

# HAMPSHIRE COUNCIL OF GOVERNMENTS

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## STANDARD OF REVIEW FOR APPEAL TO HAMPSHIRE COUNCILORS FOR TAX ABATEMENT

As Prepared by Council Attorney Charles M. Maguire

The Hampshire Councilors' jurisdiction to hear tax abatement appeals is governed by Section 64 of Chapter 59 of the Massachusetts General Laws. That Statute directs the Board to conduct a hearing and, "if on hearing the board finds that the property has been overrated and that the complainant has complied with all applicable provisions of law, it shall make a reasonable abatement and an order as to costs."

Therefore, the Board's decision is not a recommendation, but an order which the local board must follow unless an appeal is taken to the Superior Court seeking administrative review of an agency action.

The issue before the Board is whether the property is overrated. However, the Board's decision may be guided by the following principles:

- 1) The taxpayer must bear the burden of proving that the property is overrated. Until such proof is presented, the valuation by the assessors is presumptively valid.
- 2) The taxpayer's own opinion on the value of the property is competent evidence.
- 3) The opinions of experts as to valuation is competent but not controlling and a particular method of valuation urged by an expert does not have to be followed by the Board.
- 4) The Board is not required to believe the testimony of any particular witness.
- 5) Taxpayer may present persuasive evidence of overvaluation by either
  - a) exposing flaws in assessors method at valuation,

or,

  - b) introducing affirmative evidence of overvaluation that undermines the assessor's valuation.
- 6) The Board's decision must be based on evidence in the record.

Atty. Charles Maguire, March 11, 2009