



It's a Holiday Grab Bag



*Bristol County Assessors Association
2018 Annual Meeting
December 7, 2018*



The Commonwealth's SMART Program

- SMART stands for Solar Massachusetts Renewable Target.
- The SMART Program is a much more technical and segmented program than the SREC Programs were.



The Commonwealth's SMART Program

- Two Important Features
 - A Greenfield Subtractor will be applied to the Base Compensation Rate of any facility sited on open space that does not meet the criteria to receive the full incentive.
 - The use of “Adders” to increase the compensation rate.
 - Location Based
 - Energy Storage
 - Off-Taker Based
 - Solar Tracker



The Commonwealth's SMART Program

- Agricultural Land Can Remain Chapterland if:
 - The Solar Facility produces energy for the exclusive use of the of the land and farm upon which it is located, which shall include contiguous or non-contiguous land owned or leased by the owner or in which the owner otherwise holds an interest.
 - Does not produce more than 125 per cent of the annual energy needs.

Chapter 61A, Section 2A



The Commonwealth's SMART Program

- Agricultural Solar Tariff Generation Units:
 - A Solar Tariff Generation Unit located on Land in Agricultural Use or Prime Agricultural Farmland that allows the continued use of the land for agriculture.
 - Panel Height Requirements
 - Growing Season
 - Sunlight Reduction Limits
 - Maximum Size – 2 MWAC



The Commonwealth's SMART Program

- Energy Storage Adder:
 - “Energy Storage System” - A commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy.
 - Essentially a battery.
 - Energy Storage System can be co-located with a Solar Generating Unit.



Valuation Methods for Class 504 Property

- City assessors are charged with making a "fair cash valuation" of property that is subject to taxation. G. L. c. 59, § 38. We have determined "fair cash value" to mean "fair market value," or "the price an owner willing but not under compulsion to sell ought to receive from one willing but not under compulsion to buy."

*Boston Gas Co. v. Assessors of Boston,
334 Mass. 549, 566 (1956).*



Valuation Methods for Class 504 Property

- Various methods are used to value taxable utility property. These include:
 - a determination of the property's net book value;
 - an income capitalization valuation;
 - a sales comparison;
 - a determination of replacement cost new (less) depreciation (RCNLD).

*Montaup Elec. Co. v. Assessors of Whitman,
390 Mass. 847, 850 (1984).*



Valuation Methods for Class 504 Property

- The net book value of regulated utility property, also known as the "rate base" value, plays an important role in the DPU's calculation of the revenue that a regulated gas utility is permitted .
- In light of this, the Courts have stated that net book value is the proper value for assessment purposes, absent "special circumstances" that would induce a buyer to pay more than net book value.



Valuation Methods for Class 504 Property

- However, the Courts have affirmed the decisions of Boards of Assessors to value utility property by equally weighting net book value and RCNLD given “special circumstances”. See *Boston Gas Company v. Board of Assessors of Boston*, 458 Mass 715 (2011).
- It has been DOR’s experience that “special circumstances” are now occurring very regularly.



Valuation Methods for Class 504 Property

- DOR will now allow Boards of Assessors to use a valuation based on 50% net book value and 50% RCNLD without the need for a showing of “special circumstances”.
- In order to do this, the Board of Assessors must obtain an appraisal of the utility’s property using RCNLD.



Valuation Methods for Class 504 Property

- It's estimated that such an appraisal will cost between \$10,000.00 & \$15,000.00.
- It's also estimated that the assessed value of the utility's property will increase by at least 25%.
- The appraisal will also provide the substantiation of the valuation that DOR will require during Recertification.



Chapter 59, Section 5, Clause 41A

- Allows Senior Citizens who are 65 or older and who meet certain income and other criteria to defer all or part of their property taxes.
- In the 1st year that a Clause 41A Deferral is granted, the taxpayer must enter into a Tax Deferral and Recovery Agreement (Tax Form 97-1).



Chapter 59, Section 5, Clause 41A

- The Tax Deferral and Recovery Agreement will also cover taxes for any subsequent fiscal year if the taxpayer applies and qualifies for a deferral.
- A new Agreement is only required for a later year if there is a change in the persons with an interest in the property.



- State Tax Form 97-2/99-2
Revised 4/2004
- This instrument must be filed for record or registration
- THE COMMONWEALTH OF MASSACHUSETTS
- Name of city or town
Office of the Board of Assessors
- The Board of Assessors in the city/town of _____
day of _____
- Statement of Entry into Tax Deferral and Recovery Agreement**
- _____ hereby states that on the _____ day of _____, it entered into a Tax Deferral and Recovery Agreement with owners of the real property described below to defer taxes on that property beginning in fiscal year _____.
- (The description must be sufficiently accurate to identify the property. In the case of registered land, the certificate of the title number and the registry volume and page must be given.)
- DESCRIPTION OF PROPERTY**
- _____
- _____
- _____
- This statement made on the _____ day of _____, constitutes a lien upon the property covered by that agreement as provided in General Laws Chapter 59, Section 5, Clause ☐ 18A ☐ 41A.
- On this _____ day of _____, at _____, The Commonwealth of Massachusetts
- Board of Assessors
- of _____, before me, the undersigned notary public, personally appeared _____, as _____, Board of Assessors for the city/town of _____, proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding document in my presence; and acknowledged to me that they signed it voluntarily for its stated purpose.
- My commission expires _____
- Notary Public:
- THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE



Chapter 59, Section 5, Clause 41A

- The recorded Statement constitutes a lien on the property to secure repayment of the deferred taxes and interest.
- The lien has priority over any prior or subsequent encumbrances on the property, except for certain reverse mortgages.



Chapter 59, Section 5, Clause 41A

- In the 1st year, the Treasurer will create a modified Tax Title Account for the parcel & the amount.
- If a deferral is granted for subsequent tax years, the collector will Subsequently Certify the amounts to the Tax Title Account.



Chapter 59, Section 5, Clause 41A

- After the death of the taxpayer (and any surviving spouse) interest starts to accrue at 16%.
- If the deferred taxes and accrued interest are not paid within six months after death of the taxpayer or surviving spouse, the Treasurer can begin foreclosure proceedings in the Land Court.



Assessment of Reserved Parking Easements



Folio Boston Condominium
80 Broad Street, Boston MA



Assessment of Reserved Parking Easements

- Master Deed provides that the declarant may sell, lease, or otherwise convey parking easements to unit owners or others, and that the parking easements shall be easements in gross.
- The easements need not be attached to condominium units.



Assessment of Reserved Parking Easements

- The easements need not be attached to condominium units.
- The declarant claimed that the easements were part of the common area of the condominium.
- The Appeals Court ruled that the easements are separately alienable as interests in real property, and are not (and never were) part of the condominium common areas.



Assessment of Reserved Parking Easements

- “Neither party has raised any question whether an easement may be taxed as a separate interest, directly to the easement holder, rather than as an element of the value of the land comprising the servient estate burdened by the easement.”

Rauseo v. Boston,
18-P-288 (2018)
Footnote 5



*We wish you
Happy Holidays
&
A Prosperous & Healthy
New Year!*