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City and Town

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Fiscal Year 2008 Certification Land Review

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The appraisal of land to arrive at full and fair cash value can be a challenging but satisfying task for an assessor or real estate appraiser. There are many variables that can affect land valuation such as the quality of the data, market sales, land speculation, building tear downs, conservation easements, and smart growth zoning so that even the most experienced assessor will never bore of developing these values.

Beginning with the 2005 state owned land valuation (SOL) program, the Bureau of Local Assessment (BLA) used the assessors' locally certified land schedules as its starting point. This transition was lengthy and complex as BLA and local assessors jointly and successfully identified all reimbursable SOL over a three-year period. As a result of this statewide review process, BLA determined that both prime site values and, in particular, excess land values required a little more scrutiny when community schedules are certified by BLA.

To that end BLA has made numerous presentations across the state to the various assessors' associations as well as explaining the process to individual communities undergoing certification of their property values. It is BLA's objective to identify potential problems with the land schedules early in the certification project timetable and prior to communities finalizing their land schedules. To do this the BLA field appraisers/advisors are conducting a data quality land review. The field staff are required to review and understand how the community's land is being formatted, (i.e.

standard lots, excess land, front feet or secondary lots, factors), land tables implemented, size curves applied, and factors applied. It has been a successful effort to date and the staff has identified problems such as factored land schedules without a base neighborhood, outdated land adjustments, neighborhood inconsistencies and size curve problems that have been remedied. If there is an insufficient number of vacant land sales, land residuals (determining land values by subtracting the building cost from the total sale price) are being used. BLA field advisors are reviewing them closely even if the statistical analyses meet the certification guideline requirements. Documenting land schedules has proven to be difficult for some assessors if they have applied significant adjustments without adequate support.

Assessors revaluing land for certification review are expected to provide a brief narrative on the development of the pricing methodology. In addition, the assessor should provide land instructions that describe the method of pricing primary lots, excess land, un-developable land, front foot or secondary pricing, and the schedule for waterfront and condition adjustments. A copy of the land rate tables including primary, excess, and front foot price is also expected along with a neighborhood map.

For land analyses reports, in addition to the vacant land and "P-coded" (land that has changed its use after the sale) land studies, assessors should provide land residuals studies, a study sorted

by neighborhood, and by lot size. The studies by lot size should be stratified as follows:

- primary lot size or by zoning (if applicable);
- oversized by primary lot size or by zoning; and
- oversized by neighborhood (NBHD) if excess varies by NBHD.

It's important to note that the statistical requirement for the overall land residual study must have a median between 90 to 110 percent with a coefficient of dispersion (COD) of 20 percent or less. This median assessment/sale ratio (ASR) must be within five points of the major class for the community. Substudies, including neighborhood and

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DLS Commentary

These are the best — and worst — times for cities and towns in Massachusetts.

The administration of Governor Deval Patrick

and Lieutenant Governor Tim Murray is committed to delivering meaningful relief to cash-strapped local governments and, with the support of the legislature, succeeded in enacting reforms that will enable some of the commonwealth's 351 cities and towns to better manage their pension and health care costs. These reforms delivered a double dose of good news and were a big step forward for the Municipal Partnership Act.

But there is much more to be done. It is clear that more and more communities are facing fiscal stress and strain. Attempts to override Proposition 2½ have triggered disagreements in finance committees, boards of selectmen, city councils and town meetings.

We'll report to you on the results of the overrides, and possibly, one under-ride as well, in a subsequent edition of *City and Town*. In the meantime, we want to hear from you. In October, look for a DLS alert that links to an electronic *City and Town* feedback form. In the meantime, please feel free to write *City and Town* directly at its new e-mail address, cityandtown@dor.state.ma.us. We'd appreciate hearing what you think of *City and Town*, how it can be improved, and the issues you'd like to see us cover.

Robert G. Nunes

**Robert G. Nunes
Deputy Commissioner &
Director of Municipal Affairs**

Best Practices

Westwood's Finance Team Recognized

Westwood Finance Commission Administrator Sheila Nee and Finance Director Pam Dukeman

At a recent Westwood Board of Selectmen's meeting, a presentation was made to the town's finance team for its Comprehensive Annual Financial Report (CAFR). For the tenth consecutive year, Westwood's finance team won the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the United States and Canada (GFOA). The GFOA is a group of state, provincial and local finance officers that work for smooth management of government finances. Their Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. Few Massachusetts communities of Westwood's size have received this award prior to FY2006.

In FY1997, the Board of Selectmen made a commitment to advance its financial reporting by participating in

the GFOA's award program. The position of town finance director had been newly created and the finance team worked diligently to produce its first CAFR for which Westwood received its original award.

The award recognizes that Westwood fully discloses financial information to the highest standard for a municipality. The report gives a complete picture of the community's finances in a clear and understandable format. It includes information on the town's budget, debt, assets, salaries, and property tax collections.

In 10 years of receiving the award, Westwood has kept up with changing reporting standards, which included requirements to report pension liability and Management's Discussion and Analysis (MD&A). The finance team also has begun to employ more technology in the reporting, including color graphics and posting the report on the town's website.

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From left to right: Finance Commission Administrator Sheila Nee, Town Accountant Marie O'Leary, Selectman Patrick Ahearn, Finance Director Pam Dukeman, Selectman Nancy Hyde, and Assistant Treasurer Pat Conley.

Legal

in Our Opinion

Attorney–Client Privilege for Government Attorneys

James Crowley, Esq.

Bureau of Municipal Finance Law

The Massachusetts Supreme Judicial Court recently issued an important decision upholding attorney–client privilege for government attorneys. In an opinion authored by Chief Justice Margaret Marshall, the court ruled that a state agency could not be compelled under a public records request to produce documents that were protected from disclosure by the attorney–client privilege. The case is *Suffolk Construction Co., Inc. v. Division of Capital Asset Management*, 449 Mass. 444 (2007).

In 2001, the Division of Capital Asset Management and Maintenance (DCAM) awarded a contract for renovation work at the Suffolk County Courthouse in Boston, subsequently renamed the John Adams Courthouse, to Suffolk Construction Company, Inc. (Suffolk). There was a dispute between Suffolk and DCAM over payment for extra work requested by the commonwealth through contract change orders. Eventually, Suffolk brought a breach of contract lawsuit in Superior Court for full payment of work performed. Before that, Suffolk made two public record requests to DCAM, which DCAM produced approximately 500,000 pages of documents for Suffolk but withheld from disclosure 189 documents on the ground of attorney–client privilege. The plaintiff then filed a complaint to inspect and review the withheld documents. Since no appellate court in Massachusetts had ever addressed the issue of attorney–client privilege where a state agency was the client, the Superior Court judge referred the matter to the state Supreme Judicial Court (SJC). The SJC agreed to decide whether the attorney–client privilege exists for a government client, and if answered in the affirmative, whether the public records law abrogates this privilege.

The SJC wrote that the common law doctrine of attorney–client privilege originated in Shakespearean times to protect all confidential communications between an attorney and his client. The SJC stated that this privilege was essential in order to allow an attorney to offer fully informed legal advice. The SJC then addressed the privilege’s applicability in the governmental arena. In the SJC’s view, prior judicial decisions have assumed that public officials have an attorney–client privilege. In *Suffolk*, the SJC expressly ruled that confidential communications between public officials and their legal counsel for the purpose of obtaining legal advice are protected under the attorney–client privilege. Having recognized the existence of the privilege, the SJC then had to determine whether the public records law extinguished the attorney–client privilege for public entities with respect to written communications.

The public records law (M.G.L. Ch. 4 §7 Cl. 26), which was based on the federal Freedom of Information Act, was enacted to ensure access to government documents. Prior court decisions in Massachusetts have held that there is a presumption that a record is public and the burden of proof rests on the governmental holder of the record to demonstrate why the record is exempt from disclosure. The Massachusetts Legislature broadly defined the term “public record” and then enacted 15 exemption provisions in paragraphs (a)–(p) of M.G.L. Ch. 4 §7 Cl. 26. These exemption provisions have been strictly

interpreted by courts in Massachusetts. The SJC in *Suffolk* held that nothing in the public records law precludes a state agency from asserting attorney–client privilege. The SJC reasoned that the attorney–client privilege was “a fundamental component of the administration of justice;” and “Nothing in the language or history of the public records law, or in our prior decisions, leads us to conclude that the Legislature intended the public records law to abrogate the privilege for those subject to the statute.”

The SJC did not accept plaintiff’s invitation to extend its holding in *General Electric Company v. Department of Environmental Protection*, 429 Mass. 798 (1999) to the case at hand. In *General Electric*, the SJC held there was no implied exemption in the public records law for written communications otherwise protected by the attorney work-product doctrine. The SJC ruled in that case that the Department of Environmental Protection (DEP) could not withhold from disclosure documents prepared in anticipation of litigation or for trial unless some explicit statutory public records exemption applied. In *General Electric*, the SJC did find that some documents were exempt from disclosure under the policy deliberation exemption of the public records law. Specifically, M.G.L. Ch. 4 §7 Cl. 26 (d) exempts “inter-agency or intra-agency memoranda or letters relating to policy positions being developed

The SJC observed that attorney–client privilege and the attorney work-product doctrine both serve to help the client, but these common law concepts also differ in important aspects.

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Focus

on Municipal Finance

The MERIT Plan: Property Tax Relief for Veterans

Jared Curtis

Local Aid/Databank Analyst

The Commonwealth of Massachusetts reimburses a community or district for a portion of the property tax exemption amount granted to qualifying veterans, blind persons and surviving spouses. The Edward G. Connolly Massachusetts Military Enhanced Relief Individual Tax (MERIT) Plan substantially increases property tax relief to qualifying veterans and surviving spouses. The MERIT Plan was established by Chapter 260 as amended by Chapter 310, Sections 8, 33 and 34 of the Acts of 2006. Fiscal year 2007 marks the first year in which the MERIT Plan is in effect. The Bulletin [Local Tax Exemptions for Veterans](#) is a good resource that covers the changes to the exemptions for veterans.

The MERIT Plan increased both the exemption and reimbursement amounts and expanded the eligibility of property tax exemptions for disabled veterans. Under this new plan, the appropriation was more than doubled to cover the funds needed to reimburse communities. In FY2006, \$8,400,000 was appropriated and in FY2007 the appropriation was expanded to \$17,241,130, an increase of 105.3 percent.

The act also expands the eligible recipients of the Clause 22D exemption

to include surviving spouses of soldiers, sailors and members of the National Guard whose death was a direct result of injury or disease as a result of being in a combat zone, or who have been classified as missing in action or presumed dead as a result of combat. The surviving spouse will receive a full property tax exemption for the first five years of receiving the exemption and a full exemption up to \$2,500 in all other qualifying years. The commonwealth will reimburse communities the full amount of the exemption granted. The previous exemption granted under Clause 22D was \$250 and was limited to the surviving spouses of soldiers or sailors who lost their lives in combat at the islands of Quemoy and Matsu. No exemptions under the old Clause 22D have been granted in the last decade.

The MERIT Plan makes the Clause 22D exemption retroactive for qualifying surviving spouses of a service member who died or was presumed dead in combat, on or after September 11, 2001. Depending on the date of death or presumed death, the surviving spouse may be eligible for retroactive exemptions beginning in fiscal year 2003. For example, a qualifying surviving spouse of a service member who

died in combat between September 11, 2001 and June 30, 2002 would be eligible for an exemption beginning in fiscal year 2003. The surviving spouse would receive a full exemption for five fiscal years (2003–2007) and a full exemption up to \$2,500 beginning in fiscal year 2008.

The commonwealth provides a reimbursement for property taxes exempted by cities and towns to the extent that the annual appropriation allows. Since FY2002, the state appropriation for veterans, blind persons and surviving spouses has been level funded at \$8,400,000. The appropriation in the final state budget (1233-2000) has been sufficient to cover 100 percent of the reimbursement requests made to the Division of Local Services (DLS) in those years. In FY2007, the Legislature, with Governor Deval Patrick's approval, increased the funding level through a supplemental budget to cover the increased reimbursement amounts in the MERIT Plan. The MERIT Plan has taken major steps to ensure qualifying individuals receive greater property tax relief.

Figure 1 lists the previous and current exemption and reimbursement amounts granted for Clauses 22(a–f), 22A, 22B, 22C, 22D and 22E.

The MERIT Plan ensures that qualifying individuals are receiving additional property tax relief, while not having the community absorb the additional costs associated with these exemptions. The act increases the state reimbursement by the same figure as the increase in the exemption amount. The communities continue to cover the first \$175 of each exemption granted, with the exception of Clause 22D.

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Exemption and Reimbursement Amounts				
Clause	Previous amounts		Current amounts	
	Exemption	State reimbursement	Exemption	State reimbursement
22 (a–f)	250	75	400	225
22A	425	250	750	575
22B	775	600	1,250	1,075
22C	950	775	1,500	1,325
22D	250	75	Full / 2,500	Full / 2,500
22E	600	425	1,000	825

Figure 1

State Reimbursements for Property Tax Abatements Granted to Veterans and Surviving Spouses

Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change	Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change	Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change
Abington	27,550	53,649	26,099	94.73	Chesterfield	1,463	4,138	2,675	182.84	Hancock	0	0	0	0.00
Acton	14,467	25,876	11,409	78.86	Chicopee	175,606	266,536	90,930	51.78	Hanover	18,189	33,912	15,723	86.44
Acushnet	12,055	28,086	16,031	132.98	Chilmark	163	313	150	92.02	Hanson	17,475	35,838	18,363	105.08
Adams	15,325	33,338	18,013	121.46	Clarksburg	1,791	3,416	1,625	90.73	Hardwick	5,300	9,925	4,625	87.26
Agawam	33,313	66,425	33,112	99.40	Clinton	43,633	64,243	20,610	47.03	Harvard	3,015	6,328	3,313	109.88
Alford	325	625	300	92.31	Cohasset	6,638	12,750	6,112	92.08	Harwich	38,056	71,568	33,512	88.06
Amherst	22,487	36,635	14,148	62.92	Collins	3,350	6,500	3,150	106.35	Hatfield	5,875	10,675	4,800	81.70
Amy	8,313	18,188	9,875	118.79	Concord	9,663	22,325	12,662	131.04	Haverhill	66,343	120,310	53,967	81.35
Andover	29,721	49,490	19,769	66.52	Conway	1,675	3,325	1,650	98.51	Hawley	1,150	2,550	1,400	121.74
Aquinnah	0	0	0	0.00	Cummington	538	988	450	83.64	Heath	825	900	75	9.09
Arlington	54,863	111,588	56,725	103.39	Dallton	4,450	12,450	8,000	179.78	Hingham	35,076	61,926	26,850	76.55
Ashburnham	13,407	20,857	7,450	55.57	Danvers	52,016	85,912	33,896	65.16	Hingsdale	1,538	4,175	2,637	171.46
Ashtab	4,750	10,375	5,625	118.42	Dartmouth	43,326	80,982	37,656	86.94	Holbrook	26,553	45,116	18,563	69.91
Ashfield	800	3,050	2,250	281.25	Dedham	43,161	100,662	57,501	133.22	Holden	14,850	24,241	9,391	163.24
Ashland	16,413	35,882	19,469	118.62	Deerfield	5,013	11,750	6,737	134.39	Holland	2,663	7,200	4,537	170.37
Athol	18,950	37,088	18,138	102.11	Dennis	35,056	73,989	38,933	111.00	Holliston	10,650	25,763	15,113	141.91
Attleboro	30,710	62,017	31,307	101.94	Dighton	11,535	19,585	8,050	69.79	Holyoke	34,515	67,433	32,918	95.37
Auburn	30,600	61,825	31,225	102.04	Douglas	8,300	15,412	7,112	85.69	Hopkinton	6,050	11,675	5,625	92.98
Avon	10,966	21,380	10,414	94.97	Dover	8,167	11,991	3,824	46.82	Hopkinton	6,475	13,650	7,175	110.81
Ayer	15,201	31,476	16,275	107.07	Dracut	82,525	128,592	46,067	55.82	Hubbardston	6,100	10,688	4,588	75.21
Barnstable	98,437	161,687	63,250	64.25	Dunstable	11,075	24,825	13,750	124.15	Hudson	15,533	34,882	19,349	123.85
Barre	7,100	13,538	6,438	90.68	Dunstable	2,988	7,088	4,100	137.22	Hull	28,289	55,901	27,612	97.61
Becket	1,813	4,738	2,925	161.33	Duxbury	15,895	33,259	17,364	109.24	Huntington	600	2,413	1,813	302.17
Bedford	14,632	30,907	16,275	110.55	E. Bridgewater	18,713	40,729	22,016	117.65	Ipswich	21,208	40,277	19,069	89.91
Belchertown	9,413	23,975	14,562	154.70	E. Brookfield	2,988	5,363	2,375	79.48	Kingston	13,300	32,388	19,088	143.52
Bellingham	16,803	38,589	21,786	129.66	E. Longmeadow	19,172	42,978	23,806	124.17	Lakeville	15,557	26,872	11,315	72.73
Belmont	21,538	39,675	18,137	84.21	Eastham	12,980	28,610	15,630	120.42	Lancaster	6,425	12,975	6,550	101.95
Berkley	5,775	13,100	7,325	126.84	Easthampton	21,451	47,313	25,862	120.56	Lanesborough	5,342	9,657	4,315	80.77
Berlin	3,700	7,925	4,225	114.19	Easton	19,925	40,858	20,933	105.06	Lawrence	56,904	82,560	25,656	45.09
Bernardston	2,698	3,257	569	21.12	Edgartown	2,200	6,075	3,875	176.14	Lee	4,938	11,463	6,525	132.14
Beverly	45,273	84,455	39,182	86.55	Egremont	525	5,600	5,075	966.67	Leicester	15,068	30,350	15,282	101.42
Billerica	86,756	143,281	56,525	65.15	Erving	5,163	9,943	4,780	92.58	Lenox	10,291	14,952	4,661	45.29
Blackstone	10,500	20,375	9,875	93.75	Essex	2,450	4,938	2,488	101.55	Leominster	59,034	112,319	53,285	90.26
Blandford	1,725	1,638	-87	-5.04	Everett	53,790	81,676	27,886	51.84	Leverett	688	1,438	750	109.01
Bolton	2,638	3,187	549	20.82	Fairhaven	25,004	52,015	27,011	108.03	Lexington	45,711	75,621	29,910	65.43
Boston	457,736	719,528	261,792	57.19	Fall River	106,803	162,903	56,100	52.53	Leyden	588	1,363	775	131.80
Bourne	32,919	71,288	38,369	116.56	Falmouth	60,113	137,663	77,550	129.01	Lincoln	2,188	5,163	2,975	135.97
Boxborough	6,897	7,531	634	9.19	Fitchburg	37,463	82,233	44,770	119.50	Littleton	5,988	13,488	7,500	125.25
Boxford	11,288	17,058	5,770	51.12	Florida	3,086	5,636	2,550	82.63	Longmeadow	14,400	32,175	17,775	123.44
Boylston	3,975	9,388	5,413	136.18	Foxborough	19,835	40,788	20,953	105.64	Lowell	130,541	206,339	75,798	58.06
Braintree	63,447	136,289	72,842	114.81	Frammingham	76,438	128,991	52,553	68.75	Ludlow	27,990	58,103	30,113	107.58
Brewster	16,455	32,420	15,965	97.02	Franklin	23,147	51,055	27,908	120.57	Lunenburg	12,013	27,025	15,012	124.96
Bridgewater	18,674	38,670	19,996	107.08	Freetown	13,323	31,331	18,008	135.16	Lynn	103,244	182,839	79,595	77.09
Brimfield	2,599	7,199	4,600	176.99	Gardner	27,868	49,001	21,133	75.83	Lynnfield	21,055	36,208	15,153	71.97
Brookton	113,675	227,905	114,230	100.49	Georgetown	5,875	11,763	5,888	100.22	Malden	123,989	163,694	39,705	32.02
Brookfield	3,275	6,888	3,613	110.32	Gill	1,525	3,675	2,150	140.98	Manchester	2,600	4,197	1,597	161.42
Brookline	24,921	40,553	15,632	62.73	Gloucester	36,748	70,748	34,000	92.52	Manchester	21,488	40,213	18,725	87.14
Buckland	3,575	6,288	2,713	75.89	Goslen	738	0	-738	-100.00	Marblehead	23,007	45,017	22,010	95.67
Burlington	35,488	70,638	35,150	99.05	Gosnold	0	0	0	0.00	Marion	5,813	12,350	6,537	112.45
Cambridge	97,930	130,789	32,859	34.29	Grafton	7,926	21,313	13,387	168.90	Marlborough	41,743	70,447	28,704	68.76
Canton	34,779	69,542	34,763	99.95	Granby	7,925	16,400	8,475	106.94	Marshfield	32,375	73,525	41,150	127.10
Carlisle	450	1,125	675	150.00	Granville	1,425	3,375	1,950	136.84	Mashpee	38,510	64,236	25,726	66.80
Carver	12,325	28,250	15,925	129.21	Grt. Barrington	4,225	9,288	5,063	119.83	Mattapoisett	10,113	17,855	7,742	76.55
Chatham	3,225	7,550	4,325	134.11	Greenfield	28,434	58,641	30,207	106.24	Maynard	12,664	20,296	7,632	60.27
Chatham	14,144	32,119	17,975	127.09	Groton	4,150	8,913	4,763	114.77	Medford	163,694	163,225	-469	-0.29
Chatham	10,372	23,087	12,715	122.55	Groveland	5,649	15,837	10,188	180.35	Medford	62,276	152,063	89,787	144.18
Chelmsford	56,130	104,536	48,406	86.24	Hadley	4,875	10,438	5,563	114.11	Medway	11,413	21,613	10,200	89.37
Chelsea	35,439	48,882	13,443	37.93	Halifax	7,850	16,713	8,863	112.90	Melrose	29,563	66,096	36,533	123.56
Cheshire	6,557	12,345	5,788	88.27	Hamilton	7,967	15,074	7,107	89.21	Mendon	3,963	9,850	5,887	148.55
Chester	3,639	7,191	3,552	97.61	Hampden	3,450	8,738	5,288	153.28	Merrimack	6,675	14,663	7,988	119.67

Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change	Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change	Municipality	FY06 total	FY07 total	Difference FY06-FY07	Pct. change
Methuen	101,941	161,251	59,310	58.18	Princeton	2,875	7,163	4,288	149.15	Tyngsborough	14,025	28,063	14,038	100.09
Middleborough	35,031	68,012	32,981	94.15	Provincetown	4,150	6,938	2,788	67.18	Tyringham	0	0	0	0.00
Middlefield	6,850	15,500	8,650	130.77	Quincy	194,078	306,648	112,570	58.00	Upton	2,663	8,800	6,137	230.45
Middleton	7,625	18,225	10,600	139.02	Randolph	34,075	82,707	48,632	139.21	Uxbridge	20,396	33,133	12,737	62.45
Milford	23,863	54,388	30,525	127.92	Raynham	15,625	33,625	18,000	115.20	Wakefield	44,415	93,981	49,566	111.60
Milbury	15,013	37,058	22,045	146.84	Reading	37,969	83,296	45,327	119.38	Wales	2,075	4,938	2,863	137.98
Millis	8,825	18,750	9,925	112.46	Rehoboth	11,075	30,062	18,987	171.44	Walpole	54,306	89,024	34,718	63.93
Milwille	2,400	4,675	2,275	94.78	Revere	101,574	164,374	62,800	61.54	Waltham	112,421	112,421	57,357	104.16
Milton	67,641	103,954	36,313	53.68	Richmond	2,200	2,200	0	0.00	Ware	11,713	24,896	13,183	112.55
Monroe	0	0	0	0.00	Rochester	6,663	13,825	7,162	107.49	Wareham	32,368	69,001	36,633	113.18
Monson	6,563	16,288	9,725	148.18	Rockland	43,408	24,045	24,045	124.18	Warren	4,775	10,338	5,563	116.50
Montague	12,536	21,848	9,312	74.28	Rockport	14,880	23,683	8,803	59.16	Warwick	150	450	300	200.00
Monterey	300	1,350	1,050	350.00	Rowe	1,013	1,875	862	85.09	Washington	650	1,500	850	130.77
Montgomery	375	900	525	140.00	Royalton	3,475	7,363	3,888	111.88	Watertown	77,169	106,656	29,487	38.21
Mt. Washington	75	225	150	200.00	Royalton	2,450	4,925	2,475	101.02	Wayland	18,412	28,003	9,591	52.09
Nahant	6,770	13,495	6,725	99.34	Russell	1,113	11,884	10,771	967.74	Webster	37,688	62,338	24,650	65.41
Nantucket	3,450	7,163	3,713	107.62	Rutland	5,013	12,213	7,200	143.63	Wellesley	24,635	43,244	18,609	75.94
Natick	41,055	77,493	36,438	88.75	Salem	61,848	103,581	41,733	67.48	Wellfleet	4,288	9,088	4,800	111.94
Needham	37,574	77,429	39,855	106.07	Salisbury	10,288	23,300	13,012	126.48	Wendell	925	1,050	125	13.51
New Ashford	75	225	150	200.00	Sandisfield	2,425	4,888	2,463	101.57	Wenham	1,951	3,850	1,899	97.33
New Bedford	137,303	207,311	70,008	50.99	Sandwich	39,643	85,910	46,267	116.71	W. Boylston	12,649	22,352	9,703	76.71
New Braintree	1,863	1,963	100	5.37	Saugus	57,294	106,449	49,155	85.79	W. Bridgewater	9,413	16,882	7,469	79.35
New Marlborough	1,050	1,438	388	36.95	Saugus	5,325	1,450	-3,875	-72.77	W. Brookfield	5,188	12,858	7,670	147.84
New Salem	1,075	1,950	875	81.40	Scituate	29,073	58,085	29,012	99.79	W. Newbury	10,259	12,971	2,712	26.44
Newbury	6,488	14,863	8,375	129.08	Seekonk	22,955	45,808	22,853	99.56	W. Springfield	43,313	77,188	33,875	78.21
Newburyport	18,794	34,956	16,162	86.00	Sharon	18,590	36,773	18,183	97.81	W. Stockbridge	925	3,025	2,100	227.03
Newton	103,652	176,239	72,587	70.03	Shelfield	2,063	3,850	1,787	86.62	W. Tisbury	1,488	2,438	950	63.84
Norfolk	23,050	26,509	3,459	15.01	Shelburne	3,563	5,813	2,250	63.15	Westborough	15,270	25,997	10,727	70.25
N. Adams	18,163	33,650	15,487	85.27	Sherborn	1,750	4,350	2,600	148.57	Westfield	42,842	85,452	42,610	99.46
N. Andover	31,480	58,230	26,750	84.97	Shirley	11,600	26,163	14,563	125.54	Westford	18,872	32,976	14,104	74.74
N. Attleborough	23,075	54,738	31,663	137.22	Shrewsbury	31,973	67,515	35,542	111.16	Westhampton	0	0	0	0.00
N. Brookfield	7,950	15,583	7,633	96.01	Shrewsbury	1,225	2,838	1,613	131.67	Westminster	10,655	20,884	10,229	96.00
N. Reading	31,341	57,077	25,736	82.14	Somerset	76,874	53,518	-23,356	-30.51	Weston	6,438	12,663	6,225	96.69
Northampton	23,588	53,450	29,862	126.60	Somerville	232,934	261,999	39,065	17.52	Westport	17,683	39,899	22,216	125.63
Northborough	9,188	23,213	14,025	152.64	S. Hadley	28,875	60,410	31,535	109.21	Westwood	45,663	69,639	24,176	52.94
Northbridge	14,089	25,067	10,978	77.92	Southampton	9,463	16,763	7,300	77.14	Weymouth	104,076	194,066	89,990	86.47
Northfield	4,888	9,375	4,487	91.80	Southborough	10,083	20,606	10,523	104.36	Whately	4,828	6,012	1,184	24.52
Norton	18,944	34,615	15,671	82.72	Southbridge	10,376	23,463	13,087	126.13	Whitman	11,800	23,150	11,350	96.19
Norwell	12,250	32,335	20,085	163.96	Southwick	10,415	17,649	7,234	69.46	Wilbraham	19,273	46,228	26,955	139.86
Norwood	39,091	94,107	55,016	140.74	Spencer	10,150	19,475	9,325	91.87	Williamsburg	5,878	10,146	4,268	72.61
Oak Bluffs	3,113	7,213	4,100	131.71	Springfield	187,575	316,849	129,274	68.92	Williamstown	5,628	12,787	7,159	127.20
Oakham	1,888	5,050	3,162	167.48	Sterling	9,518	16,223	6,705	70.45	Wilmington	38,749	68,138	29,389	75.84
Orange	11,238	26,960	15,722	139.90	Stockbridge	6,077	9,000	2,923	48.10	Winchendon	7,513	14,725	7,212	95.99
Orleans	8,488	21,325	12,837	151.24	Stoneham	32,287	68,387	36,100	111.81	Winchester	19,888	48,791	28,903	145.33
Otis	800	3,000	2,200	275.00	Stoughton	45,138	91,338	46,200	102.35	Windsor	313	763	450	143.77
Oxford	21,288	40,079	18,791	88.27	Stow	2,425	5,313	2,888	119.09	Winthrop	39,639	70,070	30,431	76.77
Palmer	15,494	38,328	22,834	147.37	Sturbridge	8,820	16,094	7,274	82.74	Woburn	110,725	59,889	-50,836	-45.88
Paxton	2,200	6,388	4,188	190.36	Sudbury	17,113	17,113	0	0.00	Worcester	229,588	397,534	167,946	73.15
Peabody	72,041	143,261	71,220	98.86	Sunderland	1,438	4,300	2,862	199.03	Worthington	868	3,913	3,025	340.65
Pelham	1,513	1,163	-350	-23.13	Sutton	8,963	19,538	10,575	117.99	Wrentham	13,913	13,913	8,288	147.34
Pembroke	22,066	45,518	23,452	106.39	Swampscott	21,991	39,813	17,822	81.04	Yarmouth	63,482	130,218	66,736	105.13
Pepperell	10,865	21,159	10,294	94.74	Swansea	27,634	56,914	29,280	113.19	Total	8,355,072	15,353,928	6,998,856	83.77
Peru	1,350	2,700	1,350	100.00	Taunton	44,665	88,414	43,749	97.95					
Petersham	2,438	5,275	2,837	116.37	Templeton	23,225	13,675	-9,550	-41.13					
Phillipston	1,938	0	-1,938	-100.00	Tewksbury	32,875	79,813	46,938	142.78					
Pittsfield	50,200	108,688	58,488	116.51	Tisbury	4,289	7,913	3,624	84.50					
Plainfield	375	1,125	750	200.00	Tolland	0	0	0	0.00					
Plainville	11,264	26,139	14,875	132.06	Tonawanda	3,913	10,150	6,237	159.39					
Plymouth	64,564	140,148	75,584	117.07	Townsend	10,208	24,013	13,805	135.24					
Plympton	1,813	4,463	2,650	146.17	Truro	2,900	5,113	2,213	76.31					

Table 1

The MERIT Plan: Property Tax Relief for Veterans

continued from page four

Based on the results in Figure 2, The MERIT Plan has accomplished its goal of reducing the property tax burden on qualifying veterans. The total amount of tax dollars abated to veterans in FY2004 was \$13,248,584 and in FY2007 the amount was \$20,206,623 a 52.5 percent increase. The impact of the MERIT Plan on Clause 22D has been significant. Under the old guidelines for Clause 22D no one was eligible for an exemption. The MERIT Plan has provided property tax relief to forty (40) surviving spouses. The average property tax relief was \$2,886.

According to Table 1, the commonwealth reimbursed communities \$8,355,072 in FY2006, and \$15,353,928 in FY2007, an 83.8 percent increase. Table 1 illustrates the reimbursement amounts, the difference and percentage change for each community for FY2006 and FY2007. Due to the significant change to the exemption amount, a number of communities have seen a large increase in their reimbursement. There are 185 communities where the percentage increase was greater than 100 percent and 134 that were greater than 50 percent.

The MERIT Plan has increased property tax relief to qualifying veterans through increased exemption amounts and statutory changes to Clause 22D, while not increasing the financial impact on communities. Since the exemption amounts were mandated by the state, the full impact of increased property tax relief to the veterans under the MERIT Plan is being absorbed by the commonwealth. ■

Number of Exemptions Granted and Tax Dollars Abated

	FY2004		FY2005		FY2006		FY2007	
	Number granted	Amount abated	Number granted	Amount abated	Number granted	Amount abated	Number granted	Amount abated
22(a-f)	33,784	\$9,777,361	32,047	\$9,375,384	30,348	\$9,039,809	29,686	\$13,528,912
22A	423	201,735	396	196,696	555	242,863	373	296,886
22B	73	58,865	73	59,306	72	59,885	65	84,250
22C	98	97,077	90	88,746	89	89,637	102	156,597
22D	0	0	0	0	0	0	40	115,431
22E	4,795	3,113,546	5,211	3,405,149	5,449	3,621,581	5,699	6,024,547
Total	39,173	\$13,248,584	37,817	\$13,125,281	36,513	\$13,053,775	35,965	\$20,206,623

Figure 2

Land Review

continued from page one

lot size, must be within 5 percent of the overall land residual with a COD of 20 percent or less. In addition, it is expected that assessors provide support for any unique pricing combinations applied, such as neighborhood modifiers or sub-neighborhoods.

In summary, if adequate documentation is provided that supports the real estate market land certification review will go smoothly. If you have any questions, please contact your certification field advisor. ■

Attorney-Client Privilege for Government Attorneys

continued from page three

by the agency.” Without overruling the prior decision, Chief Justice Marshall wrote that, “*General Elec. Co.* provides no guidance for our analysis of the question at hand.”

The SJC observed that attorney-client privilege and the attorney work-product doctrine both serve to help the client, but these common law concepts also differ in important aspects. According to the SJC, the attorney-client privilege belongs to the client and is generally inviolable, surviving the client’s death. On the other hand, the attorney work-product doctrine is an immunity for the attorney and any documents prepared by the attorney for litigation are discoverable under certain circumstances. The SJC refused to “employ the conventions of statutory construction in a

mechanistic way that upends the common law and fundamentally makes no sense.” The SJC also rejected Suffolk’s argument that a decision recognizing attorney-client privilege would be contrary to the Legislature’s public access policy and would encourage public officials to misuse the privilege. Such concerns, in the SJC’s view, were overstated since the agency must produce a detailed log of documents protected from disclosure and the plaintiff could always challenge in a court proceeding any governmental agency’s claim of privilege.

Having ruled in favor of the government on the subject of attorney-client privilege, the SJC remanded the case to the Superior Court for further proceeding on the subject of contract damages. ■

Municipal Cabinet: Chiefs Propose to Expand 911 Fund

Bob Bliss

DOR Communications Director

In an era of heightened concern about emergency preparedness and management, local officials find themselves looking at increasingly sophisticated equipment and services required to run 911 centers, and the increasing cost of providing those services.

Sensitive to this, it was with interest that Governor Deval Patrick's Municipal Affairs Coordinating Cabinet (MACC) recently heard from emergency management officials looking to expand the existing surcharge on phone calls currently charged to fund the purchase of gear for 911 emergency operations in cities and towns.

Emergency management officials proposed to expand use of the 911 Fund to help pay for operating the 911 centers in addition to paying for equipment. Funds could also be used to regionalize dispatching centers.

Presenting to the MACC were Brookline Chief of Police Daniel O'Leary, who

is also president of the Massachusetts Major Cities Chiefs (MMCC); George Fosque, 911 director for Cambridge and MassNENA president; and David Clemons, director of communications for the city of Worcester.

The officials discussed the pending reauthorization of the "911 Laws" (Chapter 6A, sections 18I-18L), which are set to expire the end of June 2008. These laws govern the existing funding of local emergency services through what is currently a monthly surcharge on phone bills that raises approximately \$50 million annually in Massachusetts.

The revenue from the monthly surcharges (\$.99 per land-line account and \$.30 per cell phone account) helps to pay for 911 telephone equipment and network services to some 270 911 centers operated mostly by local government.

A study done by the State Department of Telecommunications and Energy (DTE) has proposed to make the monthly surcharge uniform, and to impose the same surcharge on any new technologies that can call 911 such as Voice-over-IP (VOIP) and text messaging.

According to O'Leary, the MMCC believes the scope of the existing 911 Fund program should be expanded to include allowing flexible support for 911 call processing personnel, equipment, training and supply needs of local communities that operate 911 centers.

The MMCC presented a study showing that all of the six states closest in size to Massachusetts allow 911 surcharge revenues to pay for 911 center operations. The MMCC has proposed creating a grant program for local 911 centers based on a formula that weighed population served and 911 call volume to improve 911 call processing and service and dispatcher training. ■

Westwood's Finance Team Recognized

continued from page two

The report is also very useful when the town undergoes a credit review. Rating agencies, such as Moody's and Standard & Poor's, are able to gather a wealth of information about the town, providing for a smoother review process. Westwood currently maintains Aa1 and Aa+ credit ratings from these agencies, respectively.

A few years ago, the GFOA invited Westwood to make a presentation at their annual conference in New York. For this, Finance Director Pam Dukeman focused on the Statistical Section of the CAFR, which includes town-specific information relating to financial trends, revenue and debt capacities, and demographic and economic data. Westwood was honored that its small community was asked to participate at that national meeting.

Additionally, Westwood has been recognized in the past by the GFOA with its **Distinguished Budget Presentation Award**. In order to receive this award, a community must publish a budget document that meets program criteria as a policy document, as an operations guide, as a financial plan and as a communication device. Westwood's commitment to produce clear, user-friendly documents for the community has proven to be a practice that both rewards their efforts at the local level as well as within their professional field.

The reason a small community like Westwood has had continued success in the CAFR and Budget Award programs is because of the solid team approach the town takes toward financial matters. The financial departments,

which include accounting, treasurer, collector, assessors, and finance commission, interact on a regular basis, sharing information and working cooperatively on routine financial operations and special projects such as the CAFR and budget documents. This team approach includes not only the appointed staff of these departments but the elected officials and has been highly supported by the town administrator and board of selectmen. Such team cooperation is the foundation for giving a small community, such as Westwood, the opportunity to achieve top recognition.

To view CAFR, go to www.townhall.westwood.ma.us in the financial information section. ■

Closing the Digital Divide: the Broadband Incentive Fund

**Marilyn Browne, Chief
Bureau of Local Assessments**

Is high speed Internet access available in your city or town? If it isn't then your community is at a disadvantage economically, educationally and culturally. Last month the Patrick Administration announced a \$25 million Broadband Incentive Fund that calls for public-private investments in communities without broadband Internet access. Currently, 32 municipalities are without broadband access and 63 other communities have access in only a portion of the municipality (see Broadband Availability map).

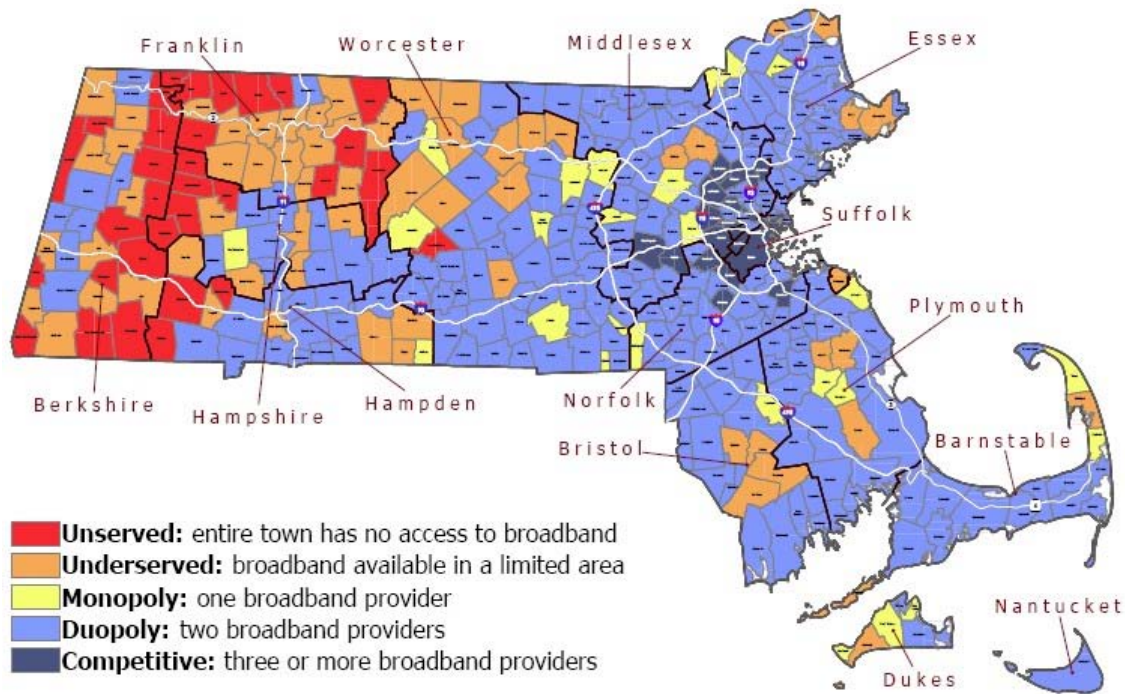
The administration's steps are geared to closing the digital divide that persists

particularly in western Massachusetts. The newly created Broadband Incentive Fund will be capitalized by general obligation bonds and managed by a new division within the Massachusetts Technology Collaborative. The fund will enable the state to direct up to \$25 million toward essential long-lived broadband infrastructure, such as conduits, fiber and wireless towers, making it more cost-effective and attractive for private companies to invest additional funds and deliver complete solutions for customers in regions without broadband access. The state will select private partners for these projects through a competitive procurement process.

Undersecretary for Housing and Economic Development and Director of Wireless and Broadband Affairs Stan McGee said, "the Broadband Incentive Fund will bridge the gaps and open up worlds of information, knowledge and opportunity to the people living in the communities that have yet to experience the transformative effects of broadband access."

Look for *City and Town's* suggestions for preparing your community and staying "linked-in" in October. ■

Broadband Availability in Massachusetts Municipalities June 2007



Graphic courtesy of the Executive Office of Housing and Economic Development.

DLS Notices

CP-1 Reminder

If you have not already submitted the Community Preservation Surcharge Report (CP-1), please do so in order to receive state matching funds on October 12, 2007. The CP-1 form can be obtained by clicking on [Community Preservation Surcharge Report](#). Please fax the form to 617-626-2330 or send to the Municipal Databank, Division of Local Services, P.O. Box 9569, Boston, MA 02114-9569.

In Our Opinion Online

New to the Division of Local Service's [website](#) is "In Our Opinion," a compilation of legal opinions on municipal tax and finance issued in response to written requests from local officials and others. The Municipal Finance Law Bureau recently posted this section that allows access to the text of selected DLS opinions that may be of general interest to local officials, municipal counsel and others interested in municipal tax and finance. Opinions are indexed by legal citation (statutes, regulations and cases) and topic. You need only click on the opinion number found in the index to find a brief summary of the opinion. You can then click on the number in the summary to view the complete document. To read the information contained in the document you must have a [free Adobe Acrobat Reader Version](#).

Mark Your Calendars

What's New in Municipal Law

The Division of Local Services will offer a full day seminar, "What's New in Municipal Law" on Friday, September 28 at the Clarion Hotel and Conference Center (formerly the Best Western Hotel) in West Springfield, and on Friday, October 12 at The Lantana in Randolph. The morning session will include presentations on new legislation and recent court decisions pertaining to local government. The afternoon session will consist of three simultaneous workshops. The course [registration form](#) is available online at the DLS website.

Course 101

Assessment Administration: Law, Procedures and Valuation (Course 101) will be held at Westfield State College on Tuesday evenings from 6:00 p.m. to 9:00 p.m. beginning October 16 and running through November 20. Assessors and assistant assessors with valuation responsibilities are required to successfully complete this course within two years of appointment or election.

Contact Training Coordinator Donna Quinn with any questions regarding the above training opportunities. Donna can be reached at quind@dor.state.ma.us and by phone at 617-626-3838. ■

Municipal Fiscal Calendar

October 1

Collector: Mail Semi-Annual Tax Bills

Taxpayer: Semi-Annual Preliminary Tax Bill — Deadline for Paying Without Interest

Taxpayer: Last Date to File Application to Have Land Valued and Taxed as Agricultural/Horticultural Land or Recreational Land, M.G.L. Ch. 61A and Ch. 61B

October 15

Superintendent: Submit School Foundation Enrollment Report to DOE

October 31

Accountant: Submit Schedule A for Prior Fiscal Year

Selectmen: Begin Establishing Next Fiscal Year Budget Guidelines and Request Department Budgets

Assessors: Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for annual preliminary tax bill communities)

DLS Profile**Commissioner Henry Dormitzer****Robert Bliss****DOR Communications Director**

Henry Dormitzer was appointed Commissioner of the Department of Revenue on June 29. Dormitzer had served as undersecretary for the Executive Office for Administration and Finance (ANF) since January 2007 where he focused on budget and finance issues, collective bargaining contracts, policies regarding information technology and issues pertaining to the Department of Revenue.

Prior to joining Secretary Leslie Kirwan's ANF team as undersecretary, Dormitzer was an investment banker with United Bank of Switzerland (UBS). Serving as managing director and manager of the Boston office, he was the leading underwriter of municipal bonds in Massachusetts from 1995 to 2006. A native of West Boylston, Dormitzer graduated from Worcester Academy, where he now serves as treasurer for the Board of Trustees. After graduation from Harvard College, Dormitzer worked for the Massachusetts Senate Ways and Means Committee earlier in his career. He lives in Wellesley with his family.

The commissioner spoke recently with *City and Town* about one of his top priorities, finding new ways to partner with local government.

Q: What in your estimation are the most critical issues facing the Commonwealth's 351 cities and towns?

A: Reducing expenses and increasing revenues. With the governor's Municipal Partnership Act, we've taken some steps toward the former in terms of health insurance and pension reform partnership, but we've yet to crack through on the revenue side. I want to assure the appointed and elected officials in local government that this administration will continue to push for enactment of the entire Partnership Act. The close relationship between DLS and local government gives us a close up view of the financial squeeze being experienced in cities and towns, and we know how critical is the need for additional resources.

Q: How can DOR help?

A: It starts with listening. I'm very excited about the plan of Bob Nunes, deputy commissioner of Local Services, to take the governor's Municipal Affairs Coordinating Cabinet out

**Henry Dormitzer**

on the road to meet with local officials. Those sessions will undoubtedly deliver a host of helpful suggestions for our review and implementation. If there are ways we can improve our performance in the administration of the municipal finance laws of the commonwealth, we want to hear them. And it will give members of the Municipal Cabinet a chance to market innovations in procurement, energy policy, land disposition and human resources directly to local officials.

Q: As a relative newcomer to DOR, what is your assessment of the Division of Local Services?

A: DOR's job is to be honest, fair and firm in the administration of all its duties, and to do so efficiently and effectively. DLS meets all those criteria. The reputation of DLS as a source of straight-shooting advice and counsel is one I want to preserve and enhance. The volume of pure information and data found on the DLS website is a remarkable resource for local officials, and, not surprisingly, is the leading edge of the movement toward more electronic filing and reporting of information in our Gateway Project. At the same time, I would urge local officials to avail themselves of the training sessions DLS conducts, as well as to contact us with your suggestions. DLS is an incredible resource for local government, and I urge all of you to use it. ■

City & Town

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

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Marilyn Browne, Editor Emeritus

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Robert Nunes, Robert Bliss and Zachary Blake

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