

BOARD OF TAX AND LAND APPEALS RSA 20:6 BIENNIAL AGENCY REPORT

The Board of Tax and Land Appeals' ("board") office and hearing facilities are located at Johnson Hall, Governor Hugh J. Gallen State Office Park, 107 Pleasant Street, Concord, NH. The board is composed of three members appointed by the supreme court and a staff of four full-time and one part-time employees. RSA 71-B:1 requires board members to "be learned and experienced in questions of taxation or of real estate valuation and appraisal..." Currently, the board members are: Michele E. LeBrun, Chair; Albert F. Shamash; and Theresa M. Walker. The board's website (<http://www.nh.gov/btla/>) provides information relative to filing appeals and various forms pertaining to them, a docket calendar and a searchable decision database.

SUMMARY OF BOARD'S AUTHORITY AND DUTIES

The board's authority is derived from that given by the legislature to the State Tax Commission in 1911, the Commission of Eminent Domain in 1971 and the Board of Taxation in 1973. In 1983, the Commission of Eminent Domain and the Board of Taxation were merged creating the board as it exists today. As a result, the board has broad authority, as detailed below, over matters of taxation and eminent domain throughout the state.

RSA 71-B:5 outlines the board's authority and duties:

- 1) to hear and determine all matters relative to appeals of taxation;
- 2) to hear and determine appeals by municipalities of the department of revenue administration's ("DRA") determination of equalized valuation;
- 3) to administer the eminent domain procedure act (RSA ch. 498-A) including the determination of just compensation for private property taken for public purposes; and
- 4) to hear and determine all matters relating to reassessments.

TAXATION APPEALS

By statute, taxpayers have a choice of filing tax appeals either with the board or with the superior court. The board strives to provide a forum that is more accessible, less formal and less expensive. Parties can represent themselves before the board or hire tax representatives or attorneys. The statute requires board members to be full-time employees "learned and experienced" in questions involving taxation, real estate valuation and/or appraisal. Thus, board decisions are likely to be more consistent and informed with respect to tax matters involving these issues than when they are submitted to a jury, as they can be in superior court tax appeals.

The board's procedures enable taxpayers to represent themselves without substantial expense. Currently, the waiting period for appeals to be heard by the board is 1 to 1 ½ years from the date of filing. The board's tax appeal caseload varies based on conditions in the real estate market and the number of municipal reassessments. (See attached chart of history of the board's appeals.)

After determining all filing timelines have been met, appeals are categorized by type and complexity to utilize the board's resources efficiently while scheduling hearings. After hearing each appeal, the board issues a decision with detailed findings, which is appealable to the supreme court.

The board currently has funded one of two review appraisers required by statute (RSA 71-B:14) who completes reports or appraisals in property tax appeals and eminent domain actions.

The types and complexity of properties appealed to the board range from single family homes to waterfront, commercial/industrial, hydroelectric facilities, pipelines, utilities and other properties.

In addition to property tax appeals, the board has jurisdiction to hear and decide appeals of all state taxes. A complete list of the taxes appealable to the board is attached and includes charitable exemptions, land use change tax, timber tax, rooms and meals tax to name a few.

REASSESSMENT & EQUALIZED VALUATION APPEALS

The board has exclusive jurisdiction to determine the need for and sufficiency of reassessments and the accuracy of equalized valuation determinations by the DRA.

Reassessment actions can be initiated by a petition from the DRA, a petition from 50 or more taxpayers in a municipality or by the board. The board's review appraiser does extensive investigations and analyses of the municipality's assessing practices and equity, which then become part of the record in the board's determination of whether or not to order a reassessment. The review appraiser also performs analyses subsequent to reassessments ordered by the board to determine whether the reassessments were properly performed.

Annually, the DRA calculates the equalized valuation of all taxing jurisdictions in the state, which is a key component in the calculation of the statewide property tax and the distribution of other state, county and regional school district funds. Municipalities may appeal the DRA's calculation to the board and the board must hear and determine the

proper equalized valuation within sixty (60) days from the date of the appeal to ensure the statewide equalization and tax rate setting procedures are uninterrupted.

EMINENT DOMAIN

The board's third general area of jurisdiction includes processing and hearing eminent domain cases as provided in RSA ch. 498-A. Declarations of taking are filed with the board by the condemnors (the State of New Hampshire and any political subdivision authorized by statute to take property for public purposes) with a filing fee and a deposit of damages. The board's clerk issues orders of notice to each of the owners of property (condemnees) and holds the deposits of damages until requested by the condemnee(s). A just compensation hearing is then scheduled unless any condemnee files a preliminary objection to the taking.

Procedural preliminary objections are heard and determined by the board, while preliminary objections challenging the public necessity of the taking are transferred to the superior court. Once the superior court has ruled on the preliminary objection, the case is then returned to the board for determination of just compensation. Hearings on the issue of just compensation are held in the county where the property is located and a view of the property is taken.

FUNDING

Because the board's responsibilities are divided between taxation and eminent domain matters, the board is partially funded by "general" funds and partially by "highway" funds. While it varies from biennium to biennium and depends on the relative numbers of taxation and eminent domain condemnations, the board's funding split is approximately 90% general funds and 10% highway funds.