

Assessing Standards Board
Regular Board Meeting

Approved as written

DATE: August 13, 2021

TIME: 9:30 a.m.

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

BOARD MEMBERS

(A) Not in attendance.

Senator James Gray	Paul Brown, Municipal Official, Towns >3,000
Senator Kevin Cavanaugh (A)	<i>Vacant, Municipal Official, <3,000</i>
Representative Peter Schmidt	David Marazoff, NHAAO, At-Large Member (A)
Representative Tony Piemonte	Loren Martin, NHAAO, Towns, <3,000
Betsy Patten, Public Member, Chair	Joe Lessard, NHAAO, Towns >3,000
Robert Gagne, NHAAO, City Official	<i>Vacant, Public Member</i>
James Gerry, NHDRA	Thomas Thomson, Public Member
Jim Wheeler, Municipal Official, City	

MEMBERS of the PUBLIC

Peter Roth, NHDRA	Charelle Lucas, GES	Phil Bodwell, NHDRA
Laura Ortolano, Nashua	Todd Haywood, GHMS	

Introductions of the Board and members of the public followed.

Minutes

Mr. Gagne *motioned to accept the minutes of the June 25, 2021, regular board meeting*; Ms. Martin *seconded the motion*. No discussion. Chair Patten called the motion to approve the minutes of June 25, 2021, as written. Mr. Wheeler and Mr. Brown abstained; all others approved. *Motion passed with a majority vote.*

Correspondence Received

The first related to a concern about a property size changing on a tax card and where answers might be found. Inquiry has been made with the local assessing officials who suggested the person contact the mapping company; neither were able to provide answers. It was determined this issue did not fall under the purview of the Board however a couple of options were suggested including contacting the Board of Selectmen and having the property surveyed.

The second related to the assessment of a property. The issue does not fall under the purview of the Board and the individual should contact the local assessor to discuss.

Public Comment

Ms. Ortolano expressed disappointment with the Governor's process of filling seats on this Board. She has applied for a seat on two occasions in which she received little no response from their office. There have been seats open for three years and she feels the Governor's Office does not care enough to fill them and the process should be given to another authority. She is thankful that the Board is looking into assessing issues she feels are important despite not being given the opportunity to be on the Board. It was suggested that Ms. Ortolano reach out to her respective Executive Councilor with her concerns.

Administrative Rules

Chair Patten stated that most of the comments received after review of the rules by the Office of Legislative Services (OLS) related to grammatical changes; there were no substantive changes. Ms. Martel confirmed there were no public comments received following the public hearing.

Mr. Gagne *motioned to move into final rulemaking*; Ms. Martin *seconded the motion*. No discussion. Chair Patten called the motion. *Motion passed unanimously*.

2021 Annual Public Forum

The ASB annual public form will be held in-person at the NHMA Annual Conference on Wednesday, November 17, 2021 at 10:30 a.m. at the DoubleTree by Hilton in Downtown Manchester.

Equalization Study Commission

House Bill 411 established a commission to study the equalization rate used for the calculation of a property tax abatement. Mr. Lessard has been appointed by the NHA AO and one member needs to be appointed by the ASB.

After a brief discussion, Mr. Gagne *motioned to appoint Mr. Brown to represent the Board on the equalization study commission*; Ms. Martin *seconded the motion*. No further discussion. Chair Patten called the motion. *Motion passed unanimously*.

Review of Certification Records Subcommittee Update

The first topic discussed at the last subcommittee meeting related to Ethics Canon 5. The subcommittee is recommending the following change:

Canon 5: (Professional Duties Ethical Rule)

DRA Certified ~~Personnel~~ *Property Assessors and DRA Certified Property Assessor Supervisors* shall comply with the requirements of the Uniform Standards of Professional Appraisal Practice.

ER 5-1 It is unethical *for a DRA Certified Property Assessor or DRA Certified Property Assessor Supervisor* to fail to observe the requirements of the Uniform Standards of Professional Appraisal Practice.

Chair Patten *motioned to accept the change*; Mr. Gagne *seconded the motion*. Discussion followed. Chair Patten called the motion. *Motion passed unanimously*.

The initial second topic was making certification records available to the public; the conversation changed with the suggestion to remove the certification process from the DRA to a separate board under the Office of Professional Licensure and Certification (OPLC). It was suggested the idea of investigating and possibly removing the certification of assessors from the DRA to a separate board under the OPLC be brought to the full board to explain and then given back to the subcommittee to research, accept and vote on.

The Board had met with their attorney prior to the meeting to discuss the suggestion of moving the certification process to a separate board and their options including removing the entire ASB from the DRA. While that is not typical, there are one or two other boards similar to the ASB that do fall under the OPLC. The process to move the certification of assessors could take a year or more which may mean certification records at the DRA would continue to be non-public during that time. The timing was considered an issue and Mr. Thomson stated the intent of the subcommittee was to have statutory draft language prepared to file this fall. Senator Gray was asked about and provided some potential options within the legislative process.

The idea of removing the ASB had not been previously discussed. Mr. Gerry restated the DRA was neutral on the idea of moving the certification process to a licensing board which is essentially removing one oversight for another however he will need to discuss the idea of removing the ASB with the Commissioner. He added the DRA's role is not only about assessing, it is to protect and regulate NH's largest revenue source, the \$4 billion collected annually from property taxes, by making sure laws and rules are followed.

Other comments and questions were brought up about the idea of moving the ASB from DRA including appreciation for the support the DRA has provided to the ASB and their knowledge of the assessing profession, what type of support would be given to the Board if placed under the OPLC and whether there will still be rules regarding assessing that the DRA would be expected to uphold. Mr. Gerry stated the concern is that the only real enforcement mechanism the DRA has to enforce the rules is through the certification process; the question is whether or not the people who make the laws should be enforcing the laws.

Ms. Martin reiterated the subcommittee met to explore moving the certification process only to another board and while it may be different from other boards Mr. Haley described, the certification, complaint and discipline issues are very similar to the Real Estate Appraisal Board (REAB). She suggested this discussion be brought back to the subcommittee.

Discussion turned to the potential legislative change to make the certification records public. Mr. Gagne suggested the following change to RSA 21-J:14 to fulfill the Board's intent when the rules were created and covers all records including disciplinary actions:

*“IV. The records and files deemed confidential and privileged under this section shall not include records or files related to the following areas of the department's activities:
(a) Municipal service and regulatory responsibilities including, but not limited to, responsibilities under RSA 21-J:15-24, 21-J:14-a, 14-b, 14-f, 14-g.”*

Mr. Roth suggested that change may help accomplish the Board's intent however there was also a second filter under RSA 91-A. People look at things differently and there is no standard approach other than what statute says. He does not believe the difficulty will be in making the certification records public although there may be information in them some would consider an invasion of

privacy, but more so about the disciplinary records. For example, an on-going investigation which is one exemption under RSA 91-A that has been strictly enforced.

An example was given of what the REAB provided from a request for an individual's record that included redacted personal information, applications, education certificates and renewals. It did not include documentation about an unfounded complaint filed years before and the request was fulfilled without the requested individual's permission. With the proposed change to RSA 21-J:14, the question was asked if a request was made for a DRA employees certification file whether the DRA would provide it. Mr. Roth could not provide an opinion whether those would be considered personnel records at this time however, in addition to other reasons for not disclosing them, the position that they are personnel records has been stated in the past.

Ms. Martin *motioned for the issue of certification to go back to the subcommittee to draft language for proposed legislative changes to recommend to the full board prior to September 13*; Mr. Gagne *seconded the motion*. No further discussion. Chair Patten called the motion. *Motion passed unanimously*.

Meeting Schedule

Subcommittee to Review Certification

- Wednesday, August 25, 2021 at 9:30 a.m. at DRA
- Wednesday, September 1, 2021 at 9:30 a.m. at DRA

Regular Board Meeting

- Friday, September 10, 2021 at 9:30 a.m. at DRA

Chair Patten adjourned the meeting at 11:30 a.m.

Respectfully submitted,

Stephanie Martel, ASB Clerk
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:

Telephone: (603) 230-5096
Facsimile: (603) 230-5947
Web: www.revenue.nh.gov
E-mail: asb@dra.nh.gov

In person at:
109 Pleasant Street, Concord

In writing to:
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