

# **CHAPTER 1**

## **ASSESSMENT ADMINISTRATION MODULE**

### **AGENDA AND OBJECTIVES**

#### **A. TOPICS**

1. Preparation of the annual property tax assessment roll.
2. Determining the assessed owner by understanding the different types of property interests, ownership forms and ownership records.
3. Defining a taxable parcel.
4. Assessment records and reports.

#### **B. OBJECTIVES**

1. Participants will understand the concepts of assessment date, fiscal year and the components of the annual property tax roll.
2. Participants will understand the types of property ownership and how to determine the “assessed owner” of property.
2. Participants will understand the meaning of “real estate parcel.”
3. Participants will understand the importance of maintaining a set of well-organized records.

# CHAPTER 1

## ASSESSMENT ADMINISTRATION MODULE

### 1.0 ANNUAL TAX ROLL AND COMMITMENT

#### 1.1 Assessment Date and Calendar

##### 1.1.1 Assessment Date

Property taxes in Massachusetts are assessed as of January 1.<sup>1</sup> Liability and the basis for the tax are fixed as of that date. This date fixes tax liability for the entire fiscal year.<sup>2</sup> That liability is not affected by later changes in property ownership<sup>3</sup> or valuation.<sup>4</sup>

##### 1.1.2 Fiscal Year

In Massachusetts, governmental entities operate on a fiscal year basis. The fiscal year begins on July 1 and ends on the following June 30.<sup>5</sup> Property taxes for the fiscal year are assessed as of the January 1 before the year begins.

Taxes assessed for the fiscal year are a single liability or legal obligation, even though they are payable in several installments over the course of the fiscal year. Depending on the payment system a community uses, taxes are paid in two or four installments.

#### 1.2 Annual Property Tax Assessments

Assessors prepare the annual property tax assessment roll. To do so, they must create and maintain an extensive database on each property in the community and review it annually for changes. Each year, assessors must identify all taxable real and personal property, its ownership, fair market value, and usage classification as of January 1 in order to assess taxes.

##### 1.2.1 Taxable Property

Assessors must identify and inventory all of the physical property that exists on January 1 and is taxable for the year.<sup>6</sup> In communities that have adopted a local option, the physical status of real property on June 30 is deemed to be its condition on January 1.<sup>7</sup>

##### 1.2.2 Assessed Owner

Assessors must identify the owner of each parcel of real property and each item of personal property on January 1.<sup>8</sup>

##### 1.2.3 Taxable Unit

Assessors must determine the boundaries of all real estate parcels and identify all personal property accounts as of January 1.

**1.2.4 Assessed Value**

Assessors must determine the fair cash value of each parcel of real property and each item of personal property as of January 1.<sup>9</sup>

**1.2.5 Usage Classification**

Assessors must classify each real estate parcel as residential, open space, commercial or industrial as of January 1, based on definitions found in the tax classification law.<sup>10</sup>

**1.3 Annual Collectibles**

Assessors include in the annual tax assessment municipal fees, charges and assessments which are liens on the property and by law can be added to the tax commitment by the assessors and collected as part of the property tax. The assessors do not determine these charges, but they ensure their community can collect the amounts owed by adding them to the tax assessed on the property. These collectibles include:

- Apportioned betterments and special assessments, with interest.
- Delinquent fees and charges for municipal services.

**2.0 ASSESSED OWNER**

**2.1 Assessed Owner**

Property taxes are assessed to the owner of the real or personal property on January 1. The property tax is an assessment on the ownership of real and personal property, and the owner’s tax liability is measured by the value of that property.

**2.1.1 Record Owner**

For land or real property, the record owner is the owner for assessment purposes.<sup>11</sup> The record owner is found in the records of the registry of deeds and the registry of probate of the county where the land is located. Assessors are considered to have knowledge of the content of these records.

Record ownership is not the same as title, although the terms are often used as synonyms. In most cases though, the record owner also has title to the property on January 1.

**Examples**

**Example 1 - Ann sells Blackacre to Barbara. The new deed is not recorded in the registry of deeds. Barbara has title, but Ann is still the owner of record.**

**Example 2 - The last deed for Greenacre was recorded in 1978 from Dan to Ed. According to the town clerk, Ed died in 1985. There is no record of Ed's death (usually a death certificate) recorded at the registry of deeds or probate of his estate filed at the Registry of Probate. Ed is still the owner of record, although someone else has title and is the actual owner of the property**

### 2.1.2 Administrative Convenience

Assessors may rely exclusively on the records of the registries of deeds and probate to determine ownership and an assessment to the record owner is always valid.<sup>12</sup> They may also assess to someone other than the record owner, but those assessments are valid only if that person is in fact the actual owner on January 1.<sup>13</sup> If not, the assessment may be invalid and the municipality may be unable to collect the tax if it remains unpaid.<sup>14</sup>

## 2.2 Personal Liability

The assessed owner is personally liable for paying the tax for the entire year since it is a single obligation. Payment is the taxpayer's legal obligation, even if the property is sold and the new owner agrees to assume responsibility for paying some of it. Any allocation of the tax is a private agreement between the parties.

## 3.0 OWNERSHIP RECORDS

### 3.1 Registry of Deeds

Documents related to the title of real estate are recorded at the registry of deeds for the county, or branch, where the land is located. At the time of recording, each document is given a unique book and page number and then indexed by grantor (seller) and grantee (buyer). The index allows individuals to search the chain of title for a particular property. Registrars of deeds are required by law to notify assessors of recorded or registered instruments that affect title.<sup>15</sup> These records include deeds, certificates of title and trust documents.<sup>16</sup> Usually, records of a registry of deeds are available on-line.

#### 3.1.1 Deeds

A deed is the legal instrument necessary to transfer ownership of real estate. To be valid, a land conveyance must be in writing and signed by the seller.

##### 3.1.1.1 Content

A deed contains:

- The name of the seller (grantor) and the buyer (grantee).
- How the grantees own the property, *e.g.*, as joint tenants.
- The grantee's address.
- The amount of money paid for the property or other consideration.

- The conveyance and recording dates.
- A legal description of the property conveyed. Generally, a deed description is given by metes and bounds, which is a method of describing land by listing compass directions and distances of boundaries, or by reference to a recorded plan. The physical area within the metes and bounds or recorded plan referenced in the legal description determines the amount of land conveyed and controls if different than the area stated in the deed.
- A title reference showing when and from whom the property was acquired, giving the book and page where the prior transaction is recorded.

### **3.1.1.2 Classification**

Deeds may be classified based on the covenants or guarantees they contain about the quality of the grantor's title and the nature of the grantor's obligation to defend a grantee from adverse claims.

Warranty deeds include covenants that make the grantor responsible for any defects of title and guarantee the grantor and heirs will defend the title against the lawful claims of all persons whether the claim arose before or after the grantor's ownership.<sup>17</sup>

Quitclaim deeds are most often used in Massachusetts. They simply transfer whatever title the grantor has, with covenants the property is free from encumbrances made by just the grantor.<sup>18</sup>

Deeds may be classified based on the identity of the grantor or the purpose of the deed. Specialized deeds include:

- **Trustee** - Transfers title to real estate held in trust from the trustee.
- **Personal Representative** - Authorizes the person named in a will by a decedent to act as the estate's representative (also called the executor), or the person appointed by the court in the case of a decedent who died without a will (also called the administrator), to transfer title of real estate.
- **Fiduciary** - Authorizes a legal representative to convey title to real estate held for the benefit of another. Property transferred to an adult custodian under the Massachusetts Uniform Transfers to Minors Act for the benefit of a minor is assessed to the minor, who is the legal owner of the property.<sup>19</sup>
- **Conservator** - Authorizes a court appointed representative of a living person who lacks legal capacity (incapacitated person) to convey title. While the protected person's property is being managed by a conservator appointed by

the probate court, it is held in a fiduciary capacity for the benefit of the incapacitated person.<sup>20</sup>

- **Sheriff** - Court ordered deed to convey title of an owner to satisfy judgment creditors. The owner may redeem the property for a period of one year after the sale<sup>21</sup> and continues to be the owner for assessment purposes within that period. The grantee should be assessed once the redemption period has ended.
- **Foreclosure** - Court ordered deed to foreclose property interest of an owner to satisfy a mortgage creditor.<sup>22</sup>

### 3.1.2 **Certificates of Title**

Massachusetts has a system of registering title to land through the Land Court in order to resolve title discrepancies. The Land Court is located in Boston, but each registry has a Land Court section.<sup>23</sup>

#### 3.1.2.1 **Certificate of Title and Decree Plan**

An original certificate of title and a decree plan are recorded in the Land Court section of the registry for a parcel of real estate for which the Land Court has adjudicated title. The certificate describes the property and lists any easements or encumbrances. The certificates are recorded by certificate of title or document number.

#### 3.1.2.2 **Conveyances**

Registered land is conveyed by registering the transfer. If a fee simple is conveyed, a new certificate in the name of the new owner is issued.<sup>24</sup> A voluntary conveyance of a lesser interest is registered by filing the deed or other instrument creating or transferring the interest and noting the change on the certificate.

### 3.1.3 **Trust Instruments**

Recorded documents related to trusts of real property include declarations of trust, amendments and trustee changes.

#### 3.1.3.1 **Declarations of Trust and Certificates of Trust**

The instrument that creates an inter-vivos trust by a settlor is called a declaration of trust. An inter-vivos trust is a trust created while the settlor (trust creator) is living. The declaration of trust usually identifies the trustee of the trust within the text of the declaration, or a certificate of trust may be recorded instead.<sup>25</sup> The beneficiaries (those for whose benefit the trust is created) may also be identified in the text, but more often they are identified in a referenced schedule, which is usually not recorded.

### **3.1.3.2 Trust Amendments**

Most inter-vivos trusts are revocable and amendable. Amendments may be recorded that may affect the ownership interests.

### **3.1.3.3 Trustee Changes**

Most trusts permit the appointment of additional or successor trustees. Such documents include documents showing the resignation or death of a trustee, the appointment of a successor and the acceptance of the position by the new trustee, or a new certificate of trust.

## **3.2 Registry of Probate**

The probate court is a specialized court that handles family law and the probate or disposition of the real and personal assets or estates of people when they die. Upon an assessor's written request, the register of probate of the county in which the assessor's city or town is located is required to furnish to the assessor certain probate filing information regarding decedents whose domicile is the assessor's city or town.<sup>26</sup> Assessors are charged with knowledge of records at the registry of probate and must be familiar with them.<sup>27</sup>

### **3.2.1 Wills**

A will is a written document in which a person provides for the disposition of property after death. The person generally appoints someone in the will to oversee the payment of outstanding debts and distribution of the remaining estate. The person who dies is referred to as the decedent or testator. The person who manages the estate is the personal representative. A person who is left real or personal property under a will is known as a devisee. The probate court reviews and approves petitions for the approval of decedent's will.

### **3.2.2 Intestate Estates**

A person who does not make a will dies "intestate" and the disposition of his or her property is by operation of law.<sup>28</sup> Upon the filing of a petition by an interested person, usually a relative of the decedent, the probate court appoints a personal representative to carry out the same duties as the personal representative under a will. A person who takes property under the law of intestacy is known as an heir.

If the decedent was married, the surviving spouse takes all of the intestate property if (1) the surviving children belong to the decedent and surviving spouse and the spouse has no other surviving children, or (2) the decedent has no surviving children or parent.<sup>29</sup> For unmarried decedents, the property goes to the (1) decedent's children, (2) if there are no surviving children, the decedent's parents or (3) if there are no surviving parents, the children of the decedent's parents.<sup>30</sup> The property reverts (escheats) to the

Commonwealth when there are no heirs. These rules also apply to the disposition of property not included in a will. The probate court reviews and approves the disposition of a decedent's property to his or her heirs.

## 4.0 PROPERTY INTERESTS

### 4.1 Classification of Property Interests

Ownership interests (estates) in real property are classified either by the time of possession or by duration.

#### 4.1.1 Time of Possession

Estates are classified based on when the holder is entitled to the exclusive possession, use and enjoyment of the property. A person currently entitled to the exclusive possession, use and enjoyment of a property has a present or possessory interest in that property. If the person's right to possession is postponed until a later date, the person has a future interest in that property.

#### 4.1.2 Duration

Estates are measured in terms of the maximum potential duration of the time of ownership.

### 4.2 Type of Property Interests

#### 4.2.1 Fee Simple Estate

The fee simple estate is the maximum allowable property interest permitted by law and is the estate that assessors value for property tax purposes. An estate in fee simple gives the owner and the owner's heirs the right to possession and ownership for a potentially unlimited time. The owner of a fee simple estate is the owner of the property for property tax assessment and exemption purposes.

A fee simple estate may be sold, inherited or devised by will. The only limits are those imposed by the exercise of government's powers of:

- **Taxation** - The power to assess taxes on property.
- **Police power** - The power to protect and regulate for the public health, safety and welfare.
- **Eminent domain** - The power to take and use property for the public good.
- **Escheat** - The power to revert property to the state for the benefit of all citizens if an owner dies without heirs.

#### 4.2.2 Life Estate

A life estate is an estate of finite duration. This duration is measured by a specific person's life (called the measuring life). A life estate creates

successive interests in the same property: (1) a present possessory interest and (2) a future remainder interest. The life tenant holds the present interest. The remainderman holds the future, remainder interest. The remainderman has a future right to possession that does not begin until the life estate ends.

#### **4.2.2.1 Creation of Life Estate**

A life estate can be created by deed, will or recorded, lifetime lease. Most commonly, the creator conveys property by deed and expressly reserves a life estate or right to occupy the property for life in the deed.

##### **Example**

**Ann grants Blackacre to Bob “reserving to Ann a life estate.”**

- **Ann, the grantor who reserves is the life tenant, with the life estate measured by her life.**
- **Bob is the remainderman who takes upon Ann’s death.**

Other language can be used to create a life estate.

##### **Examples**

**Ann grants to “Ann for my lifetime, then to Bob.”**

**Ann grants to Bob “subject to the right of Ann to occupy the property for the rest of her life.”**

**Ann grants to Ann “for as long as she is physically able to occupy the property, then to Bob.”<sup>31</sup>**

A life estate can also be conveyed to another person.

##### **Example**

**Ann grants to “Bob during his life, then to Carol.”**

- **Bob is the life tenant and the estate ends upon his death.**
- **Carol is the remainderman who takes upon Bob’s death**

In the example above, grantor Ann conveys a life estate to Bob for the duration of his life and the remainder to Carol. Ann no longer has an interest in the property because she has conveyed her entire interest in the property to Bob and Carol.

Assessors may also see a grant of a life estate to someone that is measured by the life of a third person. Such a life estate is referred to as a life estate “per autre vie.”

**Example**

**Ann grants a “life estate to Bob for the duration of Ann’s life and then to Carol.”**

- **Bob is the life tenant and the life estate ends upon Ann’s death.**
- **Carol is the remainderman who takes upon Ann’s death.**

#### **4.2.2.2 Life Tenant’s Powers**

A life tenant has a right to the undisturbed possession of the land, including any income and profits.

A life tenant can convey his or her interest, but not the future right of the remainderman to possession. If the life estate is conveyed, the life estate still ends upon the end of the measuring life.

**Example**

**Ann grants Blackacre to Bob, reserving a life estate. Ann conveys her life estate interest to Carol. Ann dies 6 months later. The remainderman Bob takes Blackacre upon Ann’s death.**

A life tenant cannot ordinarily give a mortgage or sell the fee interest, but may be granted these powers in the instrument that creates the life estate.

**Example**

**Ann grants Blackacre to Bob, “reserving a life estate, with full power to mortgage, sell and convey.”**

#### **4.2.2.3 Life Tenant’s Obligations**

A life tenant is the owner of the property for property tax assessment and exemption purposes. The life tenant cannot diminish the property’s value to the remainderman and, therefore, must make the ordinary repairs and pay the current expenses expected of a property owner, including annual property taxes.<sup>32</sup>

#### **4.2.3 Leasehold Estate**

A leasehold estate is created when the owner of real estate (the landlord or lessor) enters into a lease agreement with a third person(s) or entity(-ies)

(the tenant or lessee) granting the tenant the right to possession and use of the leased property for a period of time defined in the lease agreement. The tenant's right to possession is usually conditioned on the payment of a rental to the landlord. The landlord continues to hold the fee interest and, as owner of the fee, is the owner for property tax assessment and exemption purposes.

There is one exception, however, by statute. If the lease is for 100 years or more, with at least 50 years to run the tenant is treated as the owner of the fee simple estate for all purposes, including the assessment of property taxes.<sup>33</sup> The lease itself or a notice of the lease must be recorded at the registry of deeds to assess such a tenant. This is because a lease for more than seven years is not valid with regard to any person, except the landlord, his heirs and devisees and persons having actual notice of the lease, unless the lease or a notice of the lease is recorded at the registry of deeds where the land is located.<sup>34</sup> Moreover, as previously stated, property assessments are to the "record owner," the owner according to the records of the registry of deeds or probate of the county where the land is located.

## **5.0 FORMS OF OWNERSHIP**

### **5.1 Sole Ownership**

A single owner may hold title to property, without any other person or entity sharing ownership. The property tax is assessed to the sole owner.

### **5.2 Multiple Ownership**

More than one person or entity may hold title to property as multiple co-owners. Co-owners have concurrent interests – interest in the same property at the same time. They are jointly and severally liable for the tax assessed on property they own. This means that the community can assess or collect the tax from all or any one of the co-owners. Assessors must assess property taxes in the full name of at least one of the multiple owners of record and then should include as many other owners as their billing system allows. There are three types of multiple ownership.

#### **5.2.1 Tenancy in Common**

A tenancy in common is shared ownership where each co-tenant has an undivided interest in the whole property. The interests may be unequal, but each co-owner has a right to the possession, use and enjoyment of the entire property.

**Example**

**Alex, Bob and Carl own Blackacre. Alex has a 50% ownership share and Bob and Carl have 25% each. All three can possess any or all of Blackacre.**

This form of ownership allows each co-tenant to transfer his share independently, *i.e.*, co-tenants may acquire and convey their interests at different times. When a co-tenant dies, the co-tenant's share goes to his or her heirs or devisees rather than to the other co-tenants. There is no right of survivorship.

**5.2.2 Joint Tenancy**

A joint tenancy is a shared ownership with two distinguishing characteristics. A joint tenancy (1) has a right of survivorship and (2) requires unity of interest, possession, time and title – commonly referred to as the “four unities.”

**5.2.2.1 Survivorship**

When a joint tenant dies, the joint tenant's share passes to the surviving joint tenants automatically, by operation of law. The last survivor becomes the sole owner.

**5.2.2.2 Four Unities**

Each joint tenant has (1) an equal, undivided interest in the property, (2) an equal right to the possession, use and enjoyment of the entire property, (3) acquired title at the same time and (4) acquired title through the same instrument.

**5.2.2.3 Creation**

The intent to create a joint tenancy must be clearly expressed in the deed or will conveying title. Intent is typically expressed by using the words “joint tenants” or “right to survivorship” in the instrument. If the instrument is silent on the type of multiple ownership created or if the instrument is unclear, the law will presume that a tenancy in common has been created.

**5.2.2.4 Conveyance**

Joint tenants can convey their own interests. A conveyance by one joint tenant of his or her share creates a tenancy in common with the other tenants. This is because the grantee of the deed from the joint tenant will not have the “four unities” with the other joint tenants because he has acquired title at another time and through another instrument. The other tenants still hold their interests in the property as joint tenants.

**Example**

**Alex, Bob and Carl own Blackacre as joint tenants with an equal undivided 1/3 interest each. Alex sells his 1/3 interest to Dave. Bob and Carl now have an undivided 2/3 interest as joint tenants and Dave has an undivided 1/3 interest as a tenant in common.**

**If Alex had sold his interest to Bob, one of his co-tenants instead, Bob would hold 1/3 interest as a tenant in common and still hold a 2/3 interest with Carl as joint tenants.**

**5.2.3 Tenancy by the Entirety**

A tenancy by the entirety is a multiple ownership with two distinguishing characteristics. A tenancy by the entirety (1) may only be held by a married couple and (2) has an indestructible right of survivorship during the marriage.

**5.2.3.1 Marriage**

A tenancy by the entirety can only be granted to and held by a married couple. A conveyance to two persons who are not married at the time is not a tenancy by the entirety and is not transformed into one by their later marriage. If a marriage ends by divorce, the tenancy also ends by operation of law, and the former spouses become tenants in common.

**5.2.3.2 Survivorship**

A tenancy by the entirety has an indestructible right of survivorship during the marriage. Neither spouse acting alone can defeat the right of the surviving spouse to the entire property. Both spouses must join in a deed to convey the entire property and end the right of the survivor to it.<sup>35</sup>

**5.2.3.3 Conveyance**

Spouses may be able to convey their individual interests, not the other spouse's survivorship right, depending on when the tenancy was created.

If the tenancy by the entirety was created before February 11, 1980, the husband has the exclusive present interest in the possession, use and income of the property during his lifetime, and his future right to the entire property if he survives. He can convey those interests without his wife's consent. The wife has only her future survivorship right. Any conveyance by her is void.<sup>36</sup>

For later tenancies, both spouses have co-equal rights in the possession, use and income of the property.<sup>37</sup> Either spouse can convey his or her interest without the other's consent, but still cannot defeat the right of the other spouse to the property if he or she survives.<sup>38</sup>

### 5.3 Trusts

A trust is a form of ownership that establishes a fiduciary obligation in the person(s) holding legal title to trust assets to use them for the benefit of others. The distinguishing characteristic of a trust is that it divides the ownership into two simultaneous and concurrent interests in the same property: (1) a legal interest and (2) a beneficial interest. A trust may be created by will, deed, or declaration of trust. The property subject to the trust is called the trust corpus and may include real estate, tangible personal property or intangible personal property, such as cash, stocks, or bonds.

Trusts are created for different reasons, including estate planning purposes, to protect property from creditors or to manage the property of a child or person unable to manage his own property.

#### 5.3.1 Trust Parties

The person who creates a trust is called a settlor, grantor, creator or donor. A person who creates a trust by will is a testator.

The trustee is the fiduciary who holds the legal interest in and title to all trust property for the benefit of the beneficiary. The beneficiary is the person for whose benefit a trust is created; the beneficiary holds the beneficial interest and is entitled to the benefits of the property – rents, profits and income.

#### 5.3.2 Trust Types

Trusts may be described depending on how or why they are created, the trust assets or the relationship of the parties to the trust.

- **Creation** – A trust created during the lifetime of the settlor is called an inter-vivos trust.. A trust created by will is called a testamentary trust. A trust created to protect the beneficiary's assets from creditors is a spendthrift trust.
- **Assets** - A realty trust is a trust that contains real estate assets.
- **Parties** - A family trust is a trust where the trustees and beneficiaries are related. A nominee trust is an arrangement for holding title to real estate under which one or more persons declare they hold the realty as trustees for undisclosed beneficiaries. The trustees have no power to deal with the property except as directed by the beneficiaries.

### 5.3.3 Property Taxation

The trustee is the owner of trust property for property tax purposes.<sup>39</sup> Taxes are assessed to the named trustee: “(Name of Trustee), Trustee, (Name of Trust).” The trustee is usually identified within the text of the declaration of trust or a certificate of trust that may be recorded instead.

Most trusts permit the appointment of additional or successor trustees. A change in the trustee of record affects the title to and record ownership of trust assets, including real estate subject to the trust. A change in the trustee of record is made by the recording of documents showing the resignation or death of a trustee, the appointment of a successor trustee and the acceptance of the position by the new trustee, or a new certificate of trust. When there is a new trustee, taxes should be assessed to the successor trustee of record, by name.

If there is recorded notice that the trustee has resigned or is deceased, but the appointment and acceptance of a successor trustee is not yet on record, taxes should be assessed generally to "Trustee, (Name of Trust)". Taxes should also be assessed to "Trustee, (Name of Trust)" when a trust, not a trustee, is the grantee in a deed and no recorded trust instrument or certificate of trust identifies the identity of the trustee.

A trustee who also has a sufficient beneficial interest in the property is an owner for exemption purposes.<sup>40</sup> A person who is only a trustee or a beneficiary is not entitled to an exemption. See Chapter 7.

## 6.0 DEATH OF OWNER

### 6.1 Death of Record

A death of record is when a death certificate for a deceased owner is recorded in the registry of deeds or when a petition for probate is filed in the probate court regarding the estate of a deceased owner. Unless there is a death of record, a property tax assessment to the record owner of real estate is valid.

#### Example

**A deed to Ed from Dan of Greenacre was recorded in 1978. According to the town clerk, Ed died in 2005. No death certificate has been recorded at the registry of deeds and no petition for probate regarding Ed’s estate has been filed in the registry of probate. Because there is no “death of record” of Ed, Ed is still the record owner of Greenacre. An assessment of property taxes to Ed, even though Ed is deceased, is valid.**

## 6.2 Death of Life Tenant

A life tenant holds present possessory interest in the property for his lifetime and is assessed owner for property tax purposes. The remainderman holds a future, remainder interest and the right to possession is delayed until the death of the life tenant. On a death of the life tenant, the remainder interest, automatically by operation of law, becomes a present possessory interest and the remainderman becomes the actual owner of the property. Upon the recording of the death certificate of the life tenant in the registry of deeds or a probate filing in the probate court, the remainderman becomes the record owner for property tax assessment purposes.

### Example

**In 2015, Ann gave a deed to Barbara of Greenacre, reserving a life estate to herself (Ann). Ann is the life tenant and Barbara is the remainderman. Ann dies and her death certificate is recorded at the registry of deeds. Ann is no longer the record owner of the property, Barbara is. Assess property taxes to Barbara.**

## 6.3 Death of Joint Tenant or Tenant by the Entirety

In a joint tenancy and tenancy by the entirety, there is a right of survivorship and the property interest of a joint tenant or tenant by the entirety who dies passes automatically by operation of law to the surviving joint tenant(s) or tenant by the entirety. In joint tenancies and tenancies by the entirety, assessors must assess the property tax in the full name of at least one of the multiple co-owners of record.

If a joint tenant or tenant by the entirety dies and leaves a surviving joint tenant or tenant by the entirety, but no death of record relating to the decedent has been filed in the registry of deeds or probate, assessors have three options. They may: (1) continue to assess the deceased joint tenant or tenant by the entirety because there has been no “death of record,” (2) may assess only the surviving joint tenant or tenant by the entirety as a co-owner of record of the property or (3) may assess both the deceased joint tenant or tenant by the entirety and the surviving joint tenant or tenant by the entirety as they are both owners of record of the property. Once there is a “death of record” of a joint tenant or a tenant by entirety, however, an assessment to only the deceased joint tenant or tenant by the entirety is no longer valid.

### Example

**Ann and Dan are record owners of Blackacre and hold title as joint tenants. The assessors may assess property taxes to either of the two co-owners or both. They may assess Ann alone or Dan alone or both Ann and Dan. Ann dies and her interest passes automatically by operation of law to Dan, the surviving joint tenant. But there is no death certificate recorded in the registry of deeds or probate filing in**

**the registry of probate regarding Ann’s death. Assessors may still assess Ann or Dan or both Ann and Dan because they are both still owners of record. If, however, a death certificate or probate filing regarding Ann’s death is filed in the registry of deeds or probate, then assessors may only assess to Dan. An assessment to Ann alone will no longer be valid because Ann is no longer a record owner of the property because of her “death of record.”**

#### **6.4 Death of Sole Owner or Tenant in Common**

When a sole owner dies, the owner’s interest passes to the deceased owner’s heirs or devisees under the sole owner’s will. If there is not a “death of record” for the deceased sole owner, assessors should continue to assess property taxes to the deceased sole owner even if it is known that the person is deceased because he or she is still the record owner of the property. Once there is a “death of record,” an assessment to the deceased sole owner will be invalid. Assessors must look to the records of the probate court found in the registry of probate to determine the identity of the new record owner. If the identity of the new owner is not included in those records, then see section 6.4.3 below for assessment when “Death of Record Only.”

#### **Example**

**Ann is sole owner of Blackacre. Ann dies, but there is no death certificate recorded in the registry of deeds or probate filing in the registry of probate regarding Ann’s death. Ann is still the record owner of Blackacre and assessors should continue to assess property taxes to Ann even though she is deceased. Once a death certificate or probate filing regarding Ann’s death is filed in the registry of deeds or probate, then an assessment to Ann will be invalid because Ann is no longer a record owner of the property because of her “death of record.” The assessors must look to the records of the probate court found in the registry of probate to determine the identity of the new record owner. If the identity of the new owner is not included in those records, then assessors should assess to the “Heirs or Devisees of Ann.” (See section 6.4.3 below, “Death of Record Only.”)**

When a tenant in common dies, the interest of the deceased tenant in common passes to the deceased tenant-in-common’s heirs or devisees under the deceased tenant-in-common’s will. The interest does not pass to surviving tenants in common because there is no right of survivorship in a tenancy in common. If there is not a “death of record” for the deceased tenant in common, assessors may continue to assess property taxes to the deceased tenant in common even if the person is deceased because he or she is still the record owner of the property. However, if there are other tenants in common of record who are living, then, instead of continuing to assess the deceased tenant in common, assessors may assess one or more of the living tenants in common because, as stated in Section

5.2 above, a community can assess or collect property taxes from any one or all of the record tenants in common. Once there is a “death of record” of a tenant in common, however, an assessment to just the deceased tenant in common will be invalid.

**Example**

**Ann and Dan are record owners of Blackacre and hold title as tenants in common. The assessors may assess taxes for the property to either of the two co-owners or both. They may assess the tax to Ann alone or Dan alone or to both Ann and Dan. Ann dies, but there is no death certificate recorded in the registry of deeds or probate filing in the registry of probate regarding Ann’s death. Assessors may still assess Ann or Dan or both Ann and Dan because they are both still owners of record. If, however, a death certificate or probate filing regarding Ann’s death is filed in the registry of deeds or probate, then an assessment of property tax to Ann alone will be invalid because Ann is no longer a record owner of the property because of her “death of record.” Assessors may assess the property tax to Dan as he is still a record owner tenant in common. Assessor must look to the records of the probate court found in the registry of probate to determine the identity of the new record owner of Ann’s property interest.**

**6.4.1 Title**

Title to real property of a deceased sole owner or tenant in common vests as of the date of death in the devisees named in the will or the heirs at law.

**Example**

**Ellen is the sole owner of Greenacre. Ellen dies on September 15. If she has a will and devises Greenacre to Fred, or has no will and Fred is her sole heir, Fred is the owner of Greenacre as of September 15.**

**6.4.2 Record Ownership**

Whenever a person who was the sole owner of real estate or a tenant in common dies before the January 1 assessment date, assessors must review probate records to determine whether the identity of the succeeding record owner(s) of the property has been established. Once the probate court approves a decedent’s will or approves a petition to probate an intestate estate and determines the heirs, the devisees under the will or the heirs, if the decedent has no will, are the record owners of the property. Because their title relates back to the date of the decedent’s death, assessors must make a review of all probate proceedings before the actual commitment is issued in order to determine the name of any new owners of record.

### 6.4.3 **Death of Record Only**

If registry of deeds or probate records show only that a death certificate or petition for probate has been filed for a person who died before January 1, the death is a matter a record, but not the identity of the new owner(s). The property should be assessed generally to the “Heirs or Devisees of” the decedent.<sup>41</sup> The property should not be assessed to the decedent or to the “Estate of” the decedent. Such assessments will be invalid.

### 6.4.4 **New Record Owner**

If probate records show that a will has been allowed, approved or admitted to probate, or an intestate estate has been settled, the devisees named in the will or heirs identified in the probate court order or decree are the new owners of record as of the date of death of the decedent. The property should be assessed to them by name when the decedent’s date of death is before the January 1 assessment date.<sup>42</sup>

The relevant probate records for persons dying testate (with a will) are generally:

- A copy of the will; and
- Either (i) probate court form MPC 750 (Order of Informal Probate of Will) signed by a magistrate or justice or (ii) form MPC 755 (Decree and Order on Petition for Formal Adjudication) signed by a magistrate or justice.

The relevant probate records for persons dying intestate (without a will) are generally either:

- Probate court form MPC 750 (Appointment of Personal Representative) signed by a magistrate or justice and form MPC 150 (Petition for Informal Appointment of Personal Representative) for the listing of the heirs of the decedent; or
- Probate court form MPC755 (Decree and Order on Petition for Formal Adjudication) signed by a magistrate or justice and form MPC 160 (Petition for Formal Adjudication of Intestacy or Appointment or Personal Representative) for the listing of the heirs of the decedent only if the heirs are not listed in form MPC 755.

These probate court forms can be found at:

<https://www.mass.gov/lists/probate-and-family-court-forms-for-wills-estates-and-trusts>

**Example 1**

**Ellen is the sole owner of Greenacre. Ellen dies on September 15. A probate filing was made regarding Ellen’s estate on December 31<sup>st</sup> making Ellen’s death a “death of record” before the January 1 assessment date. On the next following April 15<sup>th</sup>, the probate court approves Ellen’s will which names Fred as devisee of Greenacre. Title in Fred vests as of September 15<sup>th</sup>, the date of death of Ellen. Assessors should assess property taxes to Fred as record owner of Greenacre as of the January 1 assessment date.**

**Example 2**

**Ellen is the sole owner of Greenacre. Ellen dies on September 15. A probate filing was made regarding Ellen’s estate on December 31<sup>st</sup> making Ellen’s death a “death of record” before the January 1 assessment date. On the next following December 1, the assessors are ready to commit the fiscal year property taxes; however, the probate court has not finished processing Ellen’s estate. Assessors should assess property taxes regarding Greenacre to the “devisees or heirs” of Ellen.**

**6.5 Will Contest**

If probate records show that an unresolved will contest is pending, the identity of the new owner is not yet a matter of record. The property should be assessed generally to the “Estate” of the decedent.<sup>43</sup>

**7.0 ASSESSMENT UNIT****7.1 Overview**

Assessors must determine the boundaries of real estate parcels and identify personal property accounts as of January 1.

**7.2 Personal Property**

Assessors make a single assessment that includes all of the personal property that a taxpayer owns that is taxable by the municipality. Personal property generally includes goods, equipment, furniture and other movable objects. It also consists of poles, underground conduits, wires and pipes not located on the owner’s land. See Chapter 8.

**7.3 Real Estate**

Real estate includes land, buildings and other improvements or attachments to the land.<sup>44</sup> It may also include items ordinarily considered personal property but which are firmly attached to or integrated into the land or buildings due to their bulk, size, special design or permanence.<sup>45</sup>

### 7.3.1 **Single Unit**

All interests in real estate are assessed as a single unit to the fee owner of the land.<sup>46</sup> Land and buildings are not separately assessed even if owned by different persons.<sup>47</sup> Separate assessments are not made to those parties having other interests in the real estate either, such as a lease,<sup>48</sup> mineral, power<sup>49</sup> or other rights.

### 7.3.2 **Parcel**

A separate assessment is made for each parcel of real estate. There is no general definition of the term parcel for purposes of property taxation. An assessment is valid if assessors have a reasonable basis for their determination.<sup>50</sup> Assessors generally rely on the description of real estate found in a deed or plan to define a parcel, but they are not bound by it. Typically, however, land described in one deed is defined as a single parcel.

#### 7.3.2.1 **Merger**

Assessors may merge and assess as one parcel contiguous land described in several deeds and owned by the same person.<sup>51</sup> Land is still contiguous if divided by a road or waterway.<sup>52</sup> Merger is advisable when land is used together as a single site and is likely to be sold together. Assessors should adopt a policy regarding when to consider merger and should include contact with the landowner. The most common situations where a single parcel and tax bill should be used are for:

- **Assembled sites** – Contiguous parcels acquired in order to be developed or used for a single purpose, as in the case of a developer who acquires parcels at different times to build a shopping mall or office building.
- **Accessory land** - Contiguous parcels that are under the same ownership where one parcel is accessory to the other and is not buildable under the town's current zoning. For example, non-buildable contiguous parcel is used for parking for the dwelling located on the primary parcel.

#### 7.3.2.2 **Separation**

Assessors may assess as separate lots contiguous land described in one or more deeds and owned by the same person based on the division of the land shown on a subdivision plan approved by the

planning board or a plan endorsed by the board as not requiring subdivision approval (an Approval Not Required (ANR) plan). This avoids having to apportion the tax and liens if the owner of the land sells any of the lots. Assessors may rely on any approved or endorsed plan, even if not recorded by January 1, but the better practice is to rely only on recorded plans. Plans can be amended before recording, and assessors should avoid variations in parcel boundaries from year to year since taxes and liens should be on the same physical area.

### **7.3.2.3 Effect on Zoning and Valuation**

The assessors' determination of a parcel is solely for assessment and billing purposes. It does not affect the development potential of the land, which is determined by zoning and land use laws. The determination also should not affect the assessed valuation of the land area, which cannot exceed its fair cash value, regardless of the number of taxable parcels established by the assessors.<sup>53</sup>

## **7.3.3 Parcels Defined by Law**

### **7.3.3.1 Conservation Restrictions**

Land subject to a permanent conservation restriction must be assessed as a separate parcel.<sup>54</sup>

#### **Example**

**Blackacre is a 25-acre tract that includes a house. The owner places a conservation restriction on a 15-acre, vacant portion of the tract that abuts a stream. Assessors must separately assess the owner for the 15-acre portion.**

### **7.3.3.2 Condominium**

A condominium is a form of real estate comprised of units and common areas. Unit owners own their individual units in fee simple. They also own a percentage interest in the common areas of the condominium, usually (1) the land, (2) common facilities, such as swimming pools and tennis courts, and (3) the structural parts of the buildings, such as the roof. An association made up of the unit owners manages the common areas and facilities, and each unit owner pays a fee to the association to finance maintenance and repairs.

A condominium is created by recording a master deed that defines each unit and the common areas and facilities. Each unit, together with its undivided interest in the common areas and facilities, constitutes a separate taxable parcel and is assessed to the record

owner of the unit.<sup>55</sup> Common areas are not separate parcels for assessment purposes and are not assessed separately to the association. Areas or facilities not included as part of the condominium in the master deed are assessed separately to the owner. Assessors need to determine what land is included in the condominium and what land is not. The master deed describes the land included in the condominium.

Some developers reserve the right in the condominium master deed to construct additional condominium units in the common areas of the condominium and to add those units to the condominium in the future by amendment to the master deed. These amendments to the master deed are typically called “phasing” amendments. Once these additional condominium units are added to the master deed by amendment, they are separate taxable parcels.<sup>56</sup> The developer is not subject to tax for the unexercised development rights reserved in the master deed.<sup>57</sup>

However, once the developer exercises those rights by physically occupying the condominium common area to the exclusion of others through the construction of units to be added to the condominium by future amendment, the developer has a sufficient present interest in real estate that is subject to a separate tax assessment.<sup>58</sup> The assessment date for additional units added to a condominium by amendment to a master deed and regarding the assessment of present interests in real estate is January 1, as it is for all real property.<sup>59</sup>

### **7.3.3.3 Time-shares**

A time-share estate is a right to occupy a time-share unit during five or more separated time periods (sometimes called “intervals”) over a period of at least five years. A time-share instrument creates and governs the time-share estates in a time-share property. Each time-share estate is coupled with either a fee or leasehold estate in a time-share property.<sup>60</sup>

Unlike condominium units, the individual time-shares estates and units in a time-share property are not assessed as separate parcels. Instead, the time-share property (facility in which the time-share units are located) is assessed as a single parcel and the bill is sent to, and paid by, the management entity.<sup>61</sup>

If a parcel is subject to both a recorded condominium master deed and a time-share instrument, then the parcel is treated as a time-share for purposes of the assessment and collection of real property taxes.<sup>62</sup>

## 8.0 ASSESSMENT RECORDS

### 8.1 Assessment Records

Well-organized and maintained records are vital to effective assessment administration. Important records found in the assessors' office include:

- **Property records** – Ownership and descriptive data for each parcel and personal property account. See Chapter 2.
- **Tax maps** – Maps showing the location, boundary, dimensions and acreage of each parcel, as well as physical features that affect value, and the location of streets, lakes and rivers. See Chapter 2.
- **Property lists** – Valuation and commitment lists, maintained by taxpayer name (alphabetical list) and location (street list).
- **Abatements and exemptions** – Applications and supporting information and a record of abatements and exemptions granted that shows the taxpayer's name, fiscal year, tax assessed, tax abated or exempted, date granted and statutory reference. Abatement and exemption applications should be considered "source" or "audit" documents. Assessors should date-stamp each application upon its receipt. Upon taking final action on an application, they should note that action on the application and sign it. They may also note other interim actions on applications, such as the dates abatement information requests were mailed and the information received.
- **Tax rate recapitulations** – Copies of the approved tax rate for each fiscal year.
- **Excises** – Motor vehicle, boat and farm excise commitment lists and abatement and exemption records.

### 8.2 Records Management

As record custodians, assessors must safely store their records. They must also retain all original records, both public and non-public, unless the Supervisor of Public Records authorizes their destruction. The Supervisor and Archives Division - Records Management Section in the Office of the Secretary of State has prepared a [Municipal Record Retention Manual](#) that lists each municipal record, form or document, its statutory reference, and its retention period.

Assessors must maintain some records permanently. Permanent records include.

- Minutes of board meetings.
- Tax maps.
- Property history (street or legal) cards.
- Tax rate recapitulations.

- Property valuation lists.
- Abatement and exemption record books.

Almost all other records maintained by assessors can be disposed of or destroyed under certain conditions, usually after a specified number of years or completion of a satisfactory audit. Assessors may obtain permission to dispose of unnecessary records from the Records Management Unit. For further information about records disposition, assessors should contact the Public Records Management Unit of the Office of the Secretary of State, by writing Massachusetts Archives at Columbia Point, 220 Morrissey Boulevard, Boston, MA 02125, by calling (617) 727-2816 or visiting the web at [www.sec.state.ma.us/arc/arcrmu/rmuidx.htm](http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm).

## 9.0 REPORTS

### 9.1 Overview

Assessors are responsible for submitting numerous reports to other financial officials within the municipality and to DOR. Some reports are required by law and must be filed on or before a specified date. Other reports may be required of the assessors as a department head, as part of the operation of their community.

### 9.2 Local Finance Officers

#### 9.2.1 Collector

Assessors must notify the collector of all commitments of taxes, excises and betterments. They also notify the collector of any amendments in those commitments that result from abatements, exemptions, apportionments, reassessments, additional omitted or revised assessments.

#### 9.2.2 Accounting Officer

Assessors must provide a copy of the approved tax rate recapitulation to the accounting officer as notice of the tax levy, the tax levy by class, the overlay and estimated receipts for the fiscal year.<sup>63</sup> In addition, the assessors must provide the accounting officer with the same information submitted to the collector regarding commitments, abatements and other commitment amendments, so that the collector and accounting officer can reconcile receivables.<sup>64</sup>

#### 9.2.3 Treasurer

Assessors must report and turn over any monies they receive from the operation of their office, such as fees charged for public records, to the treasurer at least once a week.<sup>65</sup>

### 9.3 Department of Revenue

Most reports submitted to DOR are submitted electronically in Gateway On-line.

### **9.3.1 Annual Reports**

#### **9.3.1.1 Interim Year Adjustment Report**

Assessors must adjust values between certification years if the values no longer reflect market value. See Chapter 2. All assessors must report the results of their market analysis to the Division of Local Services' Bureau of Local Assessment (BLA) on form "Interim Year Adjustment Report" whether or not any valuation adjustments were made. This form should be submitted as early as possible during the tax rate process, but no later than the time the Form LA-4 "Assessment/Classification Report" is submitted.

#### **9.3.1.2 Tax Base Growth Report**

The "Tax Base Growth Report" (LA-13) is used to report "new growth" in the tax base that increases the community's levy limit under Proposition 2½. It must be submitted to BLA annually before the tax rate can be set.

#### **9.3.1.3 Classification Tax Allocation**

Before setting the tax rate each year, a classification hearing is held by the selectmen or city council to determine the shares of the tax levy to be paid by each class of property in the community, and whether to allow an open space discount, residential exemption or small commercial exemption. See Chapter 4. The assessors provide information about the impact of these options at the hearing. The decisions of the selectmen and city council, with the mayor's approval, are reported to the Bureau of Accounts (BOA) using the "Classification Tax Allocation" (Form LA-5).

#### **9.3.1.4 Tax Rate Recapitulation**

The tax rate recapitulation sheet with all supporting documentation must be submitted to BOA for approval before tax bills can be sent out. See Chapter 5.

#### **9.3.1.5 Exemption Reimbursements**

Assessors must report the exemptions granted to DOR each year in order for their municipality to be reimbursed for various personal exemptions. The reports are submitted to the Municipal Databank. Assessors should submit the reports as soon as possible after all exemption applications have been processed, but no later than August 20. See Chapter 7.

### **9.3.2 Certification Year**

As part of the certification review process, assessors must provide BLA with sales data showing the proposed new values. They must also provide land schedules, cost data, depreciation schedules, income and expense

information, analytic spreadsheets and other documentation that supports the valuations placed on real and personal property.

### **9.3.3 Other Reports**

#### **9.3.3.1 Equalized Valuation**

Assessors must provide sales data to BLA for the calculation of the equalized valuations (EQVs) every two years.<sup>66</sup> The EQV estimates the total valuation of each community as of the same January 1 to adjust for different revaluation cycles and is used in some state aid distributions and in county tax allocations.

#### **9.3.3.2 State Owned Land**

BLA determines the value of state-owned land within a community. The valuations are used to allocate an annual state budget appropriation to reimburse communities for the loss of revenue from previously taxable land. The value is based on a statutory formula which is updated every two years using the community's equalized valuation (EQV) and the value of acquisitions and dispositions. The formula starts with a "base year valuation" as of January 1, 2017. After the valuations are determined as of January 1, 2017 for use in allocating the appropriation in Fiscal Year 2019, the valuations will be determined based on the statutory formula.<sup>67</sup>

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<sup>1</sup> G.L. c. 59, § 21.

<sup>2</sup> *Miller v. Wadsworth, Howland & Co.*, 296 Mass. 172 (1936).

<sup>3</sup> *Irving Usen Co., Inc. v. Assessors of Boston*, 309 Mass. 544 (1941).

<sup>4</sup> *Donlon v. Board of Assessors of Holliston*, 389 Mass. 848 (1983) (subdivision plan affecting development status of land rescinded after January 1); *Sarris v. Board of Assessors of Swampscott*, 2 Mass. App. Ct. 841 (1974) (property damaged by fire after January 1).

<sup>5</sup> G.L. c. 44, §§ 56 and 56A.

<sup>6</sup> G.L. c. 59, § 2.

<sup>7</sup> G.L. c. 59, § 2A(a).

<sup>8</sup> G.L. c. 59, §§ 11 and 18.

<sup>9</sup> G.L. c. 59, § 38.

<sup>10</sup> G.L. c. 59, § 2A(b).

<sup>11</sup> G.L. c. 59, § 11.

<sup>12</sup> *Boston v. Quincy Market Cold Storage & Warehouse Co.*, 312 Mass. 638 (1942).

<sup>13</sup> *City of Springfield v. Schaffer*, 12 Mass. App. Ct. 277 (1981).

<sup>14</sup> An assessor may be able to assess to someone other than a record owner or actual owner under specific circumstances provided in G.L. c. 59, § 11. For example, if assessors cannot by reasonable diligence ascertain the record owner of real property, assessors may assess taxes to persons unknown. A discussion of these other permitted assessments, however, is beyond the scope of the topics covered in this Handbook.

<sup>15</sup> G.L. c. 36, § 24B.

<sup>16</sup> Most registries of deeds have a website with an on-line database of its recorded documents accessible to the public.

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- <sup>17</sup> G.L. c. 183, §§ 10 and 16.
- <sup>18</sup> G.L. c. 183, §§ 11 and 17.
- <sup>19</sup> G.L. c. 201A, § 11(3)(b).
- <sup>20</sup> G.L. c. 190B, §§ 5-401 and 5-419.
- <sup>21</sup> G.L. c. 236, § 33.
- <sup>22</sup> G.L. c. 244, § 11.
- <sup>23</sup> G.L. c. 185, § 10.
- <sup>24</sup> G.L. c. 185, § 57.
- <sup>25</sup> G.L. c. 184, § 35; c. 203, § 2.
- <sup>26</sup> G.L. c. 217, § 16A.
- <sup>27</sup> Registry of Probate records are not generally available on-line; however, some basic case filing information may be accessible through the Mass. Trial Court Electronic Case Access website: <https://www.masscourts.org>.
- <sup>28</sup> G.L. c. 190B, §§ 2-101 – 2-108.
- <sup>29</sup> G.L. c. 190B, § 2-102(1).
- <sup>30</sup> G.L. c. 190B, § 2-103.
- <sup>31</sup> Ann could occupy the property until her death. Therefore, the maximum potential duration of the estate is Ann’s life. Since the estate could end sooner, it is called a “life estate determinable.”
- <sup>32</sup> *Thayer v. Shorey*, 287 Mass. 76 (1934); *Matteson v. Walsh*, 79 Mass. App. Ct. 402 (2011).
- <sup>33</sup> G.L. c. 186, § 1A.
- <sup>34</sup> G.L. c. 183, §4.
- <sup>35</sup> *Bernatavicius v. Bernatavicius*, 259 Mass. 486 (1927).
- <sup>36</sup> *Licker v. Gluskin*, 265 Mass. 403 (1929).
- <sup>37</sup> G.L. c. 209, § 1.
- <sup>38</sup> *Corracio v. Lowell Five Cents Savings Bank*, 415 Mass. 145 (1993).
- <sup>39</sup> *Taylor v. Bettnick-Smith*, 304 Mass. 430 (1939); *Dunham v. City of Lowell*, 200 Mass. 468 (1909); *Miner v. Pingree*, 110 Mass 47 (1872).
- <sup>40</sup> *Kirby v. Board of Assessors of Medford*, 350 Mass. 386 (1966).
- <sup>41</sup> G.L. c. 59, § 12D.
- <sup>42</sup> *Tobin v. Gillespie*, 152 Mass. 219 (1890).
- <sup>43</sup> G.L. c. 59, § 12E.
- <sup>44</sup> G.L. c. 59, § 2A(a).
- <sup>45</sup> *Board of Assessors of Wilmington v. Avco Corp.*, 357 Mass. 704 (1970) (towers installed on foundations and secured by wires); *Chelsea v. Richard T. Greene Co.*, 319 Mass. 162 (1946) (cradle, track, and hoisting machinery used to operate marine railway); *Franklin v. Metcalfe*, 307 Mass. 386 (1940) (lunch cart belonging to lessee mounted on foundation).
- <sup>46</sup> *Donovan v. Haverhill*, 247 Mass. 69 (1923).
- <sup>47</sup> *Newton Building Co. v. Commissioner of Corporations and Taxation*, 285 Mass. 471 (1934); *McGee v. City of Salem*, 149 Mass. 238 (1889).
- <sup>48</sup> *Paine v. Board of Assessors of Weston*, 297 Mass. 173 (1937); *Donovan v. Haverhill*, 247 Mass. 69 (1923).
- <sup>49</sup> *Crocker-McElwain Co. v. Assessors of Holyoke*, 296 Mass. 338 (1937).
- <sup>50</sup> *Boston v. Boston Port Development Co.*, 308 Mass. 72 (1941).
- <sup>51</sup> *Town of Franklin v. Metcalfe*, 307 Mass. 386 (1940).
- <sup>52</sup> *Lenox v. Oglesby*, 311 Mass. 269 (1942).
- <sup>53</sup> Fair cash valuation is based on the highest and best use of the land, which should reflect the applicable zoning, building or other land use laws and regulations, as well as the physical characteristics of the land.
- <sup>54</sup> G.L. c. 59, § 11.
- <sup>55</sup> G.L. c. 183A, § 14.
- <sup>56</sup> G.L. c. 183A, § 14.
- <sup>57</sup> *Spinnaker Island and Yacht Club Holding Trust v. Board of Assessors of Hull*, 49 Mass. App. Ct. 20 (2000); *First Main Street Corp. v. Board of Assessors of Acton*, 49 Mass. App. Ct. 25 (2000)
- <sup>58</sup> G.L. c. 59, § 11; *R.I. Seekonk Holdings, LLC v. Board of Assessors of Seekonk*, 91 Mass. App. Ct. 1104 (2017).

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<sup>59</sup> G.L. c. 59, § 11. In communities that have adopted a local option, the physical status of real property on June 30 is deemed to be its condition on January 1. G.L. c. 59, § 2A(a).

<sup>60</sup> G.L. c. 183B, § 3(a).

<sup>61</sup> G.L. c. 183B, § 3(b).

<sup>62</sup> G.L. c. 183B, § 9.

<sup>63</sup> G.L. c. 59, § 23A.

<sup>64</sup> G.L. c. 59, §§ 23B and 70A.

<sup>65</sup> G.L. c. 44, § 53.

<sup>66</sup> G.L. c. 58, §§ 9-10C.

<sup>67</sup> G.L. c. 58, §§ 13-17.

## ADDITIONAL RESOURCES ASSESSMENT ADMINISTRATION

The following are additional resources on Assessment Administration produced by DLS that are available on our website: [www.mass.gov/dls](http://www.mass.gov/dls).

- ***DLSLAW Library*** – A searchable data base of current DLS Informational Guideline Releases (IGRs), Local Finance Opinions (LFOs) and Bulletins that is accessed by clicking the “Search DLSLAW Library” link appearing under “Public Reports and Databases” on the [DLS Gateway](#) login page.
- ***[Informational Guideline Release \(IGR\) 17-23, Overlay and Overlay Surplus \(August 2017\)](#)*** – Guidelines that explain the statutory standards for maintaining an adequate overlay.