

City and Town

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Communication Key During Recertification Process

Robert Bliss, DOR Director of Communication

The voice on the other end of the phone is a reporter for the local newspaper asking questions about property valuations. He has heard town residents complain at a recent selectman's meeting that the assessments on their homes are too high relative to current values. The reporter, whom you've never met or previously spoken with, is new on the job and wants to know why property values are not tied to current market conditions. It doesn't seem fair, he says, and, by the way, he is on deadline and has two other stories besides this one to write for tomorrow. The light at the end of this tunnel is the media train bearing down on you.

As a town assessor or local official, questions like these come with the territory — and they should not be surprising given the state of the economy and the down real estate market. That's why it is especially prudent in these times to make sure the public-at-large, not to mention the local reporter, has some idea of the dynamics of property valuation and the housing market before the call comes asking you to explain it all on deadline, or from the floor of town meeting, while balancing all of your other duties.

The perfect opportunity to conduct this kind of educational campaign is during a property recertification year; however, given the current downward march of real estate values in many communities, you may not have the luxury of waiting for the next recertification before the phone rings.

Here are a few suggestions:

Write a piece for the local weekly or daily newspaper explaining the assessment process, or call the news desk and request an interview on the subject. Make yourself available to the local cable station. Offer details and some local assessing history. Your offer may not be accepted due to time constraints on the reporter, but it will be appreciated and not go unnoticed.

... spend a few minutes explaining how the business of assessing has changed over the years, and how that change has introduced more transparency into the process.

In a triennial recertification year, plan to go beyond the legal requirement to publicly advertise the availability of the proposed new assessments. Besides making the proposed new values available in a library or town hall, publish them on the town's website and announce them on the local public access or government access television channel. Years ago it was common practice to also publish assessment values in the local newspaper. If the local paper isn't interested in publishing all of the values, ask that they announce the availability of the values or write a story

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Please consider the environment before printing this newsletter.





DLS Commentary

In March, the Division of Local Services released an estimate of the first round state match of CPA funds to be 29 percent. Since

that time we have collected two additional months of actual transaction fees from the Registry of Deeds. These fees are slightly higher than those we estimated back in March. This increase in collections is most likely a result of lowered mortgage rates, and homeowners refinancing. This small increase in revenues results in a slight increase in the state match to 30 percent.

Of the 140 cities and towns that have voted to adopt the Community Preservation Act (CPA), 135 collected the local surcharge in FY2009 and are eligible for state matching grants in FY2010.

Once the first round is complete a second round of funding will provide some additional CPA dollars for those communities that have adopted the maximum three percent surcharge. With this additional distribution the total state reimbursement for qualifying communities will increase, depending on the community's decile and total surcharge amount. Click on www.mass.gov/Ador/docs/dls/mdmstuf/CPA/cparank09.xls for more information. These are estimates and may change depending on Registry collections between now and September.

Robert G. Nunes
Deputy Commissioner &
Director of Municipal Affairs

Best Practices

A Bank of Productivity for Springfield

Steve Lisauskas, Executive Director of the Springfield Finance Control Board

In difficult times — and often even in good ones — many governments lack the financial capacity or political will to make investments that increase efficiency. The Springfield Finance Control Board has undertaken a concerted effort over the last five years to reform the finances and operations of the City of **Springfield**. In doing so it has adopted a variety of innovative programs to improve governmental performance and create the infrastructure for improved operational and financial management long into the future.

One such innovation has been the creation of the Springfield Productivity Bank. Based on a similar program established in Philadelphia in 1992, the Productivity Bank provides loans to departments to finance the up-front cost of projects that reduce expenditures and/or increase revenue over multiple years. Loans must be repaid within five years using the savings and/or new revenue generated by the investment, ensuring a positive return on investment in a reasonable period of time.

The Springfield Productivity Bank was funded by an initial appropriation of \$1.5 million and is overseen by the Productivity Bank Board. The board receives applications from departments and funds projects that provide a positive financial return within five years. Loans are repaid from departmental budgets via appropriation. A portion of the savings and new revenue in excess of loan repayment requirements are gain-shared between the department and the Productivity Bank. This provides departments an additional incentive to participate in the Productivity Bank program and helps grow the bank's fund balance. Future efficiency investments are financed by recycling the annual

departmental loan repayments and by using the bank's gain-share funding.

The Productivity Bank provides Springfield a number of benefits, including a guaranteed, ongoing source of funding for efficiency investments, an incentive for employees to think longer term, and a system where good ideas can become good projects. This improves employee morale and creates a system that tracks and publicly reports data, reinforcing Springfield's existing performance management capabilities.

The Productivity Bank provides ... an incentive for employees to think longer term, and a system where good ideas can become good projects.

Productivity Bank applications have been received for nine projects. Notable examples include the City's first integrated permitting and inspectional services software system. This system will provide robust functionality to inspectors in the field, creating a "mobile office" that integrates directly into the City's accounting and billing systems. The City's investment in the system is \$935,000 and is projected to save \$1,350,000 over five years, with more than \$400,000 in annual savings thereafter. Other projects include automation of the employment application and job screening process (a \$36,000 investment with a projected savings of \$9,000 per year) and the purchase of new recycling bins for the School Department

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Legal

Court Approves Expansion of Gardner Museum

James Crowley, Esq., Bureau of Municipal Finance Law

Occasionally, local officials will ask the Division of Local Services (DLS) legal staff whether their community may use gifts given in trust for different or broader purposes. In some cases, the original purposes of these public charitable trusts have been served or are no longer achievable. In others, the trust *corpus is de minimis* and not able to generate sufficient income to achieve the purpose. A recent case in the news highlights that a court proceeding is required to deviate from the terms of a charitable trust.

The Isabella Stewart Gardner Museum is located in the Fenway section of Boston, and is near the Museum of Fine Arts. The museum with its more than 2,500 artifacts is housed in a building designed to resemble a 15th century Venetian palace. The Gardner Museum, originally known to Bostonians as "Fenway Cour," was first opened to the public in 1903. Isabella Stewart Gardner, an eccentric patron of the arts, left a large endowment for the Museum in her will, which was filed in 1924. The will also contained some other unusual provisions as discussed below.

In November 2004, the trustees of the Isabella Stewart Gardner Museum announced the selection of famed architect Renzo Piano, whose most illustrious project was the Pompidou Center in Paris, to design a new multistory building that would be adjacent to the historic museum. The new 60,000 square foot structure would contain administrative offices, a museum gift shop, a café, a visitor reception area and storage rooms. The expansion was envisioned as the means to preserve the historic museum and expand cultural programs for future generations. Building the new addition, however, would require the removal of a carriage house and the con-

struction of a new entrance to the museum as well as a glass-enclosed pathway between the buildings.

There was a rather large stumbling block to the proposed plan. Under the terms of Isabella Stewart Gardner's will, the museum essentially had to remain unchanged from the time of her death. If any changes were made, the will provided that the land, museum and all contents would pass to Harvard College to sell. The museum filed a request with the Attorney General to per-

... application of the *cy pres* doctrine was not necessary since the ... plan did not conflict with the primary purpose of Isabella Stewart Gardner's testamentary gift, which was to provide a museum for the public's education and enjoyment.

mit a reasonable deviation from the express terms of the will. The Attorney General, who is responsible for ensuring that funds given to public charities are properly administered, assented to the plan. The President of Harvard College also gave approval to the construction. A local neighborhood group, however, objected to the demolition of the carriage house and hired an attorney to oppose the expansion. The Gardner Museum then filed a petition in equity with the Supreme Judicial Court (SJC) pursuant to M.G.L. Ch. 214 §§ 1 and 10B to receive judicial approval for the project.

In its complaint, the Gardner Museum did not request the Supreme Judicial Court to apply the doctrine of *cy pres* to the bequest. Under this legal principle, where the intent of the donor can no longer be satisfied, a court may allow property held for a specific charitable purpose to be directed toward some other charitable purpose. Instead, the Gardner Museum sought a reasonable deviation from the subordinate terms of the will.

In March 2009, Justice Spina filed a Memorandum and Judgment in favor of the museum's expansion plan in the case of *The Isabella Stewart Gardner Museum, Inc. v. Attorney General Martha Coakley*. Justice Spina agreed that application of the *cy pres* doctrine was not necessary since the trustees and architect's plan did not conflict with the primary purpose of Isabella Stewart Gardner's testamentary gift, which was to provide a museum for the public's education and enjoyment. In his review of Mrs. Gardner's will, the Justice noted that Article 4 of the will expressly permitted new construction if the trustees considered it to be necessary, "for the protection or benefit of the Museum." By its terms, Article 4 of the will did not bar the demolition of the carriage house.

Nor did Justice Spina find the forfeiture provision of Article 7 to be applicable. Under this provision, the entire Gardner Museum would be forfeited to Harvard College if the museum trustees, "shall at any time change the general disposition or arrangement of any articles which shall have been placed in the first, second, and third stories of said Museum." According to the court, the trustees were not threatened with forfeiture since the carriage house demolition and the details of the expansion plan were not expressly forbidden by Article 7.

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Communication Key During Recertification Process continued from page 1

on the values. Depending on the level of service your town's revaluation company provides, there may be opportunities to have the company help your community put all the valuations and comparable properties listed online. The more the values are out in public and the process used to reach them explained, the less surprise will be generated.

In fact, take this one step further and find a way to publish property values annually.

As the recertification proceeds, let the local editor/reporter know you are available to answer any questions they may have. Outline the abatement process and explain how it works.

Make sure the reporter/editor understands why there is a lag between property valuation data collection and the current market. Explain that just as valuations now may be higher than actual market prices, the pendulum will eventually swing in the other direction and as the market starts to edge up again, assessments will lag behind. Over the long haul, this is a process that evens itself out.

If you have the luxury of time, spend a few minutes explaining how the business of assessing has changed over the years, and how that change has introduced more transparency into the process. It is far easier to review the work of assessors today than it was years ago, thanks largely to searchable databases.

Remember that no good deed goes unpunished. While most taxpayers will appreciate the opportunity to compare their values with those of others, a few taxpayers may consider the provision of this information as an invasion of privacy.

Don't expect miracles. A good long talk with a reporter will not necessarily prevent a headline that boldly proclaims, "Values plummet," but at least the public may come to have a better understanding of why this is so from reading the story under the headline.

Take on the big issue and explain why it is that tax bills go up while values go down. This is one of the oldest "news" stories in the local government news coverage handbook, but even the most sophisticated news organizations can't resist running a headline that trumpets, "Taxes go up while valuations go down." Those same stories will quote puzzled taxpayers, so it's your job to explain why this is so. DOR has plenty of materials on its website to help, most notably its handbook on Proposition 2½ www.mass.gov/Ador/docs/dls/publ/misc/levylimits.pdf.

Remember, part of the definition of news is this: is the subject matter new to the reporter? By taking some time to educate the media and the public, you will have taken some of the surprise or

wow factor out of the business of assessing and its relationship to the local property tax. Keep in mind, reporters are not used to assessing terminology and you may want to step back from your expertise and try to use language that will be clear and not easily misinterpreted or misused.

Given the drop in prices recorded during 2008, many communities will continue to see sale prices dropping faster than assessments. It's not too early to begin planning some media outreach as part of your rollout of new assessed valuations. ■

Robert Bliss worked as a reporter and columnist for 17 years and now has worked an equal number of years in various communications posts in state and local government.

Comm-PASS Quick Quote Is Coming!

The Commonwealth of Massachusetts Operational Services Division (OSD) is designing, testing and implementing a new function within Comm-PASS called Quick Quote with an anticipated launch date of July 1, 2009.

Free-Form Quick Quote will allow Massachusetts public purchasers with free BuySmart accounts to efficiently post small-dollar procurements of less than \$25,000, as allowed under MGL c.30B, and less than \$50,000, as allowed for Executive Departments under OSD policy. Statewide Contract Quick Quote will enable BuySmart account holders to rapidly generate a line-item quote to authorized vendors for select Statewide Contracts.

Quick Quote includes efficient automated features including response tabulation, sorting by lowest total price or lowest price by line and display of all response information on publicly accessible pages once an award is posted. Other features will support business practices like allowing the buyer to notify vendors without SmartBid by e-mail or fax from a custom address book; evaluate responses upon receipt or after a specified deadline; and to award to single or multiple vendors. As with all Comm-PASS records, full transparency features include publicly accessible audit trails identifying notified vendors, responding bidders, award values, and even purchase order information as entered by the Buyer.

This new feature has been designed with input from public purchasers at executive agencies as well as the Office of the Inspector General (IG), Boston Housing Authority, City of Newton, City of Somerville, Massport Authority. The IG and OSD will issue guidance on how governmental bodies can best use this new functional, which remains free of charge along with all BuySmart functions offered to Massachusetts public purchases. Look for the new Quick Quote tab in Comm-PASS to learn more about this new feature: www.comm-pass.com.

For more information, please contact OSD's Director of Quality Assurance, Training and Outreach Barbara Miller at 617-720-3148 or visit the OSD website: www.mass.gov/osd. ■

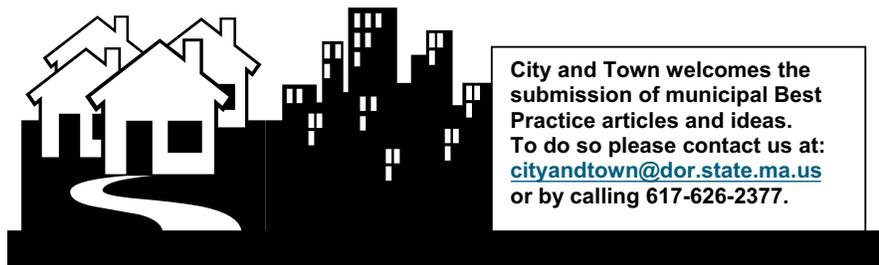
Springfield Productivity Bank *continued from page 2*

in support of the City's overall recycling reform efforts (a \$50,000 project with a projected annual savings of \$72,000).

Investments such as these are made routinely in the private sector but are more difficult in government because of intense competition for funding, the shortened perspectives created by electoral cycles, the difficulty in quantifying return on investment in some public services, and the absence of a profit incentive to motivate creativity and innovation. The Springfield Productivity

Bank is designed to help overcome these challenges and help improve the efficiency and effectiveness of municipal government.

The Springfield Productivity Bank is a stabilization reserve fund; special legislation is not required. The program is also scalable to any size or level of government. Please feel free to contact me at lisauskass@dor.state.ma.us or 617-821-5933 if you have any questions about the Productivity Bank. ■



City and Town welcomes the submission of municipal Best Practice articles and ideas. To do so please contact us at: cityandtown@dor.state.ma.us or by calling 617-626-2377.

Museum Expansion *continued from page 3*

The SJC perceived the planned expansion to require only a deviation from the subordinate provisions of Mrs. Gardner's will. According to the court, the expansion project was necessary to the public interest by relieving museum overcrowding, extending the life of the historic museum building, and reducing the risk of damage to the works of art. Justice Spina also rejected the claim of the community group that the trustees had failed to consider other alternatives before adopting a plan to demolish the carriage house. As noted by the court,

the trustees' plan had been favorably reviewed and supported by the Boston Landmarks Commission, the Boston Redevelopment Authority and the Massachusetts Historical Commission. Since the terms of the will were not violated and the public interest was served, the SJC approved the expansion plan.

For further reading on the *cy pres* doctrine, the reader should consult the March 2001 issue of City & Town for an article entitled "Art Is Sometimes Not for Sale." ■

Mark Your Calendars

The **New Officials Finance Forum** will be held on Thursday, June 11, 2009 in **Worcester** at the College of the Holy Cross. Pre-registration is required.

Assessment Administration: Law, Procedures and Valuations (Course 101) will be held in August at the University of Massachusetts **Amherst**. This course is offered through the Massachusetts Association of Assessing Officers (MAAO). Please visit their website for more information: www.maa.org.

The location and dates for the Fall 2009 Course 101 have not been established. The proposed region is Middlesex County. The dates and location will be finalized in mid-June.

"What's New in Municipal Law" will be held on Friday, September 25, 2009 at the Log Cabin Banquet and Meeting House in **Holyoke** and Friday, October 2, 2009 at the Lantana in **Randolph**. The Bulletin announcing this training opportunity will be issued in July.

If you have any questions regarding the above information, please contact Donna Quinn, training coordinator, at 617-626-3838 or quinnd@dor.state.ma.us. ■

A Feast Fit for a Bear

One sunny spring day, while out doing field work in **Northampton**, Bureau of Local Assessment's Sandra Brusco encountered an unexpected local.

"I was looking at a co-housing community (a cool concept in itself). I was out of the car, walking up the path to review the house that sold when I realized I wasn't alone anymore. Trying hard not to look like (a) lunch or (b) a scratching post, I beat feet for my car, and my cell phone camera."

Brusco had crossed paths with a local black bear, digging through the community's composting barrels.

"At first, quick glance when he was lumbering up, I thought he was a dog ... but dogs don't lumber the way bears do so the illusion didn't last long," says Brusco.

The co-housing project has a central parking area with a shed or two, the mulch barrels, and little wagons so you

can drag your groceries up and down the paths to your home. The houses are clustered together in the center, leaving a dense wooded area. The three compost barrels, made of wire mesh, and the smell generated by the compost aroused the bear's interest.

Two of the barrels say "add," meaning dump your fresh composting waste, and two say "rest," meaning they are breaking down into fertilizer. The bear is at the center barrel over what is likely a fresher "add" pile.

After 12 years working on Beacon Hill in downtown Boston, Brusco thought she would miss life in the city but even after 14 years out west says she does not.

"The bear was a nice reminder that there are things about my job that I love. Being out and about reviewing properties in western Mass is definitely one of them. I've seen moose, deer, bald eagles, turkeys by the score. I've caught three loose cows, a horse, put out a fire, and stared down the barrel of more than one shotgun," says Brusco. "You can describe this job many ways, but dull would not be one of them." ■



DLS's Sandra Brusco captured this image of a bear looking for lunch in a community compost bin in Northampton.

Municipal Fiscal Calendar

June 1

Clerk: Certification of Appropriations.

This is done after City/Town Council or Town Meeting so the Accountant may set up accounts for each department in the municipality.

Assessors: Determine Valuation of Other Municipal or District Land. In certain communities where land is owned by another community or district, the value of the land is determined by the Assessors in the year following a revaluation year, for in-lieu-of-tax payments.

DOR/BLA: Notification of Proposed EQVs (even numbered years only).

DOR/BLA: Notification of SOL Valuations (every 4th year after 2005).

June 10

DOR/BLA: Public Hearing on Proposed EQVs (even numbered years only).

DOR/BLA: Public Hearing on Proposed SOL Valuations (every 4th year after 2005).

June 15

DOR Commissioner: Determines and Certifies Pipeline Valuations.

Assessors: Deadline for Appealing Commissioner's Telephone & Telegraph Valuations.

Assessors: Make Annual Preliminary Tax Commitment. The preliminary tax commitment must be based on the prior year's net tax on the property and may not exceed, with limited exceptions, 50% of that amount. This should be done early enough for the annual preliminary quarterly or semi-annual bills to be mailed by July 1.

June 20

Assessors: Final Date to Make Omitted or Revised Assessments.

As required by M.G.L. Ch. 59, Sections 75 and 76, if a property is inadvertently excluded or mistakenly under-assessed on the warrant for property taxes, it is the Assessors' role to correct the mistake and assess the property correctly. Such an assessment may not be made later than June 20 of the taxable year or 90 days after the date the tax bills are mailed, whichever is later.

June 30

State Treasurer: Notification of Quarterly Local Aid Payments Before June 30.

Assessors: Overlay Surplus Closes to Surplus Revenue. Each year, any balance in the overlay reserve accounts in excess of the remaining amount of the warrant to be collected or abated in that year, is certified by the Assessors. The transfer from overlay reserves to the overlay surplus is done on the Assessors' initiative or within 10 days of a written request by the chief executive officer. Once in overlay surplus, these funds may be appropriated for any lawful purpose. Any balance in the overlay surplus at the end of the fiscal year shall be closed to surplus revenue and, eventually, free cash.

Assessors: Physical Inventory of all Parcels for Communities that Accepted M.G.L. Ch. 59, Sec. 2A(a).

Assessors: Submit Annual Report of Omitted or Revised Assessments.

Assessors: Last Day to Submit Requests for Current Fiscal Year Reimbursements of Exemptions Granted Under the Various Clauses of Ch. 59, Sec. 5. If an exemption is granted to a residential property owner, the property tax is lowered, and the city or town collects fewer tax revenues than anticipated. These exemptions are partially reimbursed by the state as indicated under "Payments for Loss of Taxes," section B of the Cherry Sheet. It is the responsibility of the Assessors to submit all exemptions to DOR so that the community may be reimbursed for statutory exemptions. If the Assessors fail to submit a request, the town's loss of tax revenues will not be offset by exemption reimbursements from the state. These reimbursements may not be filed retroactively for any year.

If tax bills are mailed late, assessors may submit requests for reimbursement until August 20.

July 1

Collector: Mail Annual Preliminary Tax Bills. For communities issuing annual preliminary tax bills, the preliminary quarterly or semiannual bills should be mailed by this date.

July 15

Accountant: Certification Date for Free Cash: Anytime after Books are Closed. Two weeks after the close of a fis-

cal 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.

Accountant: Report Community Preservation Fund Balance: Anytime after Books are Closed. 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 anytime after that report.

School Business Officials: Certification Date for Excess and Deficiency (E&D) Fund. 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 submitted to DOR. E&D Fund is certified any time after this date.

Assessors: Deadline for Appealing Commissioner's Pipeline Valuations to ATB. ■

Please remember to update the online Local Officials Directory so that both municipal and state officials have accurate contact information.



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.

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