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City and Town

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Kelo and Eminent Domain Policy

by Michael C. Lehane and Goutam U. Jois

Reaction to the recent United States Supreme Court decision in *Kelo v. City of New London*[1] has provoked many. The decision has been characterized as an assault upon property rights for allowing property even in "non-blighted" neighborhoods to be taken for economic development. Upon reflection, however, it seems clear that *Kelo*'s principles are those which have undergirded eminent domain jurisprudence for at least half a century. It may even be said that *Kelo* does not break new ground nor purport to legislate from the bench.

A frequently-heard criticism of judges is that they arrogate to themselves decisions which should be made by legislators; legislators, who "answer to the voters," are presumably more sensitive and responsive to the public's needs than judges. In this article, we argue that the decision reiterates a theme from eminent domain jurisprudence and recognizes the supremacy of the legislative branch in formulating policy. First, urban renewal (facilitated by eminent domain takings) has been occurring for decades, and the decision of what neighborhoods should be impacted is inherently subjective. Second, virtually any governmental action in this regard will involve elements of both public and private benefits. Given these conflicts, the *Kelo* court rightly decided to defer to the legislature, allowing value conflicts to be played out through the political process.

> ***Kelo* reinforces long-standing notions: that economic development is desirable and serves the public interest … and that public and private uses are inextricably intertwined.**

The United States Constitution prohibits government from taking private property unless it is "for public use" and then such a taking requires the payment of "just compensation." In *Kelo*, the question was whether "a city's decision to take property for the purpose of economic development satisfies the 'public use' requirement of the Fifth Amendment."[2]

For decades, municipalities used eminent domain for the (public) purpose of economic development. *Berman v. Parker*,[3] on which *Kelo* relied, was one such instance. A unanimous court held that "[i]t is within the *power of the legislature* to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled."[4] This broad, deferential language spurred urban renewal. From highways to hous-

continued on page eight

Government: Stop Taking Property for Others' Gains

by Bob Stallmam, President,
American Farm Bureau Federation

Regardless of the kind of real property you might own — a home, a vacant lot or a productive farm — government should never be able to make you sell that property just so it can be turned over to someone else who might be able to generate more revenue from that site. Or, as the U.S. Supreme Court recently decided, turn it over to someone who can generate more tax dollars.

The court ruling in favor of the city in *Kelo v. City of New London* could have serious negative consequences for farmers and ranchers. Apparently no one's home, farm or ranch land is safe from government seizure because of this ruling.

The *Kelo* case was little more than an old-fashioned land-grab, through which the city of New London attempted to seize the homes of Susette Kelo and her neighbors — at close-out prices — just to turn the property over to a developer.

If left unchecked, government's free and expanded use of the power of eminent domain could become its preferred method of balancing its books.

continued on page nine

Inside This Issue

From the Deputy Commissioner 2

Legal
What is a Regulatory Taking? 2

Focus
2004 Equalized Valuations. 3
Expanded Learning Time Planning Grant 7

DLS Update
DLS Training Committee Receives Award 10
New Assessors' Handbook Online. 10
Community Firsts 10
New Springfield Finance Control Board Appointee. 11
New Water Treatment Plant Dedicated 11
Lottery Posts Record-Breaking Figures 11

DLS Profile 12
Statewide Contract for Hybrid Automobiles . . 12

From the Deputy Commissioner

While some communities elect municipal treasurers and collectors, a clear trend has emerged in Massachusetts in favor of appointing these positions. This reflects a prevailing theory that policy makers should be elected, but operational positions should be appointed.

The Division of Local Services (DLS) recommends appointing treasurers and collectors. One reason is that through the hiring process cities and towns can specify minimum or preferred qualifications for candidates. Also, appointed treasurers and collectors would be accountable to a finance director or other administrator, and be subject to annual performance reviews.

Because of the parallels in the responsibilities of the treasurer and collector, many communities find that having the duties combined in one office generates long-term cost savings in terms of personnel and cash management.

While state law provides a means to convert town offices from elected to appointed status, no statutes identify a process to create a combined treasurer/collector's office. However, towns have the option through a special legislative act, or acceptance of a charter provision, to combine the offices.

For more information on this topic, visit the Financial Management Assistance section of the DLS website at www.mass.gov/dls/mdmstuf/Technical_Assistance/Restructuring/resctgov.htm.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

What Is a Regulatory Taking?

by James Crowley

While the U.S. Supreme Court was making news this summer with its decision in *Kelo v. City of New London, Connecticut*, 125 S. Ct. 2655 (2005) that a local government can take property by eminent domain for the purpose of economic development, the Massachusetts Supreme Judicial Court also rendered an important ruling on regulatory takings. In *Gove v. Zoning Board of Appeals of Chatham*, 444 Mass. 754 (2005), this state's highest court upheld the denial of a building permit under Chatham's zoning bylaw restricting development in a coastal flood plain.

Roberta Gove inherited certain property in the Little Beach section of Chatham from her mother in 1975. The subject parcel, Lot 93, consisted of 1.8 acres and was bounded by Chatham Harbor and Stage Harbor. Lot 93 was susceptible to coastal flooding particularly due to a recently developed breach in the barrier island that protected Chatham Harbor from the ocean tides. When Gove acquired Lot 93, the town permitted residential development on the property. In 1985, the Town of Chatham placed all the land within the federally designated flood plain, including Lot 93, into a conservancy district. Consequently, residential development was no longer permitted on Lot 93. The town's zoning bylaw did permit nonresidential uses either as of right (e.g., fishing and harvesting activities) or by special permit (e.g., piers, boathouses and marinas).

In 1998, Gove who had been unsuccessful for many years in selling Lot 93 entered into a purchase and sale agreement with Donald and Ann Grenier for the sum of $192,000. The sale was conditioned on the Greniers obtaining a building permit for a house. Subsequently, the Greniers applied for a permit to build a house on pilings so that the structure would be above any significant flooding. The Chatham Zoning Board of Appeals, however, denied the permit and the seller and buyers filed suit in Superior Court. They first claimed that the town acted improperly in denying the building permit. Secondly, they should be awarded damages even if the denial of the permit were to be upheld by the court. The trial court ruled in favor of the town. According to the Superior Court judge, Lot 93 was in the flood plain and, potential flooding would have a severe impact on the surrounding area. The trial court, therefore, upheld Chatham's zoning regulation. This decision was affirmed by the Appeals Court. The case was then appealed to the Supreme Judicial Court.

A real estate appraiser testified on behalf of Gove and the Greniers that Lot 93 was presently worth $346,000 as the site of a three-bedroom dwelling but was valued at only $23,000 if it were unbuildable. The taxpayers argued that Chatham essentially made a taking of the property that was not justified since the town's land use regulation did not substantially advance a legitimate state interest. The Supreme Judicial Court rejected this standard. Relying on the recent U.S. Supreme Court decision of *Lingle v. Chevron U.S.A.*, 125 S. Ct. 314 (2005), the Supreme Judicial Court applied a different standard of review. Under the Fifth Amendment of the United States Constitution, a zoning ordinance is valid, said the court, unless it bears no reasonable relation to the state's legitimate purpose. According to the court, there was a reasonable relationship between the Chatham zoning regulation prohibiting residential development and the legitimate state interests of effective response to natural disasters, the protection of rescue workers

continued on page nine

Focus

on Municipal Finance

2004 Equalized Valuations

by Donna Demirai and John Gillet

Every even numbered year, the Department of Revenue estimates the fair cash value of all taxable property in the Commonwealth as of January 1. This is called Equalized Valuation (EQV.) The purpose of EQV is to show property values at a single point in time, adjusting for differences in local assessing practices and revaluation schedules. There are three major uses for EQV:

- Allocation of some types of state aid;
- Calculation of various state and county assessments to municipalities; and
- Determination of municipal debt limits.

EQV Methodology

Assessed values as of January 1, 2003, served as the starting point for calculating the 2004 EQV. For residential property, the assessments of properties that sold in the preceding year were compared to their sale prices. This relationship of the value and the price of arms-length sales were analyzed by property use. A composite assessment sales ratio was then determined for the entire class. For each city and town, the FY04 total residential assessed value was divided by this ratio to estimate the fair market value of all residential property. There were few arms-length sales of commercial and industrial properties. Therefore market appraisals, direct income capitalization information, other sales and economic data were also used in estimating the fair market value of these classes.

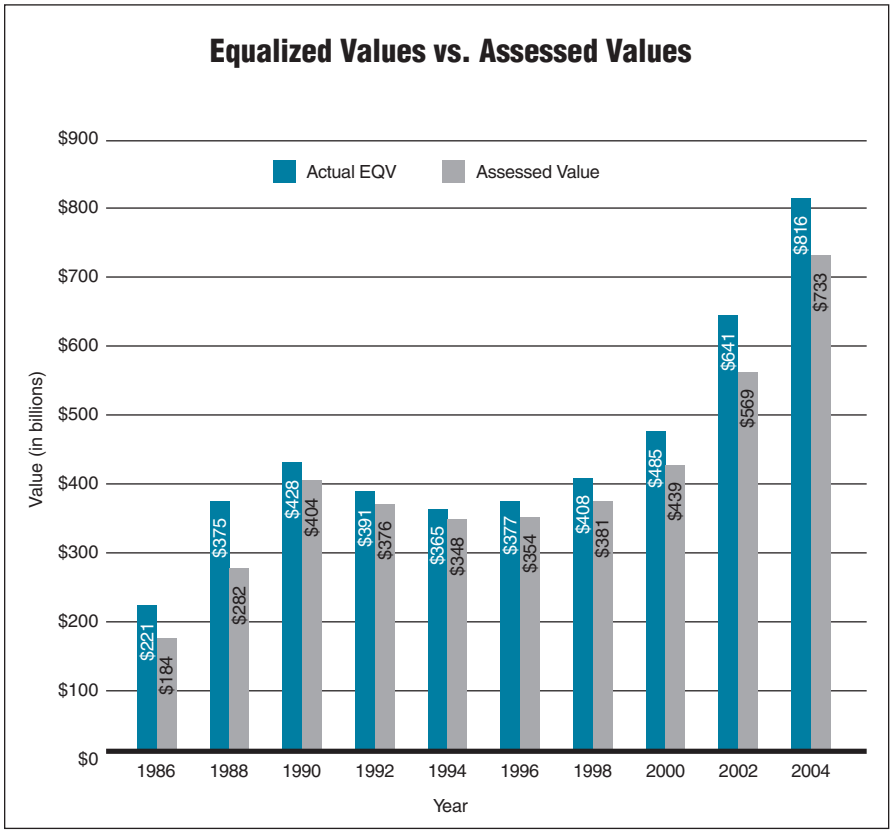

Figure 1

A municipality's 2004 EQV is the sum of the estimated fair market value of each property class plus an estimate of new growth and 121A values, resulting in values indicative of January 1, 2004. The Legislature received these final values in January 2005.

Uses of EQVs

EQVs are used in determining municipal wealth in local aid and assessment formulas. They are used in some distribution formulas so that communities with lower property values receive proportionately more aid than those with higher property values. In some assessment formulas they are used so that those with lower property values assume proportionately less of the cost than communities with higher property values. The 2004 EQVs will be used for the FY06 and FY07 Cherry Sheets programs. The local aid receipt programs using EQV are: Lottery, Public Libraries, Municipal Equalization Grants, and Chapter 70. Lottery aid, the second-largest state aid program, uses EQV per capita and population to determine how the annual lottery increases are to be allocated among communities. The assessments using EQV are: Boston Metropolitan Transit District, the County Tax, Mosquito Control Projects and Air Pollution Control Districts. Information on the calculation of all distributions and charges can be found in the Division of Local Services (DLS) Cherry Sheet Manual or by visiting the DLS website at www.mass.gov/dls.

Finally, EQV is used to compute municipal debt limits. The debt limit for cities and towns is 5 percent of the latest EQV. Communities may petition the Municipal Finance Oversight Board to increase their debt limit up to 10 percent. Although many borrowing purposes (e.g., water projects, landfill closure and certain sewer projects) are

continued on page six

2004 Equalized Valuation

	2002 EQV	2004 EQV	EQV pct. change	2004 EQV per capita	Per capita rank
Abington	1,104,857,000	1,540,413,700	39.4	95,964	224
Acton	2,750,704,700	3,398,232,500	23.5	163,361	93
Acushnet	649,853,000	884,206,600	36.1	83,463	269
Adams	354,436,100	392,993,300	10.9	45,766	347
Agawam	1,915,767,700	2,304,769,100	20.3	80,790	278
Alford	127,749,800	162,952,100	27.6	414,636	16
Amesbury	1,407,282,100	1,731,430,400	23.0	103,567	201
Amherst	1,307,482,200	1,633,901,900	25.0	47,268	345
Andover	5,589,664,700	6,525,840,900	16.7	204,360	60
Aquinnah	419,020,700	512,635,000	22.3	1,439,986	3
Arlington	5,164,119,900	6,361,931,000	23.2	151,825	109
Ashburnham	393,460,600	511,410,000	30.0	87,540	252
Ashby	202,900,400	277,104,800	36.6	94,866	233
Ashfield	136,547,900	152,332,600	11.6	83,884	266
Ashland	1,545,440,500	2,031,905,000	31.5	131,311	142
Athol	421,513,000	600,103,300	42.4	51,782	337
Attleboro	2,476,444,800	3,456,878,000	39.6	79,465	282
Auburn	1,274,352,900	1,640,670,300	28.7	99,895	213
Avon	549,950,200	685,750,900	24.7	155,042	102
Ayer	762,094,300	875,497,200	14.9	120,625	168
Barnstable	9,187,485,800	11,747,239,700	27.9	240,195	42
Barre	264,645,800	348,024,200	31.5	65,015	315
Becket	261,104,800	329,853,400	26.3	187,844	70
Bedford	2,270,729,600	2,632,511,200	15.9	209,212	57
Belchertown	743,257,000	969,245,200	30.4	70,210	298
Bellingham	1,600,519,500	2,047,232,900	27.9	130,355	146
Belmont	3,878,621,500	4,981,907,000	28.4	208,806	58
Berkley	439,018,500	579,235,700	31.9	92,338	242
Berlin	328,737,600	482,276,300	46.7	181,103	78
Bernardston	130,121,200	153,499,800	18.0	69,804	299
Beverly	4,106,379,100	4,952,333,200	20.6	123,024	158
Billerica	4,066,469,000	5,063,214,900	24.5	127,882	153
Blackstone	737,700,600	937,873,000	27.1	103,495	202
Blandford	90,088,500	114,768,100	27.4	92,406	241
Bolton	691,788,800	893,878,600	29.2	205,773	59
Boston	65,751,333,200	76,281,082,200	16.0	131,154	144
Bourne	2,305,263,400	3,561,152,100	54.5	182,408	77
Boxborough	732,777,600	969,081,400	32.2	193,352	67
Boxford	1,353,443,900	1,636,855,500	20.9	199,276	65
Boylston	436,585,400	574,353,400	31.6	137,999	129
Braintree	4,086,633,400	4,894,372,100	19.8	145,113	116
Brewster	2,004,040,300	2,841,364,300	41.8	273,182	32
Bridgewater	1,637,290,300	2,220,679,700	35.6	88,325	250
Brimfield	238,308,600	297,311,800	24.8	83,703	268
Brockton	4,420,483,600	6,003,792,100	35.8	63,138	322
Brookfield	145,282,600	202,269,200	39.2	64,561	318
Brookline	9,756,124,700	12,676,293,400	29.9	223,797	48
Buckland	117,363,400	143,094,600	21.9	71,763	295
Burlington	3,754,232,500	4,277,601,800	13.9	187,212	72
Cambridge	18,243,245,900	21,282,513,300	16.7	209,500	56
Canton	2,833,786,800	3,542,563,900	25.0	165,417	91
Carlisle	1,033,981,500	1,348,826,100	30.4	277,422	31
Carver	720,016,800	956,458,200	32.8	82,911	273
Charlemont	80,479,800	95,080,700	18.1	68,650	301
Charlton	853,760,200	1,165,195,100	36.5	95,830	229
Chatham	3,463,386,200	4,834,829,300	39.6	705,918	9
Chelmsford	3,902,108,400	4,580,884,200	17.4	134,903	134
Chelsea	1,387,408,500	2,206,598,800	59.0	64,698	317
Cheshire	172,755,800	189,485,800	9.7	55,945	333
Chester	73,904,600	85,037,300	15.1	64,228	319

	2002 EQV	2004 EQV	EQV pct. change	2004 EQV per capita	Per capita rank
Chesterfield	85,458,600	97,489,700	14.1	77,311	285
Chicopee	2,245,227,200	2,671,988,900	19.0	48,589	344
Chilmark	2,028,268,300	2,710,295,100	33.6	2,968,560	1
Clarksburg	71,923,600	84,837,300	18.0	50,468	341
Clinton	700,226,600	927,026,600	32.4	67,303	308
Cohasset	1,589,740,600	1,981,590,400	24.6	271,749	33
Colrain	99,311,300	116,828,900	17.6	62,676	323
Concord	4,225,246,400	4,835,693,600	14.4	285,511	29
Conway	149,938,300	175,957,400	17.4	93,545	239
Cummington	74,521,800	95,726,200	28.5	95,918	226
Dalton	393,965,500	456,743,100	15.9	67,336	307
Danvers	3,048,511,700	3,824,080,500	25.4	149,448	111
Dartmouth	3,054,793,400	4,308,944,400	41.1	138,293	127
Dedham	2,818,552,900	3,556,144,100	26.2	152,992	107
Deerfield	444,107,400	531,290,300	19.6	111,149	188
Dennis	3,590,418,900	5,126,003,400	42.8	315,913	25
Dighton	472,541,900	671,250,300	42.1	102,387	206
Douglas	570,427,000	759,473,100	33.1	99,239	216
Dover	1,626,272,300	2,180,032,100	34.1	383,876	20
Dracut	1,943,327,100	2,638,346,500	35.8	91,597	244
Dudley	546,977,800	764,609,400	39.8	71,326	296
Dunstable	347,342,100	419,121,800	20.7	137,282	130
Duxbury	2,564,487,200	3,133,657,800	22.2	213,756	52
E. Bridgewater	967,283,500	1,335,302,000	38.0	97,810	219
E. Brookfield	134,678,900	189,543,400	40.7	89,113	247
E. Longmeadow	1,224,567,200	1,390,794,900	13.6	94,586	234
Eastham	1,558,526,500	2,266,716,100	45.4	402,471	17
Easthampton	808,215,000	979,170,400	21.2	59,925	326
Easton	1,964,103,700	2,564,928,700	30.6	111,669	186
Edgartown	3,432,512,900	4,632,409,900	35.0	1,180,533	6
Egremont	248,287,900	326,070,200	31.3	243,155	39
Erving	609,339,800	595,031,100	-2.3	393,539	19
Essex	539,134,700	682,582,400	26.6	204,183	61
Everett	3,309,726,100	3,874,131,200	17.1	103,200	205
Fairhaven	1,129,666,900	1,650,028,900	46.1	100,777	210
Fall River	3,166,310,800	4,343,771,700	37.2	46,828	346
Falmouth	6,532,637,100	9,104,210,400	39.4	269,172	34
Fitchburg	1,496,433,500	2,038,991,700	36.3	51,041	340
Florida	104,816,000	102,940,000	-1.8	154,102	103
Foxborough	1,669,949,800	2,211,270,900	32.4	134,982	133
Framingham	6,503,031,500	8,228,519,700	26.5	124,217	155
Franklin	3,167,005,800	3,986,325,800	25.9	132,107	140
Freetown	683,999,600	960,151,200	40.4	108,345	193
Gardner	784,411,800	1,080,097,100	37.7	51,313	339
Georgetown	811,806,600	1,053,506,500	29.8	134,599	135
Gill	84,265,900	98,600,500	17.0	71,814	294
Gloucester	3,748,749,800	4,931,806,400	31.6	160,488	96
Goshen	74,871,200	93,993,000	25.5	97,301	220
Gosnold	133,620,000	167,731,500	25.5	1,927,948	2
Grafton	1,154,344,500	1,836,634,800	59.1	114,926	177
Granby	370,099,200	436,466,600	17.9	68,616	303
Granville	110,351,400	133,677,600	21.1	83,705	267
Grt. Barrington	668,249,100	854,459,500	27.9	114,770	178
Greenfield	869,865,300	1,015,351,700	16.7	56,050	332
Groton	1,146,883,600	1,334,456,900	16.4	130,701	145
Groveland	563,140,000	767,252,100	36.2	120,980	167
Hadley	521,560,400	659,637,600	26.5	134,455	136
Halifax	547,300,300	747,034,800	36.5	95,897	227
Hamilton	1,040,712,900	1,291,305,100	24.1	153,180	105
Hampden	349,315,300	433,561,400	24.1	81,665	277

	2002 EQV	2004 EQV	EQV pct. change	2004 EQV per capita	Per capita rank
Hancock	104,858,900	200,448,400	91.2	211,667	53
Hanover	1,590,101,700	2,091,954,600	31.6	152,887	108
Hanson	795,888,300	1,101,331,200	38.4	111,799	185
Hardwick	138,226,000	174,604,100	26.3	65,444	313
Harvard\	860,157,600	1,085,365,000	26.2	177,696	82
Harwich	3,192,730,100	4,187,777,900	31.2	325,669	24
Hatfield	323,090,800	376,931,900	16.7	112,383	184
Haverhill	3,766,011,700	5,131,267,100	36.3	85,059	261
Hawley	24,127,800	29,713,700	23.2	86,377	255
Heath	52,370,000	61,819,700	18.0	76,510	286
Hingham	3,449,887,600	4,273,602,000	23.9	210,325	55
Hinsdale	125,877,500	161,107,000	28.0	87,511	253
Holbrook	770,216,700	1,037,843,800	34.7	95,469	231
Holden	1,237,955,300	1,639,556,300	32.4	99,748	214
Holland	179,553,400	255,176,300	42.1	103,436	203
Holliston	1,470,537,000	1,859,961,500	26.5	133,063	139
Holyoke	1,489,955,600	1,688,257,400	13.3	42,191	348
Hopedale	445,265,900	643,831,400	44.6	104,096	200
Hopkinton	2,162,905,900	2,693,118,800	24.5	192,119	68
Hubbardston	270,776,100	358,086,700	32.2	84,935	262
Hudson	1,666,957,500	2,148,427,000	28.9	117,093	171
Hull	1,259,250,700	1,845,182,100	46.5	163,262	94
Huntington	118,659,800	136,833,000	15.3	61,581	324
Ipswich	1,749,463,900	2,219,128,000	26.8	166,339	90
Kingston	1,202,641,400	1,589,416,100	32.2	130,067	148
Lakeville	934,972,000	1,288,036,200	37.8	123,033	157
Lancaster	538,937,000	709,573,300	31.7	107,219	195
Lanesborough	254,469,100	303,722,900	19.4	101,886	207
Lawrence	2,022,345,300	2,879,962,100	42.4	39,728	349
Lee	570,060,000	716,496,000	25.7	121,419	163
Leicester	549,737,500	744,688,700	35.5	68,629	302
Lenox	692,299,700	949,393,300	37.1	183,104	76
Leominster	2,360,140,400	3,064,606,000	29.8	72,967	289
Leverett	181,954,500	182,919,200	0.5	104,406	199
Lexington	6,095,404,200	7,407,812,900	21.5	241,840	41
Leyden	51,862,200	67,021,100	29.2	84,197	264
Lincoln	1,502,759,700	1,885,730,600	25.5	233,788	44
Littleton	1,079,530,300	1,378,398,300	27.7	160,204	97
Longmeadow	1,474,738,300	1,795,522,000	21.8	114,540	179
Lowell	4,160,223,600	5,834,289,000	40.2	55,910	334
Ludlow	1,137,089,000	1,394,955,900	22.7	63,866	320
Lunenburg	818,512,300	1,077,373,000	31.6	108,727	192
Lynn	4,129,696,800	5,892,730,000	42.7	65,788	311
Lynnfield	1,722,509,800	2,155,386,200	25.1	184,426	75
Malden	3,501,200,000	4,893,239,700	39.8	87,667	251
Manchester	1,499,906,700	1,900,487,800	26.7	354,370	21
Mansfield	2,201,418,400	2,841,377,300	29.1	123,479	156
Marblehead	3,815,051,700	4,841,734,800	26.9	236,748	43
Marion	938,824,800	1,382,301,400	47.2	261,700	36
Marlborough	3,504,173,300	4,643,243,000	32.5	122,255	161
Marshfield	2,703,305,500	3,790,610,200	40.2	153,001	106
Mashpee	2,717,977,300	3,726,675,900	37.1	262,442	35
Mattapoisett	846,061,300	1,277,229,500	51.0	197,103	66
Maynard	931,834,100	1,200,802,800	28.9	115,751	174
Medfield	1,702,325,500	2,100,827,000	23.4	169,230	85
Medford	4,944,200,300	6,314,747,400	27.7	115,372	175
Medway	1,208,216,700	1,562,357,000	29.3	121,113	165
Melrose	2,460,994,000	3,242,046,500	31.7	121,044	166
Mendon	587,018,100	763,384,400	30.0	134,139	137
Merrimac	466,394,300	641,456,000	37.5	101,496	208

	2002 EQV	2004 EQV	EQV pct. change	2004 EQV per capita	Per capita rank
Methuen	2,770,350,300	4,088,755,700	47.6	91,165	245
Middleborough	1,408,031,200	1,965,218,300	39.6	93,989	236
Middlefield	38,838,400	41,676,400	7.3	75,501	288
Middleton	1,013,676,500	1,350,234,600	33.2	150,293	110
Milford	2,129,624,900	2,897,353,600	36.0	105,489	198
Millbury	798,374,000	1,105,282,700	38.4	83,079	272
Millis	735,240,000	957,825,200	30.3	119,385	169
Millville	169,683,100	240,555,200	41.8	82,438	275
Milton	3,176,463,900	4,066,814,900	28.0	157,372	100
Monroe	19,258,000	15,112,000	-21.5	155,794	101
Monson	448,197,600	559,386,600	24.8	64,856	316
Montague	465,644,800	556,402,100	19.5	65,831	310
Monterey	244,231,100	315,683,400	29.3	334,410	22
Montgomery	55,999,900	71,999,500	28.6	99,036	217
Mt. Washington	52,618,800	59,584,700	13.2	454,845	15
Nahant	561,762,900	672,466,800	19.7	185,304	74
Nantucket	10,186,285,100	13,575,803,900	33.3	1,265,927	4
Natick	4,539,112,900	5,807,362,400	27.9	179,678	80
Needham	5,139,824,700	6,285,224,900	22.3	215,713	51
New Ashford	22,710,000	24,652,800	8.6	100,215	212
New Bedford	3,278,457,000	4,687,147,600	43.0	49,804	343
New Braintree	61,543,200	88,255,900	43.4	84,861	263
New Marlborough	237,420,600	375,468,100	58.1	251,486	37
New Salem	57,640,400	80,456,700	39.6	82,860	274
Newbury	913,361,600	1,147,457,200	25.6	167,243	88
Newburyport	2,319,323,100	2,887,446,900	24.5	165,006	92
Newton	15,856,203,000	19,131,654,600	20.7	226,885	47
Norfolk	980,837,000	1,276,134,200	30.1	122,118	162
N. Adams	476,276,200	530,503,400	11.4	37,010	351
N. Andover	3,227,431,200	4,010,449,200	24.3	143,615	120
N. Attleborough	2,352,947,100	3,088,677,900	31.3	109,910	191
N. Brookfield	243,056,300	332,760,600	36.9	69,052	300
N. Reading	1,846,290,300	2,334,445,800	26.4	166,449	89
Northampton	1,933,674,200	2,401,455,900	24.2	81,997	276
Northborough	1,596,170,600	2,049,852,800	28.4	143,437	121
Northbridge	862,472,700	1,212,173,700	40.5	88,448	249
Northfield	272,951,100	300,407,400	10.1	96,687	222
Norton	1,406,281,600	1,874,212,600	33.3	98,575	218
Norwell	1,568,451,600	2,100,057,200	33.9	204,107	62
Norwood	3,046,263,400	3,971,917,100	30.4	138,250	128
Oak Bluffs	1,631,184,300	2,157,846,200	32.3	564,290	11
Oakham	118,925,200	152,061,300	27.9	83,185	270
Orange	308,803,800	377,327,100	22.2	49,885	342
Orleans	2,329,530,500	3,170,624,000	36.1	488,465	14
Otis	301,311,600	388,310,400	28.9	284,685	30
Oxford	769,781,000	1,081,951,200	40.6	78,630	283
Palmer	611,384,200	758,820,400	24.1	59,130	327
Paxton	333,003,200	457,103,600	37.3	100,861	209
Peabody	5,080,741,400	6,554,296,700	29.0	131,721	141
Pelham	102,237,500	120,894,400	18.2	83,896	265
Pembroke	1,563,979,500	2,032,853,800	30.0	115,013	176
Pepperell	864,252,100	1,094,802,600	26.7	95,741	230
Peru	46,580,100	55,689,500	19.6	67,831	306
Petersham	105,797,900	132,977,600	25.7	106,809	196
Phillipston	109,180,400	150,033,700	37.4	89,041	248
Pittsfield	2,248,345,900	2,551,381,300	13.5	56,977	331
Plainfield	50,064,800	58,877,100	17.6	96,837	221
Plainville	649,926,800	887,996,600	36.6	111,306	187
Plymouth	5,556,961,800	7,531,137,000	35.5	139,185	126
Plympton	271,875,500	352,159,600	29.5	129,280	150
Princeton	387,285,400	458,549,100	18.4	131,239	143
Provincetown	1,402,074,400	1,903,987,400	35.8	548,383	12
Quincy	7,703,163,600	10,355,818,700	34.4	116,280	173
Randolph	2,215,087,100	2,902,727,300	31.0	93,866	238
Raynham	1,170,062,500	1,537,544,500	31.4	122,328	160
Reading	2,692,902,800	3,409,324,100	26.6	144,555	118
Rehoboth	961,304,200	1,343,589,600	39.8	122,523	159
Revere	2,960,729,900	4,085,723,600	38.0	86,927	254
Richmond	258,502,200	304,131,400	17.7	187,504	71
Rochester	434,339,800	641,246,900	47.6	126,529	154
Rockland	1,242,905,300	1,648,259,300	32.6	91,733	243
Rockport	1,351,302,200	1,652,765,700	22.3	211,622	54
Rowe	421,354,100	425,727,800	1.0	1,219,850	5
Rowley	656,592,400	795,313,200	21.1	141,767	123
Royalston	77,017,600	95,514,000	24.0	72,304	292
Russell	88,964,300	107,705,200	21.1	63,431	321
Rutland	413,044,700	584,782,800	41.6	83,113	271
Salem	3,184,867,500	4,223,735,800	32.6	100,405	211
Salisbury	766,497,000	1,069,166,200	39.5	133,579	138
Sandisfield	134,012,700	156,925,900	17.1	191,841	69
Sandwich	2,627,505,100	3,535,920,600	34.6	168,699	86
Saugus	2,834,262,900	3,715,984,100	31.1	140,273	125
Savoy	40,778,000	46,950,900	15.1	65,119	314
Scituate	2,565,482,500	3,388,379,600	32.1	186,441	73
Seekonk	1,253,757,400	1,618,380,300	29.1	117,564	170
Sharon	2,069,021,300	2,553,637,200	23.4	146,290	115
Sheffield	387,515,500	454,767,900	17.4	135,469	131
Shelburne	147,371,000	175,575,200	19.1	85,107	259
Sherborn	924,085,100	1,062,601,100	15.0	249,261	38
Shirley	405,496,700	517,704,600	27.7	68,083	305
Shrewsbury	3,257,882,400	4,240,111,400	30.1	128,135	152
Shutesbury	142,235,600	164,514,400	15.7	89,654	246
Somerset	1,657,377,800	2,124,420,700	28.2	113,417	181
Somerville	5,548,714,800	7,316,371,300	31.9	95,895	228
S. Hadley	962,554,500	1,166,625,300	21.2	66,994	309
Southampton	354,887,800	449,485,000	26.7	78,362	284
Southborough	1,653,815,500	2,094,098,400	26.6	222,138	49
Southbridge	646,149,400	901,458,500	39.5	51,754	338
Southwick	619,348,500	747,966,000	20.8	80,383	279
Spencer	658,273,800	912,387,500	38.6	76,108	287
Springfield	4,855,465,800	5,778,583,600	19.0	37,978	350
Sterling	704,942,900	933,598,600	32.4	121,357	164
Stockbridge	440,638,800	675,752,500	53.4	300,869	27
Stoneham	2,330,448,800	2,866,503,900	23.0	130,171	147
Stoughton	2,311,451,700	3,008,543,100	30.2	111,041	189
Stow	805,107,800	1,030,019,300	27.9	167,865	87
Sturbridge	715,102,800	961,222,300	34.4	113,378	182
Sudbury	3,068,275,800	3,753,910,600	22.3	217,668	50
Sunderland	224,031,400	259,356,700	15.8	68,216	304
Sutton	732,940,400	1,035,311,200	41.3	116,786	172
Swampscott	1,935,451,100	2,319,769,600	19.9	160,515	95
Swansea	1,262,048,900	1,564,489,700	24.0	96,028	223
Taunton	3,187,799,600	4,540,568,000	42.4	79,966	280
Templeton	354,914,400	474,821,500	33.8	65,457	312
Tewksbury	3,003,930,000	3,772,192,300	25.6	128,797	151
Tisbury	1,644,281,900	1,950,346,400	18.6	504,879	13
Tolland	93,953,400	127,564,500	35.8	295,288	28
Topsfield	861,663,600	1,131,668,700	31.3	181,038	79
Townsend	626,927,000	796,650,900	27.1	85,076	260
Truro	1,247,555,200	1,714,704,000	37.4	790,550	7
Tyngsborough	1,006,876,400	1,287,374,400	27.9	113,756	180
Tyringham	95,188,100	117,633,900	23.6	329,507	23
Upton	675,671,100	874,640,500	29.4	142,985	122
Uxbridge	895,636,100	1,275,737,900	42.4	105,994	197
Wakefield	2,838,695,100	3,630,754,000	27.9	146,514	114
Wales	100,839,000	129,106,600	28.0	72,288	293
Walpole	2,529,159,600	3,306,185,500	30.7	146,805	113
Waltham	7,455,289,200	8,289,720,700	11.2	140,757	124
Ware	455,054,500	580,226,300	27.5	58,291	328
Wareham	1,916,534,000	2,847,668,900	48.6	135,025	132
Warren	205,927,800	274,879,000	33.5	55,779	335
Warwick	48,599,700	54,822,900	12.8	72,806	291
Washington	39,688,500	50,351,400	26.9	92,899	240
Watertown	4,015,722,400	5,184,911,600	29.1	157,524	99
Wayland	2,428,949,400	3,022,665,800	24.4	229,163	46
Webster	884,241,000	1,229,850,600	39.1	72,811	290
Wellesley	7,153,728,900	8,211,971,900	14.8	308,976	26
Wellfleet	1,395,529,700	1,832,154,600	31.3	644,898	10
Wendell	49,372,400	58,194,500	17.9	57,053	330
Wenham	624,886,300	759,879,500	21.6	170,377	84
W. Boylston	543,952,900	721,286,500	32.6	94,298	235
W. Bridgewater	762,770,500	890,140,200	16.7	129,739	149
W. Brookfield	241,779,300	310,230,000	28.3	79,546	281
W. Newbury	566,984,800	759,475,800	33.9	178,072	81
W. Springfield	1,617,927,000	1,990,099,700	23.0	71,194	297
W. Stockbridge	240,167,100	292,249,800	21.7	201,135	64
W. Tisbury	1,652,350,200	1,980,075,700	19.8	751,737	8
Westborough	2,680,822,700	3,296,502,900	23.0	175,243	83
Westfield	2,086,451,200	2,437,331,800	16.8	60,092	325
Westford	2,803,270,300	3,392,535,800	21.0	159,028	98
Westhampton	118,933,700	160,306,300	34.8	103,357	204
Westminster	616,565,600	820,698,700	33.1	113,028	183
Weston	3,818,619,800	4,657,064,600	22.0	399,920	18
Westport	1,647,587,400	2,248,684,500	36.5	153,830	104
Westwood	2,795,016,900	3,415,448,600	22.2	242,007	40
Weymouth	4,260,870,000	6,006,779,000	41.0	110,162	190
Whately	135,725,000	169,346,500	24.8	107,727	194
Whitman	857,931,400	1,234,860,800	43.9	86,047	256
Wilbraham	1,134,487,000	1,330,176,400	17.2	95,931	225
Williamsburg	175,334,900	231,432,700	32.0	93,926	237
Williamstown	645,390,700	791,662,900	22.7	95,072	232
Wilmington	2,509,464,300	3,199,922,900	27.5	148,008	112
Winchendon	351,996,600	581,898,000	65.3	58,266	329
Winchester	3,972,708,800	4,929,810,000	24.1	232,736	45
Windsor	66,476,000	73,310,500	10.3	85,344	258
Winthrop	1,335,485,300	1,785,075,300	33.7	99,276	215
Woburn	4,404,487,500	5,479,323,300	24.4	144,921	117
Worcester	7,248,688,400	9,694,617,900	33.7	55,175	336
Worthington	100,361,100	112,846,600	12.4	85,880	257
Wrentham	1,282,331,200	1,590,469,400	24.0	144,221	119
Yarmouth	3,607,112,000	5,141,693,000	42.5	204,100	63
Total	**640,879,223,700**	**816,023,318,200**	**28.5**	**126,841**	

Table 1

 continued from page three

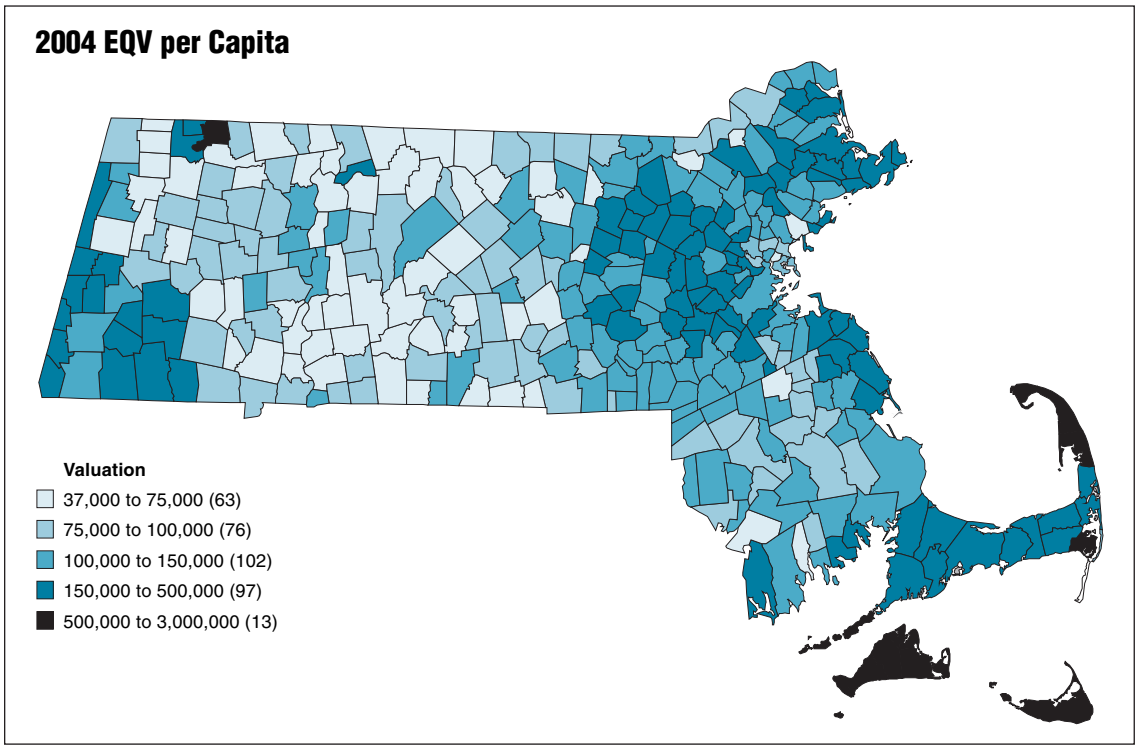

Figure 2

2002–2004 EQV Percent Change

Region	Counties	Residential pct. change	Commercial & industrial pct. change	Personal property pct. change	Growth pct. change	EQV overall pct. change
Northeast	Essex, Middlesex, Suffolk	29.4%	4.2%	18.0%	12.5%	23.5%
Southeast	Bristol, Norfolk, Plymouth	34.5%	15.9%	24.9%	27.3%	31.5%
Cape & Islands	Barnstable, Dukes, Nantucket	37.2%	20.4%	10.3%	33.1%	35.3%
Central	Worcester	37.6%	15.4%	28.4%	29.8%	33.8%
West	Berkshire, Franklin, Hampden, Hampshire	23.1%	11.3%	12.5%	24.5%	20.6%
Totals		31.8%	8.7%	19.4%	20.6%	27.3%

Table 2

outside of the general debt limit, some of these have specific debt limitations also based on EQV.

Findings

The 1990 EQV represented the high-point of values until the 2002 study. The fluctuations in statewide EQV values mirror the rise and fall of the Commonwealth's real estate market. The figures are subject to a time-delay since the estimates are primarily tied to real estate prices of two years earlier. The EQVs peaked in 1990 at $428 billion, after a continuous increase from the program's 1976 inception, which included a period of very rapid escalation between 1986 and 1990. In 1992, we saw the first EQV decrease (8.6 percent) reflecting the beginning of the market decline of the early nineties. This downturn deepened in 1994. The 3 percent increase in 1996 could have indicated a slight market recovery. However, when adjusted for inflation, the 1996 EQV actually continued the downward trend. The 1998 values, with an increase of 8 percent, provided the first signal of a true market turnaround. The 2000 values continued this trend. The latest EQVs show that they have now gone beyond the 1990 EQVs. See *Figure 1* for a graphic representation of EQV and assessed values.

Between 2002 and 2004, EQVs increased across the state, although the extent of the rise varied depending on region. Only three municipalities experienced a decrease in actual value. *Table 1* lists each municipality's 2002 EQV, 2004 EQV, the percentage change, 2004 EQV per capita using 2003 population data (current when the FY06 Cherry Sheets were calculated), and per capita rank. The EQVs per capita are presented graphically in the accompanying state map *(Figure 2)*, which allows quick identification of regional and economic differences. Except for the resort communities in southern Berkshire County, most of the lowest EQVs per capita were found in central and western Massachusetts.

continued on page seven

2004 Equalized Values **continued from page six**

The state map showing EQV per capita by community reveals another aspect of the EQV program and its results by coupling the municipality's EQV with population data. The analysis reveals the highest EQVs occurring in the resort areas of the state, particularly in Cape Cod and the Islands and lower Berkshire County. This is due to the high value of residential property and second homes in communities with a relatively small year-round population. The cluster of wealthy suburban towns between Routes 495 and 128 and along Route 95 also had high EQVs per capita coinciding with their large two-year percentage increase in EQVs. Conversely, the lowest EQVs per capita are found in the older cities with large urban populations such as Springfield, New Bedford, and Worcester, despite substantial increases in Lawrence, Lynn and Brockton.

Table 2 presents a detailed overview of changes, highlighting geographic and property class patterns. Across the state, residential values significantly outpaced the other classes. The least growth in residential values occurred in the western counties of Berkshire, Franklin, Hampden and Hampshire. In the Cape and Islands region of Barnstable, Dukes and Nantucket counties, the highest increase in commercial and industrial change resulted in this region having the highest overall EQV once again. The most dramatic escalation of residential values occurred in the central region of Worcester County in the amount of 37.6 percent. The shift in the northeast region of Essex, Middlesex and Suffolk counties, was characterized by an increase of 29.4 percent in residential values. The southeast region consisting of Bristol, Norfolk and Plymouth counties had residential growth of 34.5 percent.

The Bureau of Local Assessment certifies community values every three years. Massachusetts General Law states that assessors are responsible for full and fair cash values annually, therefore all communities are required to submit Interim Year Adjustments to keep assessments on par with the marketplace. This is particularly important in areas with rapidly changing real estate markets. Annual updates promote greater property tax equity overall and between classes. The many advantages of an annual update program were described in the March 2002 edition of *City & Town*. ■

Expanded Learning Time Planning Grant

In July, State Education Commissioner David Driscoll announced that the FY06 state budget created the Expanded Learning Time Planning Grant program to support districts and schools to extend the length of school days and or school years. More specifically, the program supports districts and schools in providing additional time for English/language arts, mathematics and or other core subjects; more planning and professional development for teachers; and/or more enrichment opportunities (arts, sports, tutoring,) for students.

The state budget allocated a total of $425,000 for this program, enough to provide planning grants of at least $25,000 to up to 17 schools. Districts that are awarded grants will use the money to work with principals, teachers and other school teams to develop implementation plans. The grant program will allow each district to determine the staffing, schedule, budget and program options that best fit its local context and goals.

"Although state and national commissions have been recommending more school time for decades, it has not yet been seriously considered because of its many complexities," Driscoll said.

In all, 75 percent of the grants will go to districts where 25 percent or more of their students are eligible for free and reduced price meals. The deadline for application was October 1, 2005. ■

Kelo and Eminent Domain Policy

continued from page one

ing, many such projects were dependent upon eminent domain takings, and involved public and private costs and benefits.

The radical shift in *Kelo*, some say, is that it allows the government to condemn even "non-blighted" neighborhoods for economic development. But such reasoning raises the obvious question, "What is blight?" In *Berman*, the development project was allowed to go forward even though the particular landowner's plot was not "blighted." Though they lived in what would now be called a low-income neighborhood, the immigrants in Boston's old West End probably would not have considered their neighborhood to be blighted. Nonetheless, it was turned into high-rent apartments, privately owned medical facilities and office rental space. The Boston Redevelopment Authority replaced narrow streets at Scollay Square (now Government Center) with modern office buildings including City Hall and the John F. Kennedy Federal Building. High-rent offices stand on the former location of Joe and Nemo's hot dog stand. One observer might think a blighted neighborhood was properly revitalized, while another claims that the quaint, historic district was ruined to line the pockets of real-estate investors. Should the courts be called upon to decide who is right?

Just as blight is in the eye of the beholder, so too is the question of "public use." *Kelo* recognizes the simple fact that virtually any government undertaking will involve "use" by the public as well as private parties. Indeed, it is futile to define "public use" with any bright-line rule since virtually any project a governmental unit may authorize or undertake will involve private gain in greater or lesser degree. In his *Kelo* dissent, Justice Thomas proposes that "public use" be returned to its strictest interpretation: actual use by the public.[5] But even this leaves the question unresolved: if the state commissions a highway, surely the test is met; the public may "use" the road. Yet a private contractor must build the road and will reap economic benefits.

Kelo represents a reaffirmation of the Supreme Court's deference to legislative bodies in determining what constitutes a valid "public use." This deferential review makes common sense: legislative bodies are best-suited to know the interests of their constituents, not far-removed courts. But what if the legislature gets the decision "wrong?"

Practically speaking, the legislature is better situated to perceive and address those problems than the courts. Consider the 1970s condemnation of wide swaths of land in Massachusetts to build the "Southwest Corridor" and parts of Route 95 North. Eventually, the public came to view these projects as fruitless and the projects were terminated. Political realities constrained these projects, not the "public use" concept. The moral of this tale is that the process was born, grew, and died all without the interference of the courts.

A similar story played out in nearby New Haven, Connecticut.[6] There, the city condemned plots of land — perhaps "blighted," perhaps not — and embarked on an urban revitalization project that ultimately failed. Eventually, the city got it right; New Haven has enjoyed a revival as Yale University becomes more invested in the community. But again, this all played out legislatively and politically without the interference of the courts.

The dissenters in *Kelo* validly fear that landowners will be "unable to protect themselves in the political process" against decisions regarding development.[7] Additionally, self-dealing and corruption might motivate decisions, not concern for public welfare. But these are political or law enforcement issues. If poor citizens are locked out of the political process, that is a question more directly implicating adjustments to the political process than jurisprudence. Justice Thomas worries, rightly, that the burdens of these projects may fall unfairly on racial minorities. But this is the stuff of an Equal Protection claim, not a takings challenge.

Eminent domain may surely involve disparate burdens, financial and otherwise, across the citizenry. But so do taxes, regulations, and government in general. Rather than departing from settled notions of property, *Kelo* reinforces long-standing notions: that economic development is desirable, and serves the public interest, even though private entities may incidentally benefit, and that public and private uses are inextricably intertwined. In such a situation, we should trust hard choices to our publicly accountable elected leaders, rather than to the courts. ■

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Editor's note: This article represents the opinions and conclusions of the authors and not those of the Department of Revenue.

1. *Kelo et al. v. City of New London, et al.*, 545 U.S. ___ (2005).
2. *Kelo*, 545 U.S. at ___, slip op. at 6 (2005).
3. *Berman v. Parker*, 348 U.S. 26 (1954).
4. *Berman*, 348 U.S. at 33 (emphasis added).
5. *Kelo*, 545 U.S. at ___, slip op. at 17 (Thomas, J., dissenting).
6. Paul Bass and Douglas W. Rae, *Eminent Disdain*, N.Y. Times, July 9, 2005, at Axx.
7. *Kelo*, 545 U.S. at ___, slip op. at 4 (O'Connor, J., dissenting).

Stop Taking Property for Others' Gain

continued from page one

Property owners will continue to fall victim to this abuse of authority. Nowhere is the potential for this abuse greater than the farmlands bounding our nation's cities — farmland and open space that becomes more endangered with each passing year. The potential is real, especially if you consider which entity would generate more revenue and taxes. A cornfield or a condo? A strawberry farm or a shopping mall?

No one's home or farm … is safe from government seizeure because of this ruling.

Unfortunately, because less than 2 percent of the population has direct ties to farmland, governments seldom recognize farming operations as the best use of land. They will more than likely only see dollar signs that come with recruiting a developer to locate on what is perceived as underused and under-taxed land at the edge of the city.

Farmers and ranchers are having problems maintaining their fields and pastures for food and fiber production. They are contending with urban sprawl and need protection against government bodies having free reign to take land.

All owners of undeveloped land used for farming or other purposes could see their property become easy pickings for governments. Without protection for property owners, governments could force a farmer — or anyone — to sell at rock bottom prices, only to have that land paved over and turned into yet another office park — albeit a higher-tax-producing office park.

With the fundamental belief that individual property should be protected, be assured that Farm Bureau will continue its efforts so that the effect of the Supreme Court decision can be limited for the sake of the average individual American, whether a farmer, a homeowner or a holder of open space. ■

Editor's note: This article appeared in the September 5, 2005 issue of *Farm Bureau News*, and was reprinted with permission from the American Farm Bureau Federation. This article represents the opinions and conclusions of the author and not those of the Department of Revenue.

What is a Regulatory Taking?

continued from page two

and residents, and the preservation of neighboring property.

The Supreme Judicial Court also wrote that not every local regulation affecting value constitutes a compensable taking under the Fifth Amendment. Courts have awarded damages where either there is a physical invasion of the property (which was never claimed by the plaintiff here) or the regulation left the subject property economically idle. Even though a house could not be built on Lot 93, the court found there were other potential uses for the parcel such that the plaintiff could not prove a total taking. Furthermore, the plaintiff was not entitled to compensation since Gove failed to show that the contested regulation imposed a substantial economic impact or deprived her of distinct investment-backed expectations. Under the facts presented, the court characterized Lot 93 as a marginal parcel of land that remained undeveloped for many years due to the risk of coastal flooding. Prior to the enactment of Chatham's coastal conservancy regulation, Gove made many unsuccessful efforts to sell the parcel for residential development that demonstrated that any sale of the lot was speculative. In the court's view, plaintiff did not suffer any substantial loss as a result of this regulation. The court held that Chatham's regulation was a reasonable governmental action that did not require compensation to be paid to the owner.

Consequently, the court held that Chatham's restriction on flood plain development was valid and the plaintiff was not entitled to damages. ■

DLS Update

DLS Training Committee Receives Award

Commissioner of Revenue Alan LeBovidge has announced that the Division of Local Services' (DLS) Training Committee has received the Commonwealth Citation for Outstanding Performance. This award is given annually to individuals and select groups throughout the state for accomplishments that have a positive impact on both government and the citizens of the Commonwealth.

The award recipients are: Kathleen Colleary (Property Tax Bureau), Joan Grourke (Executive Bureau), Arnold Kanter (Information Technology Section), Andrew Nelson (Bureau of Accounts) and Melinda Ordway (Technical Assistance Section). Edward Fiddler, of the Department of Revenue's (DOR) Employee Training Division (ETD), was also included as a recipient.

The core mission of the committee is to provide basic training as well as continuing education programs for all municipal finance officials. Within the past year, the committee, working in conjunction with ETD, completed a videotaped version of Course 101, which is now available in DVD format. The committee is also responsible for the annual presentation of the New Officials Finance Forum and for offering Course 101, the basic course for assessors.

Presently, the committee and ETD are in the process of converting various segments of the videotaped version of Course 101 into training modules on DOR's online learning management system.

LeBovidge said the committee's development of a DVD for Course 101 "has allowed municipal assessors to have this valuable information at their fingertips 24/7." He also noted that the committee's "efforts to initiate an e-learning module promotes the agency's goal of increasing the use of technology in our day-to-day environment."

Deputy Commissioner Gerard D. Perry also offered his congratulations to the committee, saying that, "the Training Committee has had an outstanding year. Their work on the Course 101 DVD continues the vision at DLS to move more operations into an electronic format."

For more information on how to obtain copies of the Course 101 DVD, click on www.mass.gov/dls/publ/bull/2005/2005_02B.pdf.

New Assessors' Handbook Online

The Division of Local Services (DLS) has published the new *Course 101 Handbook*. This handbook replaces the *Assessors Manual.* Primarily designed to complement the various presentations offered in Course 101, the basic course for assessors, this handbook contains PowerPoint slides, exercises and links to additional resources.

In designing this new handbook, the goal was to create a reference material that Course 101 participants could easily refer to as they follow along with the instructors. It also presents information in a more concise and organized fashion.

As a convenience, this new handbook is now available for downloading from the DLS website (www.mass.gov/dls). The direct link is www.mass.gov/dls/publ/101Handbook/handbook.htm. The handbook can be downloaded in its entirety or by individual chapters.

Municipal officials can access more detailed information on the topics contained in the handbook by referring to several of our publications. These include *Levy Limits: A Primer on Proposition on 2½,* the *Motor Vehicle Excise and Trailer Manual, Guidelines for a Minimum Reassessment Program, and Property Type Classification Codes* to name a few. These publications are available on the DLS website under "Publications and Forms," and also under "Bureau of Local Assesment."

Community Firsts

Deputy Commissioner Gerard D. Perry congratulates the following communities for their first place finish in the categories of first to receive FY06 tax rate certification, free cash certification and Schedule A submission. For tax rate certification, Sherborn in the state's eastern region received tax rate certification on September 2, 2005, while Lenox in the west received certification on September 12, 2005. While Hampden was the first community statewide to receive free cash certification on July 25, 2005, the town also deserves recognition for its first place finish in the category of Schedule A submittals. Hampden's Schedule A was received by the Bureau of Accounts on July 27, 2005. ■

DLS Update

New Springfield Finance Control Board Appointee

Administration and Finance Secretary Thomas Trimarco has appointed attorney Thomas F. Gloster III to the Springfield Finance Control Board. The five-member panel was created in 2004 to restore financial stability to the Commonwealth's third-largest city. An original member of the Finance Control Board, Trimarco resigned from it last month in order to become Secretary of Administration and Finance.

A Holyoke native, Gloster began his law career in Boston in 1971, retiring as a partner with Nixon Peabody LLP in 2002. Gloster's areas of expertise included real estate, equipment leasing, financial partnerships, government assistance and securities law.

"Having been born and raised in the area, I realize the dominant role that Springfield plays in the economy of western Massachusetts," said Gloster. "I look forward to working constructively with other board members to continue the progress that has been made to put Springfield back on a secure financial footing." A graduate of the University of Massachusetts and Georgetown University Law Center, Gloster resides in Plymouth with his wife, Kathy. An active member of his community, Gloster serves on the board of the Plymouth Library Corporation and as an overseer of Plimoth Plantation.

New Water Treatment Plant Dedicated

Over the last 10 years, the Massachusetts Water Resource Authority (MWRA) has invested almost $2 billion in improving the water system that serves 2.3 million people in eastern and central regions of the state. As detailed in *City & Town* (November/December 2004), this includes the 17.6 mile MetroWest Water Supply Tunnel and the 115-million-gallon Norumbega covered storage tank in Weston. The last major construction project, the $340 million state-of-the-art water treatment plant, located at Walnut Hill in Marlborough, was completed in the summer. The transition to the new system began on July 27, 2005.

With a peak capacity of 405 million gallons per day, this new plant is one of the largest facilities in the country to use "ozonation." According to Frederick A. Laskey, MWRA's Executive Director, "Using ozone for disinfection allows us to use less chlorine, reducing the amount of potentially harmful chlorine by-products. It also makes the water taste better."

In June, the MWRA Board of Directors voted to name the plant after John J. Carroll, the only original member of the MWRA Board, appointed in 1985 as a representative of the MWRA Advisory Board and still serving today as its vice chairman. Mr. Carroll, a Milton resident, has dedicated his career to public service, as the Commissioner of Public Works for the Commonwealth, as the Lexington superintendent of public works and town engineer, and as the Norwood town manager for the past 26 years.

The dedication was held on August 18, 2005. For more information, visit www.mwra.com/osu/whwtpfacts.htm.

Lottery Posts Record-Breaking Figures

State Treasurer Timothy P. Cahill has announced that the Massachusetts Lottery returned an estimated $935 million in profit to the Commonwealth for FY05. This is the largest amount of net revenue in the 33-year history of the Lottery.

Sales for FY05 soared to $4.48 billion, exceeding the previous record of $4.38 billion, set in FY04, by more than 2.3 percent. This marks the second consecutive year that the Lottery has posted record-breaking figures in sales and profit returned to the Commonwealth.

At $935 million, the profit to the state increased by approximately $23 million; up from $912 million in FY04. The amount of local aid distributed directly to municipalities in FY05 was capped by the Legislature at $661 million.

"We had another winning year for our players and municipalities at the Massachusetts Lottery," said Lottery Executive Director Joseph C. Sullivan. "Our focus will remain on offering fun and entertaining games to our players in order to reach new levels of revenue growth, which allows us to fulfill our mission to the state's municipalities."

Strong instant ticket sales helped bolster the Lottery's revenues, accounting for $3.13 billion or 70 percent of the Lottery's total sales in FY05. The Lottery's $10 instant games played a pivotal role in robust overall sales.

The FY05 sales numbers are preliminary, and final audited sales numbers will be released in October. ■

DLS Profile

The Taxpayer Advocate

Joseph J. McDermott

The Department of Revenue's (DOR) Office of the Taxpayer Advocate was created to ensure that taxpayer issues and concerns are addressed in an equitable and expeditious manner. Reporting directly to the Commissioner of Revenue, the Taxpayer Advocate acts as an intermediary for taxpayers in resolving issues before they become problems.

Joseph J. McDermott, a 20-year veteran of DOR, has served as DOR's Taxpayer Advocate since 1999. The Office of the Taxpayer Advocate oversees both DOR's Problem Resolution Office (PRO) and the Federal State Exchange Office. PRO exists to address complicated tax and child support enforcement matters that have not been resolved through normal administrative channels. This office also is responsible for coordinating tax checks for new hires at DOR, gubernatorial appointments and new hires for the constitutional offices. The Federal State Exchange Office functions as a liaison to the IRS and other federal and state agencies to enhance DOR's compliance, enforcement and audit techniques.

In addition, the Taxpayer Advocate provides assistance to taxpayers, as well as professional tax practitioners and businesses, in the form of various outreach programs. For instance, the Taxpayer Advocate conducts several tax filing season seminars annually during the first week of January for the benefit of more than 600 tax practitioners. This office also disseminates information regarding the senior circuit breaker tax credit through meetings with Council on Aging representatives.

In 2002, Joe was given the responsibility of overseeing the second tax amnesty program offered in the history of the Commonwealth, which was originally slated to end on November 30, 2002, but was reinstituted for an additional 60 days. Initially projected to recover about $43 million, this program exceeded all expectations, with the latest estimate of tax revenue recovered at $176 million.

Joe pointed out that "municipalities are like any other taxpayer in that issues arise that this offices attempts to resolve." For cities and towns, many of these issues relate to the electronic reporting of new hires and wages. He noted, however, that although the Taxpayer Advocate receives its share of inquiries relating to property tax bills, "that is one thing we have no control over and we refer these matters to the Division of Local Services."

Originally from Brighton, Joe now lives with his family in Walpole. He holds a bachelor's degree from Boston State College in law enforcement. Joe said he enjoys his role as the Taxpayer Advocate because he "handles a variety of tax related matters for individuals, organizations, businesses and tax professionals."

For more information on the Office of the Taxpayer Advocate, visit www.mass.gov/dor/help/ota.htm. According to Joe, "e-mails are on the rise" in terms of how the office most commonly receives inquiries. ■

Statewide Contract for Hybrid Automobiles

As a result of tight municipal budgets and rising fuel costs, several communities are now investigating the potential cost savings through the purchase of the hybrid vehicles. In addition to the cost savings realized through fuel economy, cities and towns have the ability to realize additional savings by utilizing the Statewide Contract for Hybrid Vehicles, VEH58.

There are many reasons for municipalities to consider purchasing a hybrid vehicle. For example, hybrids do not need to be plugged in to recharge the battery. The battery is charged by the engine when it produces more power than is needed to drive the wheels.

In addition, gasoline engines in hybrid vehicles shut off when the vehicle stops. This reduces emissions and improves fuel efficiency, and makes hybrids a particularly efficient option in city "stop and go" traffic. Some hybrids have electric only drive, which powers the car with the battery alone at speeds of 10 to 15 miles per hour. This provides significant fuel savings and emission reductions because combustion engines operate least efficiently at low speeds.

For more information about hybrids or the statewide contract, contact Ronald L. Whitaker at 617-720-3112 or via e-mail at Ron.Whitaker@osd.state.ma.us. ■

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Joan E. Grourke, *Editor*

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