Assessing Standards Board
Utility Valuation Subcommittee Meeting

Approved as amended

DATE: May 22, 2018   TIME: 9:30 a.m.

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

SUBCOMMITTEE MEMBERS
*(E) Excused absence

Joe Lessard, Betsey Patten, Steve Hamilton, Jim Wheeler, Scott Bartlett, Representative Peter Schmidt (E), Bob Edwards (E)

MEMBERS of the PUBLIC

Tom Hughes, DRA, Jonathan Giegerich, Unitil, Charelle Lucas, GES, David Grant, Unitil, Mark Dean, NHEC

Ms. Patten opened the meeting at 9:30 a.m.

Unitil Information

The meeting began with a discussion about a report provided by Unitil that contained a breakdown of properties they owned broken out by land owned in fee and rights-of-way. Mr. Grant, of Unitil, stated the information was gathered from tax bills and GIS and on-line assessing databases however finding a property’s ownership rights and associated values was difficult.

A discussion followed about public rights-of-way including the ruling of the Supreme Court in Verizon v. Rochester that determined the occupant of the right-of-way is subject to properly assessed taxes; the inconsistent practice of taxing the occupancy of the public right-of-way as some communities have amended their pole license agreements to include the provision and some have not. One of the challenges for the towns is that while maintaining a pole’s location and inventory information there isn’t necessarily a description of the occupancy of the right-of-way in the pole license agreement. Another challenge is how to calculate the value of the occupancy of a public right-of-way. One suggestion was to create a formula that would recognize the value of the occupancy and use of the right-of-way that could uniformly be applied to property with the same rights. The occupancy of a right-of-way by a pole may be a slight impairment to the use of the right-of-way but not its primary purpose.

A brief conversation followed about the difficulty communities may have with describing and valuing the occupancy of a right-of-way as those values, in most cases, are not separated out but included under improvements, buildings and features. It was suggested that a section be added to property record card templates to record this information.

A lengthy discussion followed pertaining to the assessment of land owned in fee. There was agreement that using an average value and a factor to develop a value for the rights-of-way was appropriate however that same process was not going to work for land owned in fee. While the intent is to come up with a formula that was uniform, simple and equitable, concern was expressed that using an average value could create significant variances in value and not necessarily represent the “current use” of the property. In the effort to find a way to value land owned in fee,
some considerations were suggested including its inability to sell, the inability for a taxpayer to challenge an assessment and a community to defend the assessment having nothing to compare it to. While it is part of a system, each parcel of the system may possess different rights in the property and limitations due to zoning and regulation. These considerations should be adjusted for when determining its current use. Other thoughts included allowing the municipalities to assess the land using guidelines rather than an average value, the lack of argument from utilities relating to land values, the perception by the legislature of inequity and the consequences that may arise if a recommendation is not provided. A comparison was made to the low-income housing tax credit formula that is complex however the description of the formula in the law leaves no room for questions and the same idea could be used for this formula.

The discussion moved towards valuing the land owned in fee by (1) recognizing and valuing the primary use portion of land and (2) using a percentage of the average value for the remaining non-primary portion of the property. After additional discussion, it was decided to put the issue of fee land aside and to focus on public and private rights-of-way.

Mr. Dean stated the most significant issue for NH Electric Co-op (NHEC) is the 5,000 miles of line that are either in the public right-of-way or public easement and they do not know whether they are being taxed on those or not and with the court ruling they will be which may lead to a significant increase in valuation.

Mr. Hughes provided a summary of NH Department of Transportation’s (NHDOT) procedures relating to rights-of-way and the occupancy of rights-of-way and the different rights that apply. Easements do not contain the same rights as a licensing agreement (or rights-of-way) as the rights are not owned. Rights-of-way do not always impact the value of a property however when NHDOT purchases a right-of-way, a property owner is compensated a value determined by a formula that uses a prorated value of the land based on the total value and size of the strip of land they are taking. An additional factor is considered for an easement as it is part of the value of the land therefore the value of the easement, based on the rights applied to the easement and an impact factor, is deducted from the total land value. The terms of a license agreement and a factor will impact the value of a right-of-way depending on its use.

Mr. Wheeler mentioned a manual used by NHDOT for utility allocations and suggested referring to it as a standard and offered to see if he could find a copy at the NH Utilities Bureau. A brief discussion followed.

Chair Patten summarized the meeting stating land in fee has been put aside for the moment and focus will be on a formula to value rights-of-way using the following formula: MS-1 average price per acre [per town] divided by 43,560 (# of feet per acre) multiplied by the number of linear feet of occupied right-of-way multiplied by a factor.

At the next meeting the committee will discuss and determine the width of the right-of-way, applicable factor(s) and whether or not the same formula will be used to value private rights-of-way or if another formula should be used.

A brief discussion followed pertaining to thoughts about how a private right-of-way (easement) should be valued. Mr. Bartlett offered the following suggestion for consideration: MS-1 average price per acre divided by 43,560 multiplied by the width of the private easement multiplied by the liner feet of that easement multiplied by a different factor.

Mr. Dean offered another thought for consideration that the public right-of-way and private easements are not mutually exclusive as NHEC has poles that are subject to both. The easements, in most cases, are written to
include the distribution and transmission of electricity and telecommunications. Poles are placed in the public right-of-way requiring a pole license agreement which in many cases can also be private property subject to the public right-of-way. The other issue is tree trimming where we have an easement and specific right to what we can and can't trim and what we need to do with the owner versus just having by statute permission to do a certain amount of trimming because that's the statute and public row. It was suggested that additional thought be given to define “easement”.

Next Meeting

Friday, June 8, 2018, at 10:30 a.m. at DRA.

Mr. Lessard motioned to adjourn.

Ms. Patten adjourned the meeting at 12:08 p.m.

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

All meetings are recorded and available upon request.

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

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