

Massachusetts Department of Revenue Division of Local Services

Alan LeBovidge, Commissioner Gerard D. Perry, Deputy Commissioner



October 24, 2006

Audrey Marcoux
Board of Assessors
33 Main Street
P.O. Box 128
Cummington, MA 01026

Re: Inspection of Properties
Our File No. 2006-351

Dear Ms. Marcoux:

You inquired about the ability of the assessors to make an interior and exterior inspection of property in order to obtain or verify physical characteristics for valuation purposes.

As you know, assessors in Massachusetts have a constitutional and statutory duty to value all taxable property in their community at its fair market value. Any appraisal of property, including mass appraisal for property tax purposes, requires accurate descriptive information about the property. This information is crucial to any valid analysis of sales and other market information, which is the basis for determining the factors that influence market value and ensuring that all similar properties are treated equitably in the valuation process. Moreover, under G.L. c. 40, §56, each community must undergo a review of its assessing practices once every three years and obtain a certification that its assessments reflect fair market value. Accordingly, the assessors must have an accurate and current inventory of property characteristics for each property in order to produce equitable values consistent with legal standards and acceptable for our review.

However, a board of assessors does not have express statutory authority to conduct an on-site exterior or interior inspection of a property for assessment purposes without the consent of the owner. Therefore, if you seek the owner's permission to inspect the premises by going up to the door, by prior appointment or otherwise, and the owner refuses, we do not think you can conduct any on-site inspection activities. You can view the exterior from the sidewalk, road or other off-site location that you may legally enter.

In most cases, we believe property owners will understand the important purpose and allow inspections if approached in a professional manner. If an inspection is not permitted, however, the assessors have other means of obtaining information in the pre-assessment stage. Specifically, the assessors can request that a property owner (or lessee) provide information on the physical characteristics and condition of the property in a written return within 60 days. Failure to respond to such a request carries a penalty of \$50 and the loss of abatement rights unless there is some demonstrated inability of the property owner to comply. Making a false statement also carries a loss of abatement rights. G.L. c. 59, §38D. Once the return is filed, the assessors may also require the taxpayer to answer questions under oath about the information provided. G.L. c. 59, §38E.

If a taxpayer files an abatement application to contest his assessment, G.L. c. 59, §61A requires the taxpayer, upon request, to exhibit the property to the assessors and furnish written information under oath so as to determine the fair cash valuation. Noncompliance by the taxpayer will bar him from any statutory appeal unless the applicant was unable to comply with such request for reasons beyond his control or unless he attempted to comply in good faith.

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As a general matter, most taxpayers permit the assessors to inspect the parcel and also respond to information requests. If there is an uncooperative taxpayer or lessee, the assessors have some statutory remedies to secure the needed information.

We hope this information proves helpful.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen Colleary". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC