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## Sec. Gonzalez Delivers Keynote Address at CIC Grant Forum

On Thursday, November 15<sup>th</sup>, Secretary of Administration and Finance Jay Gonzalez will kick off a discussion highlighting regionalization efforts across the Commonwealth. The Community Innovation Challenge Grant, a program established by the Patrick-Murray Administration in November 2011, invests in and incentivizes innovation among local governments through regionalization and other reforms and efficiencies to maintain critical local services.

Last year, the Patrick-Murray Administration awarded 27 grants totaling \$4 million to fund innovative projects, primarily regionalized and shared services, in communities across Massachusetts. This past September, an additional \$4 million in grant funding was announced to build upon the success of the first year of the program.

War Memorial Auditorium  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459  
9:45am - 1pm

## DLS Responds: "How Far Can the Tax Rate Be Shifted?"

**Donna Demirai - Bureau of Local Assessment**

We recently had a question from an assessor regarding the minimum residential factor (MRF) for their community. It seems when entered into Gateway, the system would not accept the numbers as voted on by the selectmen at their Classification Hearing.

As it turned out, Gateway was correct. Assessors, particularly new assessors are advised to check in Gateway to see how far they can actually shift the tax burden to their commercial, industrial and personal property classes. It's not a simple matter of voting a desired shift; it is a mathematical formula spelled out in the M.G.L. Ch. 58 sec.1A. (<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter58/Section1A>)

That statute says that only if a community's residential share is higher than the previous year's share with the adoption of its minimum residential factor (shown on the LA-7 in Gateway) can it use the expanded limits of Chapter 200. It could then potentially further

reduce the residential factor, resulting in up to a 175% shift to the business classes. On the other hand, if this year's share using the MRF is actually *less* than last year's residential share, the lowest residential factor allowed would be the MRF. Thankfully, these calculations are shown on the Chapter 200 form in Gateway. It is also indicated on the LA5 Options and Certification screen which shows the lowest residential factor allowed.

Attention must be paid to community property values. They change and so do the allowable parameters for shifting. Just because a community previously shifted beyond 150% does not necessarily mean that's the case in the future.

### **At Home with Supplemental Tax Assessment** **James Crowley, Esq. - Bureau of Municipal Finance Law**

There was an interesting Appellate Tax Board decision concerning a supplemental tax assessment. The case is Kamholz v. Assessors of Newton, (ATB, docket #F298824, January 25, 2012).

S.Z. Realty LLC (SZR) was the record owner of a single family house in Newton as of the January 1, 2007 assessment date. The FY 2008 assessed value of the parcel was \$513,700. On July 5, 2007 SZR recorded a condominium master deed to convert the house into two condominiums. On June 29, 2007 (six days prior to the recording of the master deed) the city issued an occupancy permit. Then, on July 31, 2007, SZR sold one of the condo units to Scott and Karen Kamholz for \$860,000.

For FY 2008, real estate taxes on the single family house were assessed to SZR. The city also assessed supplemental taxes on the two condominiums. As you may know, M.G.L. Ch. 59 Sec. 2D permits municipalities to assess supplemental taxes on the value of certain improvements to real estate made after the January 1 assessment date. This assessment is in addition to the annual real estate tax on the property based on its January 1 status. The assessment is triggered when new construction increases a parcel's value by over 50 per cent and an occupancy permit is issued.

Note that a supplemental assessment differs from the assessment option provided by G.L. Ch. 59 Sec. 2A, which is a local option provision enacted by Chapter 653 of the Acts of 1989. Under that statute, the community treats real estate improvements made between January 2 and June 30 as if they existed on January 1 and therefore, assesses them as part of the annual real estate tax. The City of Newton, however, never adopted Chapter 653 so that statute was not a factor in this ATB case.

In the case at hand, the Newton assessing department, relying on the June 29, 2007 occupancy permit, made a supplemental assessment under G.L. Ch. 59 Sec. 2D for the entire fiscal year 2008 to Kamholz. The city calculated the tax by taking the \$774,000 condominium value and subtracting from it the sum of \$256,900 which was roughly one-half of the \$513,700 original assessed value of the single family house. The difference between these two figures of \$517,100 was multiplied by the FY 2008 \$9.70 residential tax rate which resulted in a supplemental tax in excess of \$5,000. Kamholz paid the tax and filed a timely abatement application which the assessors denied. Kamholz then timely appealed to the ATB.

The ATB ruled that the supplemental tax was invalid since the statute expressly requires new construction. According to the ATB, there was no evidence of any construction on the property. The only change was a conversion of a single family house into two condo units.

The ATB conceded that the conversion of the property to condominiums increased the value of the property but that increase was not due to new construction so the supplemental tax was not authorized under the express terms of the statute.

Having concluded that the supplemental tax was void, the ATB then digressed and contended that Newton did not adhere to the statutory language in assessing the supplemental tax. The ATB analyzed the language and noted that in one provision of the statute pertaining to a pro rata or partial assessment there is the term "occupancy permit" and in another provision of the statute for the pro forma (entire year) tax there is the term "occupancy." The taxpayers had argued that the pro forma tax could only be imposed when occupancy took place between January 1 and June 30. Since the taxpayers did not occupy the condominium until July 2007, they therefore argued the tax was void as a matter of law. The City of Newton disagreed and argued the pro forma supplementary tax applied where an occupancy permit has been issued between January 1 and June 30. The ATB agreed with the taxpayers' interpretation. It is an interesting discussion. but this statutory analysis was not essential to the ATB decision.

It should be pointed out that the Kamholz case and the Stewart case, the companion decision for the second condominium which was also decided by the ATB, concerned supplemental assessments made to subsequent owners. In our Guidelines and opinion letters, the Department has advised local officials that the supplemental tax should be committed in the name of the assessed owner on the January 1 assessment date for the fiscal year to which the supplemental tax relates. Hence, the FY 2008 supplementary tax should have been assessed to SZR and not to the buyers.

The City of Newton disagrees with the portrayal of the facts and decision in this case. The City contends that the issuance of an occupancy permit would not have been required unless a building permit had been obtained by SZR. Apparently, an inspection of the property confirmed extensive work had been performed. In addition, the valuation card described the property as having been substantially renovated. The City filed notice of its intent to appeal to the Appeals Court.

## **Valuation and Data: Two Types of Field Review**

**Marilyn H. Browne - Chief, Bureau of Local Assessment**

Assessors are responsible for conducting two very different types of reviews in their communities, one examines the quality of the data and the other reviews the results of generating new property values. At the start, let's cut to the chase. If the descriptive data on properties is poor, the values on which your tax bills will be based may not be reliable. Much in the same way, if the data is good but no one drove around the community to see if the new values make sense some of them may not be fairly valued. This article gives a brief explanation of what is contained in the Bureau of Local Assessment's (BLA) Certification Standards (Guidelines for Development for a Minimum reassessment Program) as revised in March 2012. We expanded the field review standards in the revised Standards to assist assessors during their triennial certification review by BLA appraisal staff. The extent of the field reviews, percentages required or recommended, have been added for clarification purposes.

### Data Quality Field Review

It behooves every city and town to engage in a data quality review. By descriptive data we mean for example, story height, square foot of living area, style of home (ranch, split level, cape, etc.) decks, garages, and so on.

The extent of that review depends upon a number of factors. Every community has a computerized valuation system and there are a variety of them available. Should a municipality decide for any number of reasons to change valuation systems then they must conduct a *full* field review of all real property. If the assessors are using their existing valuation system which has been upgraded they may conduct a *partial* field review of at least 50 percent of all properties. These reviews are necessary to ensure that data was not lost or corrupted during the conversion and the new values are fair and equitable. If errors are found they must be corrected so it is wise to do this field review well before tax rate setting time.

Should the Bureau of Local Assessment find, through its own field review or the community's documentation of its data quality review, that a significant number of systemic errors exist, we will require that the community do a full field review to correct the errors.

#### Valuation Field Review

Once the assessors have generated new values for taxpayers' real properties they need to look at them to see if the new values make sense. You want similar properties to be valued similarly and this work cannot be done in the office, it must be done in the field. A sample of at least 25 percent, preferably 50 percent should be reviewed by the assessors. A couple reasons for this type of review is that assessor's offices often have more than one person applying grades and condition or land adjustment to properties and inconsistencies can occur, this needs a valuation field review to eliminate those variations. Also boundaries in neighborhoods that previously had similar values sometimes change or are in transition and values need to be adjusted to reflect this. Commercial and industrial properties experience market changes very often and need close monitoring. Assessors need to go into the neighborhoods to remedy these and other issues that require a visual inspection.

Assessors should have as their goal the respect that comes when their values reflect full and fair cash value and all taxpayers are treated fairly and equitably. One significant way to ensure good values in a community is to have accurate data and defensible values and field reviews go a long way to accomplishing those goals.

### **November Municipal Calendar**

#### **1 - Taxpayer - Semi-Annual Tax Bill - Deadline for First Payment**

According to M.G.L. Ch. 59, Sec. 57, this is the deadline for receipt of the first half semi-annual tax bills or the optional preliminary tax bills without interest, unless bills were mailed after October 1, in which case they are due 30 days after mailing.

#### **1 - Taxpayer - Semi-Annual Tax Bills - Application Deadline for Property Tax Abatement**

According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on the same date as the first actual tax installment for the year.

#### **1 - Taxpayer - Quarterly Tax Bills Deadline for Paying 2nd Quarterly Tax Bill Without Interest**

#### **1 - Treasurer - Deadline for Payment of First Half of County Tax**

#### **15 - DESE - Notify Communities/Districts of Any Prior Year School Spending Deficiencies**

By this date, or within 30 days of a complete End of Year Report (see September 30), DESE notifies communities/districts in writing of any additional school spending requirements.

#### **30 - Selectmen/Mayor - Review Budgets Submitted by Department Heads**

This date will vary depending on dates of town meeting.