

Assessing Standards Board
Regular Board Meeting

Approved as written

DATE: September 10, 2021

TIME: 9:30 a.m.

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

BOARD MEMBERS

(A) Not in attendance.

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|---------------------------------------|--|
| 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 |
| 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 (A) |
| Jim Wheeler, Municipal Official, City | |

MEMBERS of the PUBLIC

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|------------------------|--------------------|---------------------|
| Peter Roth, NHDRA | Lisa Mudge, NHDRA | Phil Bodwell, NHDRA |
| Laura Ortolano, Nashua | Todd Haywood, GHMS | Rich Joseph |

The meeting began with a moment of silence in honor and remembrance of the events of 9/11.

Introductions of the Board and members of the public followed.

Minutes

Mr. Gagne *motioned to accept the minutes of the August 13, 2021, regular board meeting*; Mr. Wheeler *seconded the motion*. No discussion. Chair Patten called the motion to approve the minutes of August 13, 2021, as written. *Motion passed unanimously.*

Rulemaking

The Asb 300 various rules will be heard by JLCAR on Thursday, September 16, 2021.

Review of Certification Records Subcommittee Update

A summary was given of the August 25, 2021 subcommittee meeting including attendance by Lindsey Courtney, Executive Director of the NH Office of Professional Licensing and Certification (OPLC). She was very helpful in answering questions and providing information about OPLC including the support their staff provides and what the Board would need to do to transition. There was also discussion relating to proposed legislative changes; the subcommittee voted to recommend the following proposals to the full Board.

Mr. Gagne *motioned to have Senator Gray sponsor the following proposed legislative change to RSA 21-J:14, IV. (a) Municipal service and regulatory responsibilities including, but not limited to, responsibilities under RSA 21-J:15-24[-], RSA 21-J:14-a, RSA 21-J:14-b, RSA 21-J:14-f and RSA 21-J:14-g.* Mr. Brown *seconded the motion.* Mr. Gagne clarified RSA 21-J:14-a, composition of the Board, RSA 21-J:14-a, Powers and Duties of the Board, RSA 21-J:14-f, Certification Required and RSA 21-J:14-g, Decertification. No discussion. Chair Patten called the motion to approve the proposed change to RSA 21-J:14, IV. (a). *Motion passed unanimously.*

Ms. Martin *motioned to bring the following proposed change to RSA 21-J:14-f, I, for discussion: “[...] Department of revenue administration employees shall ~~be certified at the level appropriate to their duties~~ also meet the certification requirements as outlined in Asb 300 for the level of certification they are seeking.”*

Discussion followed pertaining to the development of and changes to RSA 21-J:14-f and the certification of DRA employees. Prior to 2001, DRA employees were required to be certified by the Commissioner of DRA because they were conducting revaluations and setting values in municipalities. In 2004, the statute changed; DRA employees no longer conducted revaluations; they were enforcing the laws and rules of assessing, creating a change to how DRA employees were certified. They were no longer certified under the same requirements assessors but at a level appropriate to their duties.

There has been debate about the level of DRA-Certified Property Assessor (assessor), the level below DRA-Certified Property Assessor Supervisor (supervisor). The certified assessor may perform abatement reviews and defense of values under the supervision of a supervisor however to become a supervisor, you have to testify at the BTLA or Superior Court in defense of values. It has been suggested by various assessors that there is no way a DRA employee could meet these criteria because they do not set values and therefore cannot defend them.

Mr. Gerry stated by agreeing to this proposed statutory change, a standard will be applied to DRA personnel that can never be met and will have serious repercussions on the Department’s ability to enforce state statutes. He added the DRA will oppose this change.

A suggestion was made to consider two branches of the supervisor level, one for valuation and one for administration, to satisfy the concerns but Mr. Gerry stated it would not. There have been a lot of complaints received about a lack of opportunity from current supervisors for certified individuals to qualify at the supervisor level. A DRA employee who has testified at the BTLA on complex subject matter should have the same opportunity and benefits to become a supervisor as an individual who has testified in an abatement case. This statutory change would greater impede their ability to leave DRA and work in the field. He added that the DRA does not take certifying people, including their own employees, lightly. Any questions or controversy about it is given to DRA attorneys and the Attorney General’s office to review cases and answer questions of law. Another suggestion was offered to add a qualifying item under Asb 304.03 (a)(2), in addition to defense of values, testifying to complex issues relating to mass revaluation.

It was expressed that there is no requirement for DRA personnel to be supervisors to do their job and because they do not make appraisals pursuant to RSA 75:1, they do not require certification. A couple of concerns were expressed including DRA personnel are being certified using different criteria than those defined and outlined by the ASB rules and therefore do not qualify for the same levels as the certified individuals in the field and DRA employees receiving a certificate and leaving DRA to

compete in the market for assessing work they are not qualified to perform. Other discussion followed. Mr. Gerry offered to provide a presentation to the Board to describe and clarify what the DRA does.

Chair Patten suggested this issue be put to a subcommittee. A brief description of the House and Senate bill process determined an amendment to address the issue may be made later in the process as long as the official bill is submitted by September 17.

Mr. Brown *motioned to table the recommendation for the proposed change in RSA 21-J:14-f, I.*; Mr. Lessard *seconded the motion*. Chair Patten called the motion. Vote was 10-1 in favor of the motion. *Motion passed with majority vote.*

Proposed Legislation for Assessing Certification Board

The subcommittee voted to bring the following outline to incorporate into a proposal for legislation to create an assessing certification board (ACB), for discussion with the full Board.

- NH Assessing Certification Board attached to OPLC
 - Board Composition
 - 3 Assessors
 - DRA Commissioner or designee
 - 3 Public (possible prohibition?)
- Appointments effective July 1, 2022
- Terms
- Expiration
- Meeting Schedule
- Chairman
- Per Diem
- Immunity from civil action
- Administrative support from OPLC
- Licensure or Certification Process
- Prohibited Conduct
- Classes of Licensure or Certification
 - Certified Building Measurer and Lister
 - Certified Property Assessor Assistant
 - Certified Property Assessor
 - Certified Property Assessor Supervisor
- Criminal History Record Check
- Examination Requirements
- Examination Pre-requisites
- Experience Requirements
- Term of Licensure or Certification
- Continuing Education Requirements
- License or Certificate

- Disciplinary Proceedings (OPLC)
- USPAP
- Hearings; Investigations (OPLC)
- Fees (OPLC)
- Summons (OPLC)
- Rulemaking Authority

Mr. Gagne *moved to have the House members draft legislation to create a separate Assessing Certification Board under the OPLC using the outline above*; Ms. Martin *seconded the motion*.

Mr. Gerry stated the most important factor about moving the certification of assessors from DRA oversight to the NH Office of Professional Licensure and Certification (OPLC) oversight is that this new board be independent and maintain the state's interest in the oversight of assessing. This is not an assessor issue; it is an issue of safeguarding NH's largest revenue sources. A mistake by an individual reflects on the individual; a serious error in assessing spreads throughout the town, county and state. He believes the OPLC can provide this safeguard under the right conditions.

Ms. Martin clarified that it is only the certification process moving to the OPLC and that does not diminish or take away from the state's ability and obligation to oversee the assessing process. She added she believes there should be a separate level for DRA employees, similar to the designation of property monitor they had years ago, and believes it can be tied into OPLC. Other discussion followed.

Chair Patten called motion for House members to draft legislation to create a separate Assessing Certification Board under the OPLC using the outline above. Mr. Gerry abstained. All others approved. *Motion passed with a majority vote.*

Public Comment

Ms. Ortolano was appreciative of the Board's conversations and effort to make what she considers positive changes towards making assessors more accountable and certification records public. She expressed her opinions about the need for increased data collection and revaluations in cities to create proportionality among different classes of property. It was suggested that the current market has created what appears to be unreasonable, skewed or incorrect assessments and even if assessments increase, it does not necessarily mean property taxes will increase.

Rich Joseph expressed concern about how poorly licensed appraisers are doing their job and the lack of willingness of town officials to meet with the public relating to assessing issues. There is no repercussion for poor assessing work and the effect it has on taxpayers. He feels there is no recourse of personal liability for assessors; that there is no oversight of the profession. He added that he agreed it was important that DRA have good employees.

Meeting Schedule

- Regular Board Meeting - Thursday, October 7, 2021 at 9:30 a.m. at DRA

Subcommittee to Review Certification - Thursday, October 7, 2021 at 1:00 p.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:

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