

City and Town

Navjeet K. Bal, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



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What is Home Rule?

Joe Markarian, Director of Technical Assistance

Home Rule is sometimes thought of as a relatively recent concept and unique to Massachusetts, but its roots actually date back to the 1700s and its relevancy extends throughout the nation. Missouri was the first state to adopt a Home Rule provision in 1875, followed by California, Washington and Wisconsin between 1879 and 1898. In Massachusetts, Home Rule authority was granted to cities and towns in 1966. Today, almost all states have adopted Home Rule provisions which, to varying degrees, are intended to enhance self-governance for cities, towns and counties.

In the strongest exercise of Home Rule rights, communities can enact charters.

The American Revolution confirmed the rights of the people to govern themselves. However, as the mid-1800s approached, corporations were drawn into the debate, and distinctions were made between the rights of municipal corporations (i.e., cities and towns) and private corporations. In many higher court decisions, the right to self-rule came under attack as railroad companies, whose lawyers were well entrenched at the state level, faced resistance as they pushed to extend rail lines across town boundaries. Then, with emergence of the so-called Dillon Rule, the struggle ensued, in earnest, between advocates of local autonomy and standard bearers for state supremacy. In 1868, an Iowa Supreme Court Justice, John F.

Dillon, put forward rules for interpreting the relationship between state law and local law when they came into conflict (*Clinton v. Cedar Rapids and Missouri River R.R.*, 24 Iowa 455, 1868). The intent and effect was to narrow the scope of municipal authority.

The Dillon Rule states that: "A municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words (from the state); second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation — not simply convenient, but indispensable; and fourth, any fair doubt as to the existence of a power is resolved by the courts against the corporation."

The United States Supreme Court adopted the Dillon Rule in 1907 (*Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79) stating: "Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be entrusted to them ... The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation ... In all these respects the state is supreme."

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Please consider the environment before printing this newsletter.





DLS Commentary

How do you know when you have a hit? When the audience starts talking about the sequel as the lights come on.

That was pretty much the way it was the conclusion of a daylong conference on regionalization held at the College of the Holy Cross in Worcester. The turnout — more than 350 local officials representing some 135 communities — was very strong and the panels received excellent reviews, so much so that by day's end the call was on to repeat the conference a year from now.

Early feedback was that conference attendees appreciated the hands-on approach and matter-of-fact presentations on such topics as police and fire consolidation, sharing municipal regional services, partnering to manage solid waste, models for health department collaboration, group purchasing, regional emergency dispatch, sharing building inspectors and pooling resources for animal control. Look to the next issue for detailed feedback.

Lt. Governor Timothy Murray welcomed the guests and noted the strong push he has heard for regionalization during the listening tour sessions held by the Municipal Affairs Coordinating Cabinet, which he chairs. And Department of Revenue Commissioner Navjeet K. Bal was generous in recognizing the work DLS put into the organizing the conference. I also want to thank our partner in presenting the conference, the Franklin Council of Governments, for all their hard work.

It was a terrific jumping off point, and we hope at next year's conference to share some of the successes that were incubated in Worcester.

Robert G. Nunes
Deputy Commissioner &
Director of Municipal Affairs

Of Note ...

How the New Ethics Reform Law Affects Cities and Towns

Bureau of Technical Assistance

Chapter 28 of the Acts of 2009, An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying, known as the Ethics Reform Law, imposes new reporting requirements for municipal governments and additional ethics law training requirements for all municipal employees. The act became effective on September 29, 2009 and contains three deadlines that cities and towns should be aware of.

On or before December 28, 2009, and on an annual basis thereafter, the clerk of each municipality is required to provide the official Ethics Commission summary of the law for municipal employees to all that municipality's employees, and must maintain each employees' signed acknowledgement of receipt.

The second deadline is January 27, 2010. By that date, the city council, board of selectmen or board of alderman must name a senior municipal employee to serve as the municipality's liaison to the State Ethics Commission. The Commission will provide educational materials to the liaisons and assist them to comply with the new ethics training requirement for all employees.

Finally, on or before April 2, 2010, and every two years thereafter, all current state, county and municipal employees must complete an online ethics law training program. Employees are required to provide a certificate of completion of the training and the certificate shall be retained by their employer for six years.

The online training program is available now. The program requires you to answer a multiple choice question and does not allow you to advance to the next question until you answer it correctly. The training can be completed in less than an hour. At the end, the pro-

gram displays a page with a certificate including the employee's name, the date completed and a reminder to print the page to provide to your employer.

Of most significant note to cities and towns is an expanded definition of "deliberation" to include all written and oral communication, including electronic mail.

The Ethics Reform Law also makes several changes to the Open Meeting Law. Of most significant note to cities and towns is an expanded definition of "deliberation" to include all written and oral communication, including electronic mail. In addition, the law still requires 48 hours notice of any meeting (except in emergency situations). However, hereafter Saturdays, in addition to Sundays and legal holidays, will be excluded from the 48 hour notice period. Finally, the new law moves the responsibility for administration and enforcement of the Open Meeting Law from the local district attorney to the Attorney General, effective July 1, 2010. ■

1. The online training program can be found on the [State Ethics Commission](http://State.Ethics.Commission) website.

Legal

Mortgage Foreclosure

James Crowley, Esq., Bureau of Municipal Finance Law

In *U.S. Bank National Association v. Ibanez*, 17 LCR 202 (2009), the Land Court issued a memorandum and order which discusses the publication of notice, a concept which is critical in many different contexts.

As collectors and treasurers are aware, the creation of a tax title is the most effective remedy in the collection of taxes on real property. Proper publication of notice is a critical procedural step in making a valid tax taking. Publication was also an important issue in the *Ibanez* case, which was decided by the Land Court in March 2009. In *Ibanez*, the Land Court had to determine whether the publishing of mortgage foreclosure sale notices in the *Boston Globe* rather than the *Springfield Republican* had satisfied the statutory requirement of publication where the parcels in question were located in Springfield.

In *Ibanez*, the court had to interpret M.G.L. Ch. 244 Sec. 14, which requires notice of a mortgage foreclosure sale to appear, "in a newspaper, if any, published in the town where the land lies or in a newspaper with general circulation in the town where the land lies." The court declared it was taking a pro-consumer approach in this decision. It noted that the publication requirement was critical to the mortgagor who could lose all of his equity in the property and face a deficiency judgment if the amount bid was not significant enough to cover the mortgage balance. The purpose of M.G.L. Ch. 244 Sec. 14, according to the court, was to notify the public so that a sufficient number of likely bidders could learn of the mortgage sale and the highest price would result at the time of sale.

The court observed that this statute did not require the notice of the mortgage foreclosure sale to appear in a locally

published newspaper or in the newspaper with the greatest local circulation. Under both of these tests, the *Springfield Republican* would qualify. Yet, the three lenders in *Ibanez* chose the *Boston Globe* for reasons of cost and convenience. The *Boston Globe* had lower advertising rates and was more skillful at receiving electronic notices of the foreclosure sales. M.G.L. Ch. 244 Sec. 14 simply required the notices to appear in a newspaper with general circulation. Yet, according to the Land Court, neither the Legislature nor prior court decisions had defined the term, "general circulation."

Consequently, the court had to rely on rules of statutory construction. Specifically, he used the definitions contained in Black's Law Dictionary. It found that the *Boston Globe* was a publication of general circulation in Springfield which contained information of general public interest and was available in Springfield on a daily basis. With regard to the circulation, it noted that the *Springfield Republican's* daily circulation of more than 21,000 copies was significantly more than the *Globe's* 1600 daily copies. In the Land Court's view, however, the *Boston Globe's* circulation was "good enough" to meet the statutory requirement and the published notice was sufficient. However, it did issue a warning. Where the *Boston Globe's* circulation had been declining in Springfield from 1600 copies in October 2006 to 1400 copies as of October 2007, the court considered that the sufficiency of any notice published in the *Globe* after October 2007 would have to be considered on a case by case basis.

The second issue in the *Ibanez* case, the procedural matter of the post-sale assignments and the very authority to hold the foreclosure sales, was far more controversial. In *Ibanez*, the Land Court

invalidated two out of the three foreclosures where the documentation at the Registry of Deeds was not complete at the time of the foreclosure sales. As you are aware, mortgage foreclosures have spiraled with the worsening economy. What has also changed in recent years is mortgage lending practice. Presently, the ownership of a loan may be divided up and transferred numerous times on the lender's books. Yet, these assignments may not be timely filed at the Registry of Deeds. A conflict then would result since G.L. Ch. 244 Sec. 14 and the case law interpreting it require that the notice of a foreclosure auction identify, "the holder of the mortgage." According to the Land Court, strict compliance with the statutory notice provisions is so important that failure to comply renders a foreclosure sale void as a matter of law. Bidders at the auction must be assured of obtaining clear, marketable title. The mortgagor would thereby be protected.

Under the *Ibanez* decision, the party conducting the auction foreclosure sale must either be the record holder of the mortgage at the time the foreclosure notice is published or must hold the mortgage under an unrecorded assignment which is available for examination in a recordable form at the time of the foreclosure sale.

Some attorneys do not agree with this decision since it could create problems with many titles where the assignment of the mortgage was recorded out of order or the assignment was secured subsequent to the publication of the notice and the foreclosure sale. The lenders in *Ibanez* sought to have the Land Court vacate this decision. REBA (the Real Estate Bar Association of Massachusetts) filed a friend of the court brief and even the National Consumer Law Center became involved. On October 14, 2009, the Land Court affirmed its earlier decision and declared its ruling was in accordance with state statute. Any change would require the approval of the Legislature. An appeal is likely. ■

Focus on Municipal Finance

State Owned Land Valuation in 2009

John Gillet and Donna Demirai, Bureau of Local Assessment

On July 20, 2009, the Bureau of Local Assessment (BLA) posted the final state owned land valuations. This article looks at the changes in reimbursable State Owned Land (SOL) acreage and value from the 2005 to 2009 valuations. Communities that contested their valuation had until August 10 to file an appeal with the Appellate Tax Board.

We value SOL once every four years to reimburse cities and towns for loss of local tax revenue. BLA's goal is to approximate the fair cash value of the land in an equitable way statewide. Land is valued as unimproved, and only land that was taxable before it was acquired by the state is eligible for reimbursement. The state agency holding the land, as well as the use to which it is

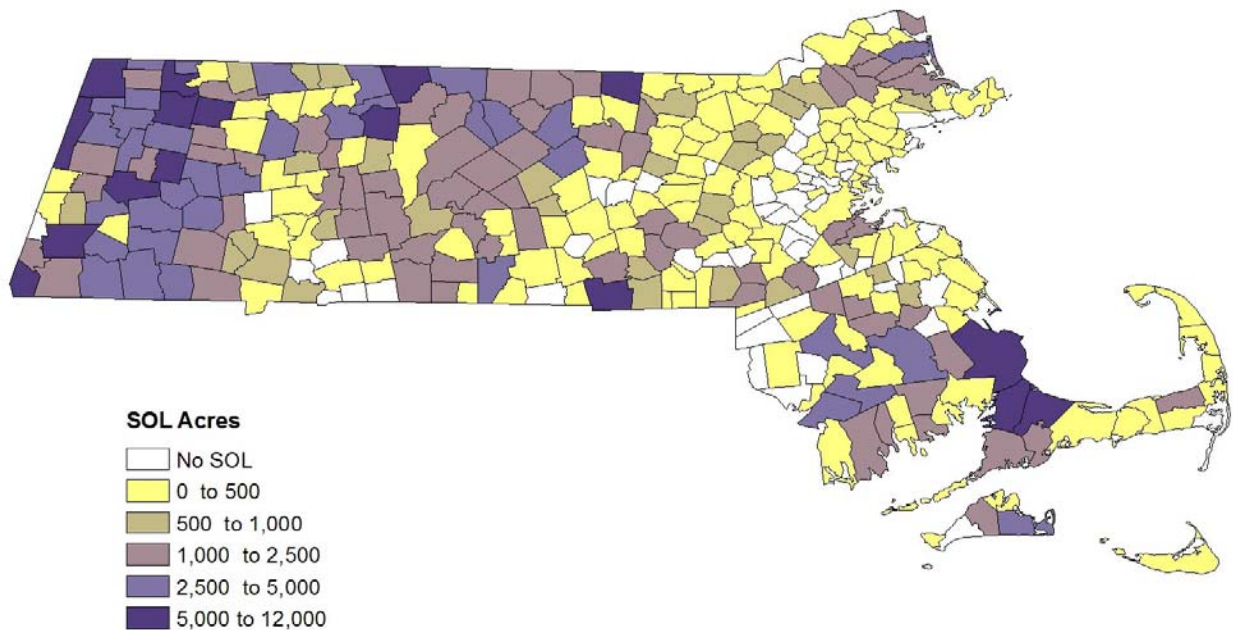
designated, are also determining factors in reimbursement eligibility (M.G.L. Ch. 58 Sections 13–17A).

BLA reviews and certifies all communities real and personal property values on a triennial basis to ensure that they are at full and fair market value. The resulting certified land schedules are used as the starting point for SOL valuation. The Bureau used standard absorption and large acreage tables where applicable in communities. Since this process occurs over a three-year period, equalizing or standardizing the values is necessary so that all SOL values are at the same level at one point in time. For the 2009 SOL program, the most recent certified land schedules of communities were used. Depending

on the certification year, the land schedules were equalized to 100 percent for a valuation date of January 1, 2008 by using a combination of median single family ratios reported during certification and subsequent interim years with their corresponding market percent changes. These values were then trended by BLA to reflect a valuation date of January 1, 2009. Trending values to FY2010 reduced land values about 6 percent overall, with the largest market decrease expected in the eastern part of the state (8.5 percent) and the lowest decrease in the west (1.6 percent). An analysis of land schedules showed the highest values on the cape and islands and in eastern Massachusetts, though

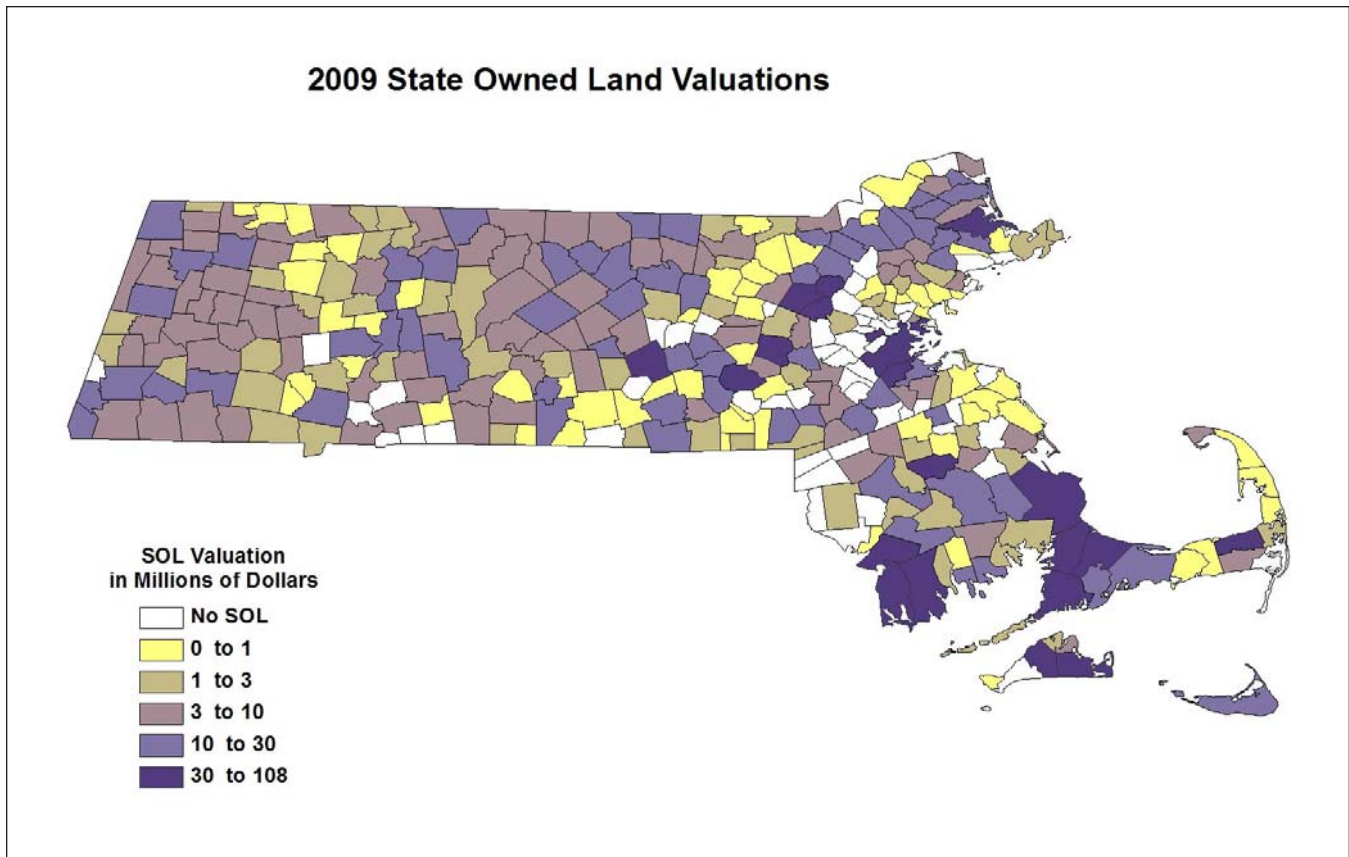
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2009 State Owned Land Acres



Map 1

State Owned Land Valuation in 2009 continued from page 4



Map 2

in comparison to their 2005 schedules, these same areas experienced the largest decreases in value, approximately 20 percent in the cape and 10 percent in the east. Conversely, the lowest land values were in the western and central part of the state, but these regions actually had increases over their respective 2005 schedules, approximately 26 percent in the west and 8 percent in central Massachusetts.

There are two payment-in-lieu-of-tax (PILOT) programs that reimburse communities for loss of revenue for certain tax exempt state owned land, the Cherry Sheet PILOT program and the Department of Conservation and Recreation's Water Supply Protection program. This article covers both programs, though the maps only refer to the Cherry Sheet program. Land for both reimbursement programs is valued in the same way by BLA. Displaying

the Pilot Land Acreage by Land Type, prime, rear & unbuildable (see Guidelines for the Development of a Minimum Reassessment Program, page 14.) in Chart 1 and then comparing that to the Value by Land Type in Chart 2, one can easily see that the majority of the value is held within the smallest category: prime land. For a breakdown of the 2009 acreage and values by Community and Pilot Program, see Table 1.

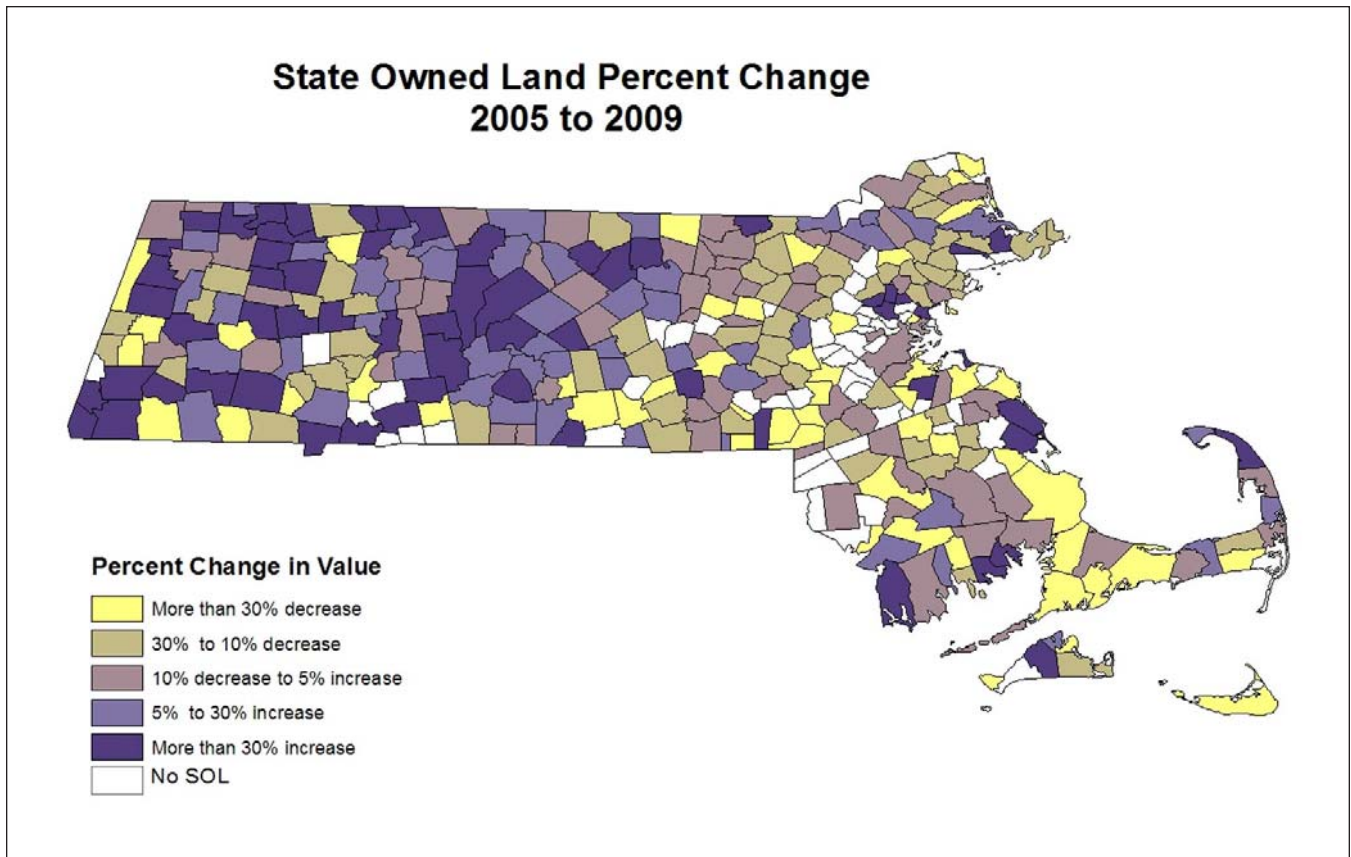
The Cherry Sheet PILOT program is made up of 295 cities and towns, four more than when last valued in 2005. Nearly 418,000 acres of reimbursable land is now valued at \$2.88 billion, a 12 percent decrease in value from the \$3.29 billion figure of four years ago. Six communities account for a value decrease of 311,706,700 from 2005 figures, representing nearly 76 percent of the total decrease of 411,659,600; without these six communities the decrease

is only 3 percent. There is also a net increase of 7,700 acres statewide, or 1.9 percent. Prime lots decreased from 14,114 to 13,753; the 361 lot difference is a 2.6 percent decrease. In all, 933 sites were valued. Sites are not merely single parcels of land; rather they can be large holdings of land by a particular agency for a particular purpose, such as a state park or wildlife sanctuary.

Map 1 displays communities by current acreage. There are 171 communities with less than a thousand acres and only 16 communities with more than five thousand acres. Map 2 displays current valuation (in millions). Note that the western part of the state has 55 percent of the acres but only 20 percent of the value while the eastern part of the state has 9 percent of the acres and 26 percent of the value. This is readily ap-

continued on page 6

State Owned Land Valuation in 2009 continued from page 5



Map 3

parent in a cross comparison of the two maps. Map 3 displays percentages of change in value of the Cherry Sheet Land from 2005 to 2009. Although there are many individual changes, generally the western and central areas had significant increases while in the east, south and cape regions have decreases.

The five communities with the highest reimbursable valuations in the Cherry Sheet Program are Edgartown at \$108,207,600; Westport at \$90,186,800; West Tisbury at \$82,710,800; Bedford at \$70,539,900 and Concord at \$66,926,200. The Cherry Sheet Program's lowest is East Bridgewater with \$200. New communities added since 2005 are Medford, Melrose, Revere, Stoneham and Winchester.

The Department of Conservation and Recreation's (DCR) Water Supply Protection Land Program is a PILOT pro-

gram made up of 30 cities and towns, one less than when last valued in 2005.

Approximately 101,700 acres of reimbursable land is now valued at \$354 million (see Table 1), a decrease of about 1 million in value over the \$355 million figure of four years ago.

There is also a net decrease of nearly 450 acres statewide in the DCR program. Prime Lots decreased from 3,472 to 3,216; the 256 lot difference is a 7.4 percent decrease. There were 34 sites valued.

The five communities with the highest reimbursable valuations in the DCR's Pilot program are Sterling at \$39,679,600; Boylston at \$34,112,400; Rutland at \$30,147,200; Holden at \$28,975,700 and New Salem at \$22,857,000. The DCR's lowest community is Templeton with \$92,100.

The 2009 finalized values will first be used on the 2011 Cherry Sheets and the Chapter 59 §5G values will be used for Water Supply Protection payments for FY2010 to be calculated in the spring of 2010.

The SOL numbers have changed significantly from 2005 as a result of ongoing analyses, revisions to municipal land schedules reflecting the declining real estate market, land acquisitions, and dispositions and adherence to ever changing zoning bylaws. Our current collaborative valuation method with local assessors is a great advancement over historical valuation models because it more accurately reflects local land values and we look forward to continuing this approach. ■

State Owned Land Valuation in 2009

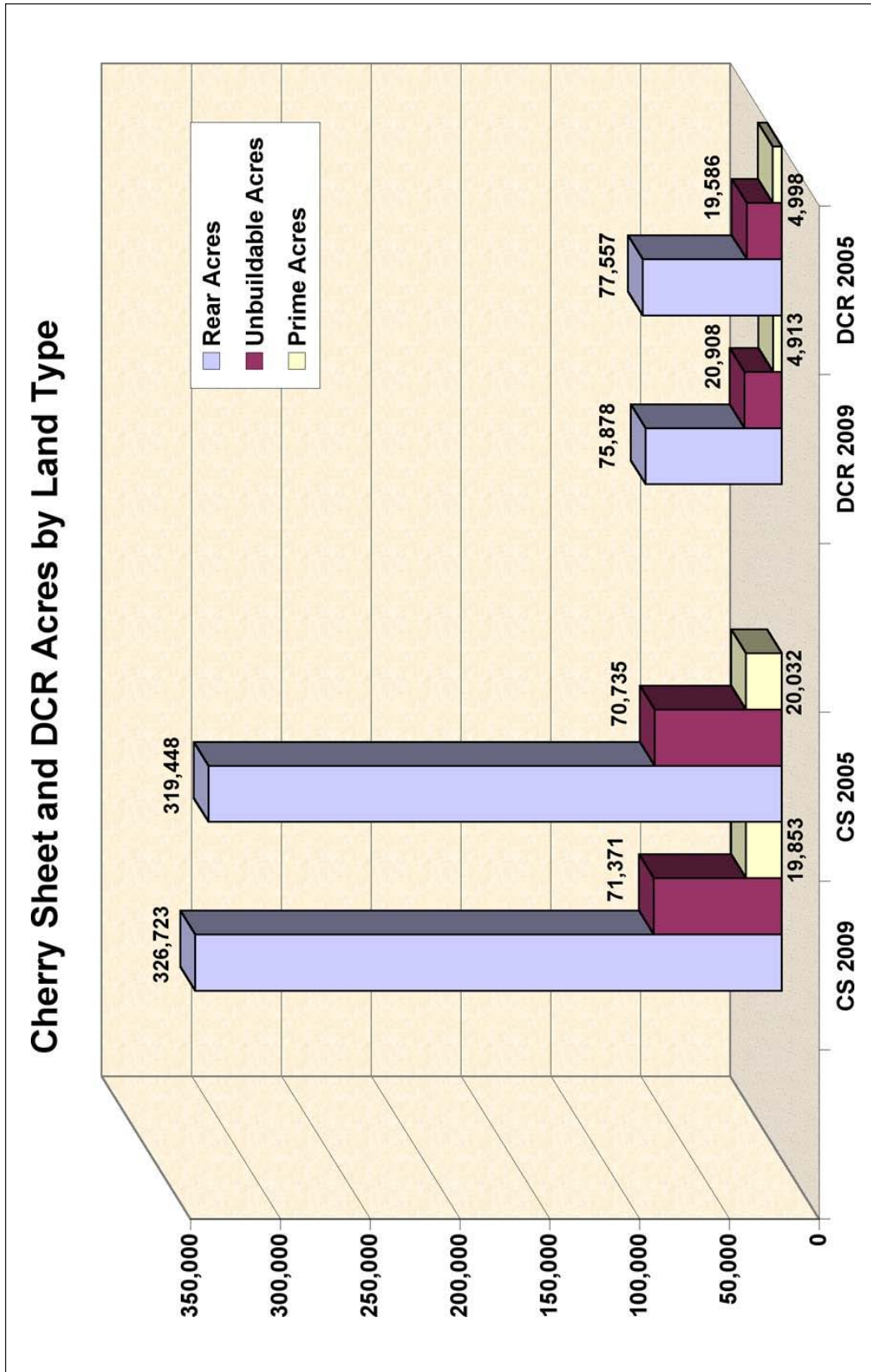


Chart 1

State Owned Land Valuation in 2009

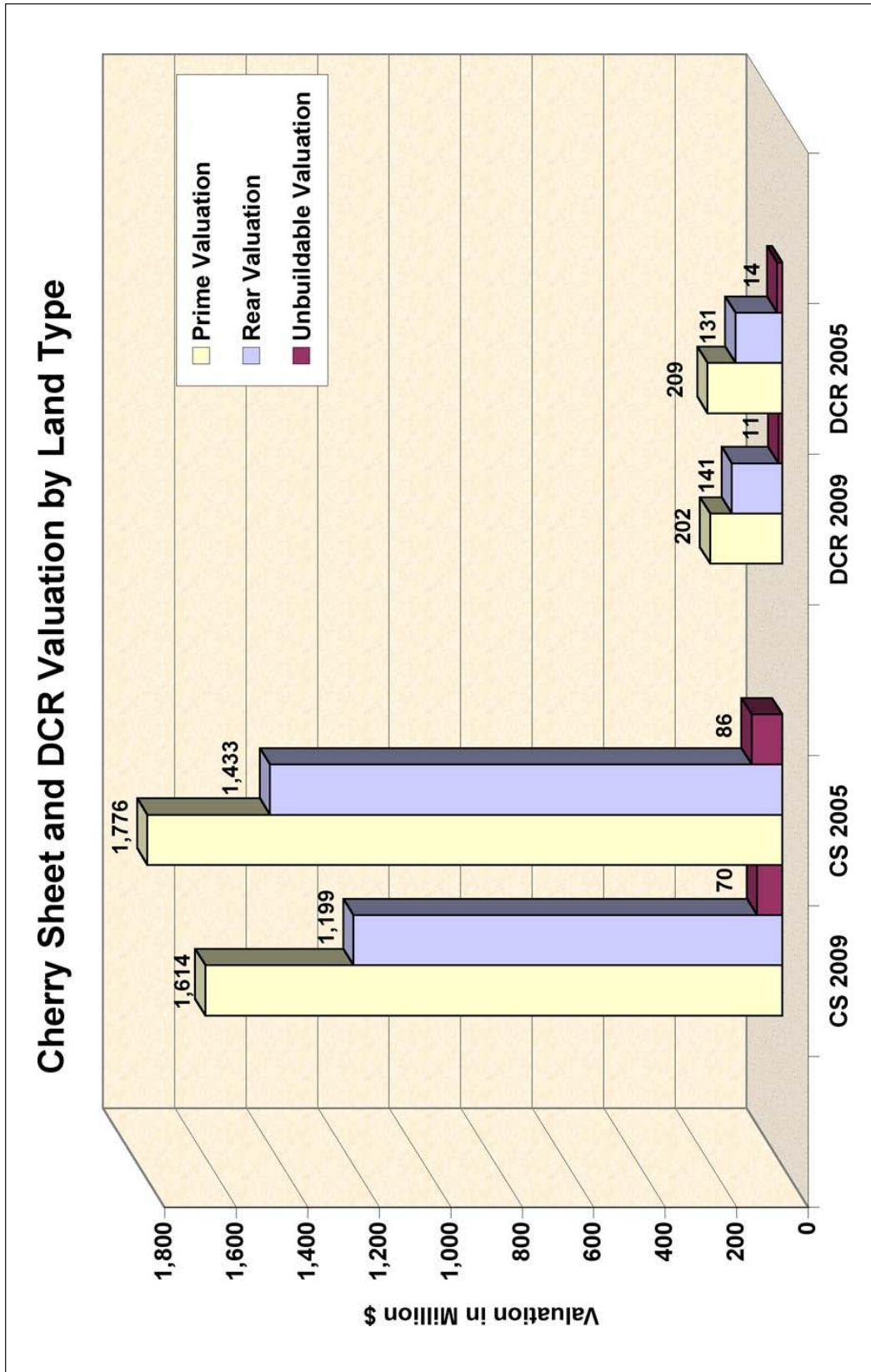


Chart 2

2009 Cherry Sheet and DCR Land Acreage and Valuation

Community	Acreage	Values	DCR Acres	DCR Values	Community	Acreage	Values	DCR Acres	DCR Values	Community	Acreage	Values	DCR Acres	DCR Values
Abington	612.56	12,670,400			Douglas	5,138.52	22,957,800			Huntington	1,677.64	4,464,300		
Acton	140.61	6,102,300			Dover	121.74	5,686,800			Ipswich	2,128.12	31,305,700		
Acushnet	1.00	3,900			Dunstable	184.37	3,622,200			Kingston	109.78	1,409,700		
Adams	3,802.30	5,856,700			Duxbury	205.90	986,600			Lakeville	88.70	1,171,200		
Agawam	837.15	9,225,300			East Bridgewater	0.04	200			Lancaster	1,198.79	13,713,700		
Amerst	1,785.38	17,203,700			East Brookfield	351.12	144,900			Lanesborough	2,544.23	9,906,300		
Andover	833.76	22,269,600			Eastham	7.62	164,000			Lawrence	2.01	486,500		
Aquinnah	2.40	28,800			Easthampton	1.18	104,100			Lee	2,509.05	6,938,400		
Ashburnham	2,282.00	6,558,500			Easton	1,390.41	7,510,800			Leicester	1,111.47	1,657,500		
Ashby	2,011.83	11,530,000			Edgartown	2,847.99	108,207,600			Lenox	1,279.15	5,085,300		
Ashfield	267.60	511,200			Egremont	1,338.89	20,165,300			Leominster	1,407.94	15,562,800	42.54	188,900
Ashtand	736.89	7,964,800	29.33	2,794,300	Enring	2,683.60	4,898,100			Leverett	437.90	876,600		
Athol	2,193.97	5,907,500			Essex	47.00	935,300			Leyden	825.51	2,195,300		
Ayer	93.88	1,056,900			Fairhaven	385.78	12,038,400			Lincn	254.91	34,808,600		
Barnstable	416.72	10,674,100			Fall River	4,940.37	36,025,300			Littleton	6.07	26,700		
Barre	2,250.11	10,409,700	5,432.06	11,214,400	Falmouth	2,449.25	65,797,700			Lowell	342.19	21,641,400		
Becket	3,895.82	8,275,000			Fitchburg	76.01	4,451,400			Ludlow	1,354.44	3,295,500		
Bedford	683.30	70,539,900			Florida	5,101.87	3,012,500			Lunenburg	127.00	5,425,800	50.80	240,700
Belchertown	1,308.71	16,359,700	3,190.21	15,259,400	Foxborough	532.58	9,584,000			Lynn	0.13	144,500		
Bellingham	10.23	99,200			Framingham	843.74	45,120,800	235.36	12,811,900	Lynnfield	323.70	3,738,500		
Berkley	99.56	2,436,200			Franklin	750.27	10,989,800			Marion	489.54	2,156,600		
Berlin	0.00	0	46.56	2,363,600	Freetown	4,104.91	18,957,300			Marlborough	473.31	8,337,600		
Bernardston	852.95	2,281,300			Gardner	1,167.54	19,612,300			Marshfield	179.00	178,800		
Billerica	342.21	11,188,200			Georgetown	1,048.81	19,426,700			Mattapoisett	1,380.24	26,341,400		
Blackstone	288.69	1,800,900			Gill	246.31	2,042,600			Medfield	235.92	3,558,200		
Blandford	2,055.70	2,244,100			Gloucester	6.98	1,953,000			Medford	297.54	2,407,900		
Bolton	528.00	1,113,800			Goshen	1,601.75	2,402,400			Melrose	5.00	93,500		
Boston	155.19	30,860,300			Grafton	87.60	344,200			Mendon	171.35	563,500		
Bourne	10,805.90	42,661,900			Granby	1,573.82	5,031,500			Merrimac	6.36	347,800		
Boxborough	19.52	334,200			Granville	1,706.78	2,960,800			Middleborough	3,551.69	15,055,100		
Boxford	1,074.11	17,926,300			Great Barrington	7,146.63	28,865,900			Middlefield	4,683.21	5,940,500		
Boylston	0.00	0	2,687.84	34,112,400	Greenfield	91.69	2,844,600			Middleton	159.74	3,248,400		
Boylston	46.03	5,536,000			Groton	739.08	7,465,000			Millbury	187.73	885,900		
Brookfield	1,945.76	52,947,100			Groveland	1,499.12	17,655,600			Millville	58.32	288,200		
Brewster	2,256.37	30,258,700			Hadley	1,421.49	19,469,900			Milton	1,660.52	64,056,100		
Bridgewater	2,256.37	30,258,700			Hallfax	1,153.95	5,790,100			Monroe	2,589.00	733,600		
Brimfield	1,852.43	8,852,800			Hamilton	562.60	12,068,500			Monson	1,001.09	9,612,600		
Brookline	1.74	23,500			Hancock	5,162.35	5,430,800			Montague	4,027.57	13,393,300		
Brockton	2,298.22	11,417,900			Hanover	2.71	741,800			Monterey	4,588.40	28,373,600		
Buckland	152.00	258,400			Hanson	979.26	2,445,600			Montgomery	690.50	564,200		
Buckland	152.00	258,400			Hardwick	1,346.72	5,698,700	4,686.87	8,689,500	Mount Washington	8,355.23	25,660,700		
Canton	449.67	16,376,900			Harvard	89.65	781,800			Nahant	2.07	39,700		
Carlisle	906.99	22,004,300			Harwich	294.42	8,923,100			Nantucket	110.75	23,306,900		
Carver	2,020.05	10,618,100			Hatfield	22.13	169,700			Natick	195.80	12,503,300		
Charlemont	1,700.26	8,963,100			Haverhill	0.20	103,900			New Ashford	3,214.28	6,168,200		
Charlton	281.70	450,200			Hawley	8,257.50	3,840,400			New Bedford	1,404.38	1,754,200		
Chelmsford	28.66	611,100			Heath	823.40	682,000			New Braintree	1,436.92	6,724,100		
Chelsea	19.37	6,068,700			Hingham	16.43	669,100			New Marlborough	3,055.60	4,394,200		
Cheshire	4,802.17	10,850,700			Hinsdale	1,806.19	3,740,900			New Salem	219.00	1,311,700	22,218.47	22,857,000
Chester	3,022.07	1,605,000			Holden	409.87	8,784,700	3,624.82	28,975,700	Newbury	2,364.90	25,738,800		
Chesterfield	3,090.75	4,286,700			Holland	249.45	561,200			Newburyport	437.88	20,993,000		
Clarksburg	3,410.11	2,340,900			Holliston	1.25	194,200			Norfolk	1,111.38	14,330,400		
Clinton	16.34	256,300	469.22	6,360,500	Holyoke	390.07	3,151,700			North Adams	1,732.10	7,765,400		
Colrain	2,644.12	4,178,500			Hopkinton	4.80	2,900			North Andover	1,999.33	21,911,900		
Concord	909.10	66,926,200			Hopkinton	1,640.34	34,162,800			North Brookfield	327.30	2,691,400		
Conway	2,989.07	2,501,300			Hubbardston	1,435.87	5,876,800	8,476.55	21,007,400	North Reading	3,680.400	3,680,400		
Cummington	1,391.27	3,942,300			Hudson	109.79	4,513,800			Northampton	346.83	11,517,800		
Dalton	4,334.33	5,420,800			Hull	81.25	1,588,400			Northborough	430.34	14,619,800		
Danvers	106.01	22,219,000								Northbridge	913.98	8,786,900		
Dartmouth	2,163.83	40,452,100												
Deerfield	1,169.51	8,545,600												
Dennis	4.00	81,1600												

Please visit our [website](http://www.mass.gov/dls) for additional site-specific information by community.

Community	Acres	Values	DCR Acres	DCR Values	Community	Acres	Values	DCR Acres	DCR Values
Northfield	2,800.14	4,539,100			Community				
Norton	223.53	8,494,200			Stonbridge	893.31	3,784,100		
Norwell	0.30	242,400			Stoneham	26.07	187,700		
Oak Bluffs	56.50	7,631,600			Stow	8.94	102,800		
Oakham	1,224.17	8,481,400	2,537.10	10,377,700	Sturbridge	2,924.40	17,601,000		
Orange	2,131.03	6,704,400	48.80	172,100	Sudbury	484.99	2,653,200		
Orleans	1.74	1,373,600			Sunderland	1,638.10	12,538,800		
Otis	4,024.40	12,943,800			Sutton	2,060.70	12,253,300		
Oxford	173.88	732,400			Swampscott	0.11	164,600		
Palmer	1,389.27	7,641,300			Taunton	3,362.26	24,023,700		
Paxton	961.79	11,064,000			Templeton	2,841.15	12,728,100	92.06	92,100
Peabody	10.07	1,228,100			Tewksbury	612.93	16,413,200		
Pelham	1,195.85	4,985,600	5,974.00	16,873,300	Tisbury	12.70	1,391,600		
Pepperell	381.63	2,804,900			Tolland	3,313.56	7,380,800		
Peru	5,593.92	6,864,800			Topsheld	366.97	14,266,600		
Petersham	1,750.99	8,036,700	12,033.58	14,306,400	Townsend	5,927.78	20,342,300		
Phillipston	3,357.93	4,623,400	162.76	171,600	Turol	1.06	40,600		
Pittsfield	2,245.48	12,192,100			Tyngsborough	412.25	2,354,200		
Plainfield	1,336.85	2,927,500			Tyringham	485.88	1,473,400		
Plainville	69.52	2,260,900			Upton	2,035.45	13,061,800		
Plymouth	11,204.63	55,749,000			Uxbridge	563.59	2,860,900		
Princeton	3,909.37	17,614,100	2,811.66	15,161,200	Wakfield	22.83	2,491,000		
Provincetown	68.41	6,817,900			Wales	1,541.70	2,957,900		
Quincy	1,022.33	28,662,200			Walpole	198.10	9,021,900		
Randolph	711.08	6,069,400			Waltham	253.80	2,454,700		
Rayham	133.65	2,181,800			Ware	616.49	2,770,300	4,845.00	10,073,800
Reading	282.17	4,230,700			Wareham	307.22	2,667,400		
Rehoboth	138.98	2,668,000			Warren	211.98	492,100		
Revere	3.50	25,200			Warwick	11,591.20	13,434,000		
Richmond	288.93	1,748,100			Washington	11,522.18	8,885,800		
Rochester	1,391.35	3,471,900			Wayland	50.62	6,016,200		
Rockport	76.99	2,220,800			Webster	491.46	1,173,200		
Rowe	257.38	518,500			Wellfleet	71.19	805,300		
Rowley	1,193.27	8,607,300			Wendell	8,044.80	10,273,600	581.86	1,208,800
Royalston	4,950.63	8,961,700			Wenham	0.79	316,900		
Russell	617.20	330,800			West Boylston	0.00	0	2,736.37	18,179,100
Rutland	857.48	7,549,200	6,465.16	30,147,200	West Bridgewater	1,266.47	2,983,400		
Salem	33.36	5,307,700			West Brookfield	1,084.37	4,713,300		
Salisbury	1,188.34	9,843,900			West Newbury	369.59	5,477,600		
Sandisfield	4,559.00	5,385,200			West Stockbridge	345.08	1,125,500		
Sandwich	9,100.30	61,677,900			West Tisbury	2,474.68	82,710,800		
Saugus	0.68	353,400			Westborough	1,097.80	11,010,100	190.78	2,539,700
Savoy	11,924.00	10,778,800			Westfield	888.20	11,134,700		
Scituate	5.00	5,000			Westford	22.500	22,500		
Sharon	1,170.64	12,467,100			Westminster	3,441.54	23,568,000		
Sherfield	1,816.96	8,246,700			Westport	478.74	90,186,800		
Sherburne	74.70	213,200			Weymouth	71.15	1,078,600		
Shirborn	30.24	1,248,900			Whately	729.04	2,103,500		
Shirley	1,001.15	8,288,900			Wilbraham	56.00	294,800		
Shrewsbury	134.30	16,220,700			Williamburg	138.65	326,100		
Shutesbury	773.28	1,314,000	4,831.81	4,976,100	Williamstown	6,168.39	13,567,700		
Somerset	2.25	2,700			Winchendon	1,714.91	7,432,200		
South Hadley	648.81	2,799,300			Winchester	61.76	1,439,200		
Southampton	137.78	1,241,600			Windsor	4,997.84	7,152,300		
Southborough	15.10	273,000	1,310.62	14,820,000	Woburn	0.35	166,000		
Southbridge	152.91	349,900			Worcester	284.40	50,688,800		
Southwick	89.23	2,101,000			Worthington	3,330.71	5,482,600		
Spencer	1,296.41	9,846,400			Wrentham	1,817.97	2,436,500		
Springfield	63.37	3,370,900			Yarmouth	56.40	163,600		
Sterling	63.00	2,148,600	4,951.45	39,679,600	Grand total	417,946.92	2,883,808,600	101,699.06	353,954,100

Please visit our website for additional site-specific information by community.

What is Home Rule? *continued from page 1*

Under the Dillon Rule, Massachusetts municipalities were among those that were viewed as political subdivisions or creatures of the state. As a practical matter, this meant that cities and towns received their right to organize from the state and had no authority to act other than in ways granted by the General Court, or as implied by powers conveyed. Municipalities were permitted, in a limited way, to enact local laws provided the provisions were “not repugnant” to the state constitution, but all local laws were subject to annulment by the General Court.

Beyond this charter commission process, however, the extent of Home Rule is limited.

With the adoption of Amendment Article 89 and M.G.L. Ch. 43B in 1966, Massachusetts created some separation from the Dillon Rule. In general, a city or town in the Commonwealth can exercise a power or function through the approval of its legislative body (town meeting, city council or town council) and its voters. They can exercise any power through the adoption of an ordinance, by-law or charter that the state legislature has the authority to delegate. In the strongest exercise of Home Rule rights, communities can enact charters (through a charter commission process), without state approval, in order to organize local government in a way that best meet the needs of their citizens.

However, there are significant limitations. Despite Home Rule, some local actions require approval of the state legislature. Others are allowed only through local acceptance of state statutes. In every instance, the legal doctrine of pre-emption prevails. That is, a provision of local law will stand only so long as it is not inconsistent with the state constitution or general laws. Lastly, specific constitutional language (Amendment Article 89, Section 7) reserves to the state sole authority to regulate elec-

tions; levy, assess and collect taxes; borrow money or pledge a municipality’s credit; dispose of parkland; enact private or civil laws; and impose criminal penalties.

The initial responsibility to determine whether adopted local provisions may stand rests with the State Attorney General and specifically with the Municipal Law Unit within that office.

As explained on the Municipal Law Unit website, “whenever a town adopts or amends its general by-laws or zoning by-laws, within 30 days of adjournment of town meeting, the Town Clerk is required to submit them to the Attorney General for review and approval. The Attorney General then has 90 days in which to decide whether the proposed amendments are consistent with the constitution and the laws of the Commonwealth. If the Attorney General finds an inconsistency between the proposed amendments and state law, the amendments or portions thereof will be disapproved. The Municipal Law Unit is responsible for undertaking this review and for issuing a written decision approving or disapproving by-law amendments. The Municipal Law Unit does not, however, review proposed city ordinances.

In regard to charters, “whenever a city or town seeks to adopt or amend its charter pursuant to the Home Rule Procedures Act (General Laws, Chapter 43B), the proposed charter or charter amendments must be submitted to the Attorney General for his opinion as to the consistency between the charter (or charter amendments) and state law. The Attorney General then has 28 days in which to make this determination. The Municipal Law Unit is responsible for undertaking this review and for issuing a written decision.”

Clearly, Home Rule, or self-governance, exists in Massachusetts when a city or town adopts a charter through the approval of its legislative body and its electorate. Beyond this charter commis-

According to the Massachusetts General Court website, during each annual session since 2001, approximately 70 percent of all legislation approved, or 230 new laws on average, have been special acts.

sion process, however, the extent of Home Rule is limited. Today, as municipalities struggle financially, they are more frequently seeking to generate new revenue sources, as well as to act on seemingly routine matters, only to find that they lack the requisite authority to do so.

For a city or town, the process of drafting, authorizing, filing and waiting for the approval of a special act creates financial, administrative and political burdens. For the Massachusetts Legislature, the sheer volume of special acts overwhelms the docket of each chamber and diverts time and attention from issues of global importance to the Commonwealth. According to the Massachusetts General Court website, during each annual session since 2001, approximately 70 percent of all legislation approved, or 230 new laws on average, have been special acts. Among requests, cities and towns must seek the State’s permission to issue liquor licenses; to reorganize government or manage local elections; to reserve their money in special revenue funds; and to convey or lease certain property.

Ultimately, more than the Dillon Rule, it is the General Court’s exclusive constitutional right to legislate on certain matters and, in particular, the doctrine of pre-emption that work to restrict local self-rule and to perpetuate the ongoing involvement of the state in municipal affairs. ■

Municipal Fiscal Calendar

November 1

Taxpayer: Semi-Annual Tax Bill — Deadline for First Payment. According to M.G.L. Ch. 59, Sec. 57, this is the deadline for receipt of the first half semiannual tax bills or the optional preliminary tax bills without interest, unless bills were mailed after October 1, in which case they are due 30 days after mailing.

Taxpayer: Semi-Annual Tax Bills — Application Deadline for Property Tax Abatement. According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on the same date as the first actual tax installment for the year.

Taxpayer: Quarterly Tax Bills — Deadline for Paying 2nd Quarterly Tax Bill Without Interest.

Treasurer: Deadline for Payment of First Half of County Tax.

November 15

Treasurer: First Quarter Reconciliation of Cash.

DOE: Notify Communities/Districts of Any Prior Year School Spending Deficiencies. By this date, or within 30 days of a complete End of Year Report (see September 30), DOE notifies communities/districts in writing of any additional school spending requirements.

November 30

Selectmen: Review Budgets Submitted by Department Heads. This date will vary depending on dates of town meeting.

December 15

Taxpayer: Deadline for Applying for Property Tax Exemptions for Persons. If tax bills are mailed after September 15, taxpayers have 3 months from the mailing date to file applications for exemptions.

Accountant/Superintendent/School Committee: Submit Amendments to End of School Year Report to DOE. Last filing date to impact next year's Chapter 70 State Aid.

December 31

State Treasurer: Notification of Quarterly Local Aid Payments on or Before December 31.

Water/Sewer Commissioners: Deadline for Betterments to be Included on Next Year's Tax Bill (M.G.L. Ch. 80, Sec. 13; Ch. 40, Sec. 42I and Ch. 83, Sec. 27).

Selectmen: Begin to Finalize Budget Recommendation for Review by Finance Committee.

Assessors: Mail 3-ABC Forms to All Eligible Non-Profit Organizations.

Collector: Deadline for Mailing Actual Tax Bills. For communities using the annual preliminary billing system on a quarterly or semiannual basis, the actual tax bills should be mailed by this date.

January 1

Assessors: Property Tax Assessment Date. This is the effective date (not for exemption purposes) for statewide assessed value for all property for the following fiscal year.

January 31

DOE: Notify Communities/Districts of Estimated Net School Spending Requirements for the Next Year. As soon as the Governor releases the ensuing year's budget, DOE notifies communities/districts of the estimated NSS requirements. These figures are subject to change based on the final approved state budget. ■

Meals and Rooms Local Option Forms

Please see our website at the links below for forms related to Local Option Meals and Rooms notification of acceptance. Notification must be done within 48 hours of local acceptance.

Meals Tax (Chapter 64L, Section 2(a)): <http://www.mass.gov/Ador/docs/dls/mdmstuf/LocalOptions/mealsadopt.doc>

Room Occupancy Acceptance (Chapter 64G, Section 3A): <http://www.mass.gov/Ador/docs/dls/mdmstuf/LocalOptions/roomadopt.doc>

Room Occupancy Rate Change (Chapter 64G, Section 3A): <http://www.mass.gov/Ador/docs/dls/mdmstuf/LocalOptions/roomupdate.doc> ■

Please remember to update the online Local Officials Directory so that both municipal and state officials have accurate contact information.



City & Town

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To obtain information or publications, contact the Division of Local Services via:

- website: www.mass.gov/dls
- e-mail: cityandtown@dor.state.ma.us
- telephone: 617-626-2377
- mail: PO Box 9569, Boston, MA 02114-9569



City and Town welcomes the submission of municipal Best Practice articles and ideas. To do so please contact us at: cityandtown@dor.state.ma.us or by calling 617-626-2377.