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Dan Bertrand, Editor

**Editorial Board:** Robert Nunes, Robert Bliss, Zack Blake, Amy Handfield, Sandra Bruso and Patricia Hunt

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## DLS Views Erosion on Plum Island

Tom Dawley and Sandra Bruso - Bureau of Local Assessment

Moon tides. Nor'easters. Blizzards. Hurricanes and tropical storms. They are all part of life in New England. As surely as the sun rises in the east and sets in the west, we will have storms, and with them, coastal erosion, especially on the fragile barrier beaches which make up a good portion of coastal Massachusetts.

What can be done to deal with these forces? Heave a sigh of relief and be thankful you're not a hydraulic engineer, a geologist, or an oceanfront homeowner? Sure, but don't be so hasty. As assessing professionals, we may not need to know how to protect property from the vagaries of Mother Nature, but we do need to know how to value properties

which are affected by these forces.

During recent weather events, we've been assailed with images of broadcasters standing in the teeth of the wind, watching waves tear away at various vulnerable locations. Amidst that, have you ever considered that broadcast itself was affecting the value of the properties caught in the camera's lens?

Indeed, in an argument before the Appellate Tax Board (ATB), that is exactly what was alleged. In the eyes of that nation, watching or reading news of the threat to oceanfront properties, the value of those properties was compromised. The great American buying public now has the perception that these residences are in danger of falling into the sea, the owners' hopes, dreams and possessions receding with the tide. What is that perception worth? Will what they are willing to pay for a seaside venue change given the possibility that it could all be swept away?

If the house falls into the sea, we would abate the value of the improvement. That seems straightforward, doesn't it? But that's about all that is straightforward. What if a quarter of the yard falls into the sea? Did the land value just go down by 25%? Some argue that it would, but we all know that after you have met zoning, the value of additional square feet declines from the prime. But by how much? What if the house doesn't tumble into the ocean? What if it merely teeters near the edge, but can be shored up so that it stands to be threatened another day? What if the land can be stabilized, by one scheme or another, but easements and liens are going to come along with that? What did that do to the value? What if there is a solution at hand, but is not permitted? Can a homeowner rebuild on the same spot? Whose decision is that? The land owners? The town? A committee? The Feds? The state? An agency like DEP? What restrictions will be placed upon the property? Perhaps most importantly, how do those restrictions affect value?

At issue now is how to determine the current size of the property. You can't value based on an estimate or a guess. The 2011 ATB decision suggested a methodology - to remove the eroded square footage, or add in the case of accretion - and use the existing land table, but stopped short of mandating it. The problem with that is that the land must be properly surveyed in order for the adjustment to be made

and surveys cost money. As a result, the acreage stands as recorded on the deed.

The owners of six properties on Plum Island brought just such an argument before the ATB in a case against the Newbury Assessors. The facts and finding promulgated in 2011 found that there was a certain amount of environmental stigma. In the published finding, the ATB quoted an article, Coping with Coastal Erosion: Evidence for Community-wide Impacts, written by Warren Kriesel and Robert Friedman, and published in Vol. 71, No. 3 of *Shore & Beach*, 2003. In this article, the authors suggested that properties along the Gulf and Atlantic coasts, similarly threatened by shore erosion, lost 25% in value. Despite this, if there were plans in place to support the beach and protect the structures, the properties regained approximately half of that lost value. Based on this theory, the ATB determined that the appellants' properties along Northern Boulevard were entitled to abatements of 15% of both the land and improvement values.

Following the 2011 ATB case, the Board of Assessors extended the 15% environmental discount to all affected waterfront properties, rather than only the appellants.

The sea and its power are not the only forces affecting the value of these and other similarly threatened waterfront properties. First, there is the possibility of programs which might mitigate the potential for disaster. But those come with a price.

The Army Corps of Engineers Replenishment Project, completed in 2010, was intended to protect the homes from the threat of anticipated damage. This plan called for using approximately 120,000 cubic yards of sand produced by the Merrimack River dredging project to replenish the shoreline. In order to take advantage of this plan, the property owners were required to cede rights to the town in the form of easements "restricting each property owner's access to and use of the area of nourishment on their property." The owners of all but two of the affected properties granted the easements, although it was later determined that the anticipated results of the project were, in fact, overly optimistic.

Additionally, there is the specter of insurance. Regular homeowners insurance will not cover such an eventuality of

the home being consumed by the sea, at least not without being prohibitively expensive. There is, however, flood insurance. This seems like an excellent alternative, however, it is limited to \$250,000. Much of the value appears to be in the land, and the insurance might cover the improvement, but what about any site work that would need to be done? That frequently comes out of the pocket of the individual homeowners. In the past, they have "mined" the beach using sand from other areas to support the dunes. Although that method has been successful in the past, it is not favored by the Department of Environmental Protection. They will allow scraping by permit, but this method has not been used as successfully as the past mining had been. In April, boulders and compatible imported sand were used to support the dunes.

As a consequence of the limited available insurance, most banks will not lend more than that amount for a mortgage to affected properties. This limits the homeowners ability to either refinance their properties or to sell them to someone other than a largely cash purchaser. Overall property values in the area range from \$600,000 to \$800,000, although some are higher.

On March 12, only days after the wind and waves subsided, Building Inspector Sam Broslin appeared before the Board of Assessors, and informed them that six houses had been demolished and four others had been deemed uninhabitable.

Newbury Town Administrator Tracy Blais stated in a news story about this latest storm that "40 houses are at risk, 13 homes have lost their occupancy permits, six dwellings are severely damaged, and three residences have been destroyed and dismantled." She also contacted the Department of Revenue in the hopes of finding some tax relief for those whose properties were affected.

Newly appointed Bureau of Local Assessment Bureau Chief Joanne Graziano commented on the issue saying she was "very impressed with how the assessors and other local officials are reviewing these issues closely, and ensuring that they have the proper advice with the valuation challenges they are facing."

On Thursday, May 30, Ms. Graziano was one of three representatives from the Division of Local Services who

visited Plum Island to review the devastation. Graziano, Deputy Commissioner Bob Nunes and Certification Advisor Tom Dawley joined the Newbury Board of Assessors, the town's Conservation Agent, and the Deputy Police Chief (driving the department's new six person, all-terrain vehicle) and visited the affected properties. Many homeowners had begun privately financed reinforcement of the dunes. Boulders and other similar materials had been used to create more of a barrier.

Most of the affected property owners have already indicated that they intend to rebuild. Initially, there was a question as to whether any of the homeowners would be allowed to rebuild. Although approval was granted by the town, the issue was stalled by the involvement of the Department of Environmental Protection, which later withdrew its concerns.

Senator Bruce Tarr and Representative Lenny Mirra have filed for special legislation to grant abatements back to March 9th for those who have lost their homes. Newbury is currently in a certification year, and grappling with the fact that sales are almost non-existent on the beachfront. Market support is limited, to say the least. A positive note is that some sales on Plum Island have taken place, although only off the water front. A preliminary review of these sales has indicated that the value has remained steady for the interior properties.

Both Newbury, with the assistance of Patriot Properties, and neighboring Newburyport, with the assistance of Vision, are going to have to set values for these properties. The methodology remains fluid as they wait for legislation to be passed, or the ATB to rule.

And so, we wait. We wait for legislation to pass, for engineering studies to be reviewed and implemented, and while we do this, we keep an eye on the sea and the sky and await the next big storm.

## **Condominium Assessment**

### **Bureau of Local Assessment**

At the recent MAAO Summer Educational Seminar, two of the classes focused, at least in part, on the valuation of Condominiums. In one, the Wednesday afternoon "double-header", BLA's own Deputy Bureau Chief Brenda Cameron

addressed the assembled Assessors to discuss BLA's expectations regarding communities' methodology in the data collection of condominiums. On Friday morning, Appraiser Steven Elliott presented similar material. To a standing-room only audience, Mr. Elliott focused on many of the surprises that come with collecting condo data. The large number of attendees at both sections was a good indication of the level of concern Assessors across the Commonwealth are feeling regarding condominium data collection and valuation.

During the past certification cycle, field data for condominiums has been a matter of some concern for both BLA and for the Cities and Towns. A substantial portion of the communities had been valuing condominiums with no sketches, just total square footage, while others had the square footage in a ladder. Some had sketches which delineated the areas of the building - finished or unfinished basements, first and second story living areas, finished or unfinished attics, garages, decks, porches and patios. Others relied on a single estimate of total square footage taken from the master deed. That seemed like a very reasonable idea, and sometimes it worked out well. Other times, however, that square footage contains things other than living area, in which case they are over-valued, or doesn't include exclusive use areas, like balconies, decks, garages and the like, in which case they are undervalued.

The following is a revision proposed for FY 15 on the collection and sketching of the condominium data.

- Inspection of all condo units in accordance with the nine year cyclical re-inspection requirement in the Certification Standards booklet issued by BLA
- Assessor's methodology must be discussed in the data collection manual for the community
- All complexes must have a **master card (or condo main card )** showing common areas/amenities and sketch of the buildings. *Note: This is necessary to record building permits for non-unit specific construction.*

Individual Condo Units:

For garden style (apartment building conversions) and 2 or 3 family conversions, the individual unit property record card would then list the unit SF and interior data components (*SF would typically be from Master Deed*)

While BLA recommends that the exterior measurements of townhouse and free standing condo units be utilized, the following will be accepted as an alternative:

- Assessor must review the master deed in accordance with the "as built" plans to determine the proper square footage
- Square footage of the units must be broken out as to living area (first and second floor), basement area, attic area, garage etc. as reflected by the "as built" plan
- Unit property record card must contain all interior unit data components, percent of common interest and list the SF as reflected in the master deed and/or "as built" plan
- If the SF utilized for valuation is different than what is strictly recorded in the master deed, the master deed SF should be reflected in the "notes" section of the property record card

Basically, for many communities, your work is already done. For others of you, it may not be as onerous as had been anticipated when the advisors shared the news of new condominiums standards being released. Communities have three years from FY 15 to implement and complete. However, if a community requires additional time to adhere to this policy, they are encouraged to develop a plan for submission and submit it to BLA for review and approval.

Mr. Elliott's presentation wasn't long on solutions. He didn't offer any shortcuts. What he did do was outline all of the variables involved in valuation that are easy to overlook. What if there are garages, which are for the exclusive use of a given unit, but not attached to it? What if it is included in the same deed? What if it is included in its own deed? What if it isn't mentioned by deed at all? This is where we dust off our old "matched pair analysis" skills. What if there's a balcony? What if there's a view? How does one account for the amenities?

Not all communities are doing it exactly the same way. If you apply your methodology consistently throughout your community, and you are accurately estimating market value, it's all good.

## Supplemental Budget Provides \$13.59M for Senate Election Cost

### Bureau of Accounts

The recently enacted supplemental budget includes \$13,592,734 in reimbursement for costs associated with the recent U.S. Senate election, with most of that money headed to cities and towns. Any questions regarding amounts to be distributed should be directed to the Secretary of State's office.

Due to the timing of this disbursement, communities will be unable to appropriate these funds.

However, municipal accountants and auditors, with the approval of a mayor or city manager in a city, or a board of selectmen in a town, may exercise the following options:

Apply the proceeds to reduce any impending FY13 deficit in the budget from which expenditures for the special election were paid.

Apply the proceeds to reimburse a budget (for instance, the reserve fund) from which the FY13 funds were transferred to pay the special election expenses.

Record the proceeds as a general fund receipt for FY13 and close it to free cash.

## Ask DLS

### City and Town Editorial Board

***Is there a best practice target a community should have for the amount in a stabilization fund?***

At DLS, we have historically recommended that cities and towns set aside a combined free cash and stabilization fund balance of between five to seven percent of the total annual budget. However, we recognize that current economic circumstances, financial management constraints and political obstacles can make building and retaining reserve levels within this range unrealistic.

Even so, municipal rating agencies in recent years have advocated for reserve levels closer to ten percent in order to provide adequate resources during times of fiscal stress and to generally mitigate risks. Using the state-wide average as a benchmark, communities across Massachusetts have averaged almost six percent in combined reserves over the last ten years, and just over 6.7 percent in FY2012.

Dollar amounts also come into play when a municipality commits to increasing its reserves. Reaching and sustaining a five to seven percent reserve balance may involve setting aside additional millions of dollars. This may not be a realistic goal. Decision makers must then carefully consider whether the potential need for reserves can be satisfied by a healthy dollar balance, which may not necessarily meet percentage targets.

In any case, we encourage cities and town to adopt formal policies that define adequate reserve levels based on a community's particular needs and circumstances. For more information on stabilization funds, free cash and other municipal finance topics, visit our best practices [webpage](#). Also, many municipalities post reserve policies that can provide useful guidance.

If you have an area of interest or a question, *Ask DLS*: [cityandtown@dor.state.ma.us](mailto:cityandtown@dor.state.ma.us). We'd like to hear from you.

## **Register Now for "What's New in Municipal Law"**

The Division of Local Services Legal Staff will offer its annual seminar "What's New in Municipal Law" for local officials on Friday, September 27, 2013 at The Log Cabin Banquet & Meeting House in Holyoke and Friday, October 4, 2013 at The Lantana in Randolph.

The general session in the morning will review new legislation and recent court decisions pertaining to local government.

The morning session will also include a panel discussion on local tax and payment in lieu of tax agreements, such as

those related to economic development, energy generation and exempt institutions. If you have a question for the panel discussion, please submit it to us by September 9, 2013, as explained in the registration form. Those questions along with others we have received in the past about these subjects will be used to structure the discussion.

The afternoon session will consist of three concurrent workshops on the following topics: (1) assessment and collection of betterments and municipal fees and charges, (2) new and recurring enterprise, community preservation and other special funds, and (3) municipal personnel and workforce issues.

Please click the following for the [agenda](#) and [registration form](#). Registrations must be received by September 18, 2013. Pre-registration is required.

If you have any questions about these seminars, please contact DLS Training Coordinator Donna Quinn at 617-626-3838 or by email at [dlsregistration@dor.state.ma.us](mailto:dlsregistration@dor.state.ma.us).

## **Lunch and Learn Webinar: How to Use Statewide Contracts**

**Operational Services Division**

The Operational Services Division's (OSD) Training Department is pleased to offer a free webinar to Commonwealth municipal purchasers who are interested in learning about the significant benefits that can be realized from buying off Statewide Contracts. Join us on Tuesday, July 30th at 12:00PM to learn about the Statewide Contracts most commonly used by cities and towns; how to purchase from them; and how to maximize cost savings. Click here to register for free: <http://howtouseswcs.eventbrite.com/>

<b>July 1</b>	<b>Collector</b>	<b>Mail Annual Preliminary Tax Bills</b> For communities issuing annual preliminary tax bills, the preliminary quarterly or semi-annual bills should be mailed by	
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		this date.
<b>July 15</b>	<b>Accountant</b>	<p><b>Certification Date for Free Cash: Any time after Books are Closed</b> Two weeks after the close of a fiscal year, all accounts are closed out and the resulting balance sheet and supplemental documentation submitted to DOR. Free cash is certified any time after this date.</p>
<b>July 15</b>	<b>Accountant</b>	<p><b>Report Community Preservation Fund Balance: Any time after Books are Closed</b> After the close of a fiscal year, the fund balance is submitted to DOR (Form CP-2) and notice given to the Community Preservation Committee and other financial officers. The fund balance may be appropriated any time after that report.</p>
<b>July 15</b>	<b>School Business Officials</b>	<p><b>Certification Date for Excess and Deficiency (E&amp;D) Fund</b> Two weeks after the close of a fiscal year, all accounts are closed and the resulting balance sheet (a pre-closing trial balance or audited financial statements will not be accepted unless requested by the Director of Accounts) and supplemental documentation are</p>

		submitted to DOR. E&D Fund is certified any time after this date.
<b>July 15</b>	<b>Assessors</b>	<b>Deadline for Appealing Commissioner's Pipeline Valuations to ATB</b>
<b>July 15</b>	<b>DOR/BLA</b>	<b>Notification of Changes in Proposed EQVs</b> (even numbered years only)
<b>July 20</b>	<b>DOR/BLA</b>	<b>Notification of Changes in Proposed SOL Valuations</b> (every 4th year after 2005)
To unsubscribe to <i>City and Town</i> and all other <i>DLS Alerts</i> , please click <a href="#">here</a> .		