem the same – apartments are a prime example. For property valuation purposes, we are not looking for an individual’s total income, nor the amount of their mortgage, nor any number of personal facts. We only need the information that reflects what the market considers in the purchase value of a property.

There is concern that RSA 91-A could be invoked by some to access the confidential collected information from the municipalities. To respond to that, we are in agreement that it is critical measures be taken to protect the taxpayer information and keep it confidential. There are well founded exceptions to RSA 91-A already, and it would be appropriate to protect this information from public access. This is not a new concept; in many instances the information an assessor receives is already protected. When we review applications for exemptions, credits, and hardship abatements we are required to maintain confidentiality of personal and financial information. Data collected during a revaluation regarding commercial property should be equally protected, and any legislation toward the requirement of personal and financial information has to include the protection of that data.

In the past, concerns over the municipalities’ valuation needs and the individual’s confidentiality needs have resulted in heated debate, and often frustration for all parties. But with so much at stake, can differences be put aside to build an effective solution? This paper offers first to correct any misconceptions regarding the information needed to develop an income approach for commercial properties and secondly presents suggestions to reconcile the issues to effectively and appropriately value the commercial property within the state with the goals of correcting asymmetrical errors, preventing an undue shift in tax burden, while protecting the individual’s or entity’s confidential financial information. Ultimately, this paper is not intended to dictate how commercial properties are assessed, but rather, to provide all the necessary and appropriate tools to enable fair and equitable assessments.

Legislative Background

The New Hampshire Legislature has had a number of proposals over the years to allow for the collection of commercial property rental income and expense data by municipalities, as well as the State of NH Department of Revenue, for property assessment purposes. The following summarizes the



latest attempts to allow municipal assessing officials an effective statutory means to access this assessment equity data. The last time legislation was attempted was 2010. Many salient points in this paper were discussed, and some consensus was reached, but to date, legislation to address all concerns has been elusive. The need to find a solution still exists, as the assessment scenarios described earlier indicate.

- (1) The most recent proposal by the NH Legislature was in 2010 under House Bill 1345. This bill was introduced by 5 State Representatives and 2 State Senators. The proposal had multiple public hearings in the House. With amendment, it came out of executive session of the House’s Municipal & County Government as a referral to Interim Study. The Interim Study committee’s written recommendation was that legislation should be pursued to eliminate the disparity in the inequity that exists between residential and commercial property. The majority also recommended increasing the requirements to safeguard confidential information, as it is currently protected for under RSA 91-A.
- (2) In 2007, an earlier proposal to allow municipal assessing officials to be able to effectively collect this information for assessment equity purposes was submitted under HB 734. This bill was intended to set up a study committee, while a concurrent bill HB 724 (see below) was more broad-based in seeking to allow the enhanced effective collection of the data. The House Municipal & County Government Committee recommended “ITL”, (Inexpedient To Legislate), as the committee overall did not like using the industry-accepted, and IAAO accepted, nomenclature of “income and expense” information. The NH House of Representatives voted the proposal consistent with the House Committee majority, ITL.
- (3) In 2007, the NH Legislature considered, under HB 724, a separate proposal to allow municipal assessing officials to effectively collect income and expense information on commercial real estate for assessment equity purposes. The House Municipal & County Government Committee ITL’d this bill in favor of HB 734 with a proposed study committee bill that this committee felt was an effective means to address this tax fairness issue.

Mass Appraisal Practice

...

...in mass appraisal practice, no property is valued based solely on the facts and characteristics collected about that individual property. Each property, rather, is valued based on the assimilation, combination, and reduction of the granular data, allowing room for adjustments based on their individual factors.

...



There have reportedly been other legislative attempts in the past to allow municipal assessing officials an effective means to access this information but the online legislative history is truncated at 1989.

The next few sections provide a brief summary of the assessing process, accepted methodology, and how the data provided by taxpayers or collected by assessing personnel is used.

Data Collection and Analysis

Most communities in New Hampshire are comprised of a mix of residential and commercial property, which can be further broken into subsets by style, age, physical characteristics, property income potential, and of course, location. Participants in the real estate market - the buyers, sellers, landlords, tenants, and investors - recognize that all of these factors have an influence on the value of a property. Not all properties in a community will sell within a few years of a revaluation, but it remains the assessor's task to measure the reactions of the market participants to determine a fair value for all of the properties within their communities.

Assessment regulation in NH requires that "the assessors and/or selectmen shall reappraise all real estate within the municipality so that the assessments are at full and true value at least as often as every fifth year..." (RSA 75:8-a). To do this, the assessor gathers and analyzes data using industry accepted methodology that will help define value in terms of replacement costs, sales comparisons, and income potential. While the data collection process in each of these methods is conducted on a granular level by looking at each property on an individual basis, the valuation tables that result from this process are a result of the blending of that data into components that measure general trends and characteristics. In other words, in mass appraisal practice, no property is valued based solely on the facts and characteristics collected about that individual property. Each property, rather, is valued based on the assimilation, combination and reduction of the granular data, allowing room for adjustment based on their individual factors.

The industry accepted methods used for the valuation of residential and commercial include the cost approach, the sales comparison approach, and the income approach. These methods are not restricted to mass appraisal. They are recognized and widely used by appraisers, real estate brokers, and investors, as well as state agencies including the Department of Transportation, the Department of Revenue for utility valuations and valuation of the low income housing tax credit, and by the Board of Tax and Land Appeal and the NH Judicial System when addressing property valuation cases.

Each of these valuation methods has inherent strengths and weaknesses which will be discussed below in more detail.



The Three Approaches to Value

Cost Approach

In the cost approach, an estimated cost of the building and land improvements is developed together with an estimate of the losses in value that have taken place due to wear and tear, design, or neighborhood influences, collectively known as depreciation. The estimated value of the land is added to the depreciated cost estimate. The total represents the value indicated by the cost approach. To apply the cost approach, the following steps and procedures are followed:

1. Estimate the value of the land
2. Estimate the cost new of the improvements
3. Estimate the amount of accrued depreciation
4. Add the land value to the depreciated cost of the improvements.

The cost approach to value is most effective when the improvements are new or near new and land value is well supported. If the existing improvements represent the highest and best use of the site and the building suffers from minor depreciation, the value provided by this approach is reliable. The approach is less reliable when site value is not well supported or when the improvements are older and suffer from several forms of depreciation.

The cost approach typically provides the primary value indication for newer properties, special-purpose properties and other properties not frequently exchanged in the market.

Cost data and comparable land sales are usually readily available to assessors. There are a number of reliable cost estimation services. Mandated recording and sale disclosures (RSA 74:18 and 78-B:1) ensure the availability of land sales data.

Sales Comparison Approach

In the sales comparison approach, market value is estimated by comparing the subject property with similar properties that have recently sold, are listed for sale, or are under contract for purchase. With this technique, data on comparables is analyzed and adjusted for differences with the property being appraised. To apply the sales comparison approach, the following steps and procedures are followed:

1. Research the market to obtain information on sales, listings and offers to purchase similar properties.
2. Verify the information and confirm the sales are arm's-length transactions.



3. Compare the sales with the subject property and adjust the sale prices of the comparables for significant differences.
4. Reconcile the value indication(s) produced from the analysis into a market value estimate for the subject.

The sales comparison approach often provides the primary indication of market value in appraisals of properties not purchased for their income producing ability. These include small owner-occupied commercial and industrial properties and single-family residences.

The sales comparison approach is reliable when a sufficient number of recent transactions exist, of similar properties comparable with the one being appraised. When the number of sales is limited, the reliability of the approach is compromised.

Sales data is readily available through multiple listing services (MLS) and private data providers. Statute also requires mandatory sales disclosures and deed recording (RSA 74:18 and 78-B:1) This ensures accurate sales data is readily available to assessors.

Income Approach

The income approach is applicable to a wide range of commercial properties. Often, it is the most important tool in estimating commercial property value. The approach is most effective when rental rates, vacancy rates and operating expenses are derived from the market. In the absence of market data, the approach is substantially less reliable.

The income capitalization approach converts the anticipated income of a property into a value indication. The potential rental income of the subject is estimated first. Then, the net operating income is calculated by deducting vacancy and expenses from the income estimate. To apply the income approach, the steps and procedures are outlined below:

1. Estimate the potential market based rental income for the subject property
2. Subtract an estimated allowance for market based vacancy and collection losses
3. Subtract the estimated market based operating expenses

Applicability of The Income Approach



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4. Divide the net operating income by an estimated market based capitalization rate⁴

To support the above analysis, the subject's income statements and operating statements from similar properties are reviewed. Comparable income data from the market also establishes capitalization rates. Market extracted capitalization rates are crucial in converting income into reliable value indications.

Below is an example of how the income approach is used for an individual property. Note that the physical characteristics of the property are used but that the rents, capitalization rates and expense rates used have been generated from the market and not directly from the individual property. In mass appraisal, these rents and rates would be applied to all similar properties using the individual property characteristics of size, location, condition, etc.

Income Approach Example:

123 INDUSTRIAL DR. HOMETOWN, NH

The subject is a flex/industrial property presently used for R&D. At a depth of approximately 38 feet, there is a 2 level office space by the width of the building representing approximately 37% of total finished area. The remaining area has 20+ foot ceilings with vinyl and finished concrete flooring.

Hometown conducted an update for this tax year; during that time income and expense surveys were sent out to all commercial property owners. The components used below are NOT actual income for the subject property, but developed by blending and consolidating the information that was returned from the assessor's surveys from the local market at the time of the update, and from applicable reporting services.

The Rents were estimated using the following information:

Base Rent for such a property = \$6.85 per SF with adjustments for location and other property characteristics. The resulting rent estimate = \$8.22/SF.

Overall Cap Rate (OAR) for such properties was determined to be 9% or .09.

Vacancy was determined to be 10%

Expenses were determined to be 15% for finished and rentable area is 33,584 SF

ANALYSIS:

⁴ A capitalization rate (cap rate) is developed from market data and used to convert future income potential (NOI) into an estimate of market value. (Property Appraisal and Assessment Administration, The International Association of Assessing Officers (IAAO), 1990, p 235)



Net Operating Income			
	Square	Rental	Yearly
	Feet	Rate	Income
Potential Gross Income	33,584	\$ 8.22	\$ 276,060
Less: Vacancy & collection Loss @	10.00%		\$ (27,606)
Effective Gross Income			\$ 248,454
Operating Expenses			
Total Operating Expenses	15%		(37,268)
Net Operating Income			\$ 211,186

Using the formula: $\text{Income} / \text{Rate} = \text{Value}$, the resulting value estimate would be:

$$\$211,186 / .09 = \underline{\$2,346,510}$$

Reconciliation

The final step in the valuation process is the reconciliation, where the appraiser will review and weight the data to determine a final value estimate. Here, the appraiser considers the appropriateness and accuracy of each method developed. In most cases, each property type can be valued using more than one method, and each approach developed should act as a check and balance against the other developed approaches. If well supported data cannot be obtained for any one method, it may affect the accuracy and viability of the outcome. With a lack of accurate property income and expense data, the reconciliation may conclude that the income approach is unreliable even for property types that are most appropriately valued using the income approach.

It is generally accepted that each approach mimics the market participants in a particular segment, and that the income approach is most appropriate for income producing properties. Without access to relevant information, the practice of assessing in NH can be compromised. National standards, along with the NH regulating authorities acknowledge the need to consider this approach to value when conducting a revaluation. To fill the current void of locally obtained information, assessing personnel rely on regional surveys, MLS Listing information, and available anecdotal data.

Good Initial Data...

... is vital to the final outcome in determining value, whether for an individual property or for a municipal wide revaluation. In mass appraisal done for assessing purposes, this can have serious repercussions, such as a disproportionate revaluation and extensive time and cost to both the municipality and the individual tax payer for property appeals. An additional disadvantage is that if commercial property values are assessed too low, the unintended consequence is that an unfair portion of the tax burden falls on the remaining taxpayers.



Good initial data is vital to the final outcome in determining value, whether for an individual property or for a municipality wide revaluation. When conducting a mass appraisal for assessing purposes, a lack of good data can have serious repercussions. One such result can be a disproportionate revaluation, which can result in excess costs to both municipalities and tax payers through appeal filings. Another result is commercial property values assessed too low resulting in unfair tax burden upon other tax payers. These are unintended consequences that have and do occur.

Obtaining Income and Expense Data

RSA 75:8-a requires the assessor and/or selectmen to "...reappraise all real estate within the municipality so that the assessments are at full and true value at least as often as every fifth year...". It is important to have the necessary tools to develop fair and equitable assessments. For years sales disclosure has been mandatory, and is an integral component of the sales and cost approaches. Along with reviewing qualified sales, the assessor will send a Rental Income and Expense Survey to all commercial property owners, requesting the raw data from which the rates are eventually developed. Returning the completed forms to the assessor is voluntary. A review of communities endeavoring to implement this practice and incorporate the results into meaningful information over the last two years shows an average return of usable data to be 10%. A similar survey conducted in 2011 indicated a return rate of 20%

Assessors have observed notable deterioration in the ability to obtain good income and expense market data that is relevant to local markets while the Assessing Standards Board, the Department of Revenue, and the Board of Tax and Land Appeals are requiring higher standards for statutorily required revaluations. To supplement this, the assessor will review information from regional and national surveys and MLS listings, but this lacks the sensitivity to local markets, and real time trends.

The Dilemma

It is important to have the necessary tools for fair and equitable assessments...the Assessing Standards Board, the Department of Revenue, and the Board of Tax and Land Appeals require higher standards for the statutorily required revaluations. Income producing properties are most effectively valued using the income approach. The inability to obtain income and expense information for commercial properties runs counterproductive to the idea of "Fair and Equitable Taxation". Obtaining accurate and appropriate information during the revaluation process is important to ensuring the best outcome, to produce reasonable assessments for all parties, and to reduce unnecessary, timely, and costly appeals.



Without mandatory disclosure, the ability to have a statistically relevant sampling of information is jeopardized.

Advantages of Mandatory Disclosure

It provides adequate data to develop relevant valuation tables.

The more data points collected the less weight each individual point will bear. It stands to reason that a 70% return of information provides more stability and confidence in the results than a 10% return and anomalies will be diluted.

All properties are valued using the same data base, which uses locally derived information

The expectation is that this will greatly reduce the financial costs and time constraints for appeals for the individual property owners, the municipality, and the Courts.

Budgeted overlay costs for abatements are reduced.

It provides a vehicle for maintaining “fair and equitable taxation.”

When some portion of property assessments are excessively low, tax rates are forced to adjust upwards. Higher tax rates can affect property salability.

Although individual financial information must remain confidential, the summary use of it provides greater transparency and consistency and improves confidence in the property tax system.

The New Hampshire Municipal Association (NHMA), a “strong, clear voice advocating for New Hampshire municipal interests”,⁵ has continually supported efforts toward this end.

Disadvantage of Mandatory Disclosure

This paper recognizes that there are inherent difficulties and concerns with Mandatory Disclosure of Income and Expense information, and it is important to address these issues.

1. Confirming that the data is the correct information.

Response: When information is gathered, having an adequate amount of data is critical to determining facts and trends. Statistically speaking, the more raw data that can be obtained, the easier it is to see outliers and anomalies that can be investigated further. At the current 10% average response rate, there are valid concerns about the integrity of the data obtained. Often, nationally published data includes listing information, and may often reflect the higher end of the range. Using this data has historically resulted in costly appeals. We believe that commercial property owners are typically sophisticated in the nuances of their markets and are aware of how to best position their properties. If a property is

⁵ New Hampshire Municipal Association website: <https://nhmunicipal.org>, 2016



owner occupied, we are not asking for non-existent rental information, but all properties have expense information, that, when provided, can help flesh out the market trends and costs involved in operating the real estate. The expenses requested are only those expenses used to operate the building and maintain accessibility and condition, not the cost of operating the business.

2. The fact NH has no income tax and these items are not required many will not comply.

Response: Enforcement of a Mandatory Disclosure requirement would have inherent difficulties. The goal is to encourage participation, not create an adversarial environment. But the axiom that if you don't vote, you can't complain about the outcome could be applied in this situation. Obtaining adequate information and having data to support the valuation outcome is important. Property tax appeals are costly to individual property owners as well as municipalities and they foster an adversarial climate, but during an appeal, the property owner must ultimately provide the information that was initially refused. A monetary cost attached to an appeal where information was withheld would discourage the delay, and encourage a practice of fair assessments for all.

3. Confidentiality, in reality, is very hard to accomplish

Response: The importance of treating a taxpayer's disclosures with respect and confidentiality is not taken lightly. The prevailing *assumption* is that if the information is provided, then it must become public information. RSA 91-A, promoting transparency in government, is an encompassing piece of legislature, but there are situations and sensitive information that are exempted from public disclosure. Personal financial information is gathered by government officials in other circumstances for business tax and welfare for example, and by assessing officials for exemptions and hardship abatements. This information is protected, and the financial information provided should be afforded the same protections. Appropriate legislation to enforce this should be encouraged so that deliberate misuse or disclosure will be appropriately discouraged through penalties for violations.

4. Mandatory disclosure is described as reducing cost, but the concern is that additional costs would be incurred in order to review the data.

Response: Streamlining a process usually results in significant cost savings. We foresee this situation to have similar results. The Surveys are already being mailed to commercial taxpayers as part of the revaluation process. Receiving the information, sorting it, and analyzing it as a matter of the upfront process will conserve resources by applying the same standards to all properties rather than continuing on with the "hit-or-miss" approach that results from the current process. As always, for those property owners who feel they are overvalued, the appeal process is available, but we believe that the amount of individual appeals can be greatly reduced by encouraging mandatory disclosure during the revaluation process.

5. Do we really need another form?

Response: Municipal assessment practice already includes Income and Expense surveys mailed to commercial property owners. The assessor is required to use best practice to obtain appropriate information. In reality, the information requested on these surveys is information that a prudent and knowledgeable investor would maintain in the normal course of business.



Recommendations of the Subcommittee

In the construction of this paper, we have tried to consider the needs of all stake-holders. While there are many different points of view, we agree it is in the interest of all taxpayers to have fair and equitable assessments, and to maintain the highest possible confidence in a system that is so crucial to the health of NH Communities. We considered possible solutions to what has been a long standing concern in property valuation for assessment purposes. The goal is to encourage taxpayer participation with submission of income and expense information while protecting information that is confidential in nature.

1. On one end, of course, there was the possibility of maintaining the status quo. Major shortcomings, as have been pointed out here, include:
 - the continuing erosion of locally obtained data with which to establish assessments,
 - the potential for fostering an asymmetrical value system,
 - high costs for appeal and defense of values for both individual taxpayers and communities,
 - High overlay budgeted by municipalities for valuation corrections,
 - Increased tax burden carried by all other community members if values are incorrectly estimated on the low side.
2. A second option is to encourage statutory changes to require the use of Pro-Forma Data in the surveys, and provide penalties for refusal to submit the requested information:

“A Pro Forma statement is a projected or estimated financial statement that attempts to present a reasonably accurate idea of what a firm's financial situation would be if the present trends continue or certain assumptions hold true. Pro forma statements are used routinely in preparing 'what if' scenarios, formulating business plans, estimating cash requirements, or when submitting financing proposals. Also called projected statement.”⁶

- This format is familiar to real estate agents and mortgage lenders who rely on realistic market projections when short term leases do not reflect market potential.
- Appraisers and Assessors use this principal when there is a void of actual specific data
- Since this is a projection for future income and related expenses, the confidential nature of actual information is protected.

⁶ Business Dictionary, <http://www.businessdictionary.com/definition/pro-forma-statement.html> 2016



- “Certain assumptions” would mean an estimate of rents and expenses based on an April 1 date of the year pertinent to the revaluation.
 - This removes effects of long-term leases, tenant incentives, tenant fit-up allowances and such, while providing informed, projected data for a property free of lease and incentive encumbrances.
 - The need for protecting proprietary information would be minimized.
 - To make this a viable solution, providing the information would be mandatory, outliers would be readily identifiable for further review, and
 - appeals would be required to be defended by both parties based on the projected data rather than the actual data.
 - The apparent shortcoming is that the information provided would be estimates based on unsubstantiated data.
3. Consider statutory changes to require property owner participation, and provide penalties for both the tax payer for lack of submission and the assessing personnel for inappropriate disclosure.
- This has been the option of choice over the last several years,
 - This option provides actual information from which realistic market values can be derived,
 - In a revaluation year, if the Income and Expense information is not provided through the I&E Survey, the right to appeal should be lost for that tax year,
 - In non-revaluation years, the income and expense information must be provided at the time of the abatement application if the appeal questions the value, or the right to appeal should be lost for that tax year.

In 2015, 173 communities reported a total of 594 commercial property sales totaling over \$400,000,000. In the course of those transactions, all prospective buyers, each seller, every real estate agent representing diverse parties (including parties who ultimately decided not to purchase), property appraisers, and mortgage officers all relied on the income and expense information generated from each of those individual properties in the pursuit of their goals. Income and expense information that a property can generate is highly relevant to each investment decision, and explicitly pertinent to the value of every one of those properties. Investment property owners are not opposed to providing that information when it is necessary in the normal

In Support of Change



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course of business. The practice of property assessment is equally relevant, and the information is equally critical to create a fair and equitable property tax system for everyone. Everyone understands that, in practice, no individual wants the assessor to come to their property, but they certainly want to make sure the assessor is appropriately valuing their neighbors, for they most assuredly do not want to have to carry their neighbors' property tax burden as well as their own.

If the assessments are off by even 2%, the potential loss in revenue, assuming a 2.5% tax rate is \$200,000. This only represents those properties that actually sold in a single year, a small portion of the actual number of commercial properties. There are many commercial properties in virtually every community within this state. There are regulations in place to ensure properties are not over-assessed; but how do we endure that they are not under-assessed. Many other states require commercial property owners to provide adequate information so that realistic property valuations can be made. With legislative controls in place to ensure the confidentiality of financial information, it is a reasonable expectation that New Hampshire legislation can provide the most equitable tax system possible to the tax payers of this state. We should do our very best to ensure that every taxpayer pays their fair share of the tax burden, but only their fair share.

Conclusion

It is our hope that this paper helps assessing standards board members, municipal officials, and members of the legislature that the over-arching scope of fair and equitable taxes requires a prompt action to support legislation that provides a balanced system for all. Further, we hope to educate opponents to past efforts that equitable taxation is for the benefit of all and that adequate measures can be achieved that will protect sensitive financial information while reinforcing a tax system for optimum efficiency and fairness.