Bill as Introduced

SB 349-FN-LOCAL – AS INTRODUCED

2010 SESSION

10-2845
10/09

SENATE BILL ***349-FN-LOCAL***

AN ACT relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

SPONSORS: Sen. DeVries, Dist 18; Rep. Patten, Carr 4; Rep. Stohl, Coos 1

COMMITTEE: Public and Municipal Affairs

ANALYSIS

This bill clarifies the procedures for appraisal of residential property subject to a housing covenant under the low-income housing tax credit program and establishes a procedure for enforcement of restrictions during the compliance period.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

10-2845
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Residential Property Subject to Housing Covenant Under the Low-Income Housing Tax Credit Program. Amend the introductory paragraph of RSA 75:1-a to read as follows:

75:1-a Residential Property Subject to Housing Covenant Under the Low-income Housing Tax Credit Program. The appraisal for property tax purposes on multifamily residential rental property which [~~has been allocated federal low-income housing tax credits under~~] ***is governed by*** section 42 of the Internal Revenue Code and which is subject to a recorded housing subsidy covenant that restricts tenant eligibility and rents shall, upon the affirmative request of the taxpayer, be determined under this section. A copy of the recorded land use restriction required by section 42 of the Internal Revenue Code or other low income rental use restriction covenant required by the New Hampshire housing finance authority, is sufficient proof [~~of an allocation of federal low-income housing tax credits~~] ***that the property is eligible for assessment under this section***.

2 Election; Applicability. Amend RSA 75:1-a, I to read as follows:

I. To make an election for an appraisal of property subject to a housing covenant under the low-income housing tax credit program, the taxpayer shall, by October 1 preceding the tax year for which the election is sought, provide written notice to the municipality of the taxpayer's election to be assessed under this section, using a form prepared by the department of revenue administration. ***A property that as of April 1 of the tax year is under construction shall not be eligible to apply for assessment under this section.***

3 Financial Information. Amend RSA 75:1-a, IV to read as follows:

IV. Financial information that is required from the taxpayer under this section shall be the audited financial statements from the prior calendar year as prepared by a third-party certified public accountant. ***For properties with financial data for part of the prior calendar year, the assessor shall use the partial data and the projected operating budget for the first full year of operations as provided by the New Hampshire housing finance authority to extrapolate a full year's estimated operation financials.***

4 New Subparagraph; Definition; Multifamily Rental Property. Amend RSA 75:1-a, VIII by inserting after subparagraph (h) the following new subparagraph:

(i) "Multifamily rental property" means the property described in the recorded land use restriction agreement.

5 New Paragraphs; Rulemaking; Penalty. Amend RSA 75:1-a by inserting after paragraph VIII the following new paragraphs:

IX. The commissioner of the department of revenue administration shall adopt rules pursuant to RSA 541-A concerning how capitalization rates shall be established, including a process for receiving public input prior to such establishment.

X.(a) Property that is being assessed under this section shall be subject to a change-in-use tax if during the initial 15-year compliance period under section 42 of the Internal Revenue Code, the property is released from the land use restriction agreement. The initial compliance period shall end December 31 of the fifteenth year following the recording of the land use restriction agreement.

(b) The tax shall be 5 percent on the difference between the unrestricted full and true value on the change-in-use date and the existing value calculated using the income approach under this section. If there is no difference in value, then no tax shall be due.

(c) The tax shall be paid by the owner as of the date of the change in use. This tax shall be in addition to the annual real estate taxes imposed upon the property and shall be due and payable to the municipality upon the change in land use. The municipality shall follow the procedures described in RSA 79-A:7, II for collecting the tax.

(d) Nothing in this paragraph shall be construed to require payment of this tax if the restrictions are released due to foreclosure.

(e) Any person aggrieved by the assessment of the change-in-use tax may seek an abatement by following the procedures in RSA 79-A:10.

6 Repeal. The following are repealed:

I. 2008, 390:9, relative to a contingent version of RSA 75:1-a.

II. 2008, 390:10, relative to the contingent effective date.

III. 2008, 390:11, II, relative to the effective date.

7 Effective Date. This act shall take effect June 30, 2010.

LBAO
10-2845
01/13/10

SB 349-FN-LOCAL - FISCAL NOTE

AN ACT relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

FISCAL IMPACT:

The New Hampshire Municipal Association and the Department of Revenue Administration state this bill may increase local revenue by an indeterminable amount in FY 2011 and each year thereafter. There is no fiscal impact on state and county revenue or on state, county, and local expenditures.

METHODOLOGY:

The New Hampshire Municipal Association states this bill clarifies procedures for assessing local property taxes on residential property subject to a restricted housing covenant under the low income housing federal tax credit program and proposes a change-in-use tax if the property is released from the land use restriction covenant within 15 years of originally recording that covenant, which may lead to an increase in local revenue. The Association states this bill also repeals contingency provisions in Ch. 390, L'08 that required the adoption of rules by the assessing standards board, but this repeal did not have a fiscal impact. The Association does not have information available regarding the assessed valuation of these types of properties or the likelihood that a covenant remains in place for the 15 year period, so it cannot estimate a specific amount of any revenue increase.

The Department of Revenue Administration states this bill will require the Department to develop rules and hold annual public forums before it establishes capitalization rates, but the associated administrative tasks should be absorbed within the existing operating budget. The Department also states the provisions of this bill may increase revenue at the local level, but it cannot reasonably estimate the amount of such an increase.

SB 349-FN-LOCAL – AS AMENDED BY THE SENATE

03/03/10 0809s

2010 SESSION

10-2845
10/09

SENATE BILL ***349-FN-LOCAL***

AN ACT relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

SPONSORS: Sen. DeVries, Dist 18; Rep. Patten, Carr 4; Rep. Stohl, Coos 1

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill clarifies the procedures for appraisal of residential property subject to a housing covenant under the low-income housing tax credit program and repeals a contingent amended version of the statute.

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03/03/10 0809s

10-2845
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LBAO
10-2845
01/13/10

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CHAPTER 40
SB 349-FN-LOCAL – FINAL VERSION

03/03/10 0809s

2010 SESSION

10-2845
10/09

SENATE BILL *349-FN-LOCAL*

AN ACT relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

SPONSORS: Sen. DeVries, Dist 18; Rep. Patten, Carr 4; Rep. Stohl, Coos 1

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

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CHAPTER 40
SB 349-FN-LOCAL – FINAL VERSION

03/03/10 0809s

10-2845
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

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40:3 Financial Information. Amend RSA 75:1-a, IV to read as follows:

IV. Financial information that is required from the taxpayer under this section shall be the audited financial statements from the prior calendar year as prepared by a third-party certified public accountant. ***For properties with financial data for part of the prior calendar year, the assessor shall use the partial data and the projected operating budget for the first full year of operations as provided by the New Hampshire housing finance authority to extrapolate a full year's estimated operation financials.***

40:4 New Subparagraph; Definition; Multifamily Rental Property. Amend RSA 75:1-a, VIII by inserting after subparagraph (h) the following new subparagraph:

(i) "Multifamily rental property" means the property described in the recorded land use restriction agreement.

40:5 New Paragraph; Rulemaking. Amend RSA 75:1-a by inserting after paragraph VIII the following new paragraph:

IX. The commissioner of the department of revenue administration shall adopt rules pursuant to RSA 541-A concerning how capitalization rates shall be established, including a process for receiving public input prior to such establishment.

40:6 Repeal. The following are repealed:

I. 2008, 390:9, relative to a contingent version of RSA 75:1-a.

II. 2008, 390:10, relative to the contingent effective date.

III. 2008, 390:11, II, relative to the effective date.

40:7 Effective Date. This act shall take effect June 30, 2010.

Approved: May 18, 2010
Effective Date: June 30, 2010

Amendments

Sen. DeVries, Dist. 18
February 17, 2010
2010-0797s
10/09

Amendment to SB 349-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Amend the bill by replacing section 5 with the following:

5 New Paragraph; Rulemaking. Amend RSA 75:1-a by inserting after paragraph VIII the following new paragraph:

IX. The commissioner of the department of revenue administration shall adopt rules pursuant to RSA 541-A concerning how capitalization rates shall be established, including a process for receiving public input prior to such establishment.

2010-0797s

AMENDED ANALYSIS

This bill clarifies the procedures for appraisal of residential property subject to a housing covenant under the low-income housing tax credit program and repeals a contingent amended version of the statute.

Public and Municipal Affairs
February 17, 2010
2010-0809s
10/0

Amendment to SB 349-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Amend the bill by replacing section 5 with the following:

5 New Paragraph; Rulemaking. Amend RSA 75:1-a by inserting after paragraph VIII the following new paragraph:

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2010-0809s

AMENDED ANALYSIS

This bill clarifies the procedures for appraisal of residential property subject to a housing covenant under the low-income housing tax credit program and repeals a contingent amended version of the statute.

Committee Minutes

Printed: 01/28/2010 at 11:06 am

SENATE CALENDAR NOTICE
PUBLIC AND MUNICIPAL AFFAIRS

Senator Betsi DeVries Chairman
Senator Matthew Houde V Chairman
Senator Kathleen Sgambati
Senator Sheila Roberge
Senator John Barnes, Jr.

Take Attendance

Start 8:32
Stop 9:02

For Use by Senate Clerk's Office ONLY
☐ Bill Status
☐ Docket
☐ Calendar
Proof: ☐ Calendar ☐ Bill Status

Date: January 28, 2010

HEARINGS

Thursday **2/4/2010**

PUBLIC AND MUNICIPAL AFFAIRS	LOB 103	8:30 AM
(Name of Committee)	(Place)	(Time)

EXECUTIVE SESSION MAY FOLLOW

8:30 AM	SB349-FN-L	relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.
8:50 AM	SB400-FN	relative to assessment of the land use change tax.
9:00 AM	SB406	relative to merger of lots or parcels.

Sponsors:

SB349-FN-L

Sen. Betsi DeVries	Rep. Betsey Patten	Rep. Eric Stohl	

SB400-FN

Sen. Betsi DeVries	Rep. Robert Theberge	Rep. Mary Cooney	Rep. Betsey Patten

SB406

Sen. Kathleen Sgambati	Sen. Sheila Roberge	Rep. Alida Millham	Rep. Richard Stuart
Sen. Matthew Houde	Sen. Jeb Bradley	Rep. James Pilliod	Rep. Beth Arsenault
Rep. Liz Merry	Sen. Martha Fuller Clark		

Claire Emery 271-1403

Sen. Betsi DeVries

Chairman

Public and Municipal Affairs Committee Hearing Report

TO: Members of the Senate

FROM: Shannon Whitehead, *Legislative Aide*

RE: Hearing report on **SB 349-FN-LOCAL** - *AN ACT* relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

HEARING DATE: February 4,, 2010

MEMBERS OF THE COMMITTEE PRESENT: Senator DeVries, Senator Houde, Senator Sgambati, Senator Roberge and Senator Barnes.

MEMBERS OF THE COMMITTEE ABSENT: n/a

Sponsor(s): Sen. DeVries, Dist 18; Rep. Patten, Carr 4; Rep. Stohl, Coos 1

What the bill does: This bill clarifies the procedures for appraisal of residential property subject to a housing covenant under the low-income housing tax credit program and establishes a procedure for enforcement of restrictions during the compliance period.

Who supports the bill: Ignatious MacLellan (Northern New England Housing Investment Fund) Ben Frost (NH Housing) and Senator DeVries.

Who opposes the bill: n/a

Neutral position to the bill: Elissa Margolin (Housing Action NH) in support with an amendment.

Summary of testimony received:

<u>Senator DeVries, Prime Sponsor of the bill</u>:

- This is the result of the journey from the Assessing Standards Board with its review and procedures. The low income housing tax credit is a federal program through the IRS tax reduction and in exchange of work force housing.

- SB 349 clarifies RSA 75:1-a, which passed in 2008 and explains how to assess for property taxes affordable rental housing developed using the federal low income housing tax credit program.
- The clarifications are simple, the underlying statute is very important. It is essential to help provide quality housing to our lower income neighbors
- The low income housing tax credit housing program is the number one affordable rental housing production program in NH. Serving lower income people and helping developers meet their communities need for housing.
- The tax credit housing program is administered by New Hampshire Housing Finance, and since the program began about 5,500 apartments have been created in about 150 developments. Yearly, the tax credit program bring in $20-22 million is raised from private sources to create approximately 200 units.
- Properties develop under this program are subject to recorded and enforceable restrictions on 1) the income eligibility for tenants 2) the maximum rent that can be charged and 3) the sale or transfer of the property. NH Housing enforces these restrictions for at least 30 to up to 99 years.
- The housing program is successful of this housing program, but there was no consistent or objective assessment procedure to value these properties for property taxes. The developer wanted to pay their fair share, but no one could point to a way to assess these unique properties.
- The Board of Tax and Land Appeals suggested a property tax decision that the legislature take a look at. In 2008 the legislature did spend a lot of time with various groups such as the Municipal Association, Department of Revenue, NH Housing and housing providers to draft a statutory formula to value these properties.
- One piece that did not come out from the Assessing Standard Board is on page 2, section 5, which provides the DRA with rulemaking authority over how the capitalization rate is established and adds a new change in use tax that applies if a property is released from the record restrictions. (Paragraph 5)

Paragraph 1. Clarifies what properties are entitled to elect this assessment approach ensuring our law matches the federal law.
Paragraph 2. clarifies that properties under construction on April 1 cannot be assessed using the formula. Because RSA 75:1-a relies on the income approach formulas, properties under construction cannot apply because they lack the needed income and expense information.

Paragraph 3. Clarifies that assessors are empowered to use part- year financial information to determine full year financials.
Paragraph 4. Clarifies the definition of "multi-family rental property" to line up with the tax credit definition.
Paragraph 5. Stated above. In addition, the ASB requested this new tax. Senator DeVries stated that she does not fully support this tax. The current language was written carefully to ensure banks will continue to provide money to build this housing.
Paragraph 6. Repeals the procedural steps taken last time to allow the ASB time to look into this issue.

- A section that is similar to current use, 15 years change in use penalty will be assessed. There is caution to try to tinker it all with 15 year time frame, would be problematic. There is a highly competitive business arrangement. Wealthy to low income property to further tilt that competitor edge away from NH, those investors will go to other states with their dollars. Predictability, in market place.

<u>**Ignatious MacLellan (Northern New England Housing Investment Fund)**</u>

- We are a non profit organization. The basic role from us is to raise money from banks and invest. The organization was established in 1996. The clarification of the bill is attracting investors to NH to continue the program
- Averaging $150 million in NH, resulting in approximately 1500 apartments
- This bill was debated and studied with the Assessment Standards Board and was analyzed by the Department of Revenue.
- On Page 2. Line 6, change in use tax. We do not support. There is no place in the country that has this tax.
- 15 years was chosen, investors are in these properties for 15 years that's what the internal revenue required.
- Senator Houde stated that there are highly regulated transactions. Are there no other states that have a penalty tax for the time period? Most states know the sign of a regulatory document; we need to make sure there are compliance. These properties are highly restricted.
- Senator Sgambati asked if other states do hearings of settings of the rate? Mr. McLellan responded that he didn't know, and that he could look into it. NH's bill is clearer than others.
- A lot property in NH had trouble making net income. This now allows properties to come out and positive cash flow. We dont like the risk of tax we can not take our chance of losing 71:a. this ensures predictability.

Ben Frost. NH Finance Housing Authority Director

- Strongly supports passage of SB 349. This legislation will affirm the work done by the legislation on 2008 when it established a fair and consistent process for assessing property taxes on those properties that are developed under the Low Income Housing Tax Credit Program (LIHTC). This bill is the culmination of the work done by the Assessing Standards Board since then.
- The LIHTC provides an effective vehicle for encouraging private investment in new affordable rental housing. Eligible projects receive federal income tax credits over a ten year period, commensurate with the percentage of the units set aside for eligible households. In order to be eligible, a minimum of 20% of the project must be targeted to households earning 50% or less of median area income or 40% of the project must be targeted to households earning 60% or less of median area income. In New Hampshire sponsors commit to the affordability levels for 99 years.
- Typically, the tax credits provide a basis for the syndication of projects to investor limited partners, exchanging project equity for tax credits. The resulting equity leverages loan capital and greatly reduces the need for scarce, direct public subsidies. Tax credit equity has become the cornerstone of almost all affordable rental production in New Hampshire, generating on average 65% of total project costs. Credits are allocated in a competitive basis one or two times each year.
- Although many LIHTC projects are sponsored by non-profit owners, most of these properties are owned by private entities. In fact, the structure of the LIHTC program requires that a for-profit ownership entity exist even if a community based non profit serves as the general partner. The financing available provides subsidies that are designed to reduce the cost of building housing. Few resources are available to support the ongoing operation of projects. Instead properties are intended to be self supporting though collection of rents.
- In return for favorable subsidies the restriction imposed by the LIHTC program, effectively limit the income that a project can generate regardless of market conditions. These restrictions are established through recorded deed restrictions and covenants that run with the property. The nature of the long term use restrictions associated with LIHTC properties severely limits the opportunities for them to be sold. Therefore, unlike market rate apartment projects there are few sales transactions that can be used to develop conclusions about market values.
- This limitation results, therefore in a class of properties that differ significantly from conventional market rate apartment. Specifically,

LIHTC properties have artificial restrictions on income and it is difficult to determine value based on comparable sales. This has created a challenge to the tradition approach of assessing properties for tax purposes.

- Prior to the Legislature acting in 2008 to create an income based assessing formula, local assessments often failed to recognize the unique characteristics of the properties, resulting inconsistent and unsupportable values, which were frequently disproportionate to the income generating capacity of projects given the revenue restrictions inherent in financing agreements.
- The Legislature solution to this problem provided statutory guidance to assessors that recognized the unique circumstances of these properties-in particular the income restrictions imposed by the LIHTC program- and ensured that such properties will pay their fair share of taxes based in a projects actual income producing capacity.

Elissa Margolin. Housing Action New Hampshire:

- In support of the bill in general but has objection to the proposed change in use tax proposed in paragraph 5. (Strike paragraph 5).
- Housing action New Hampshire is a newly established coalition whose purpose is to work with federal and state policy makers to increase public investment in the development and preservation of affordable housing. We work with developers, agencies and other who work with the low income housing tax credit (LIHTC) program, which helps provide housing to lower income people in NH.
- The LIHTC program is a key piece of the Housing puzzle in NH. Ensuring we are able to produce new rental units for those in need of decent and affordable housing. These properties are subject to long term restrictions on 1) tenant income 2) maximum rent allowed and 3) resale. These restrictions impact the property's value which should be recognized in the property assessment.
- The bill while a clarification bill, reinforces and improves the progress made in 2008 with the enactment of RSA 75:1-a Before 75:1-a affordable housing providers had little idea of what their property taxes would be or how the assessment had been determined. This made it difficult four housing providers to budget. Given program requirements and limits resources, tax credit properties operate on very tight budgets. RSA 75:1 a created certainty and fairness, which is essential to any important housing program. The proposed clarification will ensure this assessment procedure works better for municipalities and tax payers.
- Paragraph 5. Includes and new change in use tax, Opposes this new tax.

- Adding a new tax will create a new potential burden on affordable housing and could cause unintended consequences. Right now, it is harder than ever to attract to investors to these housing development projects and the legislature should be weary of adding uncertainty.

*Hearing ended at 9:02am

Funding: *Please refer to Fiscal note below*

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Future Action: Pending

Date: February 4, 2010
Time: 8:32 a.m.
Room: LOB 103

The Senate Committee on Public and Municipal Affairs held a hearing on the following:

SB 349-FN-L (New Title) relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Members of Committee present:

Senator DeVries
Senator Houde
Senator Sgambati
Senator Roberge
Senator Barnes

The Chair, Senator Matthew Houde, opened the hearing on SB 349-FN-L and invited the prime sponsor, Senator Betsi DeVries, to introduce the legislation.

Senator Matthew Houde, D. 5: Going to open the public hearing on Senate Bill 349 relative to the procedures of appraisal and enforcement of taxation of multi-family residential rental property. And I'm going to call the Chair, Senator DeVries.

Senator Betsi DeVries, D. 18: Thank you very much, Mr. Chairman and members of the Committee. I feel like saying that it's back, because many of you will recall the rather rocky road, lengthy road that the low income housing tax credit bill went through several years ago. The bill was passed two years ago I want to say, out of the Senate and the House and journeyed over to the Assessing Standards Board for review, as well as rule making procedures. And the bill that you have back in front of you today is a result of that journey over to the Assessing Standards Board.

Let me start by giving you a little bit of background, because I'm sure even though I've been eating, drinking, breathing low income housing tax credits for years now, the rest of you have not. So let's give you briefly the background between, behind the bill in front of you. Low income housing tax credits is a federal program that is offering through IRS an actual tax deduction to very wealthy people who need a write-off in exchange for their investment into a very worthy cause of developing work force housing. So they give us their millions and the federal government gives them a tax credit, a break on their taxes. It's a very complicated system that is very highly regulated by the federal government and it is also a very competitive process. Just like looking for an angel investor into your business, any individual wealthy enough to have money looking for tax credits is going to scrutinize carefully any business proposal brought to him to invest into. So it is a very competitive process to be awarded tax credits to assist you in building your housing project. It's become even more competitive over the last couple years, as you can imagine, because there are less individuals out there willing to give up or that have money to invest.

So, we found with an influx of dollars coming into the state that we had created, coming into the front end of a property that is being developed, we found some difficulties in trying to appraise or assess those properties at the local level for property taxation. The different assessors throughout the state contacted, reached out to us a few years ago and said there's no consistency in how we should value this influx of money at the beginning of the property. So, that was the bill that passed through these bodies a couple of years ago, developed some consistency and how for the purposes of property taxes we should be assessing these parcels. And that's exactly why, for rule making, we had sent over to the Assessing Standards Board the legislation for review as well as rule making.

The ASB decided that they really do not need to put in additional rules that the, in fact the work that had been done on the bill held up incredibly well under their scrutiny. They did, though, recommend a few tweaks if you would. And knowing that I have individuals behind me that are going to walk you through the different tweaks one by one, I'm not going to try to reiterate them. Though I certainly will, if there is any need to fill in, come back up and give further testimony after you hear from others if there are still any questions. But I'll leave that to these individuals that are familiar with crunching those numbers constantly.

I would bring to your attention, though, one piece that did not come out of the recommendation of the Assessing Standards Board, and that is the final portion of the bill that deals with the change in use tax. And it starts on page 2, section V, I want to say. Nope, that's capitalization. Yeah, starts on section V.

Contrary to popular belief, our bodies frequently do enter into things that become a compromise. And at the Assessing Standards Board, it became

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clear that one of the Representatives really wanted to see some sort of control on the resale of these properties. Even though, in my belief, the resale of low income housing tax credit property is not a real issue because attached to that parcel, in exchange for the tax credit, goes many deed restrictions that run with the property for between 30 and 99 years. And those cannot, they run with the deed, they cannot be removed. We never really reached a point of totally satisfying the concern that there could be a sale after an investor had reaped the benefit of his tax credits. So in the art of compromise, we have included in here a section that is similar to a current use change tax. That should there in, within 15 years be any kind of a change, there will be a penalty assessed. Change in use, the penalty will be assessed.

I would caution the Committee that to try to tinker at all with the 15 year time frame could be problematic. And I say that because if you think back to the beginning of my testimony, this is a very highly competitive business arrangement, to try to get investors to bring their millions to the table to invest into the development, the construction of a low income housing property. And to further tilt that competitive edge away from those projects in New Hampshire, just mean that those investors will go to other states with their dollars, where they don't have this one additional layer of uncertainty. Predictably is everything in the business market. I think we all hear that frequently, and this is just one other time where they want to understand the predictability. Fifteen years is probably the top end of the time line that we can ask for this restriction, or a potential tax, even though the deed restriction exists. To extend it out further than that I believe would be problematic, and I'm not sure I would support. New Hampshire Housing Finance Authority and others can speak in greater detail. I can see that everybody is now nodding off because we're back on their favorite subject matter, low income housing tax credits.

So why don't I conclude and let others continue with their testimony and see if we either put you further to sleep or fill in some questions.

<u>Senator Matthew Houde, D. 5</u>: Thank you, Senator DeVries. Are there questions?

<u>Senator Betsi DeVries, D. 18</u>: I'm willing to take them, Senator.

<u>Senator John S. Barnes, Jr., D. 17</u>: We'll catch you later.

<u>Senator Matthew Houde, D. 5</u>: Seeing none, thank you very much.

<u>Senator Betsi DeVries, D. 18</u>: Thank you.

Senator Matthew Houde, D. 5: Shannon, could you pass me the sign in sheet please? Thank you. Calling Ignatius MacLellan from the Northern New England Housing.

Mr. Ignatius MacLellan: Good morning. My name is Ignatius MacLellan, I work at the Northern New England Housing Investment Fund. We are a non-profit that works in Maine and New Hampshire, and our basic role is to go out to the banks and raise money from the banks that we then, on behalf of the banks, invest in these affordable housing developments. We've been in existence since 1996 and I've invested about $150 million in New Hampshire, resulting in approximately 200. I'm trying to think of the number of developments, I can't recall. But about 1,500 apartments in New Hampshire alone.

I'm here to speak in support of the bill generally and just to state a limitation or concern on the change in use tax. I'm going to begin by telling you that this bill, while it is a clarification bill, is an important bill. And you heard the sponsoring Senator talk about what's going on in the market right now in terms of attracting investors to New Hampshire to make sure we continue this program. So anything we can do to aid predictability is a good thing.

I will tell you that the original statute upon which this is based, which is RSA 75:1-a, if you'd care to read it, was not only hotly debated and worked on when it went through this body the first time. It's also gone through about a year and a half study over at the Assessing Standards Board to see does this really work. And even the skeptics, after the Department of Revenue ran its analysis and the like, said this is about as good as it's going to get, and it's not that bad.

But in that process, it was realized we needed a couple of clarifications, and if the Committee would like, I'm glad to very quickly go through the paragraphs and hit the clarifications. But I'll only do that if you request me to do that. Okay, thank you.

Senator Matthew Houde, D. 5: Thank you.

Mr. MacLellan: And if you'll turn, and I don't have the line numbers on my mine, but if you'll turn to paragraph 1, we're changing some technical language. Okay, great, thank you. Line 5, appreciate that.

We're changing just some technical language. As a general rule, the way the tax credit program has worked, is New Hampshire Housing allocates tax credits to a developer. The developer then sells those credits. Because of the collapse in the market, the federal government now allows New

Hampshire Housing to take some of those tax credits and basically turn them in to the government and get a grant back from the government, so there's no investors involved. We were concerned that the technical language here might say that for those properties that are doing what they call an exchange would not equally be covered, even though they're covered by all of the same restrictions.

And I should mention that the restrictions restrict what rent you can charge, they restrict who can live there in terms of their incomes, and they put pretty significant restrictions on your sale and resale. I mean, these properties are highly regulated. New Hampshire Housing is the agency that has the restriction and the requirement to supervise them and to scrutinize them. And the IRS scrutinizes them. So if you're not in compliance, you lose your tax credit. So you should know this is very highly regulated housing and hence the reason for treating them differently than the private housing where the landlords are not restricted as to rent, income and resale. So the change in paragraph 1 is just a technical change to eliminate the word allocation for where there's been an exchange.

Paragraph 2 is a change that says a property that as of April 1 of the tax year is under construction shall not be eligible to apply for assessment under this section. This is an income based formula which requires you to have income and expense data in terms of what's happening in the property. If the property's under construction, there's no data that can be used to plug into the formula so, excuse me, the assessors had a concern that if it's under construction it should not be eligible and so that has been put in there.

Paragraph 3 kind of parallels that in the sense that there will be years where there may be partial income and expense information when the assessor goes to do the work, and the assessor said that they have a normal practice of extrapolating partial year data to full year data. And this basically gives them that permission outright. So if there's a property that's been occupied for six months in the prior year, you have income and expense data, they can extrapolate that out to the twelve months.

In terms of paragraph 4, which is a new definition of multi-family property. This is just to cover, most of the developments that occur are single lot developments where you would have the entire 26 units right on one property. There are some places where they do downtown rehabilitation, such as in Manchester or Laconia, where you may have three side-by-side parcels or three parcels within a very close neighborhood that are all subject to the same land use restriction agreement. So instead of there, like on Elm Street where there may be three red bricks next to each other, they really are one project even though they may be on separate tax maps. And so, because asm

we're looking at this from an income and expense, we wanted to just clarify that when you look at the property, the property is what's subject to the land use restriction agreement.

In terms of paragraph 5, one of the key parts of any income approach is the capitalization rate. And the Department of Revenue sets that capitalization rate. Again, one of the goals of the bill was to say, what can we do to get objective information? Letting the Department of Revenue set a capitalization rate was the way to get objective information on the capitalization rate. But right now, there's no process. They have an internal process where somebody determines what the capitalization rate is and there's no public input or assessor input. And so that was just a request to, or now a requirement that the Department of Revenue, when they go through setting the capitalization rate, there's an opportunity both for the assessors and for the taxpayers and other public to say, here's data we would like you to look at. Because I can tell you that, you know, I was on the Board of Tax and Land Appeals for eight years and I'll only tell you that, because this is a convergence of taxes and housing. You know, the capitalization rate is key and that having public input as part of that process, you know, is absolutely key and consistent with transparency.

The last, if you turn the page, let me make sure I've got the right in terms of, maybe it's not turning the page, well on page 2, starting on line 6, this is the change in use tax that I will state on the record that we do not support. But I also will state on the record that I understand that this was very important to at least one of the co-sponsors of the bill. And basically what the tax does, is to say if you come out of your restrictions during the first 15 years and I'll explain why the 15 years matters, then you pay the change in use tax to the municipality. And it's five percent, and it's five percent based on the difference between what are you being assessed at now and what should you have been assessed at. It's different from current use. You know, current use, they basically set a land value and it doesn't have anything to do with what your actual value may be. We think the formula presents what the actual value of these properties should be, and therefore the difference should be, the tax should be based on the difference between what are you being assessed at with the restrictions. What would you be valued at without the restrictions and you pay five percent on that.

The 15 years was chosen because one of the concerns that we heard was that the investors, the banks that we work with, are in these properties for 15 years. And the reason they're in their property for 15 is because that's what the Internal Revenue Service requires, because if there's not compliance, they grab back the tax credits. That's the enforcement mechanism. Once the investors are out, these are then owned by the general partners, in most cases non-profits. So to the extent the concern was the investors may exit early having taken a benefit, the desire was to say let's get a, let's have a tax put on that so that if they exit early that the town would recapture something.

I will tell you that this language has been very carefully crafted. And the reason it's been carefully crafted is because it is very difficult right now to raise money to come into New Hampshire. We all love New Hampshire, but I will tell you large banks do not like the small deals we do in New Hampshire. We made sure that the, that as we work with folks on the language, that this language would not scare away other investors who look at New Hampshire. Because I will tell you, I don't know of any other state in the country that has this tax. And again, we don't support it, but at the same time, we're not going to speak in strong opposition because we do understand that the underlying bill is extremely important and has brought predictability to a process that lacked predictability. And has brought significant value, both to the developers, to the folks who finance it, and I'm hoping, to the assessing community. Because we did win over the assessors on the Assessing Standards Board, which showed that the formula that's in the statute actually works.

So those are my comments. Thank you.

Senator Betsi DeVries, D. 18: Thank you very much for your testimony. Were there questions from the Committee? Seeing none, we thank you. Oh, I'm sorry, didn't look both. Senator Houde.

Senator Matthew Houde, D. 5: If it's, I understand it's a highly regulated transaction, the federal government has a 15 year time period in which it would revoke the credits that it has been given. But I can't, are there no other states that have a tax, a penalty tax for changing the use during that period?

Mr. MacLellan: It's my understanding, and I'm, if there had been I would have heard it. I haven't done extensive research on it, just to be clear. I did, actually I've made presentations to the National Conference of State Tax Judges and so I'm aware of what other states are doing. So I don't want to promise you that if you go look. But as a general rule, most states know that given the high regulation that occurs, both with the Internal Revenue Service and with the state Housing Finance Authority, they sign a, I'm not sure how many pages it is, but a very significant regulatory document that New Hampshire Housing has people that scrutinize. Most states have said that's enough, you know, to make sure that there is compliance.

And from a principled perspective, the law in New Hampshire, even before this statute, was that if you had restrictions and they impacted value, you had to consider that in the assessment. So from a principled perspective, we object to the tax because these properties are highly restricted. Because how much would you pay for a property that has a 99 restriction on who can live there, how much you can sell it for, when you can sell it and what you can charge for rent? So it's our position that those values are already pushed down. I mean, there's your longer answer probably than you want.

Senator Matthew Houde, D. 5: Thank you.

Mr. MacLellan: Thank you.

Senator Betsi DeVries, D. 18: Follow-up? All set. Senator Sgambati.

Senator Kathleen G. Sgambati, D. 4: Thank you. I actually have two questions. Do other states do hearings on the setting of the rate? Is that a public process?

Mr. MacLellan: That's a great question that we did not look into. I will tell you that other states have grappled with this very issue, and they've all followed the same pattern that New Hampshire has followed. There is no clear answer about how to value these properties. A dispute arises, it goes to court or to a tax tribunal and then the legislature acts. And as a general rule, the legislature has acted in a similar fashion. Although I will tell you that the New Hampshire bill is much more specific than other bills, because we worked it out with the assessors to make sure that a lot of the details that they wanted were involved. So I think whether other states do it or not, I think it's the right thing to give both the assessing community and the taxpaying community an opportunity to have input on the capitalization rate. And that was a big issue before the Assessing Standards Board.

Senator Kathleen G. Sgambati, D. 4: Thank you. Further question.

Senator Betsi DeVries, D. 18: Please, Senator Sgambati.

Senator Kathleen G. Sgambati, D. 4: Sort of given the potential risk, and I know you said the language had been drafted carefully, but the potential risk on the five percent penalty. Are the rest of the provisions in the bill worth creating that risk for?

Mr. MacLellan: The answer is yes, and the reason is that the underlying statute, 75:1-a, is absolutely worth protecting. Some of these, you should know that these properties are structured financially so that they don't make asw

money. And you can blame New Hampshire Housing for that. Nationally, just to put it in perspective so that you know that these aren't big cash cows, $250 per unit is what the net cash flow is at the end of the year. So they're written on very, very tight margins. Why? Because you want to put as little subsidy into it as possible. So a lot of the properties in New Hampshire, before the 75:1, were having trouble operating in the, I always get it, you know, red or black. But they were having a hard time making any net income. They were losing money every year. The underlying statute, 75:1-a, has allowed a lot of the properties to come out and actually start having some positive cash flow, which the non-profits then either put back into the properties or the non-profits use for their general housing. So the answer to your question is, while we don't like the risk of the tax, we cannot stand the risk of losing 75:1-a.

And to the extent this bill represents some requests by the assessing community and some clarification that will benefit the assessing community, we want to make sure we keep that.

And the other thing is, the Assessing Standards Board would not be, would not have continuing jurisdiction over this and for predictability, we had a concern that if there was a board out there that could change the rules on a regular basis, that would impact how the investor views. This insures predictability even though there is the five percent tax.

Senator Betsi DeVries, D. 18: Further questions?

Senator Kathleen G. Sgambati, D. 4: No, thank you.

Senator Betsi DeVries, D. 18: Thank you very much. Further questions from other Senators? Thank you for your testimony.

Mr. MacLellan: Thank you. Appreciate your time.

Senator Betsi DeVries, D. 18: Calling on Ben Frost with the New Hampshire Housing Finance Authority.

Mr. Ben Frost: Thank you and good morning. My name is Ben Frost, I'm the Director of Public Affairs for New Hampshire Housing. I have a letter here, which I will not read to you. But it captures a lot of the importance of the tax credit program, which has already been... Senator, you described the tax credit program very well and there are others here, Ignatius among them, who can get to the details of the program. And I think you're already behind schedule, so I'll be really brief.

Senator Betsi DeVries, D. 18: We thank you.

Mr. Frost: We support this bill. We take no position on the change tax. Senator Houde, if you'd like, I could make an inquiry to the other state housing finance agencies to see if there is a similar change tax. I don't think there is, but I can get that information for you.

I just want to state our great thanks to Senator DeVries for her patient and persistent participation on the Assessing Standards Board and to the ASB for its yeoman's work on this issue. And for the DRA, too, because it has staffed the ASB admirably well. This is an important bill to us, and I would concur with Attorney MacLellan's view that, yes, the change tax is worth getting this bill through. It is that important to us, but it is a compromise. **See written testimony submitted by Ben Frost attached hereto and hereafter referred to as Attachment 2.**

Senator Betsi DeVries, D. 18: We thank you. Questions? Seeing none, thank you, Ben, for your testimony. Elissa, is it?

Ms. Elissa Margolin: Margolin.

Senator Betsi DeVries, D. 18: Margolid?

Ms. Margolin: Margolin, yes.

Senator Betsi DeVries, D. 18: And you're with the Housing Action New Hampshire.

Ms. Margolin: Housing Action New Hampshire, yes. So I have a letter also, I'd like to circulate. It's two pages. Thank you. Good morning, I'm Elissa Margolin with Housing Action New Hampshire. Who is Housing Action New Hampshire? Well, we're new kids on the block. We're a newly established coalition whose purpose is to work with state and federal policy makers to increase public investment in the development and preservation of affordable housing.

We work with developers, agencies and others who work with the low income housing tax credit program which help provide housing, as you know, to lower income people in the Granite State.

As others have mentioned, this is a key piece to the housing puzzle in New Hampshire, insuring that we're able to produce new rental units for those in need of decent and affordable housing. These properties are already subject to long term restrictions on tenant income, maximum rental allowed and resale has been mentioned. And so these restrictions already impact the properties' value, which should be recognized in the property assessment.

So Senate Bill 349, a clarification bill, reinforces and improves the progress that was made in 2008 with the enactment of RSA 75:1-a, providing that predictability that others have already discussed. Prior to that, it had been difficult for housing providers to budget and given the program requirements and limited resources that they work on, this created a certainty and fairness which is essential and important to these housing programs. So these clarifications will ensure that assessments procedures work better, this is better for New Hampshire municipalities, New Hampshire taxpayers and we urge your support on this part of the bill.

It is not in the best interest of our members or future members, as we are a new coalition, to support the change in use tax. We do object to that. It would create a potential new burden on affordable housing and could cause unintended consequences. As Ignatius mentioned, it's already hard to attract investors to these housing developments and we should be wary of adding additional uncertainty. In principle, we believe that RSA 75:1-a already provides a fair assessment method to reflect the value because of the recorded restrictions. So that there's no, there's no tax to recapture in this case. So the starting premise that this is a new tax to recapture something is false. And in practice, there's already significant oversight of these properties. The IRS, the New Hampshire Housing and other funders insure that these properties operate in accordance with the regulations and restrictions. And a change in use tax would add another layer of bureaucracy.

But there are folks with technical expertise on low income housing tax credit in the room, I am not one of them. So Ignatius could answer any detailed questions you have on scenarios on that.

So based on the need for clarification for RSA 75:1-a and the dampening effect of the proposed change in use tax, we do respectfully request that the Committee vote ought to pass with an amendment striking paragraph 5.

Thank you for the opportunity to testify. **See written testimony of Elissa Margolin attached hereto and hereafter referred to as Attachment 2.**

Senator Betsi DeVries, D. 18: Thank you. Questions from the Committee?

Senator Kathleen G. Sgambati, D. 4: No, thank you.

Senator Betsi DeVries, D. 18: Thank you, Elissa, for your testimony. I have nobody else signed up to speak. Do I have another sign up sheet or is there anybody who had signed up wishing to speak? Seeing none, we will close the hearing on Senate Bill 349.

Hearing concluded at 9:02 a.m.

Respectfully submitted,

Hearing recorded by:
Claire Emery, Senate Secretary

Catherine S. Mullen

Hearing transcribed by:
Catherine S. Mullen, Senate Secretary
3/31/10

2 Attachments

Attachment 1

New Hampshire Housing

Bringing You Home

Dean J.Christon
Executive Director
e-mail: dchriston@nhhfa.org

February 4, 2010

Honorable Betsi DeVries, Chairman
Public and Municipal Affairs Committee
New Hampshire Senate
Concord, NH 03301

RE: SB 349, relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program

Dear Senator DeVries:

New Hampshire Housing strongly supports passage of SB 349. This legislation will affirm the work done by the Legislature in 2008 when it established a fair and consistent process for assessing property taxes on those properties that are developed under the Low Income Housing Tax Credit Program (LIHTC). This bill is the culmination of the work done by the Assessing Standards Board since then.

The LIHTC provides an effective vehicle for encouraging private investment in new affordable rental housing. Eligible projects receive federal income tax credits over a ten year period, commensurate with the percentage of the units set aside for eligible households. In order to be eligible, a minimum of 20% of the project must be targeted to households earning 50% or less of median area income or 40% of the project must be targeted to households earning 60% or less of median area income. In New Hampshire, sponsors commit to the affordability levels for 99 years.

Typically, the tax credits provide a basis for the syndication of projects to investor limited partners, exchanging project equity for tax credits. The resulting equity leverages loan capital and greatly reduces the need for scarce, direct public subsidies. Tax credit equity has become the cornerstone of almost all affordable rental production in New Hampshire, generating on average, 65% of total project costs. Credits are allocated on a competitive basis one or two times each year.

Although many LIHTC projects are sponsored by non-profit owners, most of these properties are owned by private entities. In fact, the structure of the LIHTC Program requires that a for-profit ownership entity exist even if a community-based non-profit serves as the general partner. The financing available provides subsidies that are designed to reduce the cost of building housing. Few resources are available to support the ongoing operation of projects. Instead, properties are intended to be self-supporting through collection of rents.

In return for favorable subsidies, the restrictions imposed by the LIHTC Program effectively limit the income that a project can generate regardless of market conditions. These restrictions are established through recorded deed restrictions and covenants that run with the property. The nature of the long-term use restrictions associated with LIHTC properties severely limits the opportunities for them to be sold. Therefore, unlike market rate apartment projects, there are few sales transactions that can be used to develop conclusions about market values.

This limitation results, therefore, in a class of properties that differ significantly from conventional market rate apartments. Specifically, LIHTC properties have artificial restrictions on income and it is difficult to determine value based on comparable sales. This has created a challenge to the traditional approach of assessing properties for tax purposes.

Prior to the Legislature acting in 2008 to create an income-based assessing formula, local assessments often failed to recognize the unique characteristics of these properties, resulting in inconsistent and unsupportable values, which were frequently disproportionate to the income generating capacity of projects given the revenue restrictions inherent in financing agreements.

The Legislature's solution to this problem provided statutory guidance to assessors that recognized the unique circumstances of these properties—in particular the income restrictions imposed by the LIHTC Program—and ensured that such properties will pay their fair share of taxes based on a project's actual income producing capacity.

Thank you for your consideration of these issues. We would be pleased to provide additional information that may assist in your deliberation of this bill, which we respectfully ask you to recommend "ought to pass."

Sincerely,

Dean J. Christon
Executive Director

Attachment 2

Housing Action NH

Building Alliances for Low Income Housing Advocacy

Chairwoman Betsi L. DeVries
Senate Public and Municipal Affairs Committee
107 N. Main Street
Room 106
Concord, NH 03301

Re: Senate Bill 349 Assessment Procedures for Certain Affordable Rental Housing

February 3, 2010

Dear Chairwoman DeVries and Members of the Committee:

I am writing on behalf of Housing Action New Hampshire to indicate:

1) our **support for Senate Bill 349 in general**; but
2) our **objection to the proposed change-in-use tax** proposed in paragraph 5.

Housing Action New Hampshire is a newly-established coalition whose purpose is to work with federal and state policy makers to increase public investment in the development and preservation of affordable housing. We work with developers, agencies and others who work with the low-income housing tax credit (LIHTC) program, which helps provide housing to lower-income people in New Hampshire.

The LIHTC program is a key piece of the housing puzzle in New Hampshire, ensuring we are able to produce new rental units for those in need of decent and affordable housing. These properties are subject to long-term restrictions on: 1) tenant income; 2) maximum rent allowed; and 3) resale. **These restrictions impact the property's value, which should be recognized in the property assessment.**

Overall Support

Senate Bill 349, while a clarification bill, reinforces and improves the progress made in 2008 with the enactment of RSA 75:1-a. Before RSA 75:1-a, affordable housing providers had little idea of what their property taxes would be or how the assessment had been determined. This made it difficult for housing providers to budget. Given program requirements and limited resources, tax credit properties operate on very tight budgets. RSA 75:1-a created certainty and fairness, which is essential to any important housing program. **The proposed clarifications will ensure this assessment procedure works better for municipalities and taxpayers. We ask for your support on this part of the bill.**

Objection to Change-in-Use Tax

Paragraph 5, includes a new change-in-use tax. We oppose this new tax.

Adding a new tax **will create a new potential burden on affordable housing and could cause unintended consequences.** Right now, it is harder than ever to attract investors to these housing development projects and the legislature should be weary of adding additional uncertainty.

Given that **RSA 75:1-a already provides a fair assessment method to reflect the value** as impacted by the recorded restrictions, it is not appropriate to add a potential tax burden. Thus, the starting premise of this new tax--that a new tax is needed to recapture a tax break--is false.

There is already significant oversight over these properties. The Internal Revenue Services, New Hampshire Housing Finance Authority and other funders ensure these properties operate in accordance with regulations and restrictions. The proposed change-in-use tax would add **another layer of bureaucracy without any real benefit.**

Conclusion

Based on the need for clarification for RSA 75:1-a and the dampening effect of the proposed change-in-use tax , we respectfully request that this Committee vote **Ought to Pass with Amendment,** striking paragraph 5.

Sincerely,

Elissa Margolin, Director

Speakers

Senate Public and Municipal Affairs Committee: Sign-In Sheet

Date: 2/4/10 Time: 8:30 Public Hearing on SB-349-FN-L

SB 349-FN-L relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Name	Representing	Support / Oppose	Speaking? Yes / No
Ignatius MacLellan	Northern New England Housing Investment	Support ☑ Oppose ☐	Yes ☑ No ☐
Elissa Margolis	Housing Action NH	Support ☑ w/ Amendment Oppose ☐	Yes ☑ No ☐
Ben Frost	NH Housing	Support ☑ Oppose ☐	Yes ☑ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐
		Support ☐ Oppose ☐	Yes ☐ No ☐

Testimony

Submission 14

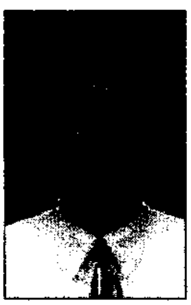
ASSESSOR'S EXCHANGE IS A QUARTERLY NEWSLETTER PRODUCED FOR THE BENEFIT OF ITS MEMBERS.

ASSESSOR'S EXCHANGE

Volume 25 • Number 3 www.nhaao.org Summer 2008

New Law Provides an Assessment Method for Affordable Housing Developed Using Low-Income Housing Tax Credits: HB 1442

Ignatius MacLellan



Under RSA 75:1, assessors must value property based on a market-value standard. But what if there are no sales that can be used to calculate or review an assessment? What if a property's use, income and resale are legally restricted by the government to provide a basic need, such as housing for lower-income residents? What is the legislature's role in establishing an objective assessment method? These were the questions the legislature sought to answer when it passed House Bill 1442 (the LIHTC Assessment Bill). HB 1442 amends RSA 75:1 and creates a new section--RSA 75:1-a--that provides an assessment method for affordable housing developed under the Federal low-income housing tax credit (LIHTC) program.

HB 1442 has two parts: 1) the so-called "farm bill," which enables municipalities to assess farm land and farm building at values less than market value; and 2) the LIHTC housing assessment provisions (originally in Senate 199). This article will only address the LIHTC housing provisions.

The idea behind this bill was originally proposed by Steve Tellier, a former Manchester assessor. Having worked to get HB 1442 passed, I know some assessors agree with and some disagree with the intent and the result of this process. To help address those concerns, we presented the original bill at an assessors' meeting, and we received some recommendations for revising the bill. We also met for many hours with assessors, the DRA and the New Hampshire Municipal Association. Many of those suggestions were incorporated in the final bill. If you compare the bill as originally passed in the Senate with the final bill, you will see significant changes that benefited municipalities. Most importantly, the original bill did not include the following that were added to the final bill: 1) the 10% minimum tax, and 2) other income in the property's income. The final bill also includes significant detail to help assist with implementation and to help avoid disagreement about the bill's meaning. I appreciate the time that the assessors, the DRA and the NH Municipal Association spent working on this bill.

This article will not revisit the debate over the bill's merits. The bill has passed, and it's time to ensure the bill is understood and correctly implemented.

Continued next page

WHAT'S INSIDE

The LIHTC Assessment Bill Only Applies to Housing Subject to Restrictions under the Low-Income Housing Tax Credit Program

The LIHTC Assessment Bill is a limited bill. It only applies to housing developed under the LIHTC program, an Internal Revenue Service program that is administered by New Hampshire Housing Finance Authority (NH Housing). See IRS Code Section 42. The bill does **not** apply to other types of affordable housing. To qualify for assessment under the bill, the taxpayer must provide the municipality a copy of the "Land Use Restriction Agreement" (the LURA), which is a recorded document between the property owner and NH Housing that spells out the property restrictions.

The LIHTC Program: A Primer

Here are some of the basics of the LIHTC program:

- The tax credit program is the key development program for affordable rental housing in New Hampshire, providing housing to people who make 60 percent of area median income or less.
- The LIHTC program provides a one-time development subsidy; it does **not** provide ongoing rental or operating subsidy. The upfront capital is required because the cost to build such housing exceeds the value supported by the restricted rents.
- Each year in New Hampshire the tax credit program provides approximately $20 million in equity from private sources to build approximately 200 rent-restricted apartments. Since 1986, the program has produced 130 properties that contain 4,200 apartments in 58 New Hampshire municipalities.
- The Federal government provides the State of New Hampshire an allotment of Federal tax credits, which NH Housing awards to developers based on a competitive process.
- A LIHTC developer can be a nonprofit (majority in NH are nonprofit) or a for-profit organization, but all must comply with the IRS and the NH Housing program requirements.
- Once a developer is awarded credits, the developer sells to an investor the right to claim the future tax credits. The investor's "purchase" of the credits provides the upfront development capital. The investor also becomes a limited partner in a single-purpose entity such as a limited-liability corporation.
- While the investors claim the tax credits over a 10-year period, the IRS requires the investors to be part of the ownership entity for 15 years.
- As a general rule and unlike typical real estate investors, LIHTC investors look for a return based primarily on the tax benefits. LIHTC investors generally are not looking to make money off cash flow or on a property's sale. The developments are structured consistent with these expectations, namely: 1) NH Housing structures LIHTC deals so there is limited cash flow; and 2) the IRS and NH Housing provide for a formulaic sales price usually with an option for a nonprofit to buy the property.
- If a property does not comply with IRS requirements, the tax credits are subject to recapture. Furthermore, foreclosure wipes out the investor's interest and thereby wipes out any future credits and could include recapture of some of the already claimed credits.
- Tax credit properties are subject to recorded, enforceable restrictions that: 1) last up to 99 years; 2) restrict apartments to lower-income residents; 3) limit the maximum rent that can be charged; and 4) restrict transfer, financing and sale of the property. These restrictions ensure the units are available for lower-income people, limit the property's value and protect the public's interest in affordable housing.

It is important to understand these program requirements and the investors' motivations to understand why the value of these LIHTC affordable housing properties cannot be based on typical market-rate rental data. I submit that given the significant long-term restrictions on LIHTC properties, the value is significantly negatively impacted as soon as the restrictions are recorded. HB 1442 is simply a way to estimate value given the valuation challenges.

The LIHTC Assessment Bill Aims to Provide an Objective Assessment Method

The LIHTC Assessment Bill was not designed to simply reduce assessments. LIHTC property owners want to pay their fair share of taxes. The bill was designed to recognize an existing reality: the value of LIHTC properties, even considering any program benefits, is impacted by the long-term legal restrictions, and New Hampshire law already requires that the impact of the program must be considered by the assessor. *See, e.g., Royal Gardens Co. V. City of* Concord, 114 N.H. 668 (1974) (assessment must consider benefits and burdens of federal housing program).

Before the bill an objective method for determining value did not exist, and a review of a sample of 40 LIHTC properties confirmed the lack of an objective standard. Assessments on a per-unit basis varied from $31,000 to $110,000 per unit. These wide ranging differences resulted in wide ranging tax impact. Taxes per unit ranged from $600 per unit to $2,200 per unit. Additionally, taxes as a percentage of total rent varied from 7% of total rent being paid as taxes to 28% of total rent being paid as taxes. Even when differences in tax rates were considered, the same conclusion was clear—the assessments varied wildly across the state because assessors and taxpayers lacked a reasoned formula to determine value. HB 1442 strives to provide assessors, taxpayers and any reviewing board or court a workable reliable and objective formula.

The Statutory Formula and the Empowerment of the Assessment Standards Board

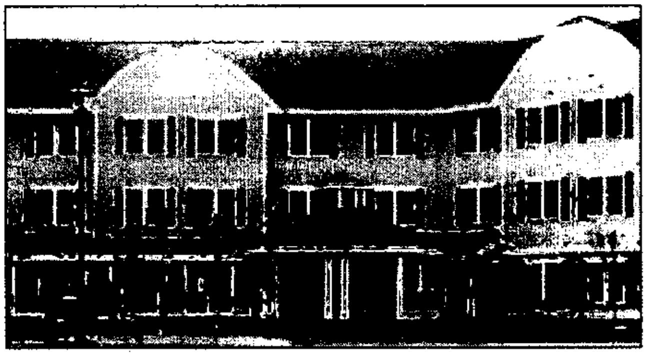
Here is the procedural key to understanding this bill. The bill provides a statutory income-approach formula for tax years 2009 and 2010. The bill also empowers the Assessment Standards Board (ASB) to study this issue, and if it chooses, the ASB is empowered to promulgate a formula, which would be followed for later tax years. This means that if the ASB promulgates a new formula: 1) the statutory formula would be wiped out, and 2) the ASB formula would be in effect for tax years after 2011, subject to grandfathering described below. If the ASB does not promulgate a new formula, the statutory formula would remain in effect for the later years. The ASB intends to start its review this fall.

The remainder of this article focuses on the statutory formula that will be used in 2009 and 2010.

The Basics of the Bill

Here are the basics:

- **Taxpayer Election:** The formula in the bill only applies if the taxpayer timely elects to be assessed under the bill by notifying the municipality by October 1, 2008 (for tax year 2009) or by October 1, 2009 (for tax year 2010). If a taxpayer does not so elect, the municipality will assess the property consistent with general New Hampshire assessment law.
- **Data Sources for Income Approach:** The bill provides four data sources:
  1) *NH Housing* will publish: a) the maximum allowed LIHTC rents and utilities allowances by location, b) the market vacancy rate by region and c) the capitalization rate;
  2) *The taxpayer* will, by each April 15, provide the municipality with: a) the total number of units, b) the breakdown of restricted and unrestricted units, c) the audited financial information on other income and actual expenses and d) a statement of which utilities, if any, are paid by the tenants;
  3) *Department of Revenue Administration (DRA)* will determine the capitalization rate based on location (DRA will also provide the forms for the election and for the taxpayer to provide data to the municipality.); and
  4) *The municipality* will determine market rents for the unrestricted apartments.
- **Amount of Tax:** Taxpayers who elect for assessment under the bill will pay the ***greater of:*** (1) taxes based on the stated income-approach formula; or (2) 10% of actual rents (the minimum tax). Thus, municipalities will calculate the assessment using the statutory formula and the taxes due and then determine taxes based on 10% of actual rent. The taxpayer would then pay taxes on whichever yields the highest taxes.
- **Income-Approach Formula:** Assessments will be based on the statutory formula, which is described below. This formula will be effective for tax years 2009 and 2010 and will **not** consider intangibles such as tax credits and other subsidies.
- **Election during first 2 years and Grandfathering:** Owners who elect during the first two years will be assessed under the statutory formula for **10 years** even if the ASB creates a new formula.
- **Election after first 2 years:** If the ASB promulgates rules, then owners who elect after the first 2 years will be assessed using the ASB formula. The length of that election will be determined by the ASB.
- **Exemption:** The bill states that taxpayers "subject to assessment under this section shall not be granted a property tax exemption under RSA 72:23."



The Formula

Given the lack of sales and given that the costs to build LIHTC housing far exceeds the market value, especially when rent restrictions are considered, the legislature concluded that LIHTC properties should be valued using the income approach. HB 1442 provides the formula and the sources of all of the income-approach components, stating: "The assessed value shall be calculated using an income approach whereby the net operating income is divided by the overall capitalization rate and, except when the municipality has updated its assessment values to equate to market values, multiplying that value by the previous year's equalization ratio."

Here are the components (Note: Data used is from the year before the tax year being assessed.):

Potential gross income

• Restricted rental units	Maximum allowed rent
• Units w/ project-based subsidies	Contract rent
• Unrestricted units	Market rent
• Other income	Miscellaneous such as laundry and vending
• Other income	Nonresidential space
• Other income	Interest on restricted reserve funds

Vacancy and collection loss

• Vacancy	Market vacancy (NH Housing data)
• Collection loss	Actual uncollectible rents

Expenses

• Expenses	Actual ordinary expenses, excluding property taxes, debt service and depreciation and including deposits to restricted reserves for replacement

Capitalization Rate

• Capitalization rate	Market rate for location (determined by DRA)
• Overall rate	Plus municipality's equalized tax rate

Appeals

Taxpayers who elect to be assessed under this bill may still appeal their assessments. While not explicit in the bill, the issue on appeal will likely be limited to whether the municipality correctly applied the formula.

A note concerning pending tax appeals: If you have a case pending before the Board of Tax and Land Appeals or the Superior Court, this bill does **not** apply retroactively. Thus, municipalities are not bound by the bill's income approach for pending appeals, and taxpayers cannot simply use the formula in pending appeals to challenge the assessment. That said, running the numbers under the bill's income formula could provide a basis for settlement discussions with adjustments as warranted by the municipality and the taxpayer.

Final Comments

HB 1442 was the result of the political process—the art of the possible, not the perfect. Now, the bill goes from the books to the real world. I hope HB 1442 helps municipalities assess LIHTC while providing taxpayer with an objective and predictable assessment. We stand ready to help the implementation go smoothly, and feel free to call me with any questions or comments.

Ignatius MacLellan is Vice President of Public Affairs at the Northern New England Housing Investment Fund, a nonprofit that syndicates low-income housing tax credits in Maine and New Hampshire. Previously, he worked at Fannie Mae, and for over 8 years, he was the attorney member of the New Hampshire Board of Tax and Land Appeals. Phone: (603) 224-3708; email: imaclellan@housinginvestmentfund.org

Notes:

1) A training session on this topic will be offered on November 13 at the Local Government Center's annual conference.

2) For full text of the Assessment bill go to: http://www.gencourt.state.nh.us/legislation/2008/HB1442.html.

3) The issue of how to value tax credit housing was brought to fore in the Board of Tax and Land Appeals case of *Epping Senior Housing Associates LP v. Town of Epping (docket numbers 19135-01PT/19855-02PT/20263-03PT March 8, 2005).*

NHAAO By-Laws Amendment

Amend Article IV: **Committees**, Section A, Number 10, Newsletter and Technology Committee by replacing the first sentence with;

Compile and distribute to all Association members a brief and concise newsletter a minimum of twice a year or more often as voted by the Board of Directors.

CNHA Anniversaries

AUGUST 1999
William Boatwright
Robert Dix
Beth Gallagher
Tammy Jameson

SEPTEMBER 2001
Scott Marsh
John Ryan

SEPTEMBER 2007
Jonathan Duhamel
Kristin McAllister
Christina Murdough

IAAO Representative Corner

By Dave McMullen

IAAO 75th Anniversary
75th Anniversary pins are available for order on the product order form on the Web site. IAAO representatives have also been asked to get involved in collecting materials for the commemorative book being developed. Fifteen state organizations and a number of corporate organizations have already become official sponsors.

Upcoming Events

- 74th Annual International Conference, September 7-10, Reno, Nevada
- 28th Annual Legal Seminar, December 6-7, Chicago, Illinois
- 13th GIS / CAMA Technologies Conference, February 8-11, 2009, Charleston, South Carolina

AssessorNet
AssessorNet is an on-line interactive discussion forum providing you with real answers to your on-the-job questions. Gather insight into today's most pressing appraisal and assessment questions and get solutions. It's like having expert staff on hand to help out with tough issues for FREE!!

1. **Log-in** to the members-only section of the www.iaao.org using your member ID.
2. **Click** the AssessorNET icon.
3. **Choose** how you'll receive posts—through e-mail as items are posted; a daily digest; or choose not to receive posts and visit Assessor-NET at your convenience.
4. **Get in on the discussion** with topics including: assessing property owned by religious organization, anchor store valuation, square foot rates, home site/base acre value, personal property appeals, expense ratios for federally assisted apartments, staying in the Appraisal Foundation, using GPS and many more.

Library Services
Access to a research library featuring 10,000 volumes of literature and over 600 periodicals.

Professional Designations
Receive certification that recognizes professionalism, and competency in matters regarding property appraisal and assessment for property tax purposes.

Members-only Access and Discounts
Receive special rates on publications, text books, technical standards, seminars, and conference registration. Utilize special sections and resources on the IAAO Website including access to the library through memberlink and the Glossary for Property Appraisal and Assessment.

As an IAAO Representative, I have the competitive advantage of being able to offer 1/2 price memberships to new members! Contact me if you have an interest.

For questions or comments regarding IAAO, its programs and benefits, please feel free to contact me at 448-1499 or dave.mcmullen@lebcity.com.

NEW HAMPSHIRE ASSOCIATION OF ASSESSING OFFICIALS IAAO AFFILIATE BOARD OF DIRECTORS MINUTES

APRIL 8, 2008 • LGC Offices, Concord, NH

I. **Call to Order/Board Roll Call – President William Ingalls.**

II. **A Quorum of Directors being present (22) the meeting began at 11:35am.**

President Ingalls asked for introductions of New Members and or Guests; there being none the meeting was commenced with the following reports:

III. **Communications: None to Report**

IV. **Secretary's Report:** Secretary Gomez presented the minutes from the Annual Membership Meeting held on March 11, 2008. Draft copies were available at today's meeting and were sent to members via 'list serve'. **Steve Hamilton moved to approve the Minutes as presented, seconded by Mike Hathaway. President Ingalls called for the vote: 22-0-0 unanimous in favor.**

V. **Treasurer's Report:** Treasurer Mike Hathaway, handed out a copy of the Treasurer's Report dated April 8, 2008, and the Income and Expense Statement for January 01, 2008 to April 7, 2008. All items balanced; there were no large or unusual expenditures, for the month. **President Ingalls called for a motion, Norm Bernaiche moved to approve the Treasurer's Report, seconded by Rex Norman, President Ingalls called for the vote 22-0-0 unanimous in favor.**

VI. **Committee Reports:**

By Laws: No Report (Co-Chair Tim Ballantine & Norm Bernaiche)

Certification: Co-Chairs Karen Marchant (and Norm Pelletier) Test is planned for May 20th in Londonderry 9AM – keep tuned to the web site for further information.

Conference: No Report (Chair Rex Norman)

Education: No Report (Co-Chairs Rick Brideau & Barbara Chapman)–

Election: No Report (Chair Drew Lemay)

Ethics: No Report (Co-Chairs Kathy Temchack & Laura Thibodeau)

Finance: No Report (Chair Steve Hamilton)

Legislation: Co-Chairs Laura Thibodeau (Mike Ryan), reported that the new Legislative Spreadsheet had been sent via Listserv. Laura Highlighted the Low Income Housing Legislation, an Elderly and Disabled Property Tax Exemption Legislation, see Legislative links for updates, text, and hearing dates. Also, she mentioned Legislation to tax Farm Buildings and Land under farm buildings.

Keep up on the changes, they come fast and furious – and ATTEND THOSE HEARINGS, WRITE/ CORRESPOND WITH REPRESENTATIVES OF THE HOUSE/SENATE, AND KEEP LGC IN THE LOOP.

Newsletter: Chair Dave McMullen – is seeking the Board's wishes regarding who should have access to 'Listserv', after some discussion the Board came to the conclusion that only Active Members should be allowed to subscribe to it. As **moved by Norm Bernaiche, seconded by Steve Hamilton, President Ingalls called for the vote – 22-0-0 unanimous in favor.**

Dave also stated that he was out of the blue color stock for printing of the Newsletter. He suggested keeping the printed copies to white paper stock **– President Ingalls called for a motion, Angelo Marino so moved, seconded by Karen Marchant, President Ingalls called for the vote – 22-0-0 unanimous in favor.**

Get those articles in!

Nominating: No Report (Chair Scott Bartlett)

Publicity: No Report (Chair Sue Golden)

Scholarship Ad-Hoc: No Report – Barbara Chapman (Chair Donna Langley)

VII. Other Reports; Boards and Departments:

DRA: Mr. Boley Property Appraisal Division vacancies still exist.

BTLA: No Report (Cynthia Brown) – some discussion regarding the Board's new Settlement Order procedure.

NRAAO: Dave McMullen reported on the dates of the annual conference: May 4, 5, 6, 2008 at Lake Placid NY - check the website for further information.

IAAO: Dave McMullen reported that IAAO has a membership drive underway. Jim Michaud mentioned that the Association is still working on compliance with the new Appraisal Foundation Rules and Standards changes – there should be some concern about this, keep informed and let your thoughts be known (i.e. should IAAO become separate from the Foundation). Jim suggests if you wish to become designated – work on that NOW.

ASB: Steve Hamilton reported that the ASB working on Certification and a process of 'Decertification' – contact Board members for information and comments, changes, etc. Jim Michaud explained that DRA (Bob Boley confirmed this) does not have the ability to release names and addresses, so he would suggest that the NHAAO use its resources, develop a letter regarding these changes and mail to everyone we can, at least all those we have on our mailing list. He feels it is our duty under our By-Laws, and feels that this should spark interest and we will have done what we can. Mr. Boley indicated that DRA would physically do the mailing, and assist in any way possible, also information will be published in the Departments Newsletter.

The codicil; this information should be heralded through the land, to all interested parties, if others will not step up, then the NHAAO should (the gist of the conversation). **NOTE: see By-Laws; Preamble, B. Purpose.**

After much discussion **Norm Bernaiche moved** that President Ingalls compose such a letter, post it on the Listserv for review and work with DRA, and others to see that the letter is signed and mailed as soon as possible. **The motion was seconded by Angelo Marino. President Ingalls called for the vote – 22-0-0 unanimous in favor.**

- Agreed to keep LGC – Judy Silva informed.

- ASB Public Member Mr. Len Gerzon addressed the meeting that the ASB was to have a ceremony to announce the publication/printing of the "Manual" to recognize all those who contributed to it, etc. – date April 25th meeting of ASB, 9:30am, 57 Regional Drive, DRA Offices, Concord, NH.

ESB: No Report - Bob Gagne

Current Use: Laura Thibodeau reported that the next meeting would be April 18th to consider rate changes. Some concern expressed by the meeting that rate changes now – **after** April 1st would complicate billing process in some Municipalities.

New Business: Jim Michaud asked for discussion regarding Barn Preservation Easements – the formula, etc. He asked for input from others.

Old Business: Bill Ingalls reminded he is still looking for names for tickets to the Fisher Cats game Saturday June 21st. Contact Bill directly for information.

Kathy Temchack thanked those who responded to her requests for information regarding Bill 199. Lots of work, very fast, she appreciates help from all who responded.

Adjournment: President Ingalls asked for a motion to adjourn the meeting; moved by Dave McMullen, seconded by Mike Hathaway – 22-0-0, unanimous in favor, the meeting adjourned at 1:16pm.

Next Meeting – May 13, 2008 at 11am (Committees at 9am, Education hour at 10am) DRA Offices, 57 Regional Drive, Concord, NH.

Respectfully Submitted:

David N. Gomez, CMA, CNHA

David N. Gomez, CNHA, Secretary (Derry)

NEW HAMPSHIRE ASSOCIATION OF ASSESSING OFFICIALS IAAO AFFILIATE BOARD OF DIRECTORS MINUTES

May 13, 2008 • DRA Offices, 57 Regional Drive, Concord, NH

I. **Call to Order/Board Roll Call – President William Ingalls.**

II. **A Quorum of Directors being present (17) the meeting began at 11am.**

President Ingalls asked for introductions of New Members and or Guests; there being none the meeting was commenced with the following reports:

III. **Communications:** The Association received a letter from IAAO regarding their 75th Anniversary plans. At this point Dave McMullen spoke to the letter – asking for Sponsors, as IAAO intends to write and distribute promotional materials among its members – a commemorative book to be published and given to regular members. They are looking for; quips and quotes from members, and histories of local Assessing Organizations/ State Chapters, etc. **Dave McMullen moved to have NHAAO sponsor the IAAO efforts in the amount of $250.00, seconded by Scott Bartlett, President Ingalls asked for comments, and the vote – 17-0-0 unanimous in favor.**

Jim Michaud volunteered to write the NHAAO's History text for this celebratory event.

IV. **Secretary's Report:** Secretary Gomez presented the minutes from the Annual Membership Meeting held on April 8, 2008. Draft copies were available at today's meeting and were sent to members via 'list serve'. **Karen Marchant moved to approve the Minutes as presented, seconded by Scott Bartlett, President Ingalls called for the vote: 17-0-0 unanimous in favor.**

V. **Treasurer's Report:** Treasurer Mike Hathaway, handed out a copy of the Treasurer's Report dated May 13, 2008, and the Income and Expense Statement for January 01, 2008 to May 12, 2008. All items balanced; there were no large or unusual expenditures, for the month. **President Ingalls called for a motion, Gary Roberge moved to approve the Treasurer's Report, seconded by Scott Bartlett, President Ingalls called for the vote 17-0-0 unanimous in favor.**

VI. **Committee Reports:**

By Laws: Co-Chair Norm Bernaiche announced that the Committee has met and recommends that **ARTICLE IV: Committees, section 10 – Newsletter and Technology Committee be amended** as follows;

Publication of the Newsletter shall occur at a minimum of semi-annually and no more than quarterly.

The above will be published in the next volume of the Newsletter (go figure) as Notice to the Association Membership, and voted on at the next Board of Directors Meeting pending any comments.

Certification: Co-Chairs Karen Marchant & Norm Pelletier: Test is planned for May 20th in Londonderry 9AM, there are 3 candidates signed to take the test.

1) As of January 1, 2010 all DRA and NHAAO certified Assessors will be required to take, as continuing education – the NH State Statutes Course.
2) The State (DRA) is working on the establishment of a data base for all certified individuals, as to their continuing education credits. Norm will continue to keep information sent to him with the Committees files in regard to same. **REMEMBER – IT IS YOUR RESPONSIBILITY TO MAINTAIN YOUR HOURS – TAKE THOSE COURSES AND report YOU'RE HOURS!**
3) USPAP is required as well – the Update 7 (seven) hour course. The full 15 (fifteen) hour course is a must for new certification applicants.

Conference: No Report (Chair Rex Norman)

Education: Co-Chairs Rick Brideau & Barbara Chapman – NH State Statutes Course being held at DRA offices at 57 Regional Drive, Concord – June 2-5, 2008.

Note: Summer School also at Regional Drive – July 28th through the 30th.

The Committee is looking for Speakers for the Annual Conference – November 12th – 14th – PLEASE PARTICIPATE. You may sign up to be a SPEAKER, or just make a suggestion.

DRA offered two options for a Current Use Seminar (their format) – there may be a cost – as there is a manual – still working on that.

Election: No Report (Chair Drew Lemay)

Ethics: No Report (Co-Chairs Kathy Temchack & Laura Thibodeau)

Finance: No Report (Chair Steve Hamilton)

Legislation: No Report (Co-Chairs Laura Thibodeau & Mike Ryan).

Newsletter & Technology: Chair Dave McMullen – recent published Newsletter out this month, July 15 is deadline for next publication.

<u>Get those articles in!</u>

Nominating: Chair Scott Bartlett reported that the Committee met this morning. There is a need to establish the Slate of Officers and Board Members for 2009 – looking for nominations. The Slate will be published in the July issue of the Newsletter.

Publicity: No Report (Chair Sue Golden)

Scholarship Ad-Hoc: Barbara Chapman (Chair Donna Langley) reported that the LGC has received two (2) applications for the Steve Tellier Memorial Scholarship.

VII. Other Reports; Boards and Departments:

DRA: Mr. Boley Property Appraisal Division vacancies still exist.

BTLA: No Report (Cynthia Brown)

NRAAO: Dave McMullen reported that the Lake Placid NY conference was a great success. Curling was interesting, hard, but a very fun time. Next year's conference is in Maryland (yes the State) - check the website for further information.

IAAO: Dave McMullen reiterated that IAAO is looking for histories and stories of Associations and members for the 75th Anniversary Commemorative Book.

Bob Boley informed the Board that IAAO is still trying to implement the new voting process and time lines. Watch for headlines in their publications and on their website.

NHAAO will endorse Jim Michaud with his bid to be a candidate for an IAAO Board position – **moved by Dave McMullen, seconded by Norm Bernaiche – President Ingalls called for the vote – 17-0-0 unanimous in favor.**

ASB: Scott Bartlett reported that the ASB invited The Honorable Mr. Paul Franklin, Chair of the Board of Tax and Land Appeals to speak to them about the Boards recent process regarding the Settlement Orders recently mailed to towns and cities. It was a very good discussion.

Regular business included the establishment of a Committee to write and revise the Revocation and Suspension Guidelines for the ASB – the Committee currently consists of three members – Scott Bartlett, Steven Hamilton, and Betsy Patten. The guideline would include processes and definitions for disciplinary actions, etc. The Committee is seeking input from the NHAAO and others.

The Board is in the process of deciding the format of their next round of Public Forums, and meetings. More to come – PLEASE research their website for meeting dates and times, any questions or concerns you have, let your NHAAO representatives know them and attend meetings.

ESB: No Report - Bob Gagne

Current Use: Norm Pelletier reported that there will be no rate changes this year. The Current Use Board will be re-noticing all the discussions and information presented to the public at their meetings this past winter and spring. They are looking at coordinating Hearings and Rule Making schedules so that changes can be effective for April 1, 2009.

PAY ATTENTION OUT THERE!

New Business: President Ingalls announced that at the NRAAO conference in Lake Placid, **a member was awarded the Sherry Vermilya Award.** The recipient was not present at the conference, but here today – **the award was presented with a resounding round of applause to . . . Rick Brideau,** Londonderry. Congratulations Rick!

Old Business: None to report.

Adjournment: President Ingalls asked for a motion to adjourn the meeting; moved by Steven Hamilton, seconded by Mike Hathaway – 17-0-0, unanimous in favor, the meeting adjourned at 12:23pm.

Next Meeting – June 10, 2008 at 11am (Committees at 9am, Education hour at 10am) LGC Offices, 25 Triangle Park Drive, Concord, NH.

Respectfully Submitted:

David N. Gomez, CMA, CNHA

David N. Gomez, CNHA, Secretary (Derry)

IAAO Course #101 Fundamentals of Real Property Appraisal

September 22nd – September 26th, 2008
Local Government Center, LGC,
25 Triangle Park Dr., Concord, NH

Course 101– Fundamentals of Real Property Appraisal

A basic appraisal course for assessors, course 101 emphasizes the theory and techniques of the cost and sales comparison approaches to value. Students review terminology, basic appraisal and economic principles, general principles of land valuation, the assessment function and the mass appraisal process. **Recommended PAV book – 30 credit hours.**
Instructor: Robert Estey, CAE

Must be returned by August 29th, 2008

Return to: Barbara Chapman, Assessors' Office,
14 Manning St., Derry, NH 03038
Phone 603.432.6104
Fax: 603.432.8176
Email: barbarachapman@ci.derry.nh.us

Name: ____________________

Phone: ____________________

Address: ____________________

Email: (for confirmation)

____

NHAAO Member cost $490 (includes coffee & lunch) $__________

Non-Member costs $515 (includes coffee & lunch) $__________

Textbook: Property Assessment Valuation (2nd edition, 1996) (grey book) PAV Softcover $25 Hardcover $40 $__________

Total Due: Payable to NHAAO $__________

Note: All students must bring battery operated calculator to class.

Please see cancellation policy

2008-2009 PROPOSED SLATE OF NHAAO OFFICERS

OFFICERS

President	William Ingalls	Bedford
1st Vice President	Rex Norman	Windham
2nd Vice President	Rosann Maurice	Portsmouth
Treasurer	Mike Hathaway	Concord
Secretary	Dave Gomez	Derry

AT LARGE DIRECTORS

Norm Pelletier	Salem
Bob Estey	Hampton
Angelo Marino	Nashua
Karen Marchant	Londonderry
Kathy Temchak	Concord

AT LARGE ALTERNATES

Jim Michaud	Hudson
John DeVittori	Exeter
Barbara Chapman	Derry
Laura Thibodeau	Keene
Vacant	

COUNTY REPRESENTATIVES

	Belknap	
Director	Tom Sargent	Alton
Alternate	James Commerford	Meredith
	Carroll	
Director	Tom Holmes	Conway
Alternate	Dale Schofield	Conway
	Cheshire	
Director	Tim Ballantine	Keene
Alternate	Loren Martin	Walpole
	Coos	
Director	Jason Call	Whitefield
Alternate	Gary Roberge	Colebrook
	Grafton	
Director	Mike Ryan	Hanover
Alternate	Rick Vincent	Lebanon
	Hillsborough	
Director	Bob Gagne	Nashua
Alternate	Dave Cornell	Manchester
	Merrimack	
Director	Sue Golden	Concord
Alternate	Joe Lessard	Dunbarton
	Rockingham	
Director	Rick Brideau	Londonderry
Alternate	Todd Haywood	Greenland
	Strafford	
Director	Donna Langley	Dover
Alternate	Rob Dix	Durham
	Sullivan	
Director	Norm Bernaiche	Sunapee
Alternate	George Hildum	Springfield

NEW HAMPSHIRE ASSOCIATION OF ASSESSING OFFICIALS

ASSESSOR'S EXCHANGE

2008 Tentative Meeting Schedule

Place: New Hampshire Local Government Center
25 Triangle Park Drive
Concord, NH 03302

Time:

Committee Meetings:	9:00 AM - 10:00 AM
Education Meeting:	10:00 AM - 11:00 AM
Business Meeting:	11:00 AM - 12:30 PM

Dates:

Tuesday, Jan 8	Tuesday, Jun 10
Tuesday, Feb 12	Tuesday, July 8*
Tuesday, Mar 11	Tuesday, Aug 12*
Tuesday, Apr 8	Tuesday, Sept 9
Tuesday, May 13	Tuesday, Oct 14

November, 2008 – NHAAO Conference

** Meeting will take place only if needed*

Assessor's Exchange is a quarterly newsletter produced for the benefit of its members.

Closing dates for the submission of articles for print are:
January 11th (Feb. Issue) July 11th (Aug. Issue)
April 11th (May Issue) October 11th (Nov. Issue)

How to reach Assessor's Exchange:
Dave McMullen, Lebanon
phone: 448-1499
dave.mcmullen@lebcity.com

Visit our home page at: www.nhaao.org

PLEASE CHECK YOUR LATEST NEWSLETTER MINUTES OR OUR WEBSITE *(www.nhaao.org)* FOR ANY CHANGES

NH Association of Assessing Officials
c/o NH Local Government Center
PO Box 617
Concord, NH 03302

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Voting Sheets

Senate Public & Municipal Affairs
EXECUTIVE SESSION

Bill # SB 349-FN-L

Hearing date: 2/4/2010

Executive session date: 2/18/10

Motion of: OTP/A

VOTE: 4-0

Made by Senator:		Seconded by Senator:		Reported by Senator:	
DeVries	☐	DeVries	☐	DeVries	☐
Houde	☐	Houde	☑	Houde	☐
Sgambati	☐	Sgambati	☐	Sgambati	☐
Roberge	☐	Roberge	☐	Roberge	☐
Barnes	☑	Barnes	☐	Barnes	☐

Committee Member	*Present*	*Yes*	No	*Reported out by*
Senator DeVries, Chairman	☒	☒	☐	☑
Senator Houde, Vice-Chair	☒	☒	☐	☐
Senator Sgambati	☐	☐	☐	☐
Senator Roberge	☒	☒	☐	☐
Senator Barnes	☒	☒	☐	☐

***Amendments:** 0797- Barnes OTP, Houde 2nd

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: February 18, 2010

THE COMMITTEE ON Public and Municipal Affairs

to which was referred Senate Bill 349-FN-L

AN ACT relative to the procedures for appraisal and enforcement of taxation of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4 - 0

AMENDMENT # 0809s

Senator Betsi DeVries
For the Committee

Claire Emery 271-1403

New Hampshire General Court - Bill Status System

Docket of SB349

Docket Abbreviations

Bill Title: (New Title) relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

Official Docket of **SB349**:

Date	Body	Description
01/13/2010	S	Introduced and Referred to Public and Municipal Affairs
01/28/2010	S	Hearing: February 4, 2010, Room 103, LOB, 8:30 a.m.; **SC5**
02/18/2010	S	Committee Report: Ought to Pass with Amendment 0809s, NT, 03/3/10; **SC9**, Pg.6
03/03/2010	S	Committee Amendment 0809s, NT, AA, VV; **SJ 8**, Pg.112
03/03/2010	S	Ought to Pass with Amendment 0809s, NT, MA, VV; OT3rdg; **SJ 8**, Pg.112
03/03/2010	S	Passed by Third Reading Resolution; **SJ 8**, Pg.116
03/11/2010	H	Introduced and Referred to Municipal and County Government; **HJ 25**, PG.1297
03/23/2010	H	==RESCHEDULED== Public Hearing: 3/31/2010 1:30 PM LOB 301 (Orig. 1:00 PM)
03/31/2010	H	Executive Session: 4/13/2010 10:30 AM LOB 301
04/14/2010	H	Committee Report: Ought to Pass for April 21 (Vote 18-0; CC); **HC 31**, PG.1527-1528
04/21/2010	H	Ought to Pass: MA VV; **HJ 35**, PG.1658
05/05/2010	H	Enrolled; **HJ 38**, PG.1914
05/05/2010	S	Enrolled; **SJ 17**, Pg.410
05/18/2010	S	Signed by the Governor on 05/18/2010; Effective 06/30/2010; Chapter 0040

New Hampshire General Court Information Systems
107 North Main Street - State House Room 31, Concord NH 03301

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 349-FN-L ORIGINAL REFERRAL ______ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

✓ **DOCKET** (Submit only the latest docket found in Bill Status)

✓ **COMMITTEE REPORT**

✓ **CALENDAR NOTICE** on which you have taken attendance

✓ **HEARING REPORT** (written summary of hearing testimony)

✓ **HEARING TRANSCRIPT** (verbatim transcript of hearing)
List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: 1, 2

✓ **SIGN-UP SHEET**

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

✓ - AMENDMENT # 0797s ____ - AMENDMENT # ________
✓ - AMENDMENT # 0802s ____ - AMENDMENT # ________

ALL AVAILABLE VERSIONS OF THE BILL:

✓ AS INTRODUCED ____ AS AMENDED BY THE HOUSE
✓ FINAL VERSION ✓ AS AMENDED BY THE SENATE

✓ **PREPARED TESTIMONY AND OTHER SUBMISSIONS** (Which are not part of the transcript)
List by letter [a thru g or a, b, c, d] here: a

✓ **EXECUTIVE SESSION REPORT**

____ **OTHER** (Anything else deemed important but not listed above, such as amended fiscal notes):

____

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 07/26/10

Debra A. Martone
COMMITTEE SECRETARY