

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2013 TERM

AUGUST SESSION

COOS COUNTY COMMISSIONERS

on behalf of the

Unincorporated Places of DIXVILLE, N.H. and MILLSFIELD, N.H.

v.

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION

**RULE 10 APPEAL FROM AN ADMINISTRATIVE AGENCY
(PETITION FOR WRIT OF CERTIORARI
UNDER SUPREME COURT RULE 10 (1) (C) AND N.H. RSA 71-B: 5, II)**

PETITIONER'S NOTICE OF APPEAL (RULE 10)

APPENDIX

Coos County Commissioners
by their attorneys,
Waystack Frizzell, Trial Lawyers
Jonathan S. Frizzell, Esquire
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SUPREME COURT NO. _____
NOTICE OF APPEAL (RULE 10)

APPEAL FROM BOARD OF TAX & LAND APPEALS

COOS COUNTY COMMISSIONERS

on behalf of the

Unincorporated Places of DIXVILLE, N.H. and MILLSFIELD, N.H.

v.

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION

NOTICE OF APPEAL – APPENDIX

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State of New Hampshire

Board of Tax and Land Appeals

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Governor Hugh J. Gallen
State Office Park
Johnson Hall
107 Pleasant Street
Concord, New Hampshire
03301-3834

**Coos County Commissioners on behalf of the
Unincorporated Place of Dixville, NH**

v.

**Department of Revenue Administration
Docket No.: 26676-13ER**

**Coos County Commissioners on behalf of the
Unincorporated Place of Millsfield, NH**

v.

**Department of Revenue Administration
Docket No.: 26677-13ER**

DECISION

On June 28, 2013, the board held a consolidated hearing in the above equalization appeals filed by the Coos County Commissioners ("CCC") on May 23, 2013 against the department of revenue administration ("DRA"). CCC represents the interests of two 'unincorporated places' within Coos County: Dixville and Millsfield. Pursuant to RSA 71-B:5, II(a), the board is required to hear and decide these appeals within sixty (60) days.

The board processed each appeal and held a telephone conference with the parties on June 6, 2013 to establish discovery timelines and a hearing date. (See Tax 211.03.) As stated in the June 7, 2013 Structuring Order and Hearing Notice, the parties at this conference agreed to meet prior to the hearing on the merits, to exchange various documents and to be ready for a

hearing on the merits on June 28, 2013. CCC's attorney (Jonathan S. Frizzell) stated he wished to obtain a copy of the "DRA Windpark appraisal (prepared pursuant to RSA ch. 83-F)" and "would either obtain a 'release' from the Granite Reliable Windpark ('Windpark') or file an appropriate motion" with the board to compel its production by the DRA. (*Id.* at p. 2.)

Attorneys Philip R. Waystack and Attorney Frizzell of Waystack Frizzell represented CCC and Attorney Kathryn E. Skouteris represented the DRA in these appeals. In light of the similar facts and issues, and with the consent of these attorneys, the board consolidated the appeals for hearing and decision. The following individuals testified at the June 28, 2013 hearing on the merits: Frederick King, Coos County Treasurer; Tom Brady, Coos County Commissioner; Jennifer Fish, Coos County Administrator; and Stephan W. Hamilton and Scott Dickman of the DRA. In addition, the parties presented various documents as evidence. (CCC Exhibit Nos. 1-19 and DRA Exhibit A.)

At the conclusion of the hearing, the DRA submitted "Requests for Findings of Fact and Rulings of Law" which the board has responded to in accordance with Tax 201.36: see Addendum A attached hereto.

Board's Rulings

In these appeals, CCC asks the board to "[o]rder DRA to reconsider and revise downward the 2012 Total Equalized Valuation" in each unincorporated place: these valuations were "\$54,453,216.00" for Dixville and "\$180,342,176.00" for Millsfield. (See p. 4, paragraph A and p. 2, paragraph 7 of each appeal document; and the "4/29/2013" DRA letter attached thereto.) CCC argues these amounts are too high because they value the Windpark at more than the \$113 million estimate mentioned by a DRA employee at a meeting with CCC officials held on December 18, 2007 prior to the time the Windpark was approved for development.

CCC alleges (in paragraph 12 of each appeal document) that it “asked” the “DRA to use the Commissioners’ own appraised value for the Windpark of \$113,000,000” in a March 20, 2013 letter (attached to each appeal document; emphasis added). The DRA declined to do so (for the reasons explained in its April 2, 2013 letter to CCC’s attorney, also attached to the appeal document). This denial culminated in the filing of these appeals.

CCC asserts it ‘relied upon’ the \$113 million value when it entered into the “2008 PILOT Agreement” (CCC Exhibit No. 4, a March 12, 2008 Agreement for Payments in Lieu of Taxes) with Granite Reliable Power, LLC, the owner of the Windpark. The 2008 PILOT Agreement references RSA 72:74 and specifies what this company is obligated to pay in lieu of “ad valorem real estate taxes or assessments of any kind” on the Windpark for a ten year term. (See Article II of the 2008 PILOT Agreement; and DRA Finding No. 10.) CCC contends (on page 4 of each appeal document) that allowing the DRA to use a higher appraised value for the Windpark in 2012 for purposes of equalization “is unreasonable and disproportionate” and should be remedied. (See each appeal document, p. 4, paragraph 22.d.)

The board does not agree with CCC’s interpretation of the facts presented or its conclusion that it is entitled to a remedy in these appeals. In Section A, the board will confirm its prior oral rulings on several procedural issues raised by CCC. Section B states the board’s reasons for finding CCC did not meet its burden of proof, resulting in the denial of each appeal.

A. Procedural Rulings (On CCC’s Motion to Compel and Motion for Continuance)

Just one week before the June 28, 2013 hearing, CCC filed two motions: a “Motion to Compel” the production of the DRA Windpark appraisal; and a “Motion to Continue” the hearing date. After review of these June 21 pleadings and the “Objections” filed by the DRA on June 26, the board denied both motions and orally notified the parties (on June 27) the June 28 hearing on the merits would proceed as scheduled.

An issue central to each motion is whether CCC has the right to compel the DRA to produce the Windpark appraisal. That appraisal was prepared by the DRA in 2012 based on information submitted by the Windpark as a taxpayer subject to the tax prescribed in RSA ch. 83-F (Utility Property Tax).

CCC acknowledged to the board that it was unable to obtain the Windpark's consent for disclosure of the DRA appraisal. As noted in DRA's Objection, the confidentiality of the Windpark appraisal is protected by RSA 21-J:14 and no exception applies that would allow the DRA to disclose it without the consent of the Windpark.¹ Thus, the board denied the Motion to Compel.

For related reasons, the board denied CCC's Motion to Continue the June 28 hearing. The board found no good cause existed for granting the continuance. Cf. Tax 201.26(a) (stating the "accident, mistake or misfortune" requirement for granting a continuance).

B. Rulings on the Merits of These Appeals

The board has heard prior equalization appeals under RSA 71-B:5, II(a). See, e.g., Appeals of Towns of Bow, Newington and Seabrook, 133 N.H. 194 (1990) (upholding the DRA's equalized assessed valuation determinations and allocations for public utility property

¹ The record further reflects CCC made an RSA ch. 91-A "Right to Know Law" request to obtain a copy of the appraisal. When the DRA denied this request (at a time prior to the filing of these appeals), CCC took no steps to challenge the denial by using the process prescribed in RSA 91-A:7. (Cf. paragraph 22 of each appeal document.)

and affirming the board's rulings on those issues).² In such appeals, the plaintiff/appellant (CCC here) has the burden of proving "the DRA erred in calculating the equalized valuation." (Cf. Tax 211.04; and DRA Ruling No. 1.) The parties do not dispute this burden rests with CCC. Upon review of all of the testimony and documents presented, the board finds CCC did not meet its burden of proof.

The sole DRA determination challenged by CCC is the valuation of the Windpark. The Windpark owns property in the unincorporated places of Dixville and Millsfield and in the Town of Dummer, all within Coos County. (See DRA Finding No. 8.) Dummer has not appealed the DRA's equalized valuation (or otherwise questioned the Windpark value).

As noted above, CCC, on behalf of Dixville and Millsfield, alleges it "relied upon" a lower estimate of the value of the Windpark (\$113 million) mentioned at a non-public "educational session" held in Lancaster, New Hampshire on December 18, 2007 and the DRA should be bound by this value in the 2012 equalized valuations. According to CCC, a DRA employee (Scott Dickman) responsible for utility valuations mentioned this value at the educational session with Coos County officials. Three commissioners (Burnham Judd, Paul Grenier and Thomas Brady), the County Administrator (Suzanne Collins) and an elected representative (Fred King) attended this meeting, as did Guy Petell, another DRA employee.

² In those appeals, the supreme court quoted the DRA's statutory responsibilities ("duty") under RSA 21-J:3, XIII to:

~~Equalize annually the valuation of the property in the several towns, cities and unincorporated places in the state by adding to or deducting from the aggregate valuation of the property as assessed in towns, cities and unincorporated places such sums as will bring such valuations to the true and market value of the property~~
...

Id. at 195-96. The supreme court explained "[t]he equalized assessed valuation found by the DRA for each municipality is used to determine the proportion of county taxes that each municipality must pay under RSA 29:11." Id. at 196. The supreme court found the municipalities had not met their burden of proving the DRA's determinations were "clearly unreasonable or unlawful," noting that the board's findings: "shall be deemed to be prima facie lawful and reasonable" and the board's decision "shall not be set aside or vacated except for errors of law, unless the [supreme] court is satisfied, by a clear preponderance of the evidence before it, that such order is unjust or unreasonable. [Quoting from RSA 541:13.]" Id. at 199.

Ms. Collins prepared minutes of that December 18, 2007 meeting, presented as Taxpayer Exhibit No. 1.

At the hearing, the board heard testimony from Mr. King, who is now the Coos County Treasurer, Commissioner Brady and Mr. Dickman regarding what they recalled about the meeting. (Ms. Collins, the former CCC administrator who drafted the minutes, was not called as a witness.)

Upon review of the meeting minutes and this testimony, the board finds what occurred and what was said at that 2007 meeting does not support CCC's theory that DRA is obligated to reduce the equalized values computed for Dixville and Millsfield in 2012. Consequently, CCC has not met its burden of proving the 2012 equalized valuations are "unreasonable and disproportionate" and must be set aside for the following reasons.

First, a fair reading of the minutes at face value indicates no "representation" by the DRA on which CCC could reasonably rely that the value of the Windpark would be fixed at \$113 million for all intents and purposes and for any period of time. At the time of this meeting (December, 2007), the Windpark had not yet been approved for construction, let alone built and operated. It defies logic to conclude that an estimate of value stated by one DRA employee in response to an invitation to attend an educational session should bind this state agency in discharging its statutory obligations to equalize the Windpark property in 2012 in accordance with RSA 21-J:3, XIII. (See DRA Ruling No. 1.) In addition, of course, the DRA had an obligation to assess the Windpark at its market value under RSA ch. 83-F for purposes of the utility property tax.

Second, the minutes indicate Ms. Collins did an analysis of her own ("prepared a worksheet") which estimated a higher value ("\$150 million") for the Windpark. CCC could have used her number when it negotiated the PILOT Agreement with the Windpark.

Alternatively, or in addition, as noted by the DRA at the hearing, CCC could have obtained an appraisal or done further work to ascertain an appropriate value for the Windpark. At the time of this meeting and thereafter, CCC had counsel of its own (Attorney Frizzell) who was able to advise CCC of the legal ramifications that might flow from entering into the 2008 PILOT Agreement.

As the DRA further noted, statutory responsibility for appraising the Windpark for property tax purposes rests with CCC (on behalf of Dixville and Millsfield), not the DRA. (See DRA Ruling Nos. 7-11.) The fact that CCC decided to use the number mentioned by Mr. Dickman (apparently using some rough formula for estimating value based on anticipated energy output) without doing additional investigation and without CCC obtaining an appraisal of its own is not something for which the DRA should have any legal responsibility. In this regard, the board notes one paragraph from Ms. Collins' minutes confirms the limited input given by the DRA at the December 18, 2007 meeting and its guidance that care should be exercised: "Guy Petell cautioned the Commissioners that the equalized value of each unincorporated place where the wind park [sic] is located will go up a lot and this will have the effect of raising the county tax in those places." (CCC Exhibit No. 1, unnumbered p. 3.)

Third, even if the board were to assume the educational session with the DRA influenced CCC to enter into a 10-year PILOT Agreement,³ CCC has cited no legal authority to support, let alone establish, it is entitled to a remedy in these appeals. CCC has not even alleged the elements necessary to state a claim of promissory estoppel. Nothing in the minutes of the December, 2007 meeting or anything that occurred thereafter indicates an express or implied promise by the DRA that the Windpark would be valued at any fixed and unchanging amount (such as \$113 million) for any purpose or any length of time.

³ The board notes the 10-year term was five years longer than required by the statute. (See RSA 72:74, VI and VII.)

Fourth, the board finds no basis for concluding the DRA erred in estimating a different market value for the Windpark in tax year 2012 pursuant to the DRA's RSA ch. 83-F responsibilities and then using that value to calculate the "2012 Total Equalized Valuation" for Dixville and Millsfield. If the DRA had not done so, it would have been derelict in its statutory duties under RSA 21-J:3, XIII. As the supreme court has noted:

A taxpayer is disproportionately taxed if it is assessed at a greater proportion of its property's true value than are other taxpayers. Bemis etc. Bag Co. v. Claremont, 98 N.H. 446, 450-51, 102 A.2d 512, 516 (1954). Here, all municipalities are required by statute to be assessed at "true and market value." RSA 21-J:3, XIII.

The Board correctly stated:

"The DRA may equalize properties in any way such that the result enables public taxes to be apportioned among the towns, cities, and municipalities in an equal and just manner. . . . To comply with RSA 21-J:3, XIII, the DRA's total equalized valuation for the [Towns] must merely represent, pursuant to accepted appraisal standards, 'the true and market value' of the property within the Town."

Appeals of Towns of Bow, Newington and Seabrook, 133 N.H. at 199 and 201. DRA's statutory obligation is to value the Windpark at its "full and true value" in each tax year for purposes of assessing the utility property tax. (See RSA 83-F:3 and F:2.) To value the Windpark for anything less than its market value in 2012 would increase, rather than reduce, disproportionality within Coos County.

Fifth, CCC has presented no evidence that would allow a fact finder to determine what the market value of the Windpark actually was in 2012. Without such evidence, there is no basis for finding the DRA erred or that the equalized valuations should be reduced to some unspecified amount.

Sixth, there was conflicting evidence presented regarding whether any taxpayer in either Dixville or Millsfield has yet suffered any actual harm or been "aggrieved" (cf. RSA 76:16) as a result of the DRA's equalized valuations. The board heard testimony that Dixville has only one

taxpayer (The Balsams Grand Resort Hotel, now in the process of renovation) and that Millsfield has only about twenty-five (25) property owners (not all of whom presently pay taxes). The testimony of CCC's witnesses (King and Fish) indicated their belief that at some point in the future (not necessarily in 2013) the tax liability of Dixville and Millsfield property owners would rise "exponentially" as a result of the DRA equalized values.

On cross-examination, however, these CCC witnesses admitted no calculations had yet been performed to document how or when any property owner's tax burden would change as a result of the DRA's 2012 equalized valuation. Indeed, the board learned in the course of the hearing that some property owners in these unincorporated places do not receive any assessments on their property at the present time and that a financial cushion exists within CCC's budget to absorb any anticipated impact of the DRA's equalized valuation. (See DRA Finding No. 13.)

The board is mindful of the impact of the annual equalized valuation process conducted by the DRA on municipalities. The outcome of this process is very much a "zero sum game," so to speak, because lowering the valuation in one municipality (presumably a positive impact) will invariably have offsetting negative impacts on others. To keep the playing field level for all municipalities, the DRA is charged with the responsibility under RSA 21-J:3, XIII to use the one yardstick prescribed by the legislature: "true" market value. No evidence was presented that would allow the board to find the DRA did not do so in this instance. (See Appeals of Towns of Bow, Newington and Seabrook, cited and quoted above.)

At the June 28 hearing, CCC renewed its argument that production of the DRA Windpark appraisal should be compelled and that CCC was entitled to question the DRA employee who prepared this appraisal (Scott Dickman) regarding its content and conclusion. The only authority cited by CCC is a February 2, 2013 Order issued by the Grafton County Superior Court in tax abatement appeals (Docket Nos. 11-CV-375, 377, 378 and 379) filed by New Hampshire Electric

Cooperative, Inc. (See Taxpayer Exhibit No. 17.) The board finds that Order is not helpful to CCC's position in that the taxpayer in those appeals (an electric coop) waived any claim to confidentiality of the DRA appraisal and sought to introduce it as evidence.⁴

C. Summary

In summary, the board finds CCC did not meet its burden of proof in these equalization appeals and they are therefore denied. As stated in RSA 71-B:5, II(a), the Decision by the board is "final," subject to appeal to the supreme court. The statutory timeline for any such appeal is "within 20 days after the date the [D]ecision is mailed by the board to the municipality."

SO ORDERED.

BOARD OF TAX AND LAND APPEALS


Michele E. LeBrun, Chair


Albert F. Shamash, Member

⁴ In those circumstances, the superior court concluded Mr. Dickman could be deposed regarding his RSA ch. 83-F appraisals (by the municipalities defending their own assessments), but could not be compelled "to produce his 'work papers'." (*Id.* at pp. 7-8.) In marked contrast, the Windpark has not waived its claims of confidentiality to the DRA Windpark appraisal and therefore the board finds no basis for compelling either the production of that appraisal or to compel Mr. Dickman to testify regarding it. The board therefore sustained the DRA's objections to this line of questioning by CCC's attorneys.

Addendum A

The "Requests" received from the parties are replicated below, in the form submitted and without any typographical corrections or other changes. The board's responses are in bold face. With respect to the board's responses, "neither granted nor denied" generally means one of the following:

- a. the request contained multiple findings; or
- b. the request contained words, especially adjectives or adverbs, that made the request overly broad or narrow so that the request could not be granted or denied;
- c. the request contained matters not in evidence or not sufficiently supported to grant or deny;
- d. the request was irrelevant; or
- e. the request is specifically addressed in the Decision.

See Tax 201.36(b): "Requests for findings and rulings shall consist of separately numbered paragraphs with only one finding or ruling per paragraph. Requests that contain multiple findings or rulings shall be marked "neither granted nor denied."

**Department of Revenue Administration's
Requests for Findings of Fact and Rulings of Law**

I. FINDINGS OF FACT

1. The Petitioners are the unincorporated places of Dixville, New Hampshire ("Dixville") and Millsfield, New Hampshire ("Millsfield") (collectively referred to as "Petitioners"). The Board of Commissioners for Coos County brings these appeals on their behalf as their Governing Body ("Commissioners"). See Petitioners' Appeals, ¶¶ 2.

Neither granted nor denied.

2. On April 29, 2013, the Department notified Dixville of its 2012 total equalized valuation. Dixville's 2012 total equalized valuation including utility valuation and railroad monies reimbursement is \$54,453,216. Dixville's 2012 total equalized valuation not including utility valuation and railroad monies reimbursement is \$8,254,416. See Dixville's Appeal, Exhibit 1.

Neither granted nor denied.

3. On April 29, 2013, the Department notified Millsfield of its 2012 total equalized valuation. Millsfield's 2012 total equalized valuation including utility valuation and railroad monies reimbursement is \$180,342,176. Millsfield's 2012 total equalized valuation not including utility valuation and railroad monies reimbursement is \$8,914,316. See Millsfield's Appeal, Exhibit 1.

Neither granted nor denied.

4. Equalization is the annual process by which the Department makes adjustments to each community's locally assessed values. These adjustments are made in order to compensate for the difference between unadjusted locally assessed value and market value. Typically, it begins with a full understanding of the sum of locally assessed value. The adjustment is calculated by understanding the ratio between assessments and selling prices. The sum of locally assessed value is then divided by the ratio to reveal a total market value estimate of each jurisdiction. See Testimony of Stephan W. Hamilton.

Neither granted nor denied.

5. A utility property located in the Petitioners' jurisdictions is a renewable generation facility known as the Granite Reliable Windpark ("Windpark"), which went into production in 2012 and which the Department appraised and valued at \$228,935,438 ("2012 Appraisal") for RSA 83-F purposes. The 2012 Appraisal is the first time that the Department has appraised and valued the Windpark. See Testimony of Stephan W. Hamilton.

Neither granted nor denied.

6. In their annual MS-1 Reports to the Department to report the appraised value of all property in their communities, both Petitioners reported a value of zero for the Windpark, as the Petitioners did not appraise and value the Windpark. See Testimony of Stephan W. Hamilton.

Granted.

7. The Petitioners have failed to properly inventory and appraise all of the property within their respective unincorporated places, especially the Windpark. Therefore, when equalizing the locally assessed values in the Petitioners' communities, the Department used its appraised value for the Windpark that it had determined for RSA 83-F purposes. See Testimony of Stephan W. Hamilton.

Neither granted nor denied.

8. The Windpark is also located in the Town of Dummer ("Dummer"), which is not part of this appeal. See Testimony of Stephan W. Hamilton.

Granted.

9. As part of its valuation of utility property for purposes of the utility property tax, the Department also apportions the utility property's value amongst the communities within which it is located. The Department apportioned the value of the Windpark as follows: Dixville (\$46,107,655), Millsfield (\$171,381,281), and Dummer (\$11,446,502). See Testimony of Stephan W. Hamilton.

Neither granted nor denied.

10. In 2008, the Petitioners, but not Dummer, entered into payment in lieu of taxes ("PILOT") agreements with the Windpark, pursuant to RSA 72:74, where Dixville would receive \$104,990 and Millsfield would receive \$390,010 (for a total payment of \$495,000) per year. See Exhibit A (MS-5 Report for Dixville dated June 5, 2013) and Exhibit B (MS-5 Report for Millsfield dated June 5, 2013).

Granted.

11. On December 19, 2012, the Commissioners signed a warrant for a total of \$334,365.60 to seek to assess and collect the Land Use Change Tax ("LUCT") from the Windpark. On January 18, 2013, the Commissioners collected the LUCT on behalf of the Petitioners. See Testimony of Stephan W. Hamilton.

Neither granted nor denied.

12. The revenue received from the LUCT was attributed to Dixville in the amount of \$71,369 and Millsfield in the amount of \$262,825. However, the Petitioners did not report this LUCT revenue on their MS-5 Reports. See Exhibits A and B (Acct #3210, p. 5) and Testimony of Stephan W. Hamilton.

Neither granted nor denied.

13. A review of the Petitioners' MS-5 Reports and the amount of LUCT revenue received from the Windpark that the Petitioners failed to report on their MS-5 Reports reveals that the Petitioners possess significant unreserved retained fund balances and can anticipate total revenue sufficient to meet the county apportionment obligation. See Testimony of Stephan W. Hamilton.

Granted.

II. RULINGS OF LAW

1. The Petitioners shall have the burden to prove the DRA erred in calculating the equalized valuation. See Tax 211.04.

Granted.

2. The DRA shall Equalize annually by May 1 the valuation of the property as assessed in several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, and property which is the subject of a payment in lieu of taxes under 72:74 by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property...

See RSA 21-J:3, XIII.

Granted.

3. "The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may, after a duly noticed public hearing, enter into a voluntary agreement to make payment in lieu of taxes." See RSA 72:74, I.

Granted.

4. The Windpark is a renewable generation facility that entered into a PILOT agreement with both Dixville and Millsfield. See RSA 72:73 and 72:74.

Granted.

5. RSA 21-J:3, XIII provides that the DRA shall equalize "property which is the subject of a payment in lieu of taxes under 72:74" at its "true and market value."

Granted.

6. For 2012, the DRA properly equalized the valuation of the property as assessed in Dixville and Millsfield in accordance with its statutory obligation, pursuant to RSA 21-J:3, XIII.

Granted.

7. "The selectman of each town shall annually make a list of all the polls and shall take an inventory of all the estate liable to be taxed in such town as of April 1." See RSA 74:1.

Granted.

8. "At the time of making the list of polls and the inventory of estate liable to be taxed the selectman shall also make an inventory of all lands, buildings and structures which, but for the tax exemption laws of the state, would be taxable as real estate..." See RSA 74:2.

Granted.

9. "Upon the return of such inventory, the selectman shall assess a tax against the person or corporation in accordance with their appraisal of the property therein mentioned, unless they shall be of the opinion that it does not contain a full and true statement of the property for which such person or corporation is taxable." See RSA 74:11.

Granted.

10. Despite RSA 74:11, the Petitioners did not appraise the Windpark.

Granted.

11. Without an appraisal of all property inventoried to challenge, the Petitioners have failed to meet their burden of proof in proving that the Department erred in its total equalized value for both Dixville and Millsfield and the Petitioners' appeals should be DISMISSED. See Tax 211.04.

Neither granted nor denied.

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Philip R. Waystack, Esq. and Jonathan S. Frizzell, Esq., Waystack Frizzell Trial Lawyers, P.O. Box 137, Colebrook, NH 03576, counsel for the Coos County Commissioners on behalf of Dixville and Millsfield, Appellants; and Kathryn E. Skouteris, Esq., 109 Pleasant Street, P.O. Box 457, Concord, NH 03301, counsel for DRA.

Date: July 17, 2013


Anne M. Stelmach, Clerk

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

BOARD OF TAX AND LAND APPEALS

DOCKET NO.: 2013-_____

**APPEAL OF COÖS COUNTY COMMISSIONERS
on behalf of the UNINCORPORATED PLACE OF DIXVILLE, N.H.
(Appeal of Equalized Valuation Pursuant to N.H. RSA 71-B: 5, II)**

NOW COME the Coös County Commissioners, on behalf of the Unincorporated Place of Dixville, N.H., by and through their attorneys, *Waystack Frizzell, Trial Lawyers*, and state as follows:

Introduction

1. This is an appeal of the 2012 Total Equalized Valuation for the Town of Dixville, New Hampshire. The Coös County Commissioners argue that the Director of the Department of Revenue Administration improperly relied upon an appraisal conducted under the auspices of the State Utility Tax in determining the Total Equalized Valuation, among other arguments.

Parties and Jurisdiction

2. The Appellant is the Board of Commissioners for Coös County ("the Commissioners"), with a mailing address of: P.O. Box 10, West Stewartstown, NH 03597.
3. For purposes of Tax 211.02 (b) (1), the Commissioners state as follows:

Unincorporated Place of Dixville
c/o Jennifer Fish, County Administrator
P.O. Box 10
West Stewartstown, NH 03597
(603) 246-3321

4. The Respondent is the N.H. Department of Revenue Administration ("DRA"), with a mailing address of: P.O. Box 1313, Concord, NH 03302-1313.
5. The Commissioners received the Notice of 2012 Equalized Valuation by way of correspondence from DRA dated April 29, 2013. See, Notice attached as Exhibit 1. This Appeal is filed within thirty (30) days of that date, and therefore the Appeal is timely filed, and jurisdiction before this Board is proper.

Reasons for Appeal

6. The Commissioners are acting in this Appeal pursuant to N.H. RSA Chapter 81. By virtue of that statutory chapter, the Commissioners are charged by the Legislature with the responsibility and authority for carrying out local municipal taxation duties for the unincorporated towns and unorganized places within their geographical jurisdiction.
7. By way of correspondence dated April 29, 2013, DRA notified the Commissioners that the 2012 Total Equalized Valuation for Dixville was \$54,453,216.00. See, Exhibit 1.
8. This amount represents an increase of \$37,762,031.00 over the prior year. For 2011, the Total Equalized Valuation for Dixville was \$16,691,185.00. See, Exhibit 2.
9. The reason for this large increase is the inclusion of DRA's utility value for Dixville's portion of the Granite Reliable Windpark ("the Windpark"). The Windpark is located in the two unincorporated places of Dixville and Millsfield, and consists of thirty-three (33) wind turbines that generate electricity for transmission into the larger electrical transmission system (also known as "the grid").
10. Upon information and belief, DRA arrived at its utility value for the Windpark as part of its appraisal process conducted for purposes of the State Utility Tax under N.H. RSA Chapter 83-F.
11. By way of correspondence dated March 20, 2013, the Commissioners (through undersigned counsel) requested that DRA not use its appraised utility value for the Windpark. See, Exhibit 3.
12. Instead, the Commissioners asked DRA to use the Commissioners' own appraised value for the Windpark of \$113,000,000.00. This value was arrived at by the Commissioners in 2008, at the time that the Commissioners entered into a PILOT agreement with the owner of the Windpark.
13. As stated in their request to DRA, the Commissioners argued that the State of New Hampshire itself has sought to promote the construction and orderly taxation of renewable energy generation facilities, by virtue of its enactment of N.H. RSA 72:74.

14. The Commissioners also argued that communities who enter into PILOT agreements should be able to rely upon the DRA to use the appraised values determined by the communities themselves in entering into those PILOT agreements when the DRA performs its annual calculation of the Total Equalized Valuation for each municipality in the state, pursuant to N.H. RSA 21-J: 3, XIII (Supp.).
15. Most importantly, the Commissioners argued that they relied upon insight and analysis performed by representatives of DRA itself when the Commissioners determined the value of the Windpark at the time that they entered into the PILOT agreement. See, Exhibit 3. DRA should not participate in and facilitate a process that allegedly helps local communities (in arriving at a first set of appraisals), but then it chooses not to rely upon those appraisals at a later date, to the detriment of the communities and the taxpayers therein.
16. In response to the Commissioners' request, DRA declined to use the PILOT value, and declined to recognize that it facilitated the Commissioners' appraisal process when the PILOT was first entered into. See, Exhibit 4.
17. The Commissioners again requested that DRA use the PILOT value. See, Exhibit 5.
18. No further correspondence was received by DRA, other than the Notice of Equalized Valuation, attached as Exhibit 1.
19. The Commissioners argue to this Board that the taxpayers in Dixville will be forced to suffer an increased and disproportionate tax burden by virtue of the methodology employed by DRA in arriving at the 2012 Total Equalized Valuation, specifically, by virtue of the fact that DRA has used its appraised utility tax valuation, rather than the valuation used by the Commissioners in entering into the PILOT agreement.
20. The Commissioners argue that nothing within the statutorily-imposed methodology of appraisal (or any corresponding or subsidiary administrative rule) mandates that DRA use the appraised utility tax valuation, instead of the PILOT valuation, and nothing prohibits the discretion of DRA from using the PILOT valuation as part of this process.
21. The Commissioners request that this Board order DRA to reconsider and revise downward the 2012 Total Equalized Valuation for Dixville, by using the PILOT valuation, rather than the appraised utility tax valuation.
22. Additionally, the Commissioners also argue that DRA's appraised value of the Windpark is unreasonable and disproportionate, separate and independent from the Commissioner's valuation of the Windpark under the PILOT agreement. As further support for this argument, the Commissioners state that:


- a. The Commissioners have argued to DRA that N.H. RSA Chapter 83-F ("the State Utility Tax") contains an abatement provision available to the taxpayer, but no abatement provision available to the municipality. See, i.e., N.H. RSA 83-F: 8. Just because the taxpayer accepts the DRA's appraised value of its utility does not mean that the municipality should be barred, by matter of statute and procedure, from contesting that appraisal, especially when the municipality must bear the consequences of that procedure, as is the case here with Dixville;
 - b. The Commissioners requested, under "the Right-to-Know Law" (N.H. RSA Chapter 91-A), a copy of the DRA's appraisal of the Windpark for utility tax purposes, in order to make their own, independent determination as to the appraisal methodology employed by DRA in arriving at its appraised value. This request was denied, in its entirety, by DRA;
 - c. As a result, the Commissioners are left with no means whatsoever to review and possibly challenge the DRA appraisal; and,
 - d. The Commissioners therefore submit that DRA's appraised value is unreasonable and disproportionate, and should be overturned by this Board, especially when DRA is not allowing the Commissioners to even review it.
23. For purposes of Tax 211.02 (c), the Commissioners request that the factual and legal arguments contained within the attached exhibits be included as part of its analysis as to whether this appeal document contains the requisite level of specificity.
24. The actual PILOT agreement itself (entered into in 2008 between the Commissioners and the owner of the Windpark) has not been included as an exhibit to this Appeal, merely to conserve resources, and based upon the assumption that the PILOT agreement itself is not in dispute. The PILOT agreement will be submitted to the Board as evidence during part of any eventual hearing in this matter, however, for purposes of foundational support for the record.

WHEREFORE, THE COMMISSIONERS RESPECTFULLY REQUEST THAT THE BOARD:

- A. Order DRA to reconsider and revise downward the 2012 Total Equalized Valuation; and,
- B. Grant them a hearing and due process, including such preliminary telephone conferences and discovery as may be allowed pursuant to Tax 211.03 (b), in order to properly make its arguments to this Board in support of this Appeal.

Dated: 05-23-13

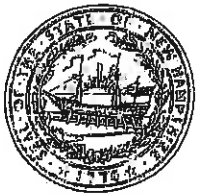
Respectfully submitted,
Coös County Commissioners
By and through their attorneys,
Waystack Frizzell, Trial Lawyers


Jonathan S. Frizzell, Esquire
Bar No. 12090
251 Main Street, P.O. Box 137
Colebrook, NH 03576
Tel: (603) 237-8322

CERTIFICATE OF SERVICE

I hereby certify that copies of this document have been mailed this day to opposing counsel/parties of record.


Jonathan S. Frizzell



State of New Hampshire Department of Revenue Administration

109 Pleasant Street
PO Box 1313, Concord, NH 03302-1313
Telephone (603) 230-5950
www.nh.gov/revenue



Kevin A. Clougherty
Commissioner

PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

Margaret L. Fulton
Assistant Commissioner

David M. Cornell
Assistant Director

4/29/2013

COOS COUNTY / DIXVILLE
OFFICE OF SELECTMEN
PO BOX 10
WEST STEWARTSTOWN NH 03597

Dear Assessing Officials:

Earlier in 2013, you were notified of your town's 2012 sales-assessment weighted mean ratio. Since that time, the Department of Revenue Administration has completed the process of calculating the total equalized values for each municipality and unincorporated places throughout the state pursuant to RSA 21-J:3 XIII.

Two total equalized figures were calculated for each municipality: The "Total Equalized Valuation Including Utility Valuation and Railroad Monies Reimbursement" will be used to calculate your municipality's portion of the county tax and cooperative school district taxes, if applicable. The "Total Equalized Value Not Including Utility Valuation and Railroad Monies" used to calculate each municipality's portion of the state education property tax.

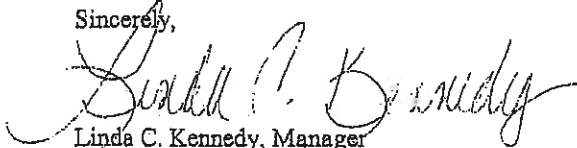
In order to fulfill the requirements of RSA 21-J:3 XIII, adjustments have been made to the modified assessed valuation to bring such valuation to true and market value. Enclosed with this letter are informational sheets that summarize how each of the following figures was calculated.

Town Name: DIXVILLE	Including Utility Valuation and Railroad Monies Reimbursement	Not Including Utility Valuation and Railroad Monies Reimbursement
2012 Modified Local Assessed Valuation	8,345,561	8,254,416
+ D.R.A. Inventory Adjustment	46,107,655	0
= 2012 Equalized Assessed Valuation	54,453,216	8,254,416
+ Equalized Payment in Lieu of Taxes	0	0
+ Equalized Railroad Tax	0	0
= 2012 Total Equalized Valuation	54,453,216	8,254,416
2012 Equalized Assessed Valuation	54,453,216	
+ Adjustment RSA 31-A (Shared Revenues)	0	
= Base Valuation for Debt Limits	54,453,216	

This letter is official notification of your 2012 Total Equalized Valuation(s). You have the right to appeal these valuations to the N.H. Board of Tax and Land Appeals pursuant to RSA 71-B:5.II. The appeal period is not extended due to any communication, either verbal or written, between the D.R.A. and a municipality regarding the total equalized valuation.

If you have any questions regarding the computation of your total equalized assessed valuation(s), please contact this office at 230-5950.

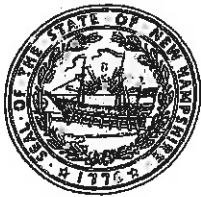
Sincerely,


Linda C. Kennedy, Manager

Equalization Bureau

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.



State of New Hampshire Department of Revenue Administration

109 Pleasant Street
PO Box 1313, Concord, NH 03302-1313
Telephone (603) 230-5950
www.nh.gov/revenue



Kevin A. Clougherty
Commissioner

Margaret L. Fulton
Assistant Commissioner

PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

David M. Cornell
Assistant Director

April 30, 2012

COOS COUNTY / DIXVILLE
OFFICE OF SELECTMEN
PO BOX 10
WEST STEWARTSTOWN NH 03597

Dear Assessing Officials:

Earlier in 2012, you were notified of your town's 2011 sales-assessment weighted mean ratio. Since that time, the Department of Revenue Administration has completed the process of calculating the total equalized values for each municipality and unincorporated places throughout the state pursuant to RSA 21-J:3 XIII.

Two total equalized figures were calculated for each municipality: The "Total Equalized Valuation Including Utility Valuation and Railroad Monies Reimbursement" will be used to calculate your municipality's portion of the county tax and cooperative school district taxes, if applicable. The "Total Equalized Value Not Including Utility Valuation and Railroad Monies" used to calculate each municipality's portion of the state education property tax.

In order to fulfill the requirements of RSA 21-J:3 XIII, adjustments have been made to the modified assessed valuation to bring such valuation to true and market value. Enclosed with this letter are informational sheets that summarize how each of the following figures was calculated.

Town Name: DIXVILLE	Including Utility Valuation and Railroad Monies Reimbursement	Not Including Utility Valuation and Railroad Monies Reimbursement
2011 Modified Local Assessed Valuation	16,691,185	16,612,377
+ D.R.A. Inventory Adjustment	0	0
= 2011 Equalized Assessed Valuation	16,691,185	16,612,377
+ Equalized Payment in Lieu of Taxes	6,462	6,462
+ Equalized Railroad Tax	0	0
= 2011 Total Equalized Valuation	16,697,647	16,618,839
2011 Equalized Assessed Valuation	16,691,185	
+ Adjustment RSA 31-A (Shared Revenues)	0	
= Base Valuation for Debt Limits	16,691,185	

This letter is official notification of your 2011 Total Equalized Valuation(s). You have the right to appeal these valuations to the N.H. Board of Tax and Land Appeals pursuant to RSA 71-B:5 II. The appeal period is not extended due to any communication, either verbal or written, between the D.R.A. and a municipality regarding the total equalized valuations.

If you have any questions regarding the computation of your total equalized assessed valuation(s), please contact this office at 230-5950.

Sincerely,

Linda C. Kennedy
Linda C. Kennedy, Manager
Equalization Bureau

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.

**Waystack
Frizzell**

TRIAL LAWYERS

www.waystackfrizzell.com

251 Main Street - Post Office Box 137

Colebrook, New Hampshire 03576

(603) 237-8322 ♦ (800) 479-3884

Facsimile: (603) 237-5002

info@waystackfrizzell.com

PHILIP R. WAYSTACK

JONATHAN S. FRIZZELL

March 20, 2013

Kevin Clougherty, Commissioner
Department of Revenue Administration
109 Pleasant Street, P.O. Box 457
Concord, NH 03302-0457

Re: County of Coös, Unincorporated Places

Dear Commissioner Clougherty:

Please be advised that this law firm represents the Commissioners of the County of Coös, who act as the local executive body for the Unincorporated Places in the County. I have been authorized by the Commissioners to act on their behalf in communicating with you about this matter.

I am writing to you with respect to the taxation of the Granite Reliable Power windpark facility, located in the Unincorporated Places of Dixville and Millsfield. The GRP windpark consists of thirty-three (33) windmills with a rated capacity of three megawatts (3 MW) each, for a total rated capacity of ninety-nine megawatts (99 MW).

In 2008, acting pursuant to N.H. RSA 72:74, the Commissioners entered into a Payment in Lieu of Taxes agreement with Granite Reliable Power. As part of its due diligence in researching many variables before entering into the PILOT agreement, the Commissioners learned that your department had placed an initial appraised value on the windpark in the amount of \$113,000,000.00. This figure was calculated by your property appraisal division, in anticipation of eventual taxation of the windpark by the State under N.H. RSA Chapter 83-F ("the Utility Property Tax"). **After much consultation with your department, the Commissioners relied upon this valuation in determining and negotiating the appropriate amount of the payment in lieu of tax that would be paid by Granite Reliable Power, which was agreed upon in the amount of \$495,000.00 per year.**

Then, in late 2012, your property appraisal division acted pursuant to its statutory duty under N.H. RSA 83-F: 3. Under that statute,

[o]n or before December 1 of the tax year, the commissioner shall determine the market value of utility property for the purposes of this chapter by utilizing

generally accepted appraisal methods and techniques. Market value means the property's full and true value as defined under RSA 75:1. In the case of regulated public utilities as defined in RSA 362:2, the commissioner shall hold a single public hearing annually prior to performing the assessments, in order to receive public input on assessments under this chapter. Notice of such determination shall be given to the taxpayer¹ within 15 days of the commissioner's determination.

The Commissioners have learned, upon information and belief, that your property appraisal division has now placed an appraised value on the windpark facility in the amount of \$217,000,000.00, which represents an increase in the appraised value of over One Hundred Million Dollars.

Further, the Commissioners have learned, as a result of conversations with employees of your department, that you intend to use this increased appraised value (determined for purposes of the state utility tax under RSA 83-F), when determining the equalized valuation of the taxable properties within the Unincorporated Places of Dixville and Millsfield. **The purpose of this letter is to request formally that you do not use this increased appraisal value.**

Pursuant to N.H. RSA 21-J: 3, XIII (Supp.), you have the legal obligation to:

[e]qualize annually by May 1 the valuation of the property as assessed in the several town, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, property which is subject to tax relief under RSA 79-E:4, **and property which is the subject of a payment in lieu of taxes under RSA 72:74** by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places ***such sums as will bring such valuations to the true and market value of the property***, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes ***as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just***. In carrying out the duty to equalize the valuation of property, the Commissioner shall follow the procedures set forth in RSA 21-J: 9-a.

(emphasis added).

N.H. RSA 21-J: 9-a sets forth the procedures that you must follow in determining the equalized valuation. The applicable provision of that statute, Section III, states that:

¹ Please note that the appraisal determination is transmitted by statute to the property owner/taxpayer, presumably to both notify the taxpayer but also to allow for a timely appeal by the taxpayer, if the taxpayer so chooses. The statute does not include a requirement that the appraisal determination be transmitted to the underlying municipality, nor does RSA 83-F provide any appeal or abatement procedure by the municipality, only by the taxpayer under RSA 83-F: 8.

If less than 2 percent of the total taxable parcels in a city, town or unincorporated place has been transferred by an arm's length sale or transfer during the 6 months prior to and 6 months following April 1 of the tax year for which such equalization is made or the commissioner determines the sales are unrepresentative of the property within the municipality, the commissioner may choose one or more of the following options:

- (a) *Include appraisals of any of the taxable property of such city, town, or unincorporated place in the sales-assessment ratio study. Such appraisals shall be based on full and true value pursuant to RSA 75:1 and shall be performed by department appraisers. The property to be appraised shall be selected by the commissioner.*
- (b) Include arm's length sales or transfers in the city, town, or unincorporated place, within 2-½ years preceding April 1 of the year preceding the tax year for which such equalization is made.
- (c) Consider recent equalization ratio activity in adjoining cities, towns, or unincorporated places.

(emphasis added). I am assuming, without other knowledge, that your department's stated intent to use the windpark appraisal – conducted for purposes of the utility tax – as part of the equalized valuation assessment determination, comes from subparagraph (a), stated above.

On behalf of my client, I would call your attention to another part of the applicable statute, in particular, N.H. RSA 21-J: 9-a, IV. In that provision, "[t]he commissioner may use the inventory of property transfers authorized by RSA 74:18 in determining the equalized value of property **and may consider such other evidence as may be available to the commissioner on or before the time the final equalized value is determined.**" (emphasis added).

Pursuant to this section, my client would request that the Commissioner recognize the exigent circumstances that are presented by this unusual set of facts, and consider as "other evidence" available to you, specifically, the lower appraised value that had been determined back in 2007, at the time that my client entered into the PILOT agreement with Granite Reliable Power.

Without this exercise of discretion, the taxpayers in Dixville and Millsfield will face an unprecedented spike in the equalized valuation of those Unincorporated Places. Consequently, those taxpayers will also face an increased tax assessment, when the time comes for them to pay their property taxes to my client, for eventual remittance of the State Education Tax to the State Treasurer. This increased tax assessment to them, my client submits, is disproportionate, inequitable, and unfair, and would also constitute an unconstitutional tax on the taxpayers in Dixville and Millsfield.

My client is making this request of your department in the interests of fundamental fairness to the taxpayers in Dixville and Millsfield. The Commissioners in 2007 agreed to the development of a renewable energy facility, and toward that end entered into a PILOT agreement under RSA 83-F, in furtherance of a clear policy mandate from the State of New Hampshire to encourage such facilities. Now, the tax assessment consequences of that policy choice – *a policy choice clearly encouraged by the State of New Hampshire* – should not have to be borne in such a disproportionate manner by the taxpayers in Dixville and Millsfield.

As part of RSA 21-J: 9-a, IV, it would appear that you have the discretion to consider and grant this request, and that this choice on your behalf would not exceed your statutory discretion.

If communications with the Attorney General's office would be necessary in order for you to further consider this request, please understand that the Coös County Commissioners and myself will take any and all such action as may be necessary to facilitate and participate in such communications.

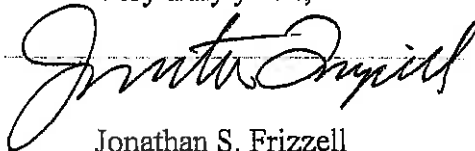
If statutory amendments are needed to clarify the intent of the statutes, and to emphasize that municipalities should not have to unfairly bear an added tax burden by virtue of the PILOT agreements encouraged by the State under RSA 83-F, then my client will act to facilitate those amendments, whether as part of this Legislative Session or as part of the next session in 2014.

In closing, let me add that this request is being submitted to you well in advance of the May 1 statutory deadline set forth in N.H. RSA 21-J: 3, XIII. My client is prepared to continue to communicate with you and your department in order to attempt to arrive at a workable solution in place before that deadline, specifically a workable solution that allows you to fulfill all of your statutory duties, but which also does not create an unfair and potentially unconstitutional taxation result upon the taxpayers of Dixville and Millsfield.

This letter does not waive any or all of my client's rights, claims, and defenses.

Thank you for your time and consideration.

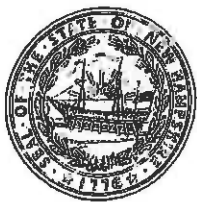
Very truly yours,



Jonathan S. Frizzell

JSF/lbj

Cc: Coös County Commissioners
Steve Hamilton, Director of Property Appraisal Division



State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 487, Concord, NH 03302-0487
Telephone (603) 230-5950
www.nh.gov/revenue



PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

Margaret L. Fulton
Assistant Commissioner

David M. Cornell
Assistant Director

April 2, 2013

Jonathan S. Frizzell, Esquire
Waystack Frizzell Trial Lawyers
251 Main Street
P.O. Box 137
Colebrook, NH 03576

RECEIVED

APR 4 2013

WAYSTACK FRIZZELL

Dear Attorney Frizzell:

Thank you for your recent correspondence regarding the County of Coos, Unincorporated places. I have thoroughly reviewed the letter and researched the issues that were raised therein, and I am prepared to answer the substantive issues.

The department has never to its knowledge provided any appraisal or valuation of this property prior to the Determination of Value pursuant to RSA 83-F:3, on or about December 1, 2012. The department was invited to and attended a meeting on December 18, 2007 to discuss the potential development of this project. In addition to that meeting, the Department received several telephone calls on the issue through August 2008, from both the County and the Taxpayer.

An appraisal of the property would have to be constructed upon knowledge of financial details then known only to the developer of the project. At the time of the meeting, the Department did not possess the kind of detailed information that would have been necessary in order to make a certain valuation determination or appraisal.

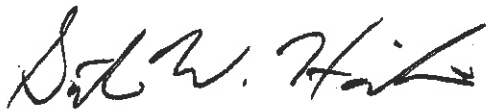
At no time in any of these meetings or calls, or at any time subsequent thereto, did the Department appraise the property or provide speculative appraisals of the property. There clearly had been some informal dialogue between the County and the Department about some simple, common arithmetic utilizing a very simplistic unit value. It is unclear as to the source of the numbers that were discussed.

The department is very concerned about the letter as produced, particularly in regard to the assertion that it provided an appraisal of the property in 2007 and or 2008. To the knowledge of the Department, the first appraisal that we made of this property began in the summer of 2012, was not completed until the end of 2012, and had an effective date of April 1, 2012. If you have any documentation of an appraisal prepared by the Department from 2007 or 2008, please provide it to us as soon as possible.

The process of equalization is well regulated by a series of laws, rules, and an equalization manual that was published by the Equalization Standards Board. The process does encourage assessing officials to introduce evidence that they believe is relevant to the calculation of the total equalized value. The opportunity for the introduction of additional information or alternative ratio methodology is outlined in Rev 2804.01. Appeal of equalized valuations are to the New Hampshire Board of Tax and Land Appeals pursuant to RSA 71-B:5, II. These are to be heard in an expedited manner.

If there are other items that you wish the Department to consider, please forward them at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephan W. Hamilton". The signature is fluid and cursive, with a prominent "S" and "H".

Stephan W. Hamilton, Director
Property Appraisal Division

Cc: Margaret L. Fulton, Acting Commissioner

April 17, 2013

Stephan W. Hamilton, Director – Property Appraisal Division
Department of Revenue Administration
109 Pleasant Street, P.O. Box 487
Concord, NH 03302-0487

Re: County of Coös, Unincorporated Places

Dear Director Hamilton:

In response to your letter dated April 2, 2013, I am sending you copies of the following:

1. 12/18/07 Minutes of a Non-Public Meeting of the Coös County Commissioners, at which meeting representatives of DRA were present; and,
2. 01/17/08 Memorandum prepared by the Coös County Administrator, which memo was circulated to the Commissioners.

Although these documents were authored by Ms. Suzanne Collins, who is now retired from her position as County Administrator, the substantive content of these documents can be fully corroborated by two of the current board of Commissioners (Chairman Tom Brady and Commissioner Paul Grenier), both of whom have specific recollection of the events and analyses that are described in these documents.

These documents are being provided to you in response to your comment that “[a]t no time in any of these meetings or calls, or at any time subsequent thereto, did the Department appraise the property or provide speculative appraisals of the property.” My clients acknowledge that no formal appraisals occurred, however, it is their position that the County specifically relied upon the Department’s comments and input as to the *methodology* of the appraisal process, and more importantly, upon the *consequences* of the appraisal process (i.e., the way in which the PILOT valuation affects the overall equalization process under N.H. RSA 21-J: 3, XIII).

We understand that the Department’s interpretation of these events, here in 2013, is that they were merely part of “informal dialogue ... about some simple, common arithmetic utilizing a very simplistic unit value.” The Commissioners do not share in that

interpretation, because their good-faith actions since 2007 demonstrate that there was justifiable reliance upon the Department's input, which is now in jeopardy of being used to the County's detriment.

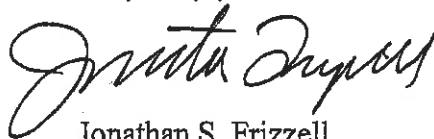
My clients continue to investigate and research all of their legal options at present. They do, however, certainly thank you and the Department for your recent correspondence, stating the Department's position.

In closing, let me repeat and/or re-state one of the positions from my previous letter. My clients fail to see the statutory or regulatory authority for the legal conclusion that an appraisal conducted under the auspices of N.H. RSA Chapter 83-F must – **by necessity** – be used for purposes of the equalization process under N.H. RSA 21-J: 3, XIII. Perhaps that appraisal can be used; we fail to see the authority for the proposition that it must be used. My clients' position is that it would be inequitable to do so, under these circumstances.

This letter waives none of my clients' rights, claims, and/or defenses.

Thank you for your ongoing cooperation.

Very truly yours,



Jonathan S. Frizzell

JSF/lbj

Enclosures

Cc: Coös County Commissioners

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

BOARD OF TAX AND LAND APPEALS

DOCKET NO.: 2013-_____

**APPEAL OF COÖS COUNTY COMMISSIONERS
on behalf of the UNINCORPORATED PLACE OF MILLSFIELD, N.H.
(Appeal of Equalized Valuation Pursuant to N.H. RSA 71-B: 5, II)**

NOW COME the Coös County Commissioners, on behalf of the Unincorporated Place of Millsfield, N.H., by and through their attorneys, *Waystack Frizzell, Trial Lawyers*, and state as follows:

Introduction

1. This is an appeal of the 2012 Total Equalized Valuation for the Town of Millsfield, New Hampshire. The Coös County Commissioners argue that the Director of the Department of Revenue Administration improperly relied upon an appraisal conducted under the auspices of the State Utility Tax in determining the Total Equalized Valuation, among other arguments.

Parties and Jurisdiction

2. The Appellant is the Board of Commissioners for Coös County ("the Commissioners"), with a mailing address of: P.O. Box 10, West Stewartstown, NH 03597.
3. For purposes of Tax 211.02 (b) (1), the Commissioners state as follows:

Unincorporated Place of Millsfield
c/o Jennifer Fish, County Administrator
P.O. Box 10
West Stewartstown, NH 03597
(603) 246-3321

4. The Respondent is the N.H. Department of Revenue Administration ("DRA"), with a mailing address of: P.O. Box 1313, Concord, NH 03302-1313.
5. The Commissioners received the Notice of 2012 Equalized Valuation by way of correspondence from DRA dated April 29, 2013. See, Notice attached as Exhibit 1. This Appeal is filed within thirty (30) days of that date, and therefore the Appeal is timely filed, and jurisdiction before this Board is proper.

Reasons for Appeal

6. The Commissioners are acting in this Appeal pursuant to N.H. RSA Chapter 81. By virtue of that statutory chapter, the Commissioners are charged by the Legislature with the responsibility and authority for carrying out local municipal taxation duties for the unincorporated towns and unorganized places within their geographical jurisdiction.
7. By way of correspondence dated April 29, 2013, DRA notified the Commissioners that the 2012 Total Equalized Valuation for Millsfield was \$180,342,176.00. See, Exhibit 1.
8. This amount represents an increase of \$173,915,814.00 over the prior year. For 2011, the Total Equalized Valuation for Millsfield was \$6,426,362.00. See, Exhibit 2.
9. The reason for this large increase is the inclusion of DRA's utility value for Millsfield's portion of the Granite Reliable Windpark ("the Windpark"). The Windpark is located in the two unincorporated places of Millsfield and Dixville, and consists of thirty-three (33) wind turbines that generate electricity for transmission into the larger electrical transmission system (also known as "the grid").
10. Upon information and belief, DRA arrived at its utility value for the Windpark as part of its appraisal process conducted for purposes of the State Utility Tax under N.H. RSA Chapter 83-F.
11. By way of correspondence dated March 20, 2013, the Commissioners (through undersigned counsel) requested that DRA not use its appraised utility value for the Windpark. See, Exhibit 3.
12. Instead, the Commissioners asked DRA to use the Commissioners' own appraised value for the Windpark of \$113,000,000.00. This value was arrived at by the Commissioners in 2008, at the time that the Commissioners entered into a PILOT agreement with the owner of the Windpark.
13. As stated in their request to DRA, the Commissioners argued that the State of New Hampshire itself has sought to promote the construction and orderly taxation of renewable energy generation facilities, by virtue of its enactment of N.H. RSA 72:74.

14. The Commissioners also argued that communities who enter into PILOT agreements should be able to rely upon the DRA to use the appraised values determined by the communities themselves in entering into those PILOT agreements when the DRA performs its annual calculation of the Total Equalized Valuation for each municipality in the state, pursuant to N.H. RSA 21-J: 3, XIII (Supp.).
15. Most importantly, the Commissioners argued that they relied upon insight and analysis performed by representatives of DRA itself when the Commissioners determined the value of the Windpark at the time that they entered into the PILOT agreement. See, Exhibit 3. DRA should not participate in and facilitate a process that allegedly helps local communities (in arriving at a first set of appraisals), but then it chooses not to rely upon those appraisals at a later date, to the detriment of the communities and the taxpayers therein.
16. In response to the Commissioners' request, DRA declined to use the PILOT value, and declined to recognize that it facilitated the Commissioners' appraisal process when the PILOT was first entered into. See, Exhibit 4.
17. The Commissioners again requested that DRA use the PILOT value. See, Exhibit 5.
18. No further correspondence was received by DRA, other than the Notice of Equalized Valuation, attached as Exhibit 1.
19. The Commissioners argue to this Board that the taxpayers in Millsfield will be forced to suffer an increased and disproportionate tax burden by virtue of the methodology employed by DRA in arriving at the 2012 Total Equalized Valuation, specifically, by virtue of the fact that DRA has used its appraised utility tax valuation, rather than the valuation used by the Commissioners in entering into the PILOT agreement.
20. The Commissioners argue that nothing within the statutorily-imposed methodology of appraisal (or any corresponding or subsidiary administrative rule) mandates that DRA use the appraised utility tax valuation, instead of the PILOT valuation, and nothing prohibits the discretion of DRA from using the PILOT valuation as part of this process.
21. The Commissioners request that this Board order DRA to reconsider and revise downward the 2012 Total Equalized Valuation for Millsfield, by using the PILOT valuation, rather than the appraised utility tax valuation.
22. Additionally, the Commissioners also argue that DRA's appraised value of the Windpark is unreasonable and disproportionate, separate and independent from the Commissioner's valuation of the Windpark under the PILOT agreement. As further support for this argument, the Commissioners state that:

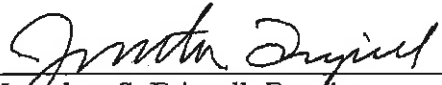
- a. The Commissioners have argued to DRA that N.H. RSA Chapter 83-F ("the State Utility Tax") contains an abatement provision available to the taxpayer, but no abatement provision available to the municipality. See, i.e., N.H. RSA 83-F: 8. Just because the taxpayer accepts the DRA's appraised value of its utility does not mean that the municipality should be barred, by matter of statute and procedure, from contesting that appraisal, especially when the municipality must bear the consequences of that procedure, as is the case here with Millsfield;
 - b. The Commissioners requested, under "the Right-to-Know Law" (N.H. RSA Chapter 91-A), a copy of the DRA's appraisal of the Windpark for utility tax purposes, in order to make their own, independent determination as to the appraisal methodology employed by DRA in arriving at its appraised value. This request was denied, in its entirety, by DRA;
 - c. As a result, the Commissioners are left with no means whatsoever to review and possibly challenge the DRA appraisal; and,
 - d. The Commissioners therefore submit that DRA's appraised value is unreasonable and disproportionate, and should be overturned by this Board, especially when DRA is not allowing the Commissioners to even review it.
23. For purposes of Tax 211.02 (c), the Commissioners request that the factual and legal arguments contained within the attached exhibits be included as part of its analysis as to whether this appeal document contains the requisite level of specificity.
24. The actual PILOT agreement itself (entered into in 2008 between the Commissioners and the owner of the Windpark) has not been included as an exhibit to this Appeal, merely to conserve resources, and based upon the assumption that the PILOT agreement itself is not in dispute. The PILOT agreement will be submitted to the Board as evidence during part of any eventual hearing in this matter, however, for purposes of foundational support for the record.

WHEREFORE, THE COMMISSIONERS RESPECTFULLY REQUEST THAT THE BOARD:

- A. Order DRA to reconsider and revise downward the 2012 Total Equalized Valuation; and,
- B. Grant them a hearing and due process, including such preliminary telephone conferences and discovery as may be allowed pursuant to Tax 211.03 (b), in order to properly make its arguments to this Board in support of this Appeal.

Dated: 05-23-13

Respectfully submitted,
Coös County Commissioners
By and through their attorneys,
Waystack Frizzell, Trial Lawyers


Jonathan S. Frizzell, Esquire
Bar No. 12090
251 Main Street, P.O. Box 137
Colebrook, NH 03576
Tel: (603) 237-8322

CERTIFICATE OF SERVICE

I hereby certify that copies of this document have been mailed this day to opposing counsel/parties of record.


Jonathan S. Frizzell



State of New Hampshire Department of Revenue Administration

109 Pleasant Street
PO Box 1313, Concord, NH 03302-1313
Telephone (603) 230-5950
www.nh.gov/revenue



Kevin A. Clougherty
Commissioner

Margaret L. Fulton
Assistant Commissioner

4/29/2013

PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

David M. Cornell
Assistant Director

COOS COUNTY / MILLSFIELD
OFFICE OF SELECTMEN
PO BOX 10
WEST STEWARTSTOWN NH 03597

Dear Assessing Officials:

Earlier in 2013, you were notified of your town's 2012 sales-assessment weighted mean ratio. Since that time, the Department of Revenue Administration has completed the process of calculating the total equalized values for each municipality and unincorporated places throughout the state pursuant to RSA 21-J:3 XIII.

Two total equalized figures were calculated for each municipality: The "Total Equalized Valuation Including Utility Valuation and Railroad Monies Reimbursement" will be used to calculate your municipality's portion of the county tax and cooperative school district taxes, if applicable. The "Total Equalized Value Not Including Utility Valuation and Railroad Monies" used to calculate each municipality's portion of the state education property tax.

In order to fulfill the requirements of RSA 21-J:3 XIII, adjustments have been made to the modified assessed valuation to bring such valuation to true and market value. Enclosed with this letter are informational sheets that summarize how each of the following figures was calculated.

Town Name: MILLSFIELD	Including Utility Valuation and Railroad Monies Reimbursement	Not Including Utility Valuation and Railroad Monies Reimbursement
2012 Modified Local Assessed Valuation	8,960,892	8,914,316
+ D.R.A. Inventory Adjustment	171,381,284	0
= 2012 Equalized Assessed Valuation	180,342,176	8,914,316
+ Equalized Payment in Lieu of Taxes	0	0
+ Equalized Railroad Tax	0	0
= 2012 Total Equalized Valuation	180,342,176	8,914,316
2012 Equalized Assessed Valuation	180,342,176	
+ Adjustment RSA 31-A (Shared Revenues)	0	
= Base Valuation for Debt Limits	180,342,176	

This letter is official notification of your 2012 Total Equalized Valuation(s). You have the right to appeal these valuations to the N.H. Board of Tax and Land Appeals pursuant to RSA 71-B:5 II. The appeal period is not extended due to any communication, either verbal or written, between the D.R.A. and a municipality regarding the total equalized valuation.

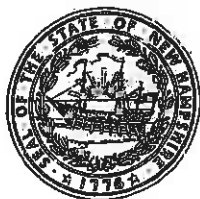
If you have any questions regarding the computation of your total equalized assessed valuation(s), please contact this office at 230-5950.

Sincerely,

Linda C. Kennedy, Manager
Equalization Bureau

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.



State of New Hampshire Department of Revenue Administration

109 Pleasant Street
PO Box 1313, Concord, NH 03302-1313
Telephone (603) 230-5950
www.nh.gov/revenue



Kevin A. Clougherty
Commissioner

Margaret L. Fulton
Assistant Commissioner

April 30, 2012

PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

David M. Cornell
Assistant Director

COOS COUNTY / MILLSFIELD
OFFICE OF SELECTMEN
PO BOX 10
WEST STEWARTSTOWN NH 03597

Dear Assessing Officials:

Earlier in 2012, you were notified of your town's 2011 sales-assessment weighted mean ratio. Since that time, the Department of Revenue Administration has completed the process of calculating the total equalized values for each municipality and unincorporated places throughout the state pursuant to RSA 21-J:3 XIII.

Two total equalized figures were calculated for each municipality: The "Total Equalized Valuation Including Utility Valuation and Railroad Monies Reimbursement" will be used to calculate your municipality's portion of the county tax and cooperative school district taxes, if applicable. The "Total Equalized Value Not Including Utility Valuation and Railroad Monies" used to calculate each municipality's portion of the state education property tax.

In order to fulfill the requirements of RSA 21-J:3 XIII, adjustments have been made to the modified assessed valuation to bring such valuation to true and market value. Enclosed with this letter are informational sheets that summarize how each of the following figures was calculated.

Town Name: MILLSFIELD	Including Utility Valuation and Railroad Monies Reimbursement	Not Including Utility Valuation and Railroad Monies Reimbursement
2011 Modified Local Assessed Valuation	6,426,362	6,387,827
+ D.R.A. Inventory Adjustment	0	0
= 2011 Equalized Assessed Valuation	6,426,362	6,387,827
+ Equalized Payment in Lieu of Taxes	0	0
+ Equalized Railroad Tax	0	0
= 2011 Total Equalized Valuation	6,426,362	6,387,827
2011 Equalized Assessed Valuation	6,426,362	
+ Adjustment RSA 31-A (Shared Revenues)	0	
= Base Valuation for Debt Limits	6,426,362	

This letter is official notification of your 2011 Total Equalized Valuation(s). You have the right to appeal these valuations to the N.H. Board of Tax and Land Appeals pursuant to RSA 71-B:5 II. The appeal period is not extended due to any communication, either verbal or written, between the D.R.A. and a municipality regarding the total equalized valuations.

If you have any questions regarding the computation of your total equalized assessed valuation(s), please contact this office at 230-5950.

Sincerely,

Linda C. Kennedy
Linda C. Kennedy, Manager
Equalization Bureau

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.

**Waystack
Frizzell**

TRIAL LAWYERS

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Facsimile: (603) 237-5002

info@waystackfrizzell.com

PHILIP R. WAYSTACK

JONATHAN S. FRIZZELL

March 20, 2013

Kevin Clougherty, Commissioner
Department of Revenue Administration
109 Pleasant Street, P.O. Box 457
Concord, NH 03302-0457

Re: County of Coös, Unincorporated Places

Dear Commissioner Clougherty:

Please be advised that this law firm represents the Commissioners of the County of Coös, who act as the local executive body for the Unincorporated Places in the County. I have been authorized by the Commissioners to act on their behalf in communicating with you about this matter.

I am writing to you with respect to the taxation of the Granite Reliable Power windpark facility, located in the Unincorporated Places of Dixville and Millsfield. The GRP windpark consists of thirty-three (33) windmills with a rated capacity of three megawatts (3 MW) each, for a total rated capacity of ninety-nine megawatts (99 MW).

In 2008, acting pursuant to N.H. RSA 72:74, the Commissioners entered into a Payment in Lieu of Taxes agreement with Granite Reliable Power. As part of its due diligence in researching many variables before entering into the PILOT agreement, the Commissioners learned that your department had placed an initial appraised value on the windpark in the amount of \$113,000,000.00. This figure was calculated by your property appraisal division, in anticipation of eventual taxation of the windpark by the State under N.H. RSA Chapter 83-F ("the Utility Property Tax"). **After much consultation with your department, the Commissioners relied upon this valuation in determining and negotiating the appropriate amount of the payment in lieu of tax that would be paid by Granite Reliable Power, which was agreed upon in the amount of \$495,000.00 per year.**

Then, in late 2012, your property appraisal division acted pursuant to its statutory duty under N.H. RSA 83-F: 3. Under that statute,

[o]n or before December 1 of the tax year, the commissioner shall determine the market value of utility property for the purposes of this chapter by utilizing

generally accepted appraisal methods and techniques. Market value means the property's full and true value as defined under RSA 75:1. In the case of regulated public utilities as defined in RSA 362:2, the commissioner shall hold a single public hearing annually prior to performing the assessments, in order to receive public input on assessments under this chapter. Notice of such determination shall be given to the taxpayer¹ within 15 days of the commissioner's determination.

The Commissioners have learned, upon information and belief, that your property appraisal division has now placed an appraised value on the windpark facility in the amount of \$217,000,000.00, which represents an increase in the appraised value of over One Hundred Million Dollars.

Further, the Commissioners have learned, as a result of conversations with employees of your department, that you intend to use this increased appraised value (determined for purposes of the state utility tax under RSA 83-F), when determining the equalized valuation of the taxable properties within the Unincorporated Places of Dixville and Millsfield. **The purpose of this letter is to request formally that you do not use this increased appraisal value.**

Pursuant to N.H. RSA 21-J: 3, XIII (Supp.), you have the legal obligation to:

[e]qualize annually by May 1 the valuation of the property as assessed in the several town, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, property which is subject to tax relief under RSA 79-E:4, ***and property which is the subject of a payment in lieu of taxes under RSA 72:74*** by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places ***such sums as will bring such valuations to the true and market value of the property***, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes ***as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just.*** In carrying out the duty to equalize the valuation of property, the Commissioner shall follow the procedures set forth in RSA 21-J: 9-a.

(emphasis added).

~~N.H. RSA 21-J: 9-a sets forth the procedures that you must follow in determining the equalized valuation. The applicable provision of that statute, Section III, states that:~~

¹ Please note that the appraisal determination is transmitted by statute to the property owner/taxpayer, presumably to both notify the taxpayer but also to allow for a timely appeal by the taxpayer, if the taxpayer so chooses. The statute does not include a requirement that the appraisal determination be transmitted to the underlying municipality, nor does RSA 83-F provide any appeal or abatement procedure by the municipality, only by the taxpayer under RSA 83-F: 8.

If less than 2 percent of the total taxable parcels in a city, town or unincorporated place has been transferred by an arm's length sale or transfer during the 6 months prior to and 6 months following April 1 of the tax year for which such equalization is made or the commissioner determines the sales are unrepresentative of the property within the municipality, the commissioner may choose one or more of the following options:

- (a) *Include appraisals of any of the taxable property of such city, town, or unincorporated place in the sales-assessment ratio study. Such appraisals shall be based on full and true value pursuant to RSA 75:1 and shall be performed by department appraisers. The property to be appraised shall be selected by the commissioner.*
- (b) Include arm's length sales or transfers in the city, town, or unincorporated place, within 2-½ years preceding April 1 of the year preceding the tax year for which such equalization is made.
- (c) Consider recent equalization ratio activity in adjoining cities, towns, or unincorporated places.

(emphasis added). I am assuming, without other knowledge, that your department's stated intent to use the windpark appraisal – conducted for purposes of the utility tax – as part of the equalized valuation assessment determination, comes from subparagraph (a), stated above.

On behalf of my client, I would call your attention to another part of the applicable statute, in particular, N.H. RSA 21-J: 9-a, IV. In that provision, "[t]he commissioner may use the inventory of property transfers authorized by RSA 74:18 in determining the equalized value of property **and may consider such other evidence as may be available to the commissioner on or before the time the final equalized value is determined.**" (emphasis added).

Pursuant to this section, my client would request that the Commissioner recognize the exigent circumstances that are presented by this unusual set of facts, and consider as "other evidence" available to you, specifically, the lower appraised value that had been determined back in 2007, at the time that my client entered into the PILOT agreement with Granite Reliable Power.

~~Without this exercise of discretion, the taxpayers in Dixville and Millsfield will~~ face an unprecedented spike in the equalized valuation of those Unincorporated Places. Consequently, those taxpayers will also face an increased tax assessment, when the time comes for them to pay their property taxes to my client, for eventual remittance of the State Education Tax to the State Treasurer. This increased tax assessment to them, my client submits, is disproportionate, inequitable, and unfair, and would also constitute an unconstitutional tax on the taxpayers in Dixville and Millsfield.

My client is making this request of your department in the interests of fundamental fairness to the taxpayers in Dixville and Millsfield. The Commissioners in 2007 agreed to the development of a renewable energy facility, and toward that end entered into a PILOT agreement under RSA 83-F, in furtherance of a clear policy mandate from the State of New Hampshire to encourage such facilities. Now, the tax assessment consequences of that policy choice – *a policy choice clearly encouraged by the State of New Hampshire* – should not have to be borne in such a disproportionate manner by the taxpayers in Dixville and Millsfield.

As part of RSA 21-J: 9-a, IV, it would appear that you have the discretion to consider and grant this request, and that this choice on your behalf would not exceed your statutory discretion.

If communications with the Attorney General's office would be necessary in order for you to further consider this request, please understand that the Coös County Commissioners and myself will take any and all such action as may be necessary to facilitate and participate in such communications.

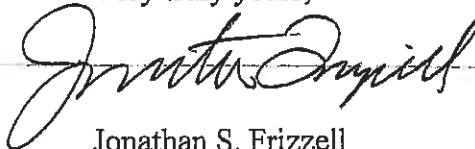
If statutory amendments are needed to clarify the intent of the statutes, and to emphasize that municipalities should not have to unfairly bear an added tax burden by virtue of the PILOT agreements encouraged by the State under RSA 83-F, then my client will act to facilitate those amendments, whether as part of this Legislative Session or as part of the next session in 2014.

In closing, let me add that this request is being submitted to you well in advance of the May 1 statutory deadline set forth in N.H. RSA 21-J: 3, XIII. My client is prepared to continue to communicate with you and your department in order to attempt to arrive at a workable solution in place before that deadline, specifically a workable solution that allows you to fulfill all of your statutory duties, but which also does not create an unfair and potentially unconstitutional taxation result upon the taxpayers of Dixville and Millsfield.

This letter does not waive any or all of my client's rights, claims, and defenses.

Thank you for your time and consideration.

Very truly yours,



Jonathan S. Frizzell

JSF/lbj

Cc: Coös County Commissioners
Steve Hamilton, Director of Property Appraisal Division



State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 487, Concord, NH 03302-0487
Telephone (603) 230-5950
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PROPERTY APPRAISAL DIVISION
Stephan W. Hamilton
Director

David M. Cornell
Assistant Director

Margaret L. Fulton
Assistant Commissioner

April 2, 2013

Jonathan S. Frizzell, Esquire
Waystack Frizzell Trial Lawyers
251 Main Street
P.O.Box 137
Colebrook, NH 03576

RECEIVED

APR 4 2013

WAYSTACK FRIZZELL

Dear Attorney Frizzell:

Thank you for your recent correspondence regarding the County of Coos, Unincorporated places. I have thoroughly reviewed the letter and researched the issues that were raised therein, and I am prepared to answer the substantive issues.

The department has never to its knowledge provided any appraisal or valuation of this property prior to the Determination of Value pursuant to RSA 83-F:3, on or about December 1, 2012. The department was invited to and attended a meeting on December 18, 2007 to discuss the potential development of this project. In addition to that meeting, the Department received several telephone calls on the issue through August 2008, from both the County and the Taxpayer.

An appraisal of the property would have to be constructed upon knowledge of financial details then known only to the developer of the project. At the time of the meeting, the Department did not possess the kind of detailed information that would have been necessary in order to make a certain valuation determination or appraisal.

At no time in any of these meetings or calls, or at any time subsequent thereto, did the Department appraise the property or provide speculative appraisals of the property. There clearly had been some informal dialogue between the County and the Department about some simple, common arithmetic utilizing a very simplistic unit value. It is unclear as to the source of the numbers that were discussed.

The department is very concerned about the letter as produced, particularly in regard to the assertion that it provided an appraisal of the property in 2007 and or 2008. To the knowledge of the Department, the first appraisal that we made of this property began in the summer of 2012, was not completed until the end of 2012, and had an effective date of April 1, 2012. If you have any documentation of an appraisal prepared by the Department from 2007 or 2008, please provide it to us as soon as possible.

TDD Access: Relay NH 1-800-735-2964

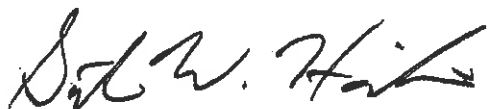
Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.

44

The process of equalization is well regulated by a series of laws, rules, and an equalization manual that was published by the Equalization Standards Board. The process does encourage assessing officials to introduce evidence that they believe is relevant to the calculation of the total equalized value. The opportunity for the introduction of additional information or alternative ratio methodology is outlined in Rev 2804.01. Appeal of equalized valuations are to the New Hampshire Board of Tax and Land Appeals pursuant to RSA 71-B:5, II. These are to be heard in an expedited manner.

If there are other items that you wish the Department to consider, please forward them at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephan W. Hamilton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Stephan W. Hamilton, Director
Property Appraisal Division

Cc: Margaret L. Fulton, Acting Commissioner

**Waystack
Frizzell**

TRIAL LAWYERS

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Facsimile: (603) 237-5002

info@waystackfrizzell.com

PHILIP R. WAYSTACK

JONATHAN S. FRIZZELL

April 17, 2013

Stephan W. Hamilton, Director – Property Appraisal Division
Department of Revenue Administration
109 Pleasant Street, P.O. Box 487
Concord, NH 03302-0487

Re: County of Coös, Unincorporated Places

Dear Director Hamilton:

In response to your letter dated April 2, 2013, I am sending you copies of the following:

1. 12/18/07 Minutes of a Non-Public Meeting of the Coös County Commissioners, at which meeting representatives of DRA were present; and,
2. 01/17/08 Memorandum prepared by the Coös County Administrator, which memo was circulated to the Commissioners.

Although these documents were authored by Ms. Suzanne Collins, who is now retired from her position as County Administrator, the substantive content of these documents can be fully corroborated by two of the current board of Commissioners (Chairman Tom Brady and Commissioner Paul Grenier), both of whom have specific recollection of the events and analyses that are described in these documents.

These documents are being provided to you in response to your comment that “[a]t no time in any of these meetings or calls, or at any time subsequent thereto, did the Department appraise the property or provide speculative appraisals of the property.” My clients acknowledge that no formal appraisals occurred, however, it is their position that the County specifically relied upon the Department’s comments and input as to the *methodology* of the appraisal process, and more importantly, upon the *consequences* of the appraisal process (i.e., the way in which the PILOT valuation affects the overall equalization process under N.H. RSA 21-J: 3, XIII).

We understand that the Department’s interpretation of these events, here in 2013, is that they were merely part of “informal dialogue ... about some simple, common arithmetic utilizing a very simplistic unit value.” The Commissioners do not share in that

interpretation, because their good-faith actions since 2007 demonstrate that there was justifiable reliance upon the Department's input, which is now in jeopardy of being used to the County's detriment.

My clients continue to investigate and research all of their legal options at present. They do, however, certainly thank you and the Department for your recent correspondence, stating the Department's position.

In closing, let me repeat and/or re-state one of the positions from my previous letter. My clients fail to see the statutory or regulatory authority for the legal conclusion that an appraisal conducted under the auspices of N.H. RSA Chapter 83-F must – **by necessity** – be used for purposes of the equalization process under N.H. RSA 21-J: 3, XIII. Perhaps that appraisal can be used; we fail to see the authority for the proposition that it must be used. My clients' position is that it would be inequitable to do so, under these circumstances.

This letter waives none of my clients' rights, claims, and/or defenses.

Thank you for your ongoing cooperation.

Very truly yours,



Jonathan S. Frizzell

JSF/lbj

Enclosures

Cc: Coös County Commissioners

State of New Hampshire

Board of Tax and Land Appeals

Michele E. LeBrun, Chair
Albert F. Shamash, Esq., Member
Theresa M. Walker, Member

Anne M. Stelmach, Clerk



Governor Hugh J. Gallen
State Office Park
Johnson Hall
107 Pleasant Street
Concord, New Hampshire
03301-3834

Coos County Commissioners on behalf of the
Unincorporated Place of Dixville, NH

v.

Department of Revenue Administration
Docket No.: 26676-13ER

RECEIVED

JUN 12 2013

WAYSTACK FRIZZELL

Coos County Commissioners on behalf of the
Unincorporated Place of Millsfield, NH

v.

Department of Revenue Administration
Docket No.: 26677-13ER

STRUCTURING ORDER AND HEARING NOTICE

On June 6, 2013, a telephone conference was held to establish timelines and a hearing date in the above-captioned equalization appeals. (See Tax 211.03; cf. RSA 541-A:31, V(c).)

The following individuals participated in the telephone conference: Stephan W. Hamilton and Linda C. Kennedy on behalf of the department of revenue administration ("DRA"); and Jonathan S. Frizzell, Esq. and Jennifer Fish representing the appellants named above. This Order confirms the matters discussed during the conference call.

In light of the hearing and ruling constraints set forth in RSA 71-B:5, II(a), the parties agreed to the following schedule:

- A) Pursuant to RSA 71-B:5, II and RSA 21-J:9-a, V, a hearing is scheduled for **June 28, 2013 at 10:00 a.m.** in the board's offices located at 107 Pleasant Street, Concord, New Hampshire; and
- B) The parties shall exchange the documents described by Mr. Hamilton and Attorney Frizzell not later than **June 14, 2013**. The parties agreed to meet to resolve the


specific outstanding discovery and other issues prior to that date and to file any stipulations regarding them. (See Tax 211.03(b)(4).)


The items discussed included exchanging copies of: the "PILOT" agreement; the RSA ch. 74 'inventories'; the statement of unreserved, retained fund balance; and the MS-1 report and equalization worksheets. Further, Attorney Frizzell indicated he would either obtain a "release" from the Granite Reliable Windpark ("Windpark") or file an appropriate motion in order to obtain a copy of the DRA Windpark appraisal (prepared pursuant to RSA ch. 83-F).

As stated during the conference, the timelines prescribed in RSA 71-B:5, II require the board to issue its decision by **July 22, 2012**. Therefore, no continuances will be granted from the above schedule and hearing date except for extraordinary circumstances.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

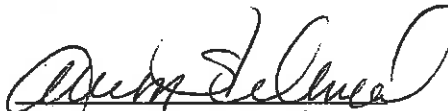

Michele E. LeBrun, Chair


Albert F. Shamash, Esq., Member

Certification

I hereby certify a copy of the foregoing Order has this date been faxed and mailed, postage prepaid, to: Jonathan S. Frizzell, Waystack Frizzell Trial Lawyers, 251 Main Street, P.O. Box 137, Colebrook, NH 03576, counsel for the Unincorporated Place of Dixville and the Unincorporated Place of Millsfield, Appellants; and Stephan W. Hamilton, Director of Property Appraisal Division, State of New Hampshire Department of Revenue Administration, 109 Pleasant Street, P.O. Box 487, Concord, NH 03302-0487, Appellee.

Date: June 7, 2013


Anne M. Stelmach, Clerk

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

BOARD OF TAX AND LAND APPEALS

DOCKET NO.: 26676-13ER, 26677-13-ER

**Coos County Commissioners on behalf of
the Unincorporated Place of Dixville, NH**

v.

Department of Revenue Administration

AND

**Coos County Commissioners on behalf of
the Unincorporated Place of Millsfield, NH**

v.

Department of Revenue Administration

PETITIONER'S MOTION TO CONTINUE

NOW COME the Coös County Commissioners, by and through their attorneys, *Waystack Frizzell, Trial Lawyers*, and state as follows:

1. A Hearing Notice was issued on June 7, 2013, with a hearing scheduled on June 26, 2013.
2. The parties exchanged the discovery as stated in the Hearing Notice by the June 14, 2013 deadline, and met on June 19, 2013, in order to attempt to resolve this matter.
3. During the meeting on June 19, 2013, representatives of the Department provided the Petitioners with new information, specifically, the spreadsheet attached as Exhibit 1.
4. This spreadsheet contains new equalized valuation information that is highly relevant for this appeal. The Petitioner will need further time to review and analyze this information in order to determine the effect of this information upon its presentation of evidence at the final hearing.

5. Further, the Petitioner, through counsel, is still acting diligently to obtain permission from the relevant utility (Granite Reliable Windpark) for a release of the appraisal prepared by the Department pursuant to N.H. RSA 83-F.
6. Upon information and belief, the Department plans to use its utility appraisal of the Windpark to support its assessment of the property in Dixville and Millsfield, New Hampshire. Petitioner has asked for, but been denied, a copy of the Department's appraisal.
7. Counsel for the Petitioner has spoken on several occasions to in-house counsel for the Windpark, who has repeatedly stated that the Windpark is still "considering the request". Counsel has followed up with formal correspondence. See, Exhibit 2, attached.
8. The Petitioner needs time to receive and review this appraisal, in order to meaningfully participate in the upcoming hearing. It would appear to be a violation of due process and fundamental fairness to force the Petitioner to accept an equalized valuation from the Department that is based upon a utility appraisal that the Petitioner cannot review, at all, and which appraisal is not required to be used by the Department, under any statute or regulation, for purposes of the equalization process under N.H. RSA 21-J: 3, XIII.
9. Finally, the Petitioner is attempting to confirm whether or not the Windpark has itself filed an abatement of the utility tax assessed against it under N.H. RSA 83-F, through the abatement provision of N.H. RSA 83-F: 8. At this point, the Petitioner has been unable to confirm whether or not this has occurred. The Department has indicated that it can neither confirm nor deny whether or not the utility has filed an abatement of the utility tax assessed against it, by virtue of the appraisal which the Petitioner has not seen.
10. It seems untenable for the Department to use a utility appraisal to increase the equalized valuation of the localities – on the one hand – but for that appraisal itself to be the subject of scrutiny as part of an unrelated but simultaneous abatement proceeding that is pending in another forum. If the utility tax is ultimately abated, and the utility appraisal challenged, the Petitioner will have no remedy for a decrease in the equalized valuations of the affected communities. If the utility tax assessment under N.H. RSA 83-F has not been "finally determined", it would be logically inconsistent for the State of New Hampshire to use the appraisal upon which the utility tax assessment was based for the un-mandated purpose of setting the equalization value in the affected communities.
11. Petitioner and counsel are aware that the Board has deadlines in which to make a decision, which deadlines are determined by statute. Petitioner and counsel nonetheless request this continuance, in good faith, for the reasons stated above. Counsel for the Petitioner is currently available on any date during the entire weeks of July 8 and July 15.


12. Director Hamilton has been contacted for his assent, but as of the signing of this Motion has been unable to determine his ability to assent.

WHEREFORE, THE COMMISSIONERS RESPECTFULLY REQUEST THAT THE BOARD:

- A. Continue the Hearing for a date during the weeks of July 8 or July 15; and,
B. Grant such other relief as may be just.

Dated: *06-21-13*

Respectfully submitted,
Coös County Commissioners
By and through their attorneys,
Waystack Frizzell, Trial Lawyers


Jonathan S. Frizzell, Esquire
Bar No. 12090
251 Main Street, P.O. Box 137
Colebrook, NH 03576
Tel: (603) 237-8322

CERTIFICATE OF SERVICE

I hereby certify that copies of this document have been mailed this day to opposing counsel/parties of record.


Jonathan S. Frizzell

TOWN	COUNTY	TOWN NAME	2011 TAX WAIVER	% COUNTY TAX	3.737	692,446.00	0.0233%	3,293.86	(442.83)
507	COOS	ATKINSON & GILMANTON	747,203.00	0.0265%	3.737	692,446.00	0.0233%	3,293.86	(442.83)
033	COOS	BEAN'S GRANT	462.13	0.0000%	2	568.00	0.0000%	2.70	0.39
035	COOS	BEAN'S PURCHASE	20,650.00	0.0007%	103	20,650.00	0.0007%	98.23	(5.04)
045	COOS	BERLIN	333,119,633.45	11.7949%	1,665,901	319,941,891.54	10.7754%	1,521,916.28	(143,985.03)
065	COOS	CAMBRIDGE	8,318,771.55	0.2945%	41,601	8,378,805.73	0.2822%	39,856.74	(1,744.69)
075	COOS	CARROLL	310,495,189.35	10.9938%	1,552,758	319,351,096.46	10.7555%	1,519,105.95	(33,652.54)
079	COOS	CHANDLER'S PURCHASE	49,152.22	0.0017%	246	49,548.03	0.0017%	235.69	(10.11)
093	COOS	CLARKSVILLE	45,693,649.89	1.5179%	228,510	45,050,941.03	1.5173%	214,300.67	(34,209.16)
095	COOS	COLEBROOK	168,678,229.44	5.9724%	843,545	153,939,496.71	5.1846%	732,267.43	(111,277.22)
097	COOS	COLUMBIA	76,463,194.04	2.7074%	382,386	75,816,897.92	2.5535%	360,649.77	(21,735.78)
105	COOS	CRAWFORD'S PURCHASE	162,456.74	0.0058%	812	162,527.41	0.0055%	773.12	(39.31)
501	COOS	CUTT'S GRANT	0.00	0.0000%	-	0.00	0.0000%	-	-
109	COOS	DALTON	82,681,816.65	2.9275%	413,484	79,096,775.28	2.6639%	376,251.67	(37,232.66)
503	COOS	DIX GRANT	926,086.00	0.0328%	4,631	872,812.00	0.0294%	4,151.84	(479.44)
121	COOS	DIXVILLE	16,697,646.90	0.5912%	83,503	54,453,215.96	1.8339%	259,025.90	175,522.47
129	COOS	DUMMER	44,207,497.76	1.5653%	221,078	53,977,982.00	1.8179%	256,765.28	35,687.56
151	COOS	ERROL	81,818,412.06	2.8970%	409,167	80,166,704.44	2.7000%	381,341.16	(27,825.35)
505	COOS	ERVING'S GRANT	76,880.00	0.0027%	384	67,581.00	0.0023%	321.47	(63.00)
177	COOS	GORHAM	251,562,872.30	8.9072%	1,258,043	250,272,146.60	8.4290%	1,190,507.60	(67,535.68)
187	COOS	GREEN'S GRANT	4,205,112.26	0.1489%	21,029	4,162,269.11	0.1402%	19,799.30	(1,230.09)
509	COOS	HADLEY'S PURCHASE	0.00	0.0000%	-	0.00	0.0000%	-	-
235	COOS	JEFFERSON	124,377,095.00	4.4039%	621,999	122,633,917.03	4.1302%	583,351.41	(38,647.24)
241	COOS	KILKENNY	11,747.01	0.0004%	59	14,140.98	0.0005%	67.27	8.52
247	COOS	LANCASTER	239,707,690.15	8.4874%	1,198,757	225,415,634.36	7.5919%	1,072,268.85	(126,487.74)
273	COOS	LOW & BURBANK GRANT	0.00	0.0000%	-	0.00	0.0000%	-	-
291	COOS	MARTIN'S LOCATION	36,617.71	0.0013%	183	44,151.02	0.0015%	210.02	26.90
301	COOS	MILAN	106,421,157.80	3.7681%	532,203	114,245,095.17	3.8477%	543,447.03	11,244.40
305	COOS	MILLSFIELD	6,426,361.80	0.2275%	32,138	180,342,175.97	6.0738%	857,861.07	825,723.41
347	COOS	NORTHUMBERLAND	108,739,969.71	3.8502%	543,799	99,260,928.62	3.3430%	472,169.56	(71,629.24)
513	COOS	ODELL	2,180,938.00	0.0772%	10,907	2,045,630.00	0.0689%	9,730.76	(1,175.92)
367	COOS	PINKHAM'S GRANT	3,002,406.94	0.1063%	15,015	2,969,369.71	0.1000%	14,124.85	(889.91)
369	COOS	PITTSBURG	270,559,024.05	9.5798%	1,353,041	251,138,174.07	8.4582%	1,194,627.17	(58,414.16)
381	COOS	RANDOLPH	63,370,164.69	2.2438%	316,908	67,628,199.25	2.2777%	321,697.35	4,788.86
497	COOS	SARGENT'S PURCHASE	1,852,720.00	0.0656%	9,265	1,852,720.00	0.0624%	8,813.12	(452.17)
515	COOS	SECOND COLLEGE GRANT	1,434,022.00	0.0508%	7,171	1,312,002.00	0.0442%	6,241.00	(930.42)
413	COOS	SHELburne	69,684,461.42	2.4673%	348,486	66,951,470.59	2.2549%	318,478.25	(30,007.47)
421	COOS	STARK	64,690,331.81	2.2905%	323,511	58,080,661.80	1.9561%	276,281.12	(47,229.41)
423	COOS	STEWARTSTOWN	90,970,753.86	3.2210%	454,937	85,024,149.08	2.8636%	404,447.31	(50,489.24)
429	COOS	STRAITFORD	57,020,795.52	2.0190%	285,156	55,573,616.98	1.8717%	264,355.48	(20,800.39)
517	COOS	SUCCESS	10,962,813.14	0.3882%	54,824	10,892,344.39	0.3668%	51,813.27	(3,010.77)
447	COOS	THOM & MES PURCHASE	6,043,498.87	0.2140%	30,223	5,761,136.52	0.1940%	27,404.87	(2,818.12)
477	COOS	WENTWORTH LOCATION	9,343,595.33	0.3308%	46,726	9,250,384.63	0.3115%	44,002.71	(2,723.77)
481	COOS	WHITEFIELD	161,511,903.57	5.7187%	807,706	162,266,524.59	5.4650%	771,877.87	(35,828.62)
			2,824,272,984.12	1.00	14,123,935	2,969,176,781.97	1.00	14,123,935.00	495,000.00

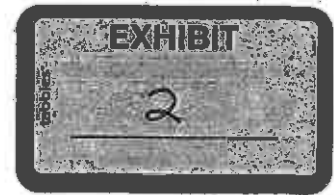
DIXVILLE & MILLSFIELD SHARE OF CT T. 1,116,886.97

1,001,245.88

**Waystack
Frizzell**
TRIAL LAWYERS
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(603) 237-8322 ♦ (800) 479-3884
Facsimile: (603) 237-5002
info@waystackfrizzell.com

PHILIP R. WAYSTACK
JONATHAN S. FRIZZELL



June 19, 2013

Andrew Bender, Esquire
Brookfield Renewable Energy Group
200 Donald Lynch Blvd., Suite 300
Marlborough, MA 01752

Re: County of Coos / Granite Reliable Power

Dear Attorney Bender:

The purpose of this letter is to follow up on my telephonic request to you of last week. On behalf of my client, the Coos County Commissioners, I am requesting that Brookfield grant permission to the New Hampshire Department of Revenue Administration ("DRA") for the release of the Granite Reliable Windpark appraisal, performed by DRA pursuant to N.H. RSA 83-F.

I requested the appraisal directly from DRA. The request was denied, but I was told that if a release from Brookfield was obtained, then my request would be granted.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jonathan S. Frizzell". Below the signature is a horizontal line.

Jonathan S. Frizzell

Cc: Jennifer Fish, County Administrator
Stephan Hamilton, Director – N.H. Department of Revenue Administration

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

BOARD OF TAX AND LAND APPEALS

DOCKET NO.: 26676-13ER, 26677-13-ER

**Coos County Commissioners on behalf of
the Unincorporated Place of Dixville, NH**

v.

Department of Revenue Administration

AND

**Coos County Commissioners on behalf of
the Unincorporated Place of Millsfield, NH**

v.

Department of Revenue Administration

PETITIONER'S MOTION TO COMPEL

NOW COME the Coös County Commissioners, by and through their attorneys, *Waystack Frizzell, Trial Lawyers*, and state as follows:

1. A Hearing Notice was issued on June 7, 2013, with a hearing scheduled on June 26, 2013.
2. As stated in the Hearing Notice, counsel for Petitioner has been attempting to either “obtain a ‘release’ from the Granite Reliable Windpark (“Windpark”) or file an appropriate motion in order to obtain a copy of the DRA Windpark appraisal (prepared pursuant to RSA ch. 83-F).” Hearing Notice at page 2.
3. ~~Petitioner’s counsel has acted diligently to obtain permission from the Windpark for a release of the appraisal prepared by the Department pursuant to N.H. RSA 83-F.~~
4. Upon information and belief, the Department plans to use its utility appraisal of the Windpark to support its assessment of the property in Dixville and Millsfield, New Hampshire. Petitioner has asked for, but been denied, a copy of the Department’s appraisal.


5. Counsel for the Petitioner has spoken on several occasions to in-house counsel for the Windpark, who has repeatedly stated that the Windpark is still "considering the request". Counsel has followed up with formal correspondence. See, Exhibit 1, attached.
6. The Petitioner needs time to receive and review this appraisal, in order to meaningfully participate in the upcoming hearing. It would appear to be a violation of due process and fundamental fairness to force the Petitioner to accept an equalized valuation from the Department that is based upon a utility appraisal that the Petitioner cannot review, at all, and which appraisal is not required to be used by the Department, under any statute or regulation, for purposes of the equalization process under N.H. RSA 21-J: 3, XIII. See generally, N.H. Constitution, Part I, article 12; see also, N.H. Constitution, Part I, article 8.
7. Understandably, the Department's refusal to release the appraisal is consistent with N.H. RSA 21-J: 14, relating to the confidentiality of department records. However, Petitioner submits that subparagraph V (c) of that statute includes a sufficient exception to authorize disclosure, specifically, the "[d]isclosure of department records, files, returns, or information in a New Hampshire state administrative proceeding or any judicial *proceeding pertaining to state tax administration where the information is directly related to a tax issue in the proceeding...*" (emphasis added). That is certainly the case here, and disclosure of the appraisal would appear to fall within this exception.
8. The Petitioner is willing to enter into a non-disclosure agreement with the Department and/or the Windpark in order to protect any and all proprietary information contained within the appraisal which the Windpark seeks to remain confidential and protected from possible competing proprietary interests.
9. Given the nature of the relief requested, and the Department's explicit position on this point, the inability of the Department to assent to this request can be presumed.

WHEREFORE, THE COMMISSIONERS RESPECTFULLY REQUEST THAT THE BOARD:

- A. Compel the release of the Department's appraisal of the Windpark that was prepared pursuant to N.H. RSA Chapter 83-F; and,
- B. Grant such other relief as may be just.

Dated: *06-21-13*

Respectfully submitted,
Coös County Commissioners
By and through their attorneys,
Waystack Frizzell, Trial Lawyers


Jonathan S. Frizzell, Esquire
Bar No. 12090
251 Main Street, P.O. Box 137
Colebrook, NH 03576
Tel: (603) 237-8322

CERTIFICATE OF SERVICE

I hereby certify that copies of this document have been mailed this day to opposing counsel/parties of record.


Jonathan S. Frizzell

**Waystack
Frizzell**

TRIAL LAWYERS

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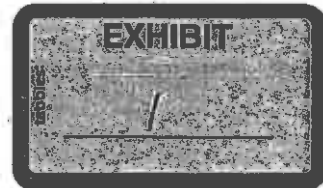
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PHILIP R. WAYSTACK

JONATHAN S. FRIZZELL



June 19, 2013

Andrew Bender, Esquire
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Re: County of Coos / Granite Reliable Power

Dear Attorney Bender:

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I requested the appraisal directly from DRA. The request was denied, but I was told that if a release from Brookfield was obtained, then my request would be granted.

Thank you.

Sincerely,


Jonathan S. Frizzell

Cc: Jennifer Fish, County Administrator
Stephan Hamilton, Director – N.H. Department of Revenue Administration

STATE OF NEW HAMPSHIRE
BOARD OF TAX AND LAND APPEALS

COOS COUNTY COMMISSIONERS ON BEHALF OF THE
UNINCORPORATED PLACE OF DIXVILLE, NH

V.

DEPARTMENT OF REVENUE ADMINISTRATION
DOCKET NO.: 26676-13ER

COOS COUNTY COMMISSIONERS ON BEHALF OF THE
UNINCORPORATED PLACE OF DIXVILLE, NH

V.

DEPARTMENT OF REVENUE ADMINISTRATION
DOCKET NO.: 26677-13ER

**DEPARTMENT OF REVENUE ADMINISTRATION'S
OBJECTION TO PETITIONERS' MOTION TO CONTINUE**

Pursuant to Tax 201.18(d), the Respondent Department of Revenue Administration ("Department") hereby objects to the Petitioners' Motion to Continue ("Motion") on the grounds that the Motion was not timely filed and "extraordinary circumstances" do not exist to justify the departure from the Board of Tax and Land Appeals' ("Board") 60-day statutory timeline. In support of its objection, the Department states as follows:

1. The Motion fails to satisfy the procedural requirement that a motion to continue "be filed within 14 days of the clerk's date on the hearing notice except when a later filing is justified by accident, mistake or misfortune." See Tax 201.26(a). The hearing in this matter is scheduled for June 28, 2013. Petitioners filed the Motion on June 24, 2013: only four days prior to the scheduled hearing. Further, the Petitioners offered no justification of "accident, mistake or

misfortune” for the Board’s consideration as to why the Motion was not timely filed. Accordingly, for these reasons alone, the Board should deny the Petitioners’ Motion as untimely.

2. In addition to its procedural failures, the Motion does not present “extraordinary circumstances” to justify the Board’s departure from the statutorily mandated 60-day timeline. Pursuant to Tax 201.26(g), “[a] continuance in a tax appeal shall only be granted in extraordinary circumstances” and includes a list of circumstances that justify “extraordinary circumstances.” See also, Structuring Order and Hearing Notice. The Petitioners do not present any of the justifications for “extraordinary circumstances” in Tax 201.26.

3. The Board encourages the settlement of disputed matters by parties prior to hearing. See Tax 201.23. A meeting was held on June 19, 2013 where the purpose of the meeting was to engage in settlement discussions and where all parties and their representatives were present and unanimously agreed that the information exchanged at the meeting was for settlement purposes only.

4. The Petitioners now represent that the Department presented them with “new information” in the form of a spreadsheet, which they attached as Exhibit 1 to the Motion. The spreadsheet was provided to the Petitioners at the settlement meeting as an illustration of certain calculations that might proceed from the total equalized values of these municipalities. Despite agreement of all parties that the meeting was for settlement purposes, the Petitioners have presented this spreadsheet to the Board as justification for their request for a continuance. Not only have the Petitioners and their representatives breached their representations, but this disclosure has called into question the genuineness of these discussions.

5. In addition, the spreadsheet is not substantive evidence relevant to the contested equalization valuation. Rather, it was prepared by the Department for illustrative purposes only

in order to facilitate settlement negotiations. The spreadsheet is an illustrative estimate of the impact the Department's equalized values have on Coos County as a whole. Accordingly, the Petitioners' representations that "this spreadsheet contains new equalized valuation information that is highly relevant for this appeal" is not a fair representation to the Board of the spreadsheet and the circumstances surrounding its disclosure.

6. As a final justification for its Motion, the Petitioners profess a continued desire to obtain the utility tax appraisal prepared by the Department for purposes of determining the Utility Property Tax under RSA 83-F for a specific utility taxpayer (Granite Reliable Windpark), as well as information relating to the taxpayer's subsequent dealings with the Department (i.e., any appeals filed under RSA 83-F:8). The information sought by the Petitioners is confidential and privileged taxpayer information protected from disclosure by RSA 21-J:14. The Department cannot provide the Petitioners with the appraisal used for purposes of assessing this specific taxpayer nor can the Department disclose any subsequent actions the taxpayer has taken absent the taxpayer's approval. The Petitioners have had ample time to negotiate disclosure from the taxpayer and have failed to do so, making further delay futile.

7. Very early in this process the Department identified the confidential and privileged nature of the information requested by the Petitioners. They requested a copy of the appraisal pursuant to RSA Chapter 91-A, were denied access to the document. The Petitioners could have taken a timely action to enforce disclosure, but they did not.

8. In addition, the Petitioners knew about the taxpayer confidentiality provisions of ~~RSA 21-J:14 governing this appraisal and the Department's position prior to filing their appeal~~ and acknowledged this issue during the pre-hearing telephone conference when the pending hearing date was set. The Petitioners offer no reason for their apparent nascent realization that

this issue requires a continuance of the Board's hearing date that has been set from the beginning.

9. The Petitioners also seem to confuse the purpose of their appeals, which are to dispute the total equalized value of the unincorporated places for which they are acting as the Governing Body. In light of the broad valuation involved, the Petitioners insist on disputing the value of one property within their communities, which fails to contemplate the Board's focus of review and fails to address how they intend to demonstrate that they were aggrieved by the total equalized values determined by the Department.

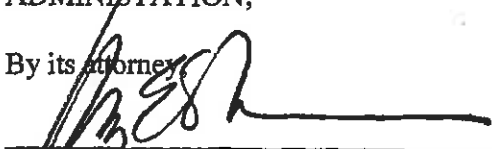
10. The Department has recently become aware that the Petitioners possess significant unreserved retained fund balances and that they have recently received significant revenue from Land Use Change Taxes in a total amount that is more than sufficient to meet the county apportionment obligation and leave a surplus. Therefore, the Department remains concerned about the nature of the Petitioners' appeals in light of these facts.

ACCORDINGLY, the Department respectfully requests that the Board deny the Motion and proceed with the hearing scheduled for June 28, 2013.

Respectfully Submitted,

DEPARTMENT OF REVENUE
ADMINISTRATION,

By its attorney

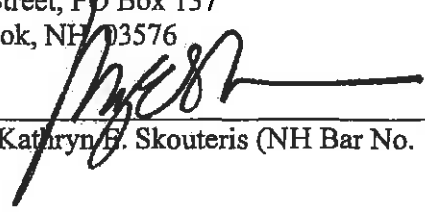


Kathryn E. Skouteris (NH Bar No. 19661)
Revenue Counsel
NH Department of Revenue Administration
109 Pleasant Street, P.O. Box 457
Concord, NH 03302-0457
(603) 230-5028

CERTIFICATE OF SERVICE

Pursuant to Tax 201.18(a)(6) and (7), I, Kathryn E. Skouteris, hereby certify that, on June 26, 2013, a copy of the foregoing was served on the following counsel of record via first class mail and electronic mail:

Jonathan S. Frizzell
Waystack Frizzell
251 Main Street, PO Box 137
Colebrook, NH 03576



Kathryn E. Skouteris (NH Bar No. 19661)

STATE OF NEW HAMPSHIRE
BOARD OF TAX AND LAND APPEALS

COOS COUNTY COMMISSIONERS ON BEHALF OF THE
UNINCORPORATED PLACE OF DIXVILLE, NH

V.

DEPARTMENT OF REVENUE ADMINISTRATION
DOCKET NO.: 26676-13ER

COOS COUNTY COMMISSIONERS ON BEHALF OF THE
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V.

DEPARTMENT OF REVENUE ADMINISTRATION
DOCKET NO.: 26677-13ER

**DEPARTMENT OF REVENUE ADMINISTRATION'S
OBJECTION TO PETITIONERS' MOTION TO COMPEL**

Pursuant to Tax 201.18(d), the Respondent Department of Revenue Administration ("Department") hereby objects to the Petitioners' Motion to Compel ("Motion") on the grounds that it seeks to compel disclosure of a specific taxpayer's appraisal report prepared by the Department, which violates the confidentiality provisions of RSA 21-J:14. In support of its objection, the Department states as follows:

1. The Motion requests that the Board of Tax and Land Appeals ("Board") compel the Department to provide the Petitioners with a copy of the Department's appraisal ("Appraisal") for a utility property taxpayer, the Granite Reliable Windpark ("Taxpayer"). The Department prepared the Appraisal to value the Taxpayer's utility property as part of its administration of the utility property tax, pursuant to RSA 83-F, and provided the Appraisal to the Taxpayer. The Appraisal contains the Taxpayer's detailed financial information among other

confidential and proprietary information. Accordingly, the Appraisal is a confidential and privileged taxpayer record, pursuant to RSA 21-J:14.

2. RSA 21-J:14 makes an unambiguous statement regarding the confidentiality of taxpayer records:

Notwithstanding any other provision of law, and except as otherwise provided in this chapter, the records and files of the department are confidential and privileged. Neither the department, nor any employee of the department... shall disclose any information obtained from the department's records, files, or returns or from any examination, investigation or hearing, nor may any such employee or person be required to produce any such information for the inspection of any person or for use in any action or proceeding except as hereinafter provided.

3. The purpose of RSA 21-J:14 is to foster a relationship of trust between taxpayers and the Department with respect to confidential and proprietary information in order to facilitate the Department's statutory duties. To this end, it is necessary to adhere to the RSA 21-J:14 non-disclosure provision with the utmost conviction and to rely on taxpayers to exercise control over the dissemination of their confidential and privileged financial and tax information.

4. In their Motion, the Petitioners admit (a) that the Appraisal is a confidential and privileged taxpayer document subject to the restrictions of RSA 21-J:14; (b) that the Department cannot disclose the Appraisal; and (c) that the Taxpayer can authorize the disclosure of the Appraisal to the Petitioners, if it chooses.

5. As the custodian of the confidential and privileged information, the Department is prohibited from disclosing its records and files to anyone other than to the taxpayer itself absent

a limited set of exceptions set forth in the statute. See RSA 21-J:14, V.

6. RSA 21-J:14, V sets forth six exceptions to the disclosure of confidential and privileged taxpayer information. See RSA 21-J:14, V(a) – (f). None of these exceptions authorize the disclosure of the Appraisal to the Petitioners.

7. Petitioners cite the exception in RSA 21-J:14(V)(c) which allows disclosure of confidential and privileged taxpayer information

...in a New Hampshire state administrative proceeding pertaining to state tax administration where the information is directly related to a tax issue in the proceeding, or the taxpayer whom the information concerns is a party to such proceeding, or the information concerns a transactional relationship between a person who is a party to the proceeding and the taxpayer.

In support of their argument, the Petitioners claim that their appeal to the Board of their total equalized values falls within this exception. The Petitioners claim fails.

8. The exception states that the disclosure must involve a proceeding “pertaining to state tax administration.” Notwithstanding the fact that the Petitioners’ appeals are in a “New Hampshire state administrative proceeding,” the appeals do not pertain to “state tax administration.” The Petitioners have not appealed a tax assessment. Rather, the Petitioners have appealed their total equalized value as determined by the Department in carrying out its statutory obligation to annually equalize the value of property in the towns, cities, and unincorporated places in the State. See RSA 21-J:3, XIII. The Petitioners erroneously conclude that the Department’s sole function is to engage in state tax administration and, therefore, everything the Department does must involve “state tax administration.” This conclusion is erroneous. Rather, the Department has many statutory mandates other than state tax administration, including for example to prepare and furnish inventory blanks and certificates to selectman and assessors, to confer with, advise and instruct local assessing officers, to require county, city, town and other public officers to report assessment information to the Department,

to formulate legislation, and to annually equalize the values of property as assessed in the State's communities. See RSA 21-J:3, II, III, VI, XI. In addition to these duties, the Department is statutorily mandated to administer certain state taxes. The equalization process and any appeals of the Department's total equalized values do not pertain to "state tax administration."

9. The exception states that the disclosure must be "directly related to a tax issue in the proceeding." Notwithstanding the fact that the Petitioners' appeals do not pertain to state tax administration, the Appraisal prepared by the Department for purposes of determining the Taxpayer's Utility Property Tax is not "directly related" to the Department's total equalized values for the Petitioners. The Petitioners have the burden of demonstrating to the Board that the Department's total equalized value is incorrect. The Petitioners seem to confuse the purpose of their appeal, which is to dispute the total equalized value of the unincorporated places for which they are acting as the Governing Body. In light of the broad valuation involved, the Petitioners insist on disputing the value of a single property within their communities, which fails to contemplate the Board's focus of review and fails to address how they intend to demonstrate that they were aggrieved by the total equalized values determined by the Department. Reviewing the Appraisal is not a means to attempt to meet their burden. As a result, the exception cited by the Petitioners does not allow the Department to disclose the Appraisal.

10. Further, the Petitioners have known about the taxpayer confidentiality provisions of RSA 21-J:14 governing this appraisal since filing their appeal and acknowledged this issue during the pre-hearing telephone conference when the scheduled hearing date was set. The Petitioners have, by their own admission, "diligently" sought disclosure from the Taxpayer which has yet to express willingness to voluntarily disclose its confidential and privileged tax information. Now, the Petitioners seek to use the Board's authority to compel production in order to circumvent the Taxpayer's exercise of its right not to disclose confidential and

proprietary information. The Petitioners' vague assertion of fairness is insufficient to warrant such a significant intrusion into the privacy rights of the Taxpayer.

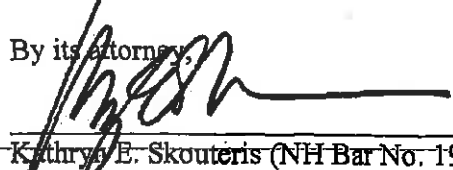
11. Finally, the Petitioners have a duty to inventory the estate of all property, including the Taxpayer's property. RSA Chapter 74 generally establishes a requirement for the inventory and assessment of all property, including exempt property (RSA 74:2). The Petitioners knew of this duty and executed the provisions of RSA 74:2. Then, RSA 74:11 requires that, "Upon the return of such inventory, the selectmen shall assess a tax against the person or corporation in accordance with their appraisal of the property therein mentioned . . ." (emphasis added). The Petitioners sent inventories to the Taxpayer, and the Taxpayer returned such inventories. When asked to provide property record cards or appraisals in discovery, the Petitioners responded that they have not appraised the inventoried property, and have no assessment or local value to consider. The failure on the part of a governing body to faithfully execute their duty under the law should not excuse an intrusion into the sanctity of any taxpayer's confidential tax information.

ACCORDINGLY, for the reasons set forth above, the Department respectfully requests that the Board deny the Motion.

Respectfully Submitted,

DEPARTMENT OF REVENUE
ADMINISTRATION,

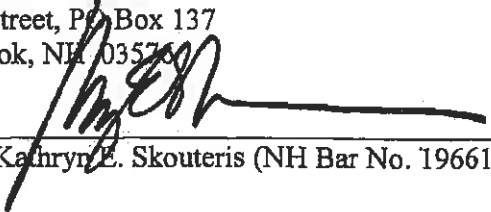
By its attorney,


Kathryn E. Skouteris (NH Bar No. 19661)
Revenue Counsel
NH Department of Revenue Administration
109 Pleasant Street, P.O. Box 457
Concord, NH 03302-0457
(603) 230-5028

CERTIFICATE OF SERVICE

Pursuant to Tax 201.18(a)(6) and (7), I, Kathryn E. Skouteris, hereby certify that, on June 26, 2013, a copy of the foregoing was served on the following counsel of record via first class mail and electronic mail:

Jonathan S. Frizzell
Waystack Frizzell
251 Main Street, P.O. Box 137
Colebrook, NH 03576



Kathryn E. Skouteris (NH Bar No. 19661)

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 21-J

DEPARTMENT OF REVENUE ADMINISTRATION

General Provisions

Section 21-J:3

21-J:3 Duties of Commissioner. – In addition to the powers, duties, and functions otherwise vested by law, including RSA 21-G, in the commissioner of the department of revenue administration, the commissioner shall:

I. Represent the public interest in the administration of the department and be responsible to the governor, the general court, and the public for such administration.

II. Prepare and furnish to selectmen and assessors, at the expense of the state, a sufficient number of inventory blanks upon which individuals and corporations shall list taxable property for return to said selectmen and assessors.

III. Procure and furnish to the selectmen of towns and assessors of cities, on or before April 1 of each year, blanks upon which to make certificates of the number of individuals and the valuation of the ratable estates of their respective towns and cities. The certificates when completed shall be returned to the commissioner.

IV. Determine from such certificates the average rate of taxation throughout the state.

V. Exercise general supervision over the administration of the assessment and taxation laws of the state and over all assessing officers in the performance of their duties, except the board of tax and land appeals, to the end that all assessments of property be made in compliance with the laws of the state.

VI. Confer with, advise, and give the necessary instructions and directions to local assessing officers throughout the state as to their duties, and to that end to call meetings of such assessing officers, to be held at convenient places, for the purpose of receiving instructions from the commissioner as to the laws governing the assessment and taxation of all classes of property.

VII. Direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of individuals, public officers, and officers and agents of corporations for failure or neglect to comply with the provisions of the law of this state governing returns for the assessment and taxation of property.

VIII. Require county, city, town, and other public officers to report information as to the assessment of property, collection of taxes, and such other information required by the commissioner, in such form and upon such blanks as the commissioner may prescribe. All county, city, town, and other public officers shall furnish the commissioner with the information required.

IX. Summon witnesses to appear and give testimony, and to produce books, records, papers, and documents relating to any tax matter which the commissioner has authority to investigate or determine.

X. Cause depositions of witnesses residing within or without this state, or absent from the state, to be taken in like manner as depositions of witnesses are taken in civil actions in the superior court, in any matter which the commissioner has authority to investigate or determine.

XI. Formulate and recommend any legislation as he may deem expedient to prevent the evasion of assessment and tax laws, and to secure just and equal taxation and improvement in the system of taxation in the state.

XII. File with the secretary of state his report showing all the taxable property in the state and its assessed value, in tabulated form, and such other statistics and information as may be deemed of interest. This report shall be filed not later than 30 days after all necessary figures became available.

XIII. Equalize annually by May 1 the valuation of the property as assessed in the several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, property which is subject to tax relief under RSA 79-E:4, and property which is the subject of a payment in lieu of taxes under RSA 72:74 by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA 21-J:9-a.

XIV. Conduct required audits of local units of government.

XV. Establish and approve tax rates as required by law.

XVI. Have the authority to abate, in whole or in part, any taxes, additions to tax, penalties, or interest wrongfully assessed under this title or which, in his judgment, are uncollectible or for which the administrative and collection costs involved would not warrant collection of the amount due or for such other good cause as the commissioner shall determine.

XVII. Appoint a chief of field audits and field team leaders who shall be unclassified employees and who shall serve at the pleasure of the commissioner.

XVIII. Hear appeals on disputed taxes, penalties, and interest and on decertification or rejection under RSA 21-J:14-g.

XIX. Have the authority to administer oaths and to examine under oath any person with respect to any matter within the department's jurisdiction.

XX. Enter in contractual agreements with financial institutions to receive and process tax returns or documents and deposit tax revenues received with such documents.

XXI. Except as provided in RSA 78-A:8 and RSA 84-C:5, have authority to require a taxpayer to remit taxes by electronic funds transfer when the taxpayer, including combined return filers, had a tax liability in the prior tax year of \$100,000 or more.

XXII. Have authority subject to appropriation to establish the electronic transfer of departmental information intended for the public, and to recover reasonable costs for the service, all of which shall be returned to the general fund as unrestricted revenue.

XXIII. [Repealed.]

XXIV. Have the authority subject to appropriation to publish and distribute a "Package X" containing department-administered tax forms and instructions, and to recover reasonable costs for such publication, all of which shall be returned to the general fund as unrestricted revenue.

XXV. Petition the board of tax and land appeals to issue an order for reassessment of property pursuant to the board's powers under RSA 71-B:16-19 whenever the valuation of property in a particular city, town, or unincorporated place is disproportional to the valuation of other property within that city, town, or unincorporated place, or whenever the municipality has not complied with RSA 75:8-a.

XXVI. Review and report each municipality's assessments once within every 5 years pursuant to RSA 21-J:11-a.

XXVII. Have the authority to contract with vendors to collect unpaid tax liabilities and share such taxpayer information with authorized vendors as is reasonably necessary to collect such debts.

XXVIII. Conduct audits of retailers subject to the enhanced 911 services surcharge imposed under RSA 106-H:9 and report the results of such audits to the bureau of emergency communications, division of emergency services and communications, of the department of safety.

XXIX. The commissioner shall compile and make available annually by July 1 to municipalities and to the assessing standards board a report on residential rental property subject to a housing covenant under the low-income housing tax credit program pursuant to RSA 75:1-a, including the following:

- (a) A determination of which municipalities have properties that are participating in the program;
- (b) The number of properties within each municipality participating in the program;
- (c) The assessed value of the properties prior to the effective date of RSA 75:1-a; and
- (d) The assessed value of the properties under RSA 75:1-a.

Source. 1985, 204:1. 1987, 408:4. 1988, 232:1, 2. 1989, 50:1. 1991, 163:2; 362:6. 1993, 61:1. 1995, 45:1; 308:121. 1997, 351:12. 1998, 383:1. 1999, 17:3-5, 58, III. 2000, 239:1. 2001, 158:55; 297:3, 14, 15. 2003, 307:6. 2004, 203:1, 7. 2005, 166:1; 251:1. 2006, 294:8. 2008, 361:14; 390:7. 2010, 152:1, eff. Aug. 13, 2010. 2012, 14:3, eff. July 1, 2012.

TITLE V TAXATION

CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Payment in Lieu of Taxes for Renewable Generation Facilities

Section 72:74

72:74 Payment in Lieu of Taxes. —

I. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may, after a duly noticed public hearing, enter into a voluntary agreement to make a payment in lieu of taxes. A lessee of a renewable generation facility which is responsible for the payment of taxes on the facility may also enter into a voluntary agreement with the municipality in which the facility is located to make a payment in lieu of taxes, provided the lessee shall send by certified mail to the lessor written notice which shall state that the property of the lessor may be subject to RSA 80 should the lessee fail to make the payments required by the agreement. A copy of such notice shall be provided to the municipality in which the facility is located.

II. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.

III. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.

IV. The collection procedures in RSA 80 shall be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.

V. If a municipality enters into a voluntary payment in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a renewable generation facility, the municipality, upon the request of the owner, or a lessee responsible for payment of taxes, of any other renewable generation facility located within the municipality, shall offer a comparable agreement to the owner or lessee of such facility.

VI. Except as provided in paragraph VII, no voluntary agreement entered into under this section shall be valid for more than 5 years; however, any such agreement may be renewed or amended and restated for any number of consecutive periods of 5 years or less.

VII. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may agree to a term exceeding 5 years if such term is necessary for the financing of the project or is otherwise advantageous to both parties and both parties agree to such term.

Source. 2006, 294:6. 2007, 113:1, eff. Aug. 10, 2007.

TITLE V TAXATION

CHAPTER 83-F UTILITY PROPERTY TAX

Section 83-F:2

83-F:2 Tax Imposed. – For taxable periods beginning April 1, 1999, a tax is imposed upon the value of utility property at the rate of \$6.60 on each \$1000 of such value, to be assessed annually as of April 1, and every year thereafter, and paid in accordance with this chapter.

Source. 1999, 17:35, eff. April 29, 1999.

TITLE V TAXATION

CHAPTER 83-F UTILITY PROPERTY TAX

Section 83-F:3

83-F:3 Determination of Value. – On or before December 1 of the tax year, the commissioner shall determine the market value of utility property for the purposes of this chapter by utilizing generally accepted appraisal methods and techniques. Market value means the property's full and true value as defined under RSA 75:1. In the case of regulated public utilities as defined in RSA 362:2, the commissioner shall hold a single public hearing annually prior to performing assessments, in order to receive public input on assessments under this chapter. Notice of such determination shall be given to the taxpayer within 15 days of the commissioner's determination.

Source. 1999, 17:35. 2010, 219:2, eff. Aug. 27, 2010.

TITLE V TAXATION

CHAPTER 83-F UTILITY PROPERTY TAX

Section 83-F:8

83-F:8 Appeals. – Utility property taxpayers aggrieved by the determination by the commissioner of the value of utility property pursuant to RSA 83-F:3 and the assessment of the tax imposed under this chapter may appeal such valuations and assessments according to the procedure and subject to the time limits provided for other taxes administered by the department under RSA 21-J.

Source. 1999, 17:35. 2005, 87:1, eff. April 1, 2005.

