Assessing Standards Board
Regular Board Meeting

Approved as written

DATE: March 8, 2019       TIME: 9:30 a.m.

LOCATION: Legislative Office Building, Room 303, 33 North State Street, Concord

BOARD MEMBERS
(E) Excused absence
 Senator James Gray
 Senator Kevin Cavanaugh (E)
 Representative Peter Schmidt
 Representative Mark Proulx
 Betsey Patten, Public Member, Chair
 Robert Gagne, NHAAO, City Official
 Thomas Hughes, NHDRA
 Jim Wheeler, Municipal Official, City (E)

MEMBERS of the PUBLIC
 Mary Pinkham-Langer, NHDRA
 Charelle Lucas, GES

Chair Patten convened the meeting at 9:35 a.m. and welcomed those in attendance. Introductions of the Board followed.

Minutes

Mr. Gagne motioned to accept the minutes of February 15, 2019; seconded by Representative Proulx. No discussion. Chair Patten called the motion to accept the minutes of February 15, 2019, as written. Mr. Gerzon abstained. All others approved. Motion passed unanimously.

Rulemaking Hearing

Chair Patten explained an issue with the rules hearing held on February 4, 2019, at the DRA. There were four members of the Board and two members of the public in attendance; no public comment was offered; and the 10-day comment period came and went without receipt of public comment. It was brought to the Board’s attention that pursuant to RSA 541:11, II. “For rules proposed by a board or commission, each hearing shall be attended by a quorum of its members […]” An inquiry was made to JLCAR staff for a corrective solution.

Mike Morrill, Attorney at the Office of Legislative Services (OLS), attended the meeting upon request. He indicated that he is not allowed to give legal advice to the Executive Branch. With that said, he stated the difficulty with this situation is that the final proposal has been filed. He suggested the simplest solution might be to go to JLCAR and explain the ASB missed the statutory requirement of having a quorum in attendance at the public hearing on the rules. Chair Patten stated another suggestion might be to request JLCAR put off the vote on the rules until another
Representative Schmidt stated as a member of JLCAR, he would make the argument that due to no public comment being received at the rules hearing or within the 10-day comment period and all other procedural processes having been met; the lack of quorum should be waived. Chair Patten requested Mr. Morrill and Representative Schmidt notify the JLCAR Chair and Vice-Chair of the situation so they are aware of the situation prior to the meeting. Mr. Morrill stated he would talk with Mr. Eaton and will notify the Board of any additional information. JLCAR will be meeting on Friday, March 15, 2019, at 9:00 a.m. on the Asb rules.

Mr. Morrill returned after having spoken with Mr. Eaton, who confirmed there was a technical violation of RSA 541-A. The Committee has occasionally overlooked procedural violations in the past which they could do in this case. They could choose not to vote and recommend the rulemaking process start over or the Board could do that voluntarily. They could do a preliminary objection and the Board could hold another public hearing although that would be outside the purview of RSA 541-A. If another hearing was held and people were to attend and testify for the rules to be changed, might that create a new basis for objection? Mr. Morrill stated a preliminary objection might also occur after a review of the rules. It was suggested the Board attend the hearing on March 15, request the Committee overlook the technical violation as there was no public comment received at the hearing or within the 10-day comment period and approve the rule. The Board thanked Mr. Morrill for his time and information provided.

**Low-Income Housing Tax Credit**

Mr. Hughes explained the public hearing on the capitalization rates used in the LIHTC formula was held. As an agency hearing a quorum was not required; there was no public in attendance and no comment was received in the 10-day comment period.

**Manual Subcommittee**

Mr. Gerzon reported the manual draft would be completed within the next two weeks. He will be distributing the draft manual to the subcommittee members for review and anticipates additional comments. If a meeting is needed based on the comments, he will schedule one. He anticipates introducing the final draft to the full Board in April or May.

**Task Items**

Discussion followed pertaining to the task items.

1. Review Certification Levels and Requirements (Subcommittee: Ms. Martin, Mr. Thomson, Mr. Marazoff)

   Mr. Gagne motioned to remove item 2. Rental and Expense Market Data from the task list; seconded by Ms. Martin. Mr. Gerzon felt the Board has worked on this issue culminated with the White Paper. Chair Patten called the motion. **Motion passed unanimously.**

   2. Rental and Expense Market Data
      a. Legislative change
      b. Alternative methods for market data

   3. Review Charitable, Religious and Educational Exemption Criteria (Subcommittee: Mr. Gagne, Mr. Lessard, Ms. Patten, Mr. Brown (when available))
4. **Review of view statistics (DRA submit information by April 12)**

A brief discussion followed about the intent of this task and whether or not a subcommittee was needed. The DRA will gather information for each municipality including the general level of assessment; sales with view adjustments (both positive and negative), the median ratio, the ratio for view properties and the sample size.

A discussion followed about the criteria used by assessors to develop a view assessment. Mr. Thomson reiterated the importance of public trust in being able to understand the criteria used to determine a value on something that is more subjective than measurable. It was stated this information can be found in the USPAP reports for each municipality however in an effort to provide additional transparency, it was agreed more information could be made available to show how the various assessors determine this value. Mr. Gerzon added part of the genesis of the manual was the view tax, to inform taxpayers how this was impacting them. The best language that has been worked on and relied upon by the public, assessing community and the courts is currently in the manual.

A brief history was given pertaining to the view tax and how the issue has improved and become more transparent over the past 15 years. It is no longer just a subjective value; the market recognizes the differences in values as do assessments. It is about being able to demonstrate having something in place to measure those differences. Ms. Martin agreed the process has become more transparent and measurable. She explained Avitar has worked hard to separate out and define a view to make it a more objective than subjective value. They use four measurable criteria to value a view: define the subject; width of the view; distance of the view (close up of a hillside or far away distant view), and depth of the view (over the tree top or full panoramic view). Factors used are extracted from market information. They have been able to quantify the information and make it more measurable and objective, descriptive and quantifiable for taxpayers to understand and all of the information including pictures is available in the USPAP reports.

A concern was brought forth by DRA about inconsistent practices in municipalities pertaining to RSA 79-B Conservation Restriction, RSA 79-C Discretionary Easements, RSA 79-D Discretionary Preservation Easements, and RSA 79-F Farm Structures and Land Under Farm Structures. One of the main concerns relates to RSA 79-B as properties with conservation easements are automatically placed into current use with no PA-60 applications on file. The concern is based on municipalities not knowing the statutory requirements. A couple of suggestions were made including adding clarifying information to the reference manual, having DRA review during their monitoring process and distributing the Current Use Handbook to every municipality when complete. If it is found municipalities are unwilling to correct their processes, it may need to be added as a standard in the next 5-year assessment review process. It will not be added to the task list at this time.

Mr. Gagne motioned to remove Pole licenses from the task list; seconded by Representative Proulx. No discussion. Chair Patten called the motion. **Motion passed unanimously.**

5. Pole licenses

6. **RSA 75:8 Revised Inventory (II. (a))**

Senator Gray brought forth a concern received from a taxpayer about being assessed for property that does not exist; the assessor was not permitted inside the residence to verify the information. A discussion ensued pertaining to the authority of assessors to use their best judgment. RSA 75:1 How Appraised. — States in part, “[…] The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.” Mr. Gagne added if there is a basis an assessor believes from an exterior inspection that property exists, it is listed. The authority exists
in the following statutes: RSA 75:1, RSA 75:7 and RSA 75:8. The appeal process is available to every taxpayer and is described in RSA 76:16; the burden of proof is on the taxpayer (See RSA 76:16-a Annotations 11-13 attached).

**RSA 75:1 How Appraised.** – The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, land classified as land under qualifying farm structures pursuant to RSA 79-F, buildings and land appraised under RSA 79-G as qualifying historic buildings, qualifying chartered public school property appraised under RSA 79-H, residential rental property subject to a housing covenant under the low-income housing tax credit program pursuant to RSA 75:1-a, renewable generation facility property subject to a voluntary payment in lieu of taxes agreement under RSA 72:74 as determined under said agreement, telecommunications poles and conduits pursuant to RSA 72:8-c, and all other taxable property at its market value. Market value means the property's full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

**RSA 75:7 Oath.** – The selectmen and assessors shall take and subscribe upon the copies or original inventories and assessments of both resident and nonresident taxes, furnished by them to the town clerks in their respective towns, to be recorded in the clerk's records, the following oath, which may be subscribed before any justice of the peace or notary public: We, the selectmen and assessors of __________, certify under the penalty of perjury that in making the inventory for the purpose of assessing the foregoing taxes all taxable property was appraised to the best of our knowledge and belief at its full value, in accordance with state appraisal standards.

**RSA 75:8 Revised Inventory.** –
I. Annually, and in accordance with state assessing guidelines, the assessors and selectmen shall adjust assessments to reflect changes so that all assessments are reasonably proportional within that municipality. All adjusted assessments shall be included in the inventory of that municipality and shall be sworn to in accordance with RSA 75:7.
II. Assessors and selectmen shall consider adjusting assessments for any properties that:
   (a) They know or believe have had a material physical change; 
   (b) Changed in ownership; 
   (c) Have undergone zoning changes; 
   (d) Have undergone changes to exemptions, credits or abatements; 
   (e) Have undergone subdivision, boundary line adjustments, or mergers; or 
   (f) Have undergone other changes affecting value.

Add - LIHTC
   a. Modify statute?

Add - 2019 USPAP filing information

Revised Task List as of March 8, 2019

1. Review Certification Levels and Requirements 
   a. Subcommittee: Ms. Martin, Mr. Thomson, Mr. Marazoff, Ms. Pinkham-Langer 
2. Review Charitable, Religious and Educational Exemption Criteria
a. RSA 72:23; RSA 72:23-L
b. Subcommittee: Mr. Gagne, Mr. Lessard, Ms. Patten, Mr. Brown (when available)

3. Review of view statistics
   a. DRA to bring statistics to April 12 meet

4. LIHTC
   a. Modify statute?
   b. Subcommittee: Mr. Gagne, Mr. Hughes

5. 2019 USPAP filing information

Other Business

Ms. Laurie Ortolano, from the City of Nashua, explained that over the last five months she has been very involved in the assessing issues in Nashua. She feels most people are uneducated about property assessments and the related processes which she finds challenging and complicated. She has done a lot of research and would like to better understand sales chasing. Her other concerns include the training and certification of assessors and how that relates to assessing practices, the abatement process and burden of proof on property owners, and the lack of information available from her community.

With regards to the abatement process, she feels the abatement application is confusing and does not understand the difference between the equalization ratio and the median ratio. She added the assessors should be applying the rules relating to those ratios uniformly and equitably to those who file for abatement. She stated she could not attain the information from the city’s on-line assessing system she needed to present her case and has had to spend $600 out of her own pocket to gather the information and that is wrong.

Mr. Gagne explained the rules currently in process to be approved include the definition of sales chasing. When this Board was created, one of the tasks was to define sales chasing in legislation; the law changed and the definition is now required to be in our rules. Once the rules are approved, the definition of sales chasing will become official. He added the BTLA application may reference the equalization ratio because at one time that was the only ratio available. More statistics are now available including the median ratio and the BTLA form may not be up-to-date. The equalization ratio is used by the Department of Revenue to determine the entire value of a community for county taxes; the median ratio however is recognized as the best measure of whether an assessment is reasonable or not.

Pending Legislation

A brief discussion followed about the progress of House Bill 700. Chair Patten stated it is in its third or fourth iteration and at the meeting the previous Wednesday, she reported there was no objection.

Mr. Gagne reported there was some misunderstanding of the definition of “final value”. It was thought this meant the lower value on the MS-1 or the value received through abatement. This was resolved with the following language: “The term “final locally assessed value effective April 1, 2018” shall mean the municipality’s value of the utility company’s assets as taken from the 2018 DRA MS-1.” There was also “tracker language” added that pertained to the recovery of taxes, in particular for Eversource.

Chair Patten stated there was cautious non-opposition from the municipalities and no other opposition stated. House Bill 700 with changes will be reported out of Ways and Means by Thursday, March 14, in time for crossover.
It is not a perfect solution however both the municipalities and the utilities have agreed to the compromise and it will hopefully go through.

**Next Meeting**

Friday, March 15, 2019, 9:00 a.m. - JLCAR Meeting

Friday, April 12, 2019, at 9:30 a.m. - Regular Board Meeting at the LOB, Room 303.

Mr. Gagne motioned to adjourn; seconded by Representative Proulx.

Chair Patten adjourned the meeting at 11:45 a.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:

**In person at:**
109 Pleasant Street, Concord

**In writing to:**
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