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GUIDANCE REGARDING 2020 REVALUATION REQUIREMENTS DURING COVID-19

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Pursuant to RSA 21-J:3 I, V, and VI, the Department offers the following information to municipalities regarding scheduled 2020 revaluations. Furthermore, the Department is reporting on the current progress that municipalities and assessors have made in achieving these statutory and constitutional requirements. Finally, the Department is clarifying the various options available to Municipalities and Assessors in completing these revaluations.

1.

New Hampshire Constitution Part II, Article 6 requires communities to perform revaluations at least as often as every 5 years:

> ***[Valuation and Taxation.]*** *The public charges of government, or any part thereof, may be raised by taxation upon polls, estates, and other classes of property, including franchises and property when passing by will or inheritance; and there shall be a valuation of the estates within the state taken anew once in every five years, at least, and as much oftener as the general court shall order.*

Furthermore, RSA 75:8-a provides:

> ***75:8-a Five-Year Valuation.*** *– The assessors and/or selectmen shall reappraise all real estate within the municipality so that the assessments are at full and true value at least as often as every fifth year....*

The importance of regular revaluations is also a cornerstone to the NH Supreme Court's decision *Sirrell v. State of New Hampshire*, 146 N.H. 364 (2001). Proportionality and equity in property taxation requires that everyone pays taxes based on the value of their property, and town-wide revaluations reset all properties to market value on a regular basis. Annual equalization apportions municipalities within a school district, a county and the State on an annual basis but does not account for fluctuations in value between neighborhoods and property types within a town created by market demand dynamics. As the Court reasoned in *Sirrell*, "Taxes must not

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merely be 'proportional, but in due proportion, so that each individual's just share, and no more, shall fall upon him.' because otherwise "any one's payment of less than his share leaves more than their shares to be paid by his neighbors, his non-payment of his full share is a violation of their constitutional right." *Sirrell*, 146 N.H. at 370.

It remains the Department's position that communities scheduled to perform their 5-year revaluations in 2020 must continue to comply with this constitutional requirement. As such, it should also be noted that the Department has the responsibility to petition the BTLA whenever a municipality has not completed a lawful revaluation at least every five years. See RSA 21-J:3, XXV and RSA 71-B:16, V.

2.

As of April 24, 2020 there are approximately 60 municipalities scheduled to perform town-wide revaluations that will satisfy their required "values anew" for the 2020 tax year. The Department monitors revaluation work throughout the state and every community required to perform a revaluation in 2020 is somewhere in the process of achieving compliance. The Department reviews all assessing contracts prior to their execution. Based on documentation received by the Department, a couple of towns are still in the process of reviewing Requests for Proposals and a few municipalities are submitting, or making changes to already submitted contracts. These changes are being made to limit face-to-face inspection requirements with property owners and/or for fiscal reasons.

To date, the Department has had conversations with representatives of six communities in the State who have concerns about conducting a 2020 revaluation. All, to the Department's knowledge, are moving forward with revised revaluation plans. See item 3.

It should be recognized that there are contract assessors and municipal staff assessors who have negotiated and executed contracts with communities; held pre-revaluation meetings with the Department and municipality; collected and/or qualified sales data from the past 1-2 years; analyzed sales data to develop value benchmarks for all properties in the municipality; and are otherwise "in the midst of the process."

3.

There are several options recognized by the Rev 600 rules for town-wide revaluations which meet the constitutional and statutory obligations noted above.

In decreasing order of work and complexity they are as follows:

> *Rev 601.24 "Full revaluation" means the revaluation of all taxable and nontaxable properties in a municipality, with a complete measure and listing of all taxable and nontaxable properties to occur at the same time of the establishment of the new base*

year, to arrive at full and true value as of April 1. The term includes "full reappraisal" and "full reassessment."

Rev 601.16 "Cyclical revaluation" means the process of combining a full statistical revaluation of the entire municipality with a cyclical inspection process. (See also: Rev 601.15 "Cyclical inspection" means the process of a systematic measure and listing of all properties within a municipality over a specified period of time. The term includes "data collection" and "data verification.")

Rev 601.25 "Full statistical revaluation" means the process of a revaluation of all taxable and nontaxable properties in a municipality, using existing property data, to arrive at full and true value as of April 1. The term includes "statistical update" and "statistical reassessment."

A few communities this year, that were planning on performing a Full Revaluation with a full measure and list of all properties prior to setting values, for fiscal or social distancing reasons have decided that this is not a good environment in which to perform this type of extensive project. Instead, they are scaling back to more manageable full statistical revaluations, recognizing that comprehensive measure and list fieldwork can be performed over the course of one or more future years. However, for communities that have already had contracts approved for full revaluation, those contracts and the Rev 600 rules require measure and list. In addition, for those communities that have contracted for full statistical revaluations, those contracts and Rev 600 rules require a measure and list of sales used to support the statistical model.

For those communities conducting Cyclical Revaluations and that have been performing cyclical property inspections, over the past 2, 3, 4, 5 years, for instance, have typically completed their inspections prior to the revaluation year. "Callbacks" for property owners who have requested interior inspections, or any other cyclical inspections not already performed can be postponed or managed with appropriate safe-distancing as discussed below.

Essentially, what is minimally required to be performed at least as often as every five years is a Full Statistical Revaluation (sometimes referred to as an 'Update'). What can this look like in this time requiring social distancing? It requires the qualification and measure and list of sale properties. Specifically, sales qualification requires determining which sales in the municipality from the past one-to-two years (typically) were arm's length, open market sales. In order to qualify these sales, assessors can utilize a multiple listing service (MLS), PA-34 forms, telephonic interviews and deed information. All of these sales qualification methods can be performed without face-to-face contact. Rev 603.03(a), however, also requires interior and/or exterior inspection of the qualified sale property—a measure and list. Assessors and Municipal Assessing Officials should devise an appropriate protocol for handling the field work – both the measure and list work and the verification under Rev 603.03(a)(3). Health and safety are always paramount concerns and even more so now, so assessors must follow the recommendations of federal and state health officials which would include that they not do field work when they have symptoms, if they have been found to be infected, or if they have been exposed to an infected person. They should maintain safe distancing, wear face masks and eye protection, wash and

sanitize their hands and tools, they should not go into buildings where there are people who are sick or showing symptoms or who will not cooperate and wear face-masks. Review and follow the CDC recommendations: https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/index.html

Moreover, Municipal Assessing Officials may, under Rev 603.03(a)(9)(g), determine that particular properties should not be inspected if there is any reason "that the property is inaccessible." This rule can easily be applied to the current stay-at-home ordered circumstances and may be applicable in the future with respect to specific properties or property types when those orders may be relaxed. Just as the contracts and the rules currently provide for alternative methods of data collection in cases where interior inspections are not possible, those methods can and should be employed when properties are not accessible due to stay at home orders or health and safety reasons. Revised protocols and contract amendments should be discussed with the Department.

Once sales have been qualified and measured and listed, the process of establishing values is analytical and utilizes, in most cases, the assessor's remote access/use of the computer assisted mass appraisal (CAMA) system. The remaining process is largely "distant" from taxpayers. Once preliminary values have been established, a final field (or desk) review is performed to make sure that values have been consistently applied property-to-property, neighborhood-to-neighborhood. A field review is usually performed on a "windshield" or "drive-up" basis and usually does not require contact with a property occupant.

The last step of a revaluation is typically an informal hearing process. The process provides the property owner with the opportunity to go over the property record card with the assessor or to otherwise ask questions about value or the process. Phone interviewers, web-based interactive meetings, or in-person, masked, interviews as late in the process as possible might be reasonable solutions to social distancing during the pandemic period. Again, if this is the case, the Department recommends that a standard operating procedure be decided upon between the municipality and the assessor and communicated to the Department via a revised contract addendum or in-house work plan.

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