

Assessing Standards Board
Regular Board Meeting

Approved as written

DATE: March 11, 2022

TIME: 9:30 a.m.

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

BOARD MEMBERS

(A) Not in attendance.

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

MEMBERS of the PUBLIC

Denice Roy, DRA	Christopher Ruel, Salem
Phil Bodwell, DRA	Jason Bickford, DRA
Mike Mandile, Concord	Cheryl Gilpatrick, CNP

Chair Patten convened the meeting at 9:31 a.m.

Introductions of the Board followed.

Minutes

Mr. Gagne *motioned to accept the minutes of the October 7, 2021, regular board meeting*; Senator Gray *seconded the motion*. No discussion. Chair Patten called the motion to approve the minutes of October 7, 2021, as written. *Motion passed unanimously.*

Mr. Gagne *motioned to accept the notes of the November 17, 2021, public forum*; Senator Gray *seconded the motion*. No discussion. Chair Patten called the motion to accept the minutes of October 7, 2021, as written. *Motion passed unanimously.*

Mr. Gagne *motioned to accept the minutes of the December 10, 2021, regular board meeting*; Senator Gray *seconded the motion*. No discussion. Chair Patten called the motion to approve the minutes of December 10, 2021, as written. *Motion passed unanimously.*

Public Comment

Chair Patten brought forth the following inquiry received from Mr. John Goglia, representing the NH Private Roads Taxpayers Alliance.

“I would like as much clarification as you can possibly provide regarding assessing standards for residential private road properties. There is much conflicting information about whether or not residential property assessments on private roads somehow reflect a lesser value than similar properties on public roads. There is also information that some municipalities do make certain adjustments for assessments of residential private road properties and I would like you to clarify. Can you provide the names of any towns that do make any adjustments?”

Your response should take into consideration whether municipal assessments based upon market value reflect any such adjustments.”

Senator Gray stated this was addressed in committee. His response was that being on a private road can increase or decrease property value. A gated community with security may increase property value while having to pay road maintenance fees may decrease property value; this type of information would be a consideration in a sale between a willing buyer and seller. Searching for or excluding particular attributes of properties is motivated by value.

Mr. Gagne submitted the following draft response:

“Just like any other influence on value (views, waterfront or water influence, location on a busy road, location near noxious influences such as highways, airports, sewer treatment plants, etc), positive or negative, the effect of being located on a private road or in a condo development with association maintenance fees should (must) be considered and reflected in the value. The “adjustment” might not appear as a separate, labeled item on the property card unless it is unique to that parcel. It is more likely the parcel will have a neighborhood code reflecting location, and it should be the same code as other properties on the same private road or with the same or similar positive or negative influence.

I have heard individuals, when speaking in favor of giving such owners a “tax break”, argue that there is no impact on value. I would argue that point is, on the one hand, incorrect and on the other hand, is irrelevant:

- 1.) It is not true there is no impact on value, *all other things being equal*. Whether doing it consciously or not, the typical buyer bases his or her purchase price decision largely, if not exclusively, on what they can afford to pay monthly in PITI (Principle, Interest, Taxes, Insurance). That affordability figure must be reduced by any monthly or annual homeowner’s maintenance fee. If paying a monthly fee for association dues, less is left to cover PITI and less is available to commit to the purchase price.
- 2.) If location on a private road and/or in a neighborhood with association dues does not impact value, *why are we having this discussion at all!!!* The laws and constitution require a uniform property tax rate applied to an assessed value that is at a uniform level of *market value*, considering the general level of assessment. That being the case, I believe any law allowing for a credit against taxes for private road maintenance costs would be unconstitutional. It is a similar argument to those who believe they shouldn’t have to pay the school portion of the tax rate if they do not have kids in school.

Property taxes represent each taxpayer’s portion of the **common burden**. Whether you make use of or receive any services from the city or town is irrelevant.”

A brief discussion followed including the use of private roads by businesses and the general public; value is not only representative of property but also for services provided and received; and the impact of sales and the number of buyers for certain property attributes.

Mr. Lessard *motioned to endorse Mr. Gagne's response and send to Mr. Goglia and the Committee aide for the Election Law and Municipal Affairs Committee to include in the permanent record.* Ms. Martin *seconded the motion.* No further discussion. Chair Patten called the motion. *Motion passed unanimously.*

Board Membership

The position of municipal governing body official or designee who shall not be an assessor for a city came into question when Mr. Wheeler's employment as City Manager for the City of Berlin ended. The position appointee is Mayor Paul Genier and Mr. Wheeler has represented him on the Board as his designee. The Attorney General stated Mr. Wheeler could continue in this role as Mayor Genier's designee and suggested the minutes reflect this going forward.

Mr. Lessard *motioned for Mr. Wheeler to represent the Board on the HB411 Commission which will study the equalization rate used for the calculation of a property tax abatement.* Mr. Gagne *seconded the motion.* No further discussion. Chair Patten called the motion. *Motion passed unanimously.*

It was noted the Governor's Office has not yet responded to or approved the four NHAAO representatives that were submitted for appointment and who have been in hold-over since September 2021. A suggestion was made to consider a statutory change for appointment approval from the Governor and Council to the NHAAO for assessors and possibly the NHMA for municipal officials. Mr. Gerry was asked if the DRA would object to this suggestion for the appointment of assessors. As this issue had not been previously brought forward, he stated would check with the Commissioner as to the DRA opinion. Chair Patten added this to the task list.

2020 Annual Report

After a brief discussion and a couple grammatical changes, Mr. Gagne *motioned to accept the 2020 Annual Report, as amended, and distribute as required.* Ms. Martin *seconded the motion.* No further discussion. Chair Patten called the motion. *Motion passed unanimously.*

2021 Annual Report

After a brief discussion and a couple grammatical changes, Ms. Martin *motioned to accept the 2021 Annual Report, as amended, and distribute as required.* Senator Gray *seconded the motion.* No further discussion. Chair Patten called the motion. *Motion passed unanimously.*

Emergency Rule for Asb 305.02 (a)

Mr. Gerry explained some unintended consequences of the rules that were adopted in October 2021 relating to qualifying and continuing education. For some individuals whose certification expired December 31, 2021, it has been extremely difficult to adhere to the new requirements given the time-frame. The DRA has the authority to grant a 6-month extension to complete the education requirement however the required courses may or may not be available within that time-frame. Therefore, if the ASB wanted to certify the impacted people, he felt an amendment was necessary for the immediate need while a permanent change is necessary to apply going forward.

Discussion followed including the unintended consequence of the rule change requiring 50-hours of continuing education in one, two or three years for assistant assessors rather than the 10-hours per year discussed; how to alleviate the burden on those individuals whose certification ended December 31, 2021 having had only 3-months to meet the requirement through an emergency rule and then a permanent rule change to phase in the continuing education over the next four years. Mr. Gerry offered a suggestion for an emergency rule, to extend the allowable extension period approved by DRA from 6-months to 12-months in Asb 305.02.

Mr. Gagne *made a motion to file an emergency rule for Asb 305.02 (a) to extend the allowable extension period from 6-months to 12-months to complete the continuing education requirement.* Ms. Martin *seconded the motion.* This change would cover those individuals whose certification ended in 2021 and who have had a 6-month extension approved by DRA which will expire on June 30, giving them until December 31, 2022 to complete the hours.

Mr. Haley provided the standard for an emergency rule is either imminent peril to public health and safety or substantial fiscal harm to the state or its citizens and if JLCAR does not feel the justification for the rule meets either standard, they may ask you to repeal it and suggested the justification in the application be clear and specific.

There was some question about the difficulty of getting the required education and training in the time provided and whether this need meets the standards. The difficulty comes with the nature of the job, the amount of work and time it involves, cost and the availability of courses whether on-line or classroom as some are offered only once a year. It may not be as difficult for future certifications however the individuals affected by this rule change were given less than 3-months and then a 6-month extension in which at least one of the required courses will not be offered. The effect of no rule change and not meeting the education requirement by June 30, is the individual's certification level will be downgraded to a measurer and lister until the requirement can be met.

Mr. Gagne *amended his motion to file an emergency rule for Asb 305.02 (a) to allow an additional 6-month extension for those individuals who have been granted a 6-month extension to complete the continuing education requirement.* Ms. Martin *seconded the amended motion.* After a brief discussion, Chair Patten called the motion. Senator Gray abstained. All others approved. *Motion passed with majority vote.*

Proposed Rule Change to Asb 305.01

Mr. Gagne submitted the following proposed language to phase in the 50-hour requirement for individuals certified as property assistant assessors:

- Certification expires in 2022: 10 hours
- Certification expires in 2023: 20 hours
- Certification expires in 2024: 30 hours
- Certification expires in 2025: 40 hours
- Certification expires in 2026: 50 hours

There was some concern the emergency rule may not meet the standards and, if not approved by JLCAR, there would need to be a separate solution in process. After some consideration, a motion was made with an amended proposed schedule.

Mr. Gagne *motioned to amend Asb 305.01 (a), regarding the newly adopted rules requiring DRA-certified property assessor assistant to have 50-hours of continuing education over a 5-year period, that it be phased in over a 5-year period with the following schedule:*

Asb 305.01 Continuing Education Requirements.

(f) The 50-hours of continuing education requirement for a DRA-certified property assessor assistant will be phased in over a 5-year period as follows:

- (1) Certification expires in 2021: 10 hours*
- (2) Certification expires in 2022: 20 hours*
- (3) Certification expires in 2023: 30 hours*
- (4) Certification expires in 2024: 40 hours*
- (5) Certification expiring after 2024: 50 hours*

Mr. Lessard *seconded the motion.* Discussion. Chair Patten called the motion. Senator Gray abstained. All others approved. *Motion passed with majority vote.*

Discussion followed about the continuing education requirement which included USPAP and State Statutes and the difficulty of getting Statutes Parts I and II due to the limited availability of the courses. It was pointed out, however, that Asb 305.01 (a) (2) does not require Statutes Parts I and II rather it requires only one for continuing education which is an unintended consequence of the new rule. As neither course is required to qualify to become an assistant assessor, and to correct and clarify the requirement, the following language and renumbering was proposed:

Asb 305.01 Continuing Education Requirements

(a) Each ~~DRA-certified property assessor assistant~~, DRA-certified property assessor and DRA-certified property assessor supervisor shall provide documentation that he or she has, over the previous 5 years, completed a total of 50 hours of approved continuing education, as defined in Asb 301.05(a), which includes:

- (1) A uniform standards of professional appraisal practice course or workshop; and
- (2) The NH state statute course Part I or Part II, or the one-day state statutes update.

(b) Each DRA-certified property assessor assistant, shall provide documentation that he or she has, over the previous 5 years, completed a total of 50 hours of approved continuing education, as defined in Asb 301.05(a), to be phased in over a 5-year period as follows:

- (1) Certification expires in 2021: 10 hours*
- (2) Certification expires in 2022: 20 hours*
- (3) Certification expires in 2023: 30 hours*
- (4) Certification expires in 2024: 40 hours*
- (5) Certification expiring after 2024: 50 hours*

And renumber going forward.

Public Comment

The question was asked if there will be changes to the assessor assistant and what they are allowed to do now that they have more requirements for continuing education? There was some clarification in the assessor assistant duties relating to informal hearings but no duties were added. There is some interest in their being able to review sales in the field and perform block-by-block field reviews. They can currently review sales and collect data however they cannot do field reviews.

IAAO Course 452 Fundamentals of Assessment Ratio Studies

As Course 452 was a new requirement in Asb 303.05 to become an Assessor, there was discussion about whether or not a phase-in period was necessary for purposes of recertification. After a brief discussion, it was felt it would not be an issue and no change was necessary.

Exam Requirement

An exam requirement was added to the Asb rules for individuals either applying to be or recertifying as a DRA-certified Property Assessor Supervisor, who do not have a CNHA designation. After a brief discussion, Bob Gagne, Betsey Patten and Sam Greene from DRA, will collaborate and create an exam using the CNHA exam as a starting point. Once created, the exam will be proctored by DRA.

Legislative Update

SB 53 – RSA 21-J:14 relating to making the certification and decertification records of assessor’s public information. This has passed the Senate. No hearing has been scheduled in the House to date.
SB 312 – RSA 75:8 relating to allowing the correction of errors in existing appraisals. This has passed the Senate. No hearing has been scheduled in the House to date.

HB 1552 – relating to the establishment of a board for the certification of assessors.

Representative Piemonte summarized the amendment that maintains current certification issued by DRA would be valid until their expiration at which time it would need to be renewed through the new board. An executive session is scheduled for March 23 at 10:00 a.m. at LOB Room 210-211.

Mr. Gagne stated that it has been pointed out that anyone whose certification expires on December 31 prior to the January 1 this becomes effective will be in limbo as their DRA certification will expire and the ACB will not have been formed and rules put in place yet. The amendment had to do with grandfathering, effectively, and he suggested that it needed to be more robust. It may be helpful to include language that any certifications that expire that year may be renewed by DRA until such time as the board is formed. A suggestion was made to present language for an amendment when it gets to the Senate.

Senator Gray *motioned to approve and support the House position on House Bill 1552*; Mr. Gagne *seconded the motion*. Mr. Gerry abstained. Ms. Patten opposed. *Motion passed with majority vote.*

Meeting Schedule

- Regular Board Meeting - Friday, April 1, 2022 at 11:30 a.m. at DRA

The next meeting agenda will include review and approval of the drafted proposed rules and Task Items 1, 3 and 5 relating to the filing period of the PA-71, possible fine for non-filers of the A-9 and A-12 forms, review of payment of lieu of taxes and review of RSA s:8-c relating to the valuation of rights-of-ways for poles and conduits.

Chair Patten adjourned the meeting at 12:04 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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109 Pleasant Street, Concord

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