



Alan LeBovidge
Commissioner

Gerard D. Perry
Deputy Commissioner

City and Town

A Publication of the Department of Revenue's Division of Local Services



Volume 19, No. 4 April 2006

Department of Conservation and Recreation, Division of Water Supply Protection, Office of Watershed Management PILOT Program

Joel A. Zimmerman, Regional Planner

Drinking Water System Description

The Department of Conservation and Recreation, Division of Water Supply Protection, Office of Watershed Management (DCR/DWSP/OWM) and the Massachusetts Water Resources Authority (MWRA) supply drinking water to over 2 million people in 40 communities in the metropolitan Boston area, as well as 90,000 people in three western communities. OWM is responsible for collection and safe storage of water, protection of reservoir water quality, and management of the watersheds (a watershed is a geographic area of land in which all surface and ground water flows downhill to common point, such as a river, pond, lake, or reservoir); MWRA is responsible for treatment and transmission. The Commonwealth owns 103,000 acres committed for water supply protection.

Quabbin Reservoir, the Ware River, and Wachusett Reservoir are the active water supply sources for the metropolitan Boston water system. Ware River water is transferred seasonally to Quabbin Reservoir, while Quabbin Reservoir water is transferred regularly to Wachusett Reservoir through the Quabbin Aqueduct. Water from Wachusett Reservoir is then treated and distributed throughout metropolitan Boston. The Sudbury and Foss Reservoirs (the North Sudbury Watershed) are the emergency reserve water supplies for this system; OWM also manages land in the South Sudbury Watershed that are remnants from the early 20th century drinking water supply that are no longer in use.

Payments in Lieu of Taxes

M.G.L. Ch. 59 Sec. 5G mandates that

DCR's Division of Water Supply Protection make Payments in Lieu of Taxes (PILOT) on the Commonwealth property managed by the Office of Watershed Management. The current law was ratified in 1984 for the Quabbin Reservoir and Ware River Watersheds and was amended in 1987 to include communities in the Wachusett and Sudbury Reservoir Watersheds.

The base information used for determining DCR PILOT, as with all other State Owned Land PILOT, is the valuation performed every four years by the Department of Revenue. It is strictly DOR's responsibility to set the value for this land following their guidelines on segmenting lands into prime lots (the requisite frontage and area needed to build a single family home in each community), rear acreage and unbuildable acreage, along with discount adjust-

[continued on page seven](#)

Inside This Issue

From the Deputy Commissioner	2
Legal	
Rights of First Refusal and Recreational Land	2
Focus	
How Was State Owned Land Valued for 2005?	3
Did You Know?	8
DLS Update	
2006 Equalized Valuation Process Is Underway	9
Summary of 2005 Municipal Finance Law Changes	9
Fiscal Year 2007 Budget Issues and Procedures	9
Importance Notice for Municipal Vendors of Gas, Steam and Electricity	9
Notice to DLS E-Mail Subscribers	9
DLS Profile	10
Mark Your Calendars	10
Opportunities for Training	10
E-Mail Notifications	10

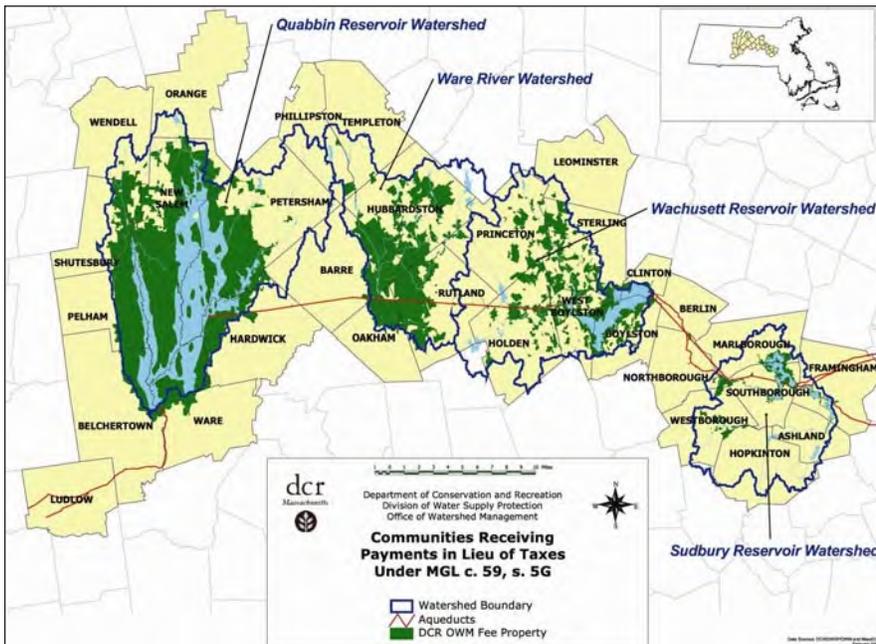


Figure 1



From the Deputy Commissioner

The Bureau of Local Assessment recommends that municipalities have funding in place two years in advance of the triennial certification. Some communities

perform all of the work themselves, while others contract for valuation consultants, measuring and listing services or the purchase of new or updated software. Whether in-house or through vendors, all of these certification components take time and money in order to maintain full and fair cash value for all properties.

Once again we are seeing communities that wait until the last minute to seek certification funding. Work for the fiscal year 2007 certification process should be well underway; assessors should not be looking for money at upcoming spring town meetings. Funding could be denied or inadequate, and that places the municipality in an awkward position. In its 1979 *Andover* decision, the Supreme Judicial Court declared "no municipality may block the attainment of its constitutional and statutory obligation to achieve fair cash valuation by failing to appropriate funds necessary to achieve that goal." Therefore, communities are legally responsible for providing the assessors with the funds and resources required to attain or maintain full and fair cash value assessments.

Planning two years in advance achieves a number of objectives: funds will be in place for vendors who can meet your deadline, early certification reviews can be done ahead of the latecomers and timely tax rate setting can take place.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Rights of First Refusal and Recreational Land

James Crowley

By statute, owners of classified land under M.G.L. Ch. 61 (forest), 61A (agricultural/horticultural) and 61B (recreational) which have received favorable tax treatment must notify the municipality of a proposed sale or conversion, and give the city or town an option to purchase. Developers may object to a community's decision to exercise a first refusal option, and litigation can ensue. Such was the situation in the Land Court case of *Hingham Land, LLC v. Town of Rockland*, (case #299022, December 2005).

In its decision, the Land Court held that the Town of Rockland could purchase the entire 18-hole Rockland Golf Course, which consisted of 74 acres of registered land. The golf course, with the exception of the clubhouse and parking lot, had been assessed at a reduced value as recreational land under M.G.L. Ch. 61B. The former owner, Rockland Golf Course, LLC, had defaulted on its mortgage and a mortgage foreclosure sale was scheduled for August 2003. The public foreclosure sale never occurred. Instead, a settlement was reached whereby Rockland Golf Course, LLC conveyed the property through an intermediary to Hingham Land, LLC (Hingham Land) on October 23, 2003. In the purchase and sale agreement, Hingham Land stated its intent to develop the land for residential use by transforming the parcel into a 9-hole par 3 golf course with residences and a restaurant/function facility. By agreement, the purchase price was \$2,600,000 but there were other conditions including the payment of \$300,000 in back taxes and additional money upon the sale of each residential condominium. At the time of clos-

ing, Hingham Land agreed to pay to Seller 3 percent of the gross sales price of the residential units up to a total of \$600,000.

The Town of Rockland soon learned of the sale but did not discover any details until Hingham Land informed the town in November 2003 that it would continue to operate the golf course. In December 2003, the new owner submitted to Land Court for approval a condominium Master Deed since the parcel was registered land and could not be subdivided without permission of the Land Court. Subsequently, Hingham Land informed the town of its plan to create a senior golf community on half the property and downsize the course to 9 holes. On December 11, 2003, Hingham Land sent a Notice of Intent, which gave the Town of Rockland the option to purchase only the recreational land to be converted to residences at its full and fair cash value. Hingham Land informed the town that it had 120 days to exercise the option, i.e., until April 9, 2004.

In response, Rockland sought a complete disclosure of the financial terms and sale agreements. Hingham Land, at first, provided limited information and refused to furnish what it termed "confidential" documents. The Town of Rockland, however, contended that town officials needed to learn all financial arrangements to exercise its statutory rights. After months of discussion with Hingham Land, the Rockland Board of Selectmen received the requested information and promptly voted in November 2004 to exercise the town's right of first refusal to purchase the entire property for \$2,600,000 and other terms and conditions for sale. The selectmen expressly stipulated that the exercise was subject to a town meeting appropriation and, if necessary, a Proposition 2½ debt exclusion vote.

continued on page eight

Focus

on Municipal Finance

How Was State Owned Land Valued for 2005?

Marilyn Browne, Donna Demirai and Jack Lyons

On June 1, 2005, assessors received the first state owned land figures developed under the new valuation system, which is reflected in the FY2007 Cherry Sheets. The results have been positive when measured by the number of local inquires and by preliminary tests conducted by the Bureau of Local Assessment (BLA) that measure projected values against actual values in FY2006 certification communities. This article looks at the reimbursable state owned land (SOL) value and acreage and delves into why the new valuation approach is more reflective of the real estate market in the individual communities.

There are two payment-in-lieu-of-taxes (PILOT) programs that reimburse communities for loss of revenue for certain tax exempt state owned land, the Cherry Sheet PILOT program M.G.L. Ch. 58 Secs. 13–17, and the Department of Conservation and Recreation’s Water Supply Protection Land program M.G.L. Ch. 59 Sec. 5G. This article only

covers the Cherry Sheet PILOT program. The cover article in this *City & Town* concentrates on the Water Supply Protection Land program. Land for both reimbursement programs is valued in the same fashion by the BLA and values were issued at the same time last June. In all, nearly 10 percent of all the Commonwealth’s acreage was valued in both programs.

The Cherry Sheet PILOT program is made up of 291 cities and towns, six more than when last valued in fiscal year 2000. Over 410,000 acres of reimbursable land is now valued at \$3.3 billion, (see *Table 1*) an 83 percent increase in value over the \$1.8 billion figure of five years ago. There is also a net increase of 22,200 acres statewide. In all, 14,114 sites were valued. Sites are not merely single parcels of land; rather they can be large holdings of land by a particular agency for a particular purpose, such as a state park or wildlife sanctuary. Reconciling our data with local assessors took over three years and was a formidable task for all concerned. Now that it is done, we anticipate that only database maintenance is required for new additions or deletions to the program.

Over 50 percent of the Cherry Sheet SOL acreage is in western Massachusetts. Berkshire County has the lion’s share of land at 27 percent followed by Franklin County with 14 percent. Worcester County, in the middle of the state, is the only other region in the double-digits with 15 percent of the value. (See *Chart 1*.) There are 14 communities with over 7,100 acres. The four towns with the most SOL land are Savoy, Warwick, Washington and Plymouth, each in excess of 11,000 acres.

From a valuation perspective the highest percentages of the state total are located first in Middlesex County with 19 percent followed by Barnstable County at 14 percent, and then Worcester County with 13 percent. Note that Edgartown, Falmouth and Bourne, all situated in the Cape and Islands, each have land valued in excess of \$100 million. *Map 1* shows the distribution of acreage statewide broken into seven categories depending on the number of acres in each city or town. *Map 2*, also divided into seven categories, visually displays the valuation (in millions of dollars) by municipality.

We value state owned land to reimburse cities and towns for loss of local tax revenue. Therefore, BLA’s goal is to approximate the value as if it were not owned by the state and in a fashion that mimics what local assessors would do. Land is valued as vacant, and only land that was taxable before it was acquired by the state is eligible for reimbursement. The new SOL 2005 valuation program uses BLA certified locally developed land schedules, as its starting point. These certified land schedules represent an agreement between the BLA and local assessors that the schedule is an accurate depiction of land value in the community at a particular point in time.

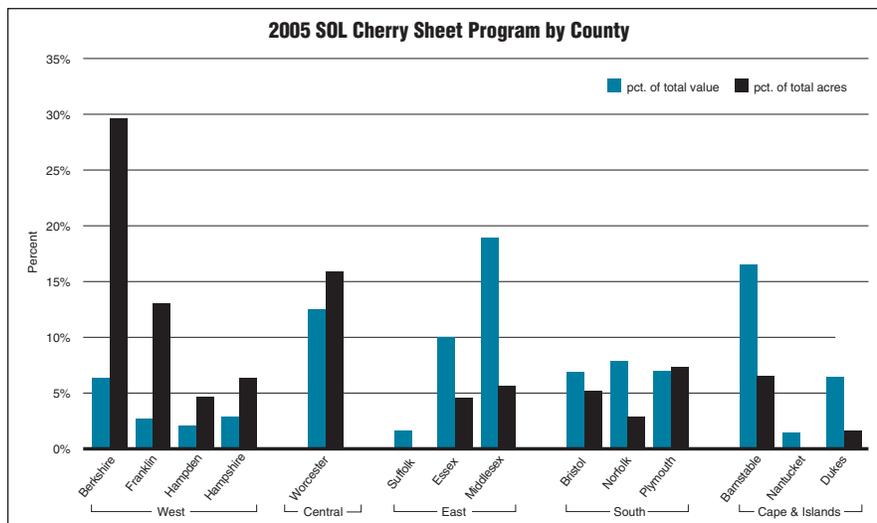


Chart 1

continued on page six

2005 State Owned Land Acreage and Values

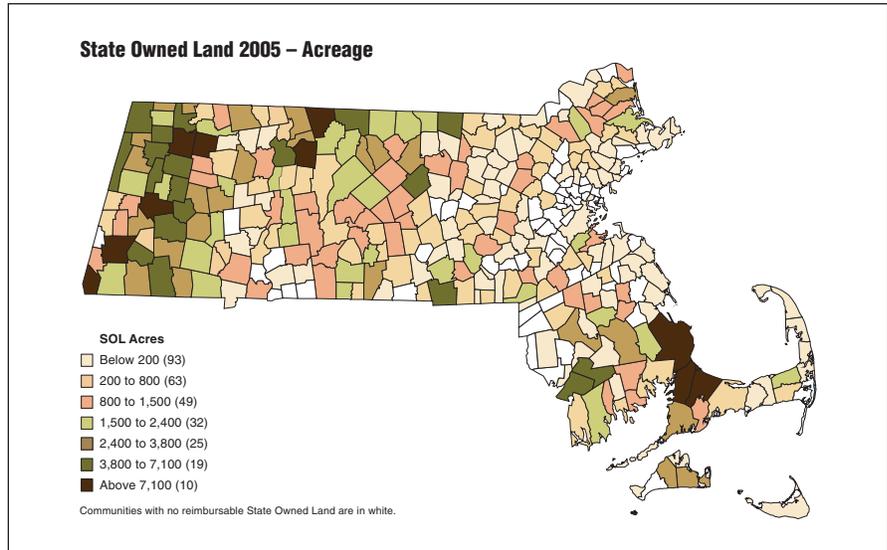
Municipality	County	Acreage	Value	Municipality	County	Acreage	Value	Municipality	County	Acreage	Value
Abington	Plymouth	607.36	14,639,600	Chesterfield	Hampshire	3,068.63	2,648,400	Hancock	Berkshire	5,162.35	14,771,300
Acton	Middlesex	140.61	6,849,900	Chicopee	Hampden	0.00	0	Hanover	Plymouth	2.71	738,300
Acushnet	Bristol	1.00	7,600	Chilmark	Dukes	0.00	0	Hanson	Plymouth	854.54	2,884,000
Adams	Berkshire	3,802.30	5,323,700	Clarksburg	Berkshire	3,410.11	2,564,600	Hardwick	Worcester	991.21	3,691,000
Agawam	Hampden	837.15	5,997,700	Clinton	Worcester	16.34	260,400	Harvard	Worcester	89.65	831,300
Alford	Berkshire	0.00	0	Cohasset	Norfolk	0.00	0	Harwich	Barnstable	294.42	13,892,400
Amesbury	Essex	0.00	0	Collair	Franklin	2,644.12	5,017,600	Hatfield	Hampshire	22.13	156,600
Amherst	Hampshire	1,782.71	18,679,900	Concord	Middlesex	929.24	71,141,300	Haverhill	Essex	0.20	102,400
Andover	Essex	833.76	18,311,500	Conway	Franklin	2,930.83	3,006,100	Hawley	Franklin	8,226.50	2,730,600
Aquinnah	Dukes	2.40	178,100	Cummington	Hampshire	1,391.27	4,246,700	Heath	Franklin	823.40	473,900
Arlington	Middlesex	0.00	0	Dalton	Berkshire	4,100.33	4,715,500	Hingham	Plymouth	24.40	2,395,900
Ashburnham	Worcester	2,296.94	8,164,900	Danvers	Essex	106.01	25,574,600	Hingsdale	Berkshire	1,806.19	3,908,600
Ashby	Middlesex	1,795.26	9,149,900	Dartmouth	Bristol	2,163.83	39,505,800	Holbrook	Norfolk	0.00	0
Ashfield	Franklin	267.60	363,700	Dedham	Norfolk	0.00	0	Holden	Worcester	409.87	10,972,500
Ashland	Middlesex	623.08	10,905,400	Deerfield	Franklin	976.28	7,965,900	Holland	Hampden	249.45	534,600
Athol	Worcester	2,161.94	4,876,200	Dennis	Barnstable	4.00	745,200	Holliston	Middlesex	1.25	204,500
Attleboro	Bristol	0.00	0	Dighton	Bristol	0.00	0	Holyoke	Hampden	369.87	5,380,600
Auburn	Worcester	0.00	0	Douglas	Worcester	5,014.85	26,569,700	Hopdale	Worcester	4.80	28,800
Avon	Norfolk	0.00	0	Dover	Norfolk	157.52	9,528,200	Hopkinton	Middlesex	1,460.48	31,496,600
Ayer	Middlesex	93.88	1,150,500	Dracut	Middlesex	184.37	2,916,400	Hubbardston	Worcester	1,394.78	5,877,100
Barnstable	Barnstable	416.72	17,516,900	Dudley	Worcester	0.00	0	Hudson	Middlesex	109.79	4,963,000
Barre	Worcester	2,116.85	9,282,000	Dunstable	Middlesex	82.80	123,800	Hull	Plymouth	77.05	1,030,700
Becket	Berkshire	3,895.82	7,989,900	Duxbury	Plymouth	28.68	6,934,600	Huntington	Hampshire	1,547.64	3,968,000
Bedford	Middlesex	683.30	81,455,600	E. Bridgewater	Plymouth	0.04	5,800	Ipswich	Essex	2,141.41	28,477,100
Belchertown	Hampshire	1,308.71	10,696,100	E. Brookfield	Worcester	351.12	374,400	Kingston	Plymouth	143.46	3,054,600
Bellingham	Norfolk	10.23	66,500	E. Longmeadow	Hampden	0.00	0	Lakeville	Plymouth	1,091.500	11,474,400
Belmont	Middlesex	0.00	0	Eastham	Barnstable	7.62	149,200	Lancaster	Worcester	1,088.64	14,200,900
Berkley	Berkley	99.56	2,687,200	Easthampton	Hampshire	2.48	147,600	Lanesborough	Berkshire	2,544.23	7,262,700
Berlin	Worcester	0.00	0	Easton	Bristol	1,390.41	7,788,900	Lawrence	Essex	2.01	428,600
Bernardston	Franklin	728.63	1,532,400	Edgartown	Dukes	2,847.99	127,983,600	Lee	Berkshire	2,502.96	7,474,400
Beverly	Essex	0.00	0	Egmont	Berkshire	1,321.60	14,807,600	Leicester	Worcester	111.47	1,360,500
Billerica	Middlesex	342.21	15,931,100	Erving	Franklin	2,683.60	4,355,600	Lenox	Berkshire	1,279.15	7,355,900
Blackstone	Worcester	288.69	3,337,400	Essex	Essex	47.00	220,800	Leominster	Worcester	1,407.94	12,118,100
Blackford	Hampden	2,055.70	1,432,200	Everett	Middlesex	0.00	0	Leverett	Franklin	437.90	853,900
Bolton	Worcester	528.00	1,630,700	Fairhaven	Bristol	385.78	14,743,600	Lexington	Middlesex	0.00	0
Boston	Suffolk	165.60	29,486,300	Fall River	Barnstable	4,879.37	32,799,300	Leyden	Middlesex	356.18	21,316,900
Bourne	Barnstable	10,805.90	100,037,200	Falmouth	Barnstable	2,429.27	110,061,700	Lindsey	Middlesex	419.33	724,300
Boxborough	Middlesex	19.28	332,900	Fitchburg	Worcester	76.18	3,138,500	Lincoln	Middlesex	254.91	44,568,100
Boxford	Essex	1,074.11	14,256,700	Florida	Berkshire	5,101.87	2,104,700	Littleton	Middlesex	6.07	37,000
Boylston	Worcester	0.00	0	Foxborough	Norfolk	532.58	11,248,100	Longmeadow	Hampden	0.00	0
Braintree	Norfolk	46.03	1,661,200	Framingham	Middlesex	843.46	61,231,600	Lowell	Middlesex	0.00	0
Brewster	Barnstable	1,945.80	69,651,600	Franklin	Norfolk	750.27	18,714,100	Ludlow	Hampden	1,354.44	2,435,900
Bridgewater	Plymouth	2,256.37	34,345,800	Freetown	Bristol	4,104.91	27,370,000	Lunenburg	Worcester	137.35	5,195,900
Brimfield	Hampden	1,852.43	7,819,800	Gardner	Worcester	1,167.54	7,545,900	Lynn	Essex	0.13	152,100
Brockton	Plymouth	1.74	44,000	Georgetown	Essex	1,032.81	23,489,500	Malden	Essex	323.70	4,375,700
Brookfield	Worcester	2,298.22	10,913,000	Gill	Franklin	246.31	1,689,000	Manchester	Essex	0.00	0
Brookline	Norfolk	0.00	0	Gloucester	Essex	6.98	2,399,300	Mansfield	Bristol	0.00	0
Buckland	Franklin	152.00	243,200	Goshen	Hampshire	1,601.75	3,114,800	Marblehead	Essex	0.00	0
Burlington	Middlesex	0.00	0	Gosnold	Dukes	67.95	2,629,700	Marion	Plymouth	489.54	1,083,500
Cambridge	Middlesex	0.00	0	Grafton	Worcester	86.60	259,800	Marlborough	Middlesex	473.31	9,611,300
Canton	Norfolk	449.67	19,716,300	Granby	Hampshire	1,548.39	4,113,600	Marshfield	Plymouth	179.00	107,300
Carlisle	Middlesex	906.99	24,044,600	Granville	Hampden	1,706.78	4,171,500	Mashpee	Barnstable	1,103.85	89,384,200
Carver	Plymouth	2,009.63	11,678,300	Grt. Barrington	Berkshire	7,148.63	12,919,800	Mattapoisett	Plymouth	1,349.10	4,819,500
Charentont	Franklin	1,700.26	1,428,400	Greenfield	Franklin	91.69	1,865,400	Maynard	Middlesex	0.00	0
Charlton	Worcester	281.70	667,600	Groton	Middlesex	739.08	7,948,600	Medfield	Norfolk	235.92	7,932,200
Chatham	Barnstable	0.00	0	Groveland	Essex	1,499.12	22,819,900	Medford	Middlesex	0.00	0
Chelmsford	Middlesex	28.66	2,073,900	Hadley	Hampshire	1,227.14	12,460,400	Medway	Norfolk	0.00	0
Chelsea	Suffolk	19.37	11,329,800	Halifax	Plymouth	1,054.76	7,135,900	Melrose	Middlesex	0.00	0
Cheshire	Berkshire	4,722.75	10,727,900	Hamilton	Essex	552.60	13,617,700	Mendon	Worcester	171.35	739,800
Chester	Hampden	2,562.90	1,608,400	Hampden	Hampden	0.00	0	Merrimac	Essex	6.36	387,600

How Was State Owned Land Valued for 2005?

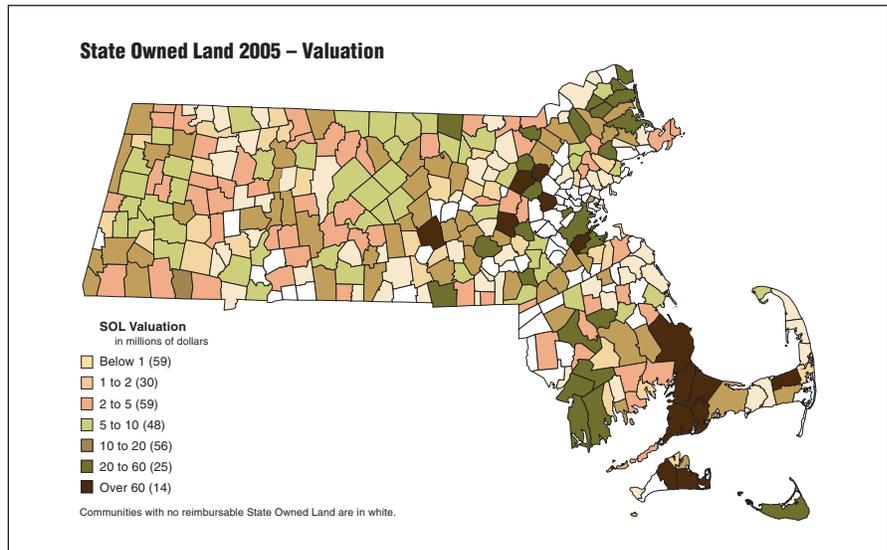
continued from page three

Assessors develop land schedules with base lot values either by a direct sales comparison or a land residual analysis method. The direct comparison approach analyzes vacant lot sales that meet the minimum lot size requirements according to local zoning. The land residual method analyzes improved property sales by subtracting the value attributed to the building from the sales price to determine the indicated land value. Rear/excess and unbuildable acreage values are established through a land residual analysis that is done by removing building and base lot value from improved sale prices. The assessors statistically test the land schedules before they are reviewed and certified by BLA. Using the community's certified land schedule allows BLA to value the SOL to more accurately reflect values attributed to privately owned land. Once this is done the BLA equalizes or standardizes the values to the same level at one point in time. Then the valuations are adjusted by applying standardized acreage discount and land absorption tables to create equity across the Commonwealth.

In order to test our methodology the Bureau has been conducting a study of the communities that have completed their triennial certification for FY2006 to see how closely our projections are to the certified values. Based on an analysis of 52 fiscal year 2006 certification communities, the valuations resulting from their land schedule in comparison with the SOL valuation showed the median to be .97 and the resulting coefficient of dispersion (COD) to be 11.887. We believe our current collaborative valuation method with local assessors is a great advancement over past valuation models and we look forward to its continual improvement. ■



Map 1



Map 2

Watershed Management PILOT Program

continued from page one

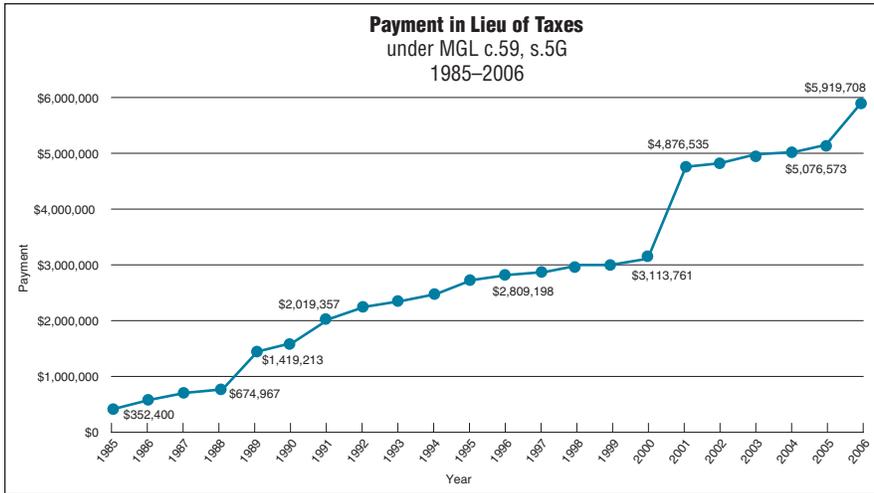


Figure 2

ments for total number of prime lots and total acreage.

There are, however, several differences between the DCR PILOT and other State Owned Land reimbursements that are made by the Commonwealth under M.G.L. Ch. 58 Secs. 13-17:

1. MWRA ratepayers pay the bill.

Funds for the DCR PILOT payments come from Massachusetts Water Resources Authority (MWRA) ratepayers who use the reservoir waters. The MWRA provides funding to the DCR to make PILOT payments to the watershed towns, and are therefore not subject to Legislative appropriations, which allows the DCR program to be paid in full directly to each community. The PILOT program for state-owned lands administered by DOR is disbursed through the Cherry Sheet process, and is subject to Legislative appropriation. The Legislature, in fiscal year 2006, provided 65.2 percent of the full value for the DOR state-owned land program.

2. DCR PILOT utilizes the local commercial tax rate.

The PILOT that is distributed through the “Cherry Sheet” is based on a statewide aggregate tax

rate calculated by DOR. DCR PILOT is required to utilize each community’s commercial tax rate in calculating the PILOT obligation.

3. The payment can never be less than the previous year.

M.G.L. Ch. 59 Sec. 5G states that Watershed Management PILOT can never be less than the previous year’s payment. This “hold harmless” clause provides the watershed communities the security of level funding even if a drop in valuation or tax rate combines to lower the calculated PILOT. This requirement will provide over \$1 million to watershed communities in FY06.

Since 1985, over \$62 million has been distributed in watershed protection PILOT payments. FY06 PILOT, which integrates the DOR revaluation completed in 2005, is \$5.9 million, representing a 17 percent increase from FY2005. This increase takes into account land acquisition as well as changes in land values. For a complete listing for each of the 31 watershed communities, visit the [Department of Conservation and Recreation](#) website.

Perspectives

There are a variety of opinions as to whether or not DCR PILOT constitutes a fair or equitable contribution to the community. A 2002 MWRA audit of the PILOT program gathered input from community officials. A commonly held perspective voiced at that time is that the PILOT payments are inadequate, and that if the land were available for residential or commercial development the community would receive a greater economic benefit. Also, there is a feeling that the “wealthy and powerful” eastern part of the state has grabbed the land from the less well-to-do parts of the state. This land is primarily used for the benefit of the eastern part of the state, so some central and western communities feel they deserve a high level of compensation.

Other officials noted that communities receiving PILOT payments incur almost no costs related to the watershed land. Normal community services, such as police and fire protection, upkeep of roads, and education for children are minimal or not required for watershed land. Therefore, the communities are receiving payments that help to reduce taxes for residents. Many residents appreciate the protected open space that maintains the rural character of their towns; this amenity can also increase the value of private property.

While these opinions represent a range in perception of the DCR PILOT program, DCR nevertheless works in compliance with existing laws. The DCR PILOT program ultimately provides substantial and consistent revenue to the communities that contain these critically important water supply lands. ■

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

Rights of First Refusal and Recreational Land

continued from page two

Hingham Land filed suit in Land Court to determine its rights. At issue was the interpretation of M.G.L. Ch. 61B Sec. 9 which provides in pertinent part:

Land which is valued, assessed and taxed on the basis of its recreational use under an application filed and approved pursuant to this Chapter shall not be sold for or converted to residential, industrial or commercial use while so valued, assessed and taxed unless the city or town in which such land is located has been notified of intent to sell for or convert to such other use.

Hingham Land claimed it acquired the parcel through a mortgage foreclosure and M.G.L. Ch. 61B Sec. 9 expressly provided that the option provision "shall not be applicable with respect to a mortgage foreclosure sale." Consequently, its acquisition of the golf course did not trigger the option provision. In fact, its intention to convert the parcel did not arise until after it acquired the property. For these reasons, Hingham Land argued that the town's right to purchase was limited to the portion of the golf course on which residences and access roads would be built and at a price based on its full and fair cash value. Furthermore, the town's rights expired after 120 days in April 2004, and the selectmen's November 2004 vote was a nullity.

The Land Court disagreed with plaintiff's arguments. According to the court, the October 2003 acquisition could not be characterized as a "mortgage foreclosure sale" under the terms of M.G.L. Ch. 61B Sec. 9. Hingham Land obtained the parcel by a quitclaim deed which was described as a deed in lieu of foreclosure. In the court's view, however, a deed in lieu of foreclosure was not the functional equivalent of a mortgage foreclosure sale. In the latter, there is an auction and the town has the right to buy the property and preserve the recreational character of the land. In the case at hand, the auction was postponed thereby depriving the town of any chance to obtain the land. According to the court, the purpose of

the statute (preserving recreational land) could only be achieved if a mortgage foreclosure was made through a public auction.

From the sale agreements and other documents, the Land Court ruled that Hingham Land, at the time of purchase in October 2003, intended to convert the parcel to residential use. According to the court, this constituted a residential conversion of the whole parcel since the plan for the development of a senior golf community "permeated" the entire property. The Land Court then rejected plaintiff's contention that the town failed to exercise its option within the 120-day statutory period. In the court's view, the plaintiff's December 11, 2003, Notice of Intent was inadequate since full financial terms were omitted. The court held that the Board of Selectmen, upon receipt of complete financial information which could be discussed at an open meeting, quickly acted and exercised its option within a reasonable time. In a prior decision interpreting the option provision, the Supreme Judicial Court held that the option must be exercised within 120 days of receipt of the full and complete terms of sale. *Town of Sudbury v. Scott*, 439 Mass. 288 (2003).

Having ruled that the town had the option to purchase the entire classified parcel, the court declined to determine the full price without further trial. Where the town never planned to build residential units, the court left unanswered how much the town would have to pay towards the 3 percent of gross revenue from residential sales which was promised by Hingham Land to the Seller. On the issue of purchase price, the prior Supreme Judicial Court decision of *Town of Franklin v. Wyllie*, 443 Mass. 187 (2005) is relevant. In *Wyllie*, the court held that a bona fide offer to purchase is not required to contain a fixed purchase price and can include contingencies, such as, the actual number of lots that will be approved for development. Whatever decision is rendered by the Land Court, further appeal is expected. ■

Did You Know?

The DLS Technical Assistance Section (TA) and the DLS Municipal Data Bank are constantly updating their websites.

The [TA website](#) has information on:

- [Best Practices](#);
- [Job Responsibilities](#);
- [Restructuring City and Town Government](#).

The [MDM website](#) has data and other information on:

- [Property Tax](#) (tax rates, tax levies, parcel counts, assessed values, motor vehicle excise tax, eqv's, average single family tax bills);
- [Proposition 2½](#) (override, capital and debt exclusion, new growth, excess and override capacity);
- [Debt/Financial Indicators](#) (debt, free cash, stabilization fund, overlay reserves, bond ratings, financial flexibility);
- [Local Options](#) (listing of communities that have adopted special exemptions, assessment provisions, or revenue sources);
- [State Aid](#) (cherry sheets, net state aid, totals by program);
- [Municipal Revenue Growth Factor](#) (new growth, levy limit base, general revenue sharing, local receipts);
- [Community Preservation Act](#) (local acceptance, state matching funds, and trust fund balances);
- [Local Aid Distributions](#);
- [Property Tax Exemption Reimbursements](#) (local acceptance of optional clauses and state reimbursement);
- [Municipal Actual Expenditures and Revenues](#) (general fund, school, special revenue, trust, capital, enterprise, agency). ■

DLS Update

2006 Equalized Valuation Process is Underway

The Bureau of Local Assessment (BLA) will determine Equalized Valuations (EQVs) for each municipality as of January 1, 2006, as required by M.G.L. Ch. 58 Secs. 9–10C. EQVs are used in various state-aid formulas, among other purposes. To that end, BLA has requested that property sales reports be submitted to BLA electronically by those communities in a non-certification year for FY2006 **by February 17, 2006**. Currently, BLA has received that documentation from 240 of the 264 communities in a non-certification year and 85 out of 87 communities in a certification year. For more information, see the [BLA letter](#) to local boards of assessors and the [Sales Report Submission Summary](#), available on the DLS website. Communities should note that failure to provide the requested information can lead to a forfeiture of a community's appeal rights. In order to complete the EQV program in accordance with the statutory deadlines, BLA must adhere to the following schedule:

Equalized Valuation Statutory Deadline Dates

- February 17, 2006: Assessors submit property sales report.
- June 1, 2006: BLA mails proposed EQVs to communities.
- June 10, 2006: BLA completes public hearings on proposed EQVs.

- July 20, 2006: BLA completes any EQV revisions and notifies communities.
- August 10, 2006: Municipality appeals proposed EQVs to Appellate Tax Board.
- January 20, 2007: Appellate Tax Board completes action on appeals.
- January 31, 2007: BLA submits EQVs to the Legislature.

Summary of 2005 Municipal Finance Law Changes

The Division of Local Services has issued [Bulletin 2006-04B](#) entitled "2005 Legislation." This annual Bulletin includes all Legislative changes affecting municipal finance and property taxation found in Chapters 1–190 of the Acts of 2005. Copies of these new laws can be obtained from the [State Legislature's website](#) or the State Bookstore located in Room 116 of the State House (617-727-2834).

This Bulletin is available under the heading "Bulletins" in the Quick Links box on the [DLS website](#).

Fiscal Year 2007 Budget Issues and Procedures

Another Bulletin that the DLS publishes annually is "Fiscal Year 2007 Budget Issues and Procedures," [Bulletin 2006-05B](#). This Bulletin addresses any issues that cities, towns and regional school districts may consider while setting their budgets for FY2007.

Important Notice for Municipal Vendors of Gas, Steam and Electricity

The Department of Revenue's Tax Administration Division is trying to reach all Municipal vendors of gas, steam, and electricity in order to notify them of an amendment to M.G.L. Ch. 64H Sec. 6(qq). This law provides a sales tax exemption for sales of gas, steam, electricity or heating fuel for use by qualifying small businesses. The change is **effective April 1, 2006**. The Department is therefore calling this issue to the attention of suppliers as they will need to obtain new exempt certificates (ST-13) for any exempt sales after that date. Please see [TIR 06-2](#), Amendments to Qualifying Small Business Exemption under G.L. c. 64H, § 6(qq) Sales and Use Tax. A copy of the updated [ST-13](#) certificate also is available on the DOR website.

Questions about the use and acceptance of the new exempt certifications should be directed to the main Department's Customer Service Bureau, P.O. Box 7010, Boston MA 02204; 617-887-MDOR. ■

Notice to DLS E-Mail Subscribers

The software program that the Division of Local Services uses to distribute the Bulletins, IGRs, *City & Town*, and other important information is a "bulk mail" program. If your e-mail program is set to filter all bulk mail to a folder other than your inbox, you may not be receiving important notifications from the Division of Local Services. Please make sure that your e-mail program is set to receive e-mails from the following e-mail address: DLSAlerts@dor-domo.dor.state.ma.us. ■

DLS Profile**Scott Dressel,
Project Manager with
Technical Assistance**

The Municipal Data Management and Technical Assistance Bureau (MDM/TAB), overseen by Bureau Chief Frederick Kingsley, is responsible for managing all municipal data reported to DOR, distributing various local aid appropriations, and providing technical assistance to municipalities, among other duties. **Scott Dressel** has been with the Technical Assistance team for the last year. In coordination with the other bureau staff members, Scott researches and writes Financial Management Reviews, develops Best Practices and other helpful information for municipal finance officers, and responds to questions sent to the Technical Assistance team via the DLS website. Scott has also been working with the Municipal Data Bank staff on a new Revenue and Expenditure software program, which will help municipalities in their financial planning process.

**Scott Dressel**

Scott came to Technical Assistance via a circuitous route. He graduated from Tufts University in 1998 with a BA in International Relations and Economics. After two years with Gillette in South Boston working with their International Trade Division (importing robots from all over the world to work in Gillette factories), he went back to school at Boston University for his MBA and MA in International Relations. Upon graduation, the US Coast Guard (USCG) offered Scott an internship in their Budget Office. There, he managed the energy budgets for all USCG stations from Maine down to New Jersey. He enjoyed learning about the stations, big and small, and learning about how they all interact with each other, despite their often-remote locations. At the same time, he earned his Public Accountant's certification. Scott's experience at the USCG, combined with a childhood interest in town government and his desire to help the cities and towns of Massachusetts drew him to the Division of Local Services.

Working at DLS, Scott feels like he can work for each city and town, while providing a global perspective to the budgetary and management concerns of local leadership. He recognizes the value of communities working together and learning from each other. "Many municipalities feel that their problems are unique. It helps leadership to understand that a neighboring community is going through the same set of issues. Not only can they then learn from each other, but knowing that the problem is not unique helps the officer overcome the hurdles to solving the difficulty."

"Scott's quiet humor and thoughtful way of approaching a question makes him an asset to the Division and the municipalities," says Deputy Commissioner Gerard D. Perry.

Scott grew up in Littleton and attended Town Meeting faithfully in his youth. His wife, Bobbie, works in International Development. The couple, and their dog Molly, recently moved back to Littleton.

Note: More information about [Technical Assistance](#) is available on the DLS website. ■

Mark Your Calendars**Municipal Fiscal Calendar****May 1**

Collector/Taxpayer: Deadline for Payment of Semi-Annual and 4th Quarterly Tax Bill Without Interest.

Treasurer: Deadline for Payment of 2nd Half of County Tax

Accountant/Treasurer: Notification to Assessors of Amount of Debt Due in Next Fiscal Year.

Please see the [Municipal Calendar](#) for more information.

Opportunities for Training**New Officials Finance Forum**

The Division of Local Services will offer a seminar for recently elected or appointed officials on Thursday, June 8, 2006, at the Henry M. Hogan Campus Center at the College of the Holy Cross, One College Street, Worcester, MA. With an emphasis on the basics, this course is designed to foster a team approach to the various offices by developing an understanding of the responsibilities of the various offices as well as their interrelationship. The [Registration Bulletin](#) can be found on the DLS website.

Contact Donna Quinn, Assistant Training Coordinator, at 617-626-3838 for more information.

E-Mail Notifications

The Division of Local Services distributes all notices via e-mail. To make sure that you receive vital Division information, please [register online](#). ■

City & Town

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

Lydia Hill, Editor

To obtain information or publications, contact the Division of Local Services via:

- website: www.mass.gov/dls
- telephone: (617) 626-2300
- mail: PO Box 9569, Boston, MA 02114-9569