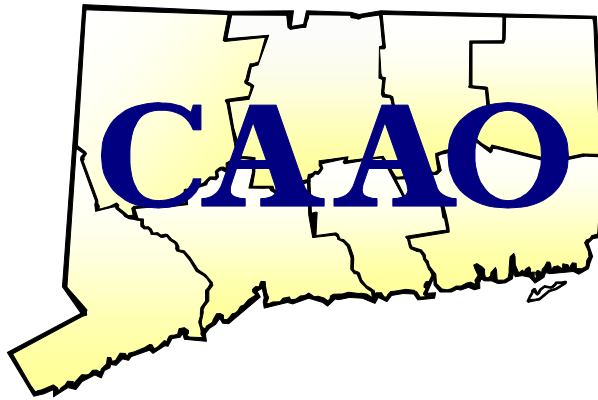


# BOARD OF ASSESSMENT APPEALS HANDBOOK



A Guide to Property Tax Administration for  
Connecticut's Municipal  
Boards of Assessment Appeals

REVISED EDITION 2017

Connecticut Association of Assessing Officers

# Table of Contents

**PREFACE**..... iii

**BOARDS OF ASSESSMENT APPEALS DEFINED** ..... 1

    Municipal Boards as Appeal Agencies ..... 1

**CHAPTER 1: ASSESSMENT PRACTICE: AN OVERVIEW** ..... 3

    Assessment Process ..... 3

    Assessment Review in Connecticut..... 5

    Effects of Revaluation on the Board ..... 5

    Right of Appeal..... 5

**CHAPTER 2: DUTIES AND ACTIVITIES OF THE BOARD** ..... 7

    Powers of the Board ..... 7

    Statutory Duties ..... 8

    Who May Appeal?..... 9

    Appeals Procedure ..... 11

    Additions to the Grand List by the Board ..... 12

    Completion of Board’s Work..... 12

    Accountability ..... 13

**CHAPTER 3: APPEALING THE BOARD’S DECISION TO THE COURTS** ..... 16

    Appeals to the Courts..... 16

    Who May Appeal the Board’s Decision..... 16

    Court Procedures ..... 17

    Court Appeals..... 18

    Action by the Municipality ..... 19



<b>CHAPTER 4: FREEDOM OF INFORMATION .....</b>	<b>20</b>
Agendas, Minutes, Records & Notices Etc.....	20
Public Agencies .....	20
Public Meetings.....	20
Meeting Minutes.....	22
Executive Sessions.....	22
Public Records.....	22
Penalties.....	23
Denial of Access to Public Records or Meetings.....	23
<b>CHAPTER 5: GENERAL INFORMATION .....</b>	<b>25</b>
Relationship with the Assessor .....	25
Responsibility to the Public.....	26
Fines and Penalties .....	28
<b>CHAPTER 6: REVALUATION OVERVIEW .....</b>	<b>29</b>
The Valuation Process and Appraisal Methods .....	31
Sales Comparison Approach .....	33
Cost Approach.....	33
Income Capitalization Approach.....	34
Mass Appraisal .....	35
<b>FREQUENTLY ASKED QUESTIONS.....</b>	<b>36</b>

# PREFACE

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This handbook is designed to provide an overview and reference guide to assist members of Boards of Assessment Appeals (BAA) to better understand the local (*Ad Valorem*) property tax system; the assessment and administration of the property tax, and their duties and responsibilities. It is not intended as a substitute for the Connecticut General Statutes, but rather to be used in conjunction with them. This edition marks the eighth revision of the handbook and the second time the Connecticut Association has revised and produced the handbook. Previous editions were compiled by University of Connecticut Professors Rosaline Levenson, Edward T. Dowling, George Hill, and Edward Sembor. This edition of the handbook was compiled by the Curriculum Development Committee of the Connecticut Association of Assessing Officers with input and guidance from the instructors of the BAA workshops, and it represents a significant rewrite of the design and content of the document. It was intended to make the handbook more reader-friendly and easy to understand for BAA members, many of whom must assume their duties with little or no formal training.

The book is now divided into six chapters, which have been renamed from the previous edition. A significant amount of information has been either consolidated or eliminated to reduce redundancy. Chapter 6, entitled “Revaluation Overview” is a new addition to the document and is intended to give the reader a basic understanding of the mass appraisal and the valuation process. The other chapters relate to the nature of assessment review, its role in the administration of the property tax, and current practices in Connecticut, concerning the organization and operations of boards of assessment appeals. Another new section added to the appendices is the “Frequently Asked Questions” section, which provides real answers and practical solutions to many common questions that BAA members will face in the conduct of their duties.

The Curriculum Development Committee would also like to thank Steve Hodgetts, who assisted with the final editing and review of the document. While every effort has been made to make the publication as complete and accurate as possible, the Connecticut Association of Assessing Officers assumes no responsibility for any errors of omission or commission.

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## **THE BOARD OF ASSESSMENT APPEALS DEFINED**

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### ***MUNICIPAL BOARDS AS APPEAL AGENCIES***

The Board of Assessment Appeals (BAA) is among the oldest, local government agencies in Connecticut. Its history dates back to the colonial period.

Created by state law, the BAA holds important powers affecting both the municipality and the taxpayer; paradoxically, they also constitute one of the lesser-known municipal agencies. Most taxpayers are aware of the office of assessor or tax collector in their communities. Few, however, know anything about the BAA until they have a disagreement about their property valuation. Board members themselves may know little about the office prior to their elections or appointments, and frequently learn about their functions and duties only after assuming office.

The BAA is an official municipal agency. It is designed to serve as an appeal body for taxpayers who believe that town or city assessors erred in the valuation of their properties or erroneously denied them exemptions. It is important to note that the BAA is not an assessing agency. It does not value taxable property as that is the function of the assessors. Its purpose is best explained by the word “review” which was formerly in the title. To review assessments, board members must have an understanding of the three approaches to value used by assessors and real estate appraisers in mass appraisal. It is a review body and as such serves independently of assessors. In most cases the BAA operates as an intermediary level between the assessors and the courts.

During a formal hearing before the BAA, aggrieved taxpayers usually present their body of evidence to either an individual board member or to the entire BAA, depending on jurisdictional preference. The individual board member, or the board as a whole, receives the evidence from the taxpayer while the taxpayer makes their case for a lower assessment. Board members may then query the taxpayer if necessary, with regard to the evidence. Once the hearing is completed the BAA, if meeting as a whole, may deliberate and vote as to whether an adjustment to the assessment is warranted. If the hearing is conducted with only an individual board member, that specific board member will present the evidence to the entire board during scheduled and noticed deliberations. The BAA will then vote as to whether an adjustment is warranted. Pursuant to Connecticut General Statute (CGS) §12-111 taxpayers are then notified in writing within 1 week as to the findings of the BAA.

The BAA now has the same educational outlets as assessors. Assessors have taken many steps to gain specialized knowledge vital to their profession. Meetings of professional organizations such as the Connecticut Association of Assessing Officers and the International Association of Assessing Officers give them the opportunity to meet and discuss issues, as well as to hear talks by leaders in the field.

The annual, weeklong School for Connecticut Assessors and BAA, conducted by the Center of Continuing Studies at the University of Connecticut provides courses for new and experienced assessors alike. Introductory classes provide a background in assessment practices. Advanced courses, designed for individuals with years of service, impart new and improved methods of assessing. In addition, the assessors make use of the Handbook for Connecticut Assessors, a practical guide which serves as a text on assessment procedures and laws.

Because they work closely with assessors, all of these resources are also open to BAA members. The fact that their work is part-time gives them the time to expand their knowledge, so they can properly carry out their statutory duties.

The BAA is an integral link in the chain of assessment reform. Members who tap into the educational opportunities offered, and become fully informed on assessment procedures- without preempting the Assessor's role in establishing assessed values- can better serve their communities, contributing the kind of assessment review that leads to equitable assessments.

Terms for membership of BAA members and alternate members are defined in CGS §9-199. Unless otherwise provided by law, each town elects the board that is comprised of three members elected for a term of four years. All members are elected (CGS §9-185) unless appointment is permitted legally. Some town charters and special acts, in fact, specify that they be appointed. CGS §9-199(c) now allows a municipality to appoint additional members to the BAA for any assessment year through its municipal legislative body.

## Chapter 1: ASSESSMENT PRACTICE: AN OVERVIEW

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### ***ASSESSMENT PROCESS***

The assessment process takes place before the BAA sits as a review body. This process, repeated annually, starts when the municipal assessor or board of assessors prepare an official listing of all taxable property in the community. This list, known as the Grand List, represents the assessed valuation of all taxable and tax-exempt property. The net Grand List, which is the total value after deductions for exemptions, becomes the municipality's tax base.

Taxable property consists of:

1. *Real Estate*: real property which refers to land and all improvements permanently attached to the land.
2. *Personal Property*: tangible property including but not limited to business personal property and unregistered motor vehicles.
3. *Motor Vehicles*: registered motor vehicles as supplied bi-annually by CT DMV.

Connecticut law sets forth the annual assessment date of **October 1** and requires assessments to reflect 70% of the *fair market value* except those which are classified as farm land, forest land or open space land. Fair market value is defined as the amount of money for which a property may be exchanged within a reasonable period of time and under conditions in which both parties are willing, able, and reasonably well informed.

### ***REAL ESTATE***

Values for real estate are set during the 5-year revaluation process. See **Chapter 6: Revaluation Overview** for more information.

### ***PERSONAL PROPERTY***

The personal property grand list is created new every year based on business declarations filed by November 1<sup>st</sup> by each business owner. Personal Property is tangible property including but not limited to business personal property and unregistered motor vehicles.

Personal Property is everything subject to ownership, excluding land, any interest in land or any permanent improvement thereon. This includes tangible items such as furniture, fixtures, equipment, leased equipment and leasehold improvements. Leasehold Improvements or Tenant Improvements (TI) may include real estate components such as ceilings, partitions, flooring and other affixed improvements that, when paid for and depreciated for IRS purposes by the lessee, are to be classified as personal property for assessment.

In Connecticut intangible personal property is not taxable with the exception of certain computer software pursuant to CGS §12-71(d)(1). Various sections of the Connecticut General Statutes address the assessment and taxation of tangible personal property. CGS §12-71 concerns the taxable status of personal property, its situs and method of assessment. Under the provisions of CGS §12-41 and CGS §12-42, all property owned, used or leased by anyone engaged in a business enterprise in the State of Connecticut, unless specifically exempt, must be declared and assessed by the assessor.

Even persons not engaged in a business enterprise may own personal property subject to taxation, such as unregistered motor vehicles and vehicles garaged in Connecticut but registered in another state.

All owners of taxable personal property are required to file declarations of such property with the assessor of the town where the property is located on the October 1<sup>st</sup> assessment date or with the assessor of the town where the property has established situs in accordance with the three month rule. This requirement applies to residents CGS §12-41 or non-residents CGS §12-43 of the municipality where the property is located. The three month rule establishes situs for property located in any town for three months or more preceding the assessment date.

Property owners must file a Personal Property Declaration regarding their taxable property with the assessor on or before November first, in accordance with CGS §12-41. If a taxpayer does not file the declaration on or before the first day of November, OR on or before the extended filing date that the assessor may grant under CGS §12-42, the taxpayer's assessment is subject to a 25% penalty.

If a property owner fails to file the declaration, CGS §12-42 requires the assessor to estimate the value based on the best information they can obtain. The estimated assessment is subject to the 25% assessment penalty. CGS §12-53(c) states that the board cannot reduce the assessment until the property owner has provided documentation to substantiate such value.

## ***MOTOR VEHICLES***

The motor vehicle grand lists are created new every year with all registered motor vehicles provided by CT DMV. The regular list is billed in July and the supplemental list is billed in January. The Connecticut Association of Assessing Officers, in conjunction with the State of Connecticut, Office of Policy & Management recommends NADA pricing guidelines each year for the motor vehicle grand list. Many towns also use the VinDecode and Incomplete Trucks software systems, the internet and other resources to supplement the NADA pricing guides.



**Note:** The fair market value of a parcel of real property is established during a year of revaluation. Fair market values for personal property and motor vehicles are established new each year.

### ***ASSESSMENT REVIEW IN CONNECTICUT***

Assessment review relates to procedures that ensure property valuations are just and equitable. An extended and involved process, it begins with the Assessor and ends with the Board of Assessment Appeals. CGS §12-62 and CGS §12-55 provide that the Assessor is responsible for establishing the Grand List and that during a revaluation, “the Assessor establishes the fair market value of all real estate in order to equalize the tax burden among property owners”. Numerous statutes that are discussed in *Chapter 7: Revaluation*, provide an oversight of the valuation process and a critical part of that oversight is the Board of Assessment Appeals. The boards of assessment appeals are provided by statute to act as an independent body of review for property owners who wish to appeal their assessments after exhausting more informal channels of appeal such as the Assessor or the revaluation company. For this reason it is important for a board member to familiarize themselves with the overall valuation process in their community. Likewise, it is incumbent upon the Assessor to help educate the BAA on the valuation process in their respective community and to encourage them to attend the BAA workshops given annually by the Connecticut Association of Assessing Officers. It is commonly held that, whether elected or appointed, board members should have some familiarity with property values in their respective communities.

### ***EFFECTS OF REVALUATION ON THE BOARD***

Revaluation generally prompts significant changes in the municipality’s Grand List. Consequently, the boards’ experience their heaviest workloads following a revaluation in which the number of appeals it normally hears can increase significantly. CGS §9-199(c) allows a municipality, by ordinance, to appoint additional members to the BAA for any assessment year.

### ***RIGHT OF APPEAL***

The first formal appeal a taxpayer can make is to the Board of Assessment Appeals in the town or city where the property is located. To accomplish this, taxpayers must take two initial steps:

- 1) Make a written application on or before February 20 (March 20 if the Assessor has received an extension for the filing of the Grand List)
- 2) At one of the meetings, offer or consent to be sworn in and give facts required by the BAA, either orally or in writing, or both.

Taxpayers may choose to be represented by attorneys, and if they are not satisfied with the BAA's decision they may appeal to the Superior Court of the judicial district of the town or city in which their property is located. Further information on this process will be discussed in *Chapter 3: Appealing the Board's Decision to the Courts*.

Board members should only consider appeals of assessments based on the facts presented that affect value, not when a taxpayer feels that their taxes are too high. Changes in assessments should be based solely on the facts presented. Occasionally a taxpayer may appeal to a board's sympathies and as difficult as it may be to stay the course, the BAA must understand that reductions in assessment are absorbed by the remaining taxpayers.

Occasionally taxpayers may present appraisals with the appeals as justification for a change in value; this course of action is most certainly appropriate. The scope of an appraisal can be for many reasons, such as refinancing a mortgage or settling an estate. It is possible to create a retrospective appraisal, and a tax appeal is one example of a time when one would be warranted. The BAA should be careful to review the appraisal submitted and feel confident that the scope of the appraisal meets the desired purpose of property establishing value as of the appropriate revaluation date. Opinions of value such as a Broker Price Opinion (BPO) or a realtor's opinion of value can be reviewed but perhaps not given complete weight towards a valuation appeal. Opinions of value as such are not held to appraisal regulations or reporting standards.

## CHAPTER 2: DUTIES AND ACTIVITIES OF THE BOARD

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Most of the BAA's work entails hearing taxpayers' appeals and acting on their complaints. The process, which is described under Title 12 in the General Statutes, frees the courts from handling minor cases while freeing taxpayers from costly and time consuming litigation. In most instances, the courts will not hear a case unless the taxpayer uses the legal remedy for relief which boards of assessment appeals provide.

The BAA is said to carry out administrative or ministerial duties when it adds omitted property to the assessment rolls, sends out notices of any changes in taxpayer's assessments or makes supplemental lists. These functions are specified in the statutes and must be performed by the BAA. Although the statutes frequently use the word "may" the courts will often consider the term equivalent to "shall" or "must."

### ***POWERS OF THE BOARD***

Before hearing an appeal, the BAA **shall** administer oaths in cases coming before them (CGS §1-24 and CGS §1-25).

After hearing an appeal, the Board may take any of the following actions:

1. Correct issues or mistakes in assessment of property (CGS §12-60). The court is quick to point out this power does not authorize assessors or the BAA to review assessments which were previously appealed and revised by the Board unless there was a change in their property. (CGS §12-111)
2. Add to the Grand List the name of any person omitted by the Assessor and owning taxable property in town. (CGS §12-111)
3. Increase or decrease the assessment of any taxable property. (CGS §12-111)
4. Within 3 months from the completion of their regular duties, the BAA may make supplemental lists for additions to the Grand List of any taxable property omitted in error. (CGS §12-115)
5. Elect not to conduct an appeal hearing for any commercial, industrial, utility or apartment properties with an assessment greater than \$1,000,000 (CGS §12-111). *Note: if the BAA declines to hear such an appeal it must send written notification of its decision by March 1<sup>st</sup> to the person having requested the hearing.*
6. Waive the Income and Expense penalty if a town's legislative body adopts an ordinance allowing the waiver. (CGS §12-63c(d))

## ***STATUTORY DUTIES***

The following statutory duties are mandated by law after BAA members are sworn in.

1. Notice of all regular public meetings to be held by a town's public agency, as defined in CGS §1-200, must be filed with the Town Clerk. The Board of Assessment Appeals must file notice of its meetings for the ensuing year by January 31st with the Town Clerk. This notice requirement also encompasses any other regularly scheduled meetings (such as an organizational meeting) that the Board may schedule. With respect to meetings to be held in either March or April, the notice as filed should indicate that the Board will schedule hearings for assessment appeals received on or before the applicable grievance date. (CGS §1-225)
2. The agenda of regular meetings shall be available to the public and shall be filed not less than 24 hours before the meetings in the agency's office or place of business. (CGS §1-225)
3. Must meet in March to hear appeals or April if the Assessor was granted an extension for filing the Grand List. These meetings must be held on business days, which may include Saturdays; the last meeting must be no later than the last business day in March or April. (CGS §12-110)
4. Must convene at least once in September solely for motor vehicle appeals. Notice of the September meeting(s) must be published in a local newspaper at least ten days before the first meeting. These meetings must be held on business days, which may include Saturdays. (CGS §12-110)
5. Must send written notice of the date, time and place of an appeal hearing to each taxpayer who files a hearing request in the required form. Said notice must be sent not later than March 1<sup>st</sup> and at least seven calendar days before the date of the hearing. If the town's assessor receives an extension to complete the Grand List the written notice must be sent not later than April 1<sup>st</sup> and at least seven calendar days before the date of the hearing. (CGS §12-111)
6. Must hear appeals of persons claiming to be aggrieved by the actions of the Assessor (CGS §12-111 and CGS §12-504d) including any lessee of real estate property whose lease has been recorded and who is bound under the terms of a lease to pay the real property taxes and any person whom title to such property has transferred since the assessment date.

7. Must send written notification of the final determination of such appeals to each such person within one week after such determination has been made. Such written notification shall include information describing the property owner's right to appeal the determination of the BAA. (CGS §12-111)
8. When the BAA determines to increase an assessment for which the owner failed to file the Personal Property Declaration or has omitted assets, the BAA shall add 25% of such assessment, as described in CGS §12-41. (CGS §12-115)
9. Must grant exemptions to disabled veterans whose proof of disability was not filed by the October 1<sup>st</sup> deadline; this extends the deadline to the date that the Board completes its duties. (CGS §12-95)
10. Meetings of all public agencies, except executive sessions, shall be open to the public. All actions of the BAA must be recorded in the meeting minutes. (CGS §12-113)  
Agency minutes and record of votes must be available to the public.
11. Minutes must be available to the public within 7 days of each meeting, either in the agency's office, website or the office of the Secretary of the State. They must contain the record of each member's vote. Additionally, the votes must be put in writing, and made available to the public within 48 hours of the meetings (excluding weekends and holidays). (CGS §1-225)

### **WHO MAY APPEAL?**

Individuals or organizations claiming to be aggrieved by the actions of the town or city assessors may appeal to the BAA. Only the BAA has the power to take appeals from taxpayers and review and correct the work of assessors.

This is authorized under CGS §12-111 and CGS §12-113. Under CGS §12-119, appeals may be taken directly to the Superior Court without first applying to the Board and is discussed further in *Chapter 3: Appealing the Board's Decision to the Courts*.

The following individuals or organizations may appeal to the BAA if they feel they are aggrieved by the actions of the Assessor:

1. Taxpayers owning property in the town or city, including any lessee of real property whose lease has been recorded as provided in CGS §47-19, and who is bound under the terms of the lease to pay real property taxes. This includes anyone to whom the title to such property has been transferred since the assessment day.
2. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization that claims property tax exemption under provisions of CGS §12-81 and files a tax exempt statement with the Assessor or Board of Assessors (CGS §12-89).

3. Any farmer or group of farmers applying for tax exemptions of farm machinery, horses or ponies owned in the state. (CGS §12-91)
4. Any property owner claiming property tax exemptions.
5. Any association of unit owners charged with the administration of property under the Condominium Act, appealing on behalf of property owners. (CGS §47-80(a))
6. Any owner of farm land (CGS §12-107)(c)), forest land (CGS §12-107(d)), open space (CGS §12-107(e)) and CGS §12-107(f)) and maritime heritage (CGS §12-107(g)) and others qualifying under CGS §12-96 to CGS §12-100, who were denied special classification for taxation purposes (CGS §12-103) and any person who disagrees with the additional conveyance tax determined under CGS §12-540(a) to CGS §12-504(f).
7. Any individual or organization aggrieved by the Assessor's imposition of an additional conveyance tax under CGS §12-504 a through f.
8. The BAA also has the right to *not* conduct a hearing on commercial, industrial, utility, or apartment property (CGS §12-111) with an assessed value greater than \$1,000,000, however it may be beneficial to consult with the Assessor prior.

Any person receiving an increase in assessment as a result of a certificate of correction for a clerical error (CGS §12-60) or new real estate construction (CGS Sec 12- 53a ) or personal property audit (CGS §12-53), *may appeal to the next succeeding Board of Assessment Appeals* if the meetings of the BAA for the current Grand List have passed.

What constitutes an aggrieved taxpayer has been considered by the court in several cases. For example, a person who believes their property had an excessive valuation which the BAA refused to reduce is aggrieved in the eyes of the court. However, a taxpayer is not aggrieved unless the alleged assessment increases his or her tax. Moreover, the court has affirmed a taxpayer is not aggrieved where his property was assessed at its true and full value, despite an error in the method of valuation.

## ***APPEALS PROCEDURE***

Appeals must be presented to the BAA at either its March or September meetings (CGS §12-111). The September sessions of the BAA are reserved for the purpose of motor vehicle assessment appeals only.

The taxpayer must:

1. Submit a written application for appeal to the Board of Assessment Appeals, on or before February 20<sup>th</sup>, or March 20th if the Assessor was granted an extension for filing of the Grand List. (CGS §12-111) *Note: written applications are not required by law for September meetings but some boards request one.*
2. Appear before the BAA or have his or her attorney or duly authorized agent appear in person at one of its meetings. (CGS §12-113)
3. Be sworn, or have his or her duly authorized agent sworn, before the BAA, and answer all questions concerning his or her taxable property in town. (CGS §12-113)
4. Attorneys do not need to be sworn in by the BAA as they are already considered commissioners of the court. (CGS §12-113)

The written appeal shall include the property owner's name, name and position of the signer, description of the property which is the subject of the appeal, name and mailing address of the party to be sent all correspondence by the BAA, reason for the appeal, appellant's estimate of value, signature of the property owner or duly authorized agent of the property owner, and the date of the signature. (CGS §12-111) If any of the above items are missing, or if it is received after the February 20<sup>th</sup> deadline, the appeal may be rejected.

Should all BAA members be present when an appeal is heard? The statutes are silent on this question. They also do not shed much light on how many members must be in attendance when action is taken on the appeal. Statutes are quite clear, however, in stating that **all meetings**, including deliberations, must be noticed and open to the public. (CGS §12-110; CGS §1-225).

The workload tends to vary with the population but also appears to be greatest in periods following a **revaluation**. The result of heavy loads is that BAA members may not have the time to inspect all pieces of property, or to assemble to hear every appeal. Time may be saved if only one member hears an appeal, enabling other members to take other cases. If the BAA elects to hear appeals by one member, it must still make its decision as a board. A municipality **may**, by ordinance, authorize its legislative body to appoint additional members to the BAA for any assessment year. (CGS §9-199(c))

## ***ADDITIONS TO THE GRAND LISTS BY THE BOARD***

The BAA may, within 3 months from the date prescribed by law for the completion of their regular duties, add to the Grand List of a town any taxable property which was omitted in error by the Assessor, Board of Assessors or the BAA. The omitted assessment shall reflect for each owner, an assessment at 70% of the present true and actual value of such owner's taxable property. *Note: If the owner failed to file a Declaration of Personal Property as prescribed by law, 25% shall be added to such assessment.*

The BAA shall send a notice to such property owner within one week after the completion of such supplemental additions to the Grand List, stating the increased assessment and giving a time and place for a hearing regarding such increase. Any person aggrieved by the action of the BAA may, within 2 months from the time of such action, have the same right to appeal to the Superior Court as provided by CGS §12-117a.

## ***COMPLETION OF BOARD'S WORK***

The BAA must finish its duties by the last business day in March. (CGS §12-110(b)) The BAA may, for due cause shown, request an extension of the Chief Executive Officer for one month for the completion of its duties. If the extension is requested for the assessment year in which a revaluation takes place, the period can be extended for two months. The Chief Executive Officer of the town must send written notice of the extension to the Secretary of the Office of Policy and Management (OPM) within two weeks of approving the extension. (CGS §12-117)

If during a revaluation year, the BAA has more appeals than it can handle in its allotted time frame, the following procedure applies. The Secretary of the Office of Policy and Management may authorize assessors to use the last prior assessment list, subject to transfers of ownership, additions of new construction, reduction for demolitions and any adjustments the BAA authorized under CGS §12-115. A town's BAA and its Chief Executive Officer must provide information to OPM, in writing, concerning the number of pending appeals. Subject to those additions for new construction, reductions for demolitions and such adjustments as are authorized by the BAA, the list from which the appeals were taken then becomes the list for the next assessment year.

After the Grand List has been examined and corrected by the BAA, the Assessor sends an abstract of the list to the Secretary of OPM before the first day of May. The Secretary furnishes a form for this purpose annually at least 30 days before the date on which it is to be filed. The Assessor or Board of Assessors should correct any clerical errors that appear on the corrected Grand List. (CGS §12-120)



## **ACCOUNTABILITY**

Because of the vital role the BAA plays in assessment administration, the General Assembly has put procedures in place to hold the BAA accountable for their actions. The Secretary of the Office of Policy and Management, as well as the state's attorney may examine the BAA's operations and records. As a further check, their decisions are subject to judicial review by state and federal courts. Some actions are, by law, expressly forbidden to the BAA:

1. They shall not adjust the assessment of personal property belonging to any person, or the valuation, number, quantity, or amount of any item of property reflected therein until the BAA receives information necessary to substantiate such an adjustment in accordance with subsection (c) of CGS §12-53. Even if such person has refused or unnecessarily neglected to give such Personal Property Declaration to the Assessor as prescribed by law. (CGS §12-114)
2. They may not remove a penalty imposed under CGS §12-41(d) for individuals who fail to file a Personal Property Declaration or a penalty that is imposed for omitted property. However, penalties may be adjusted to reflect an increase or decrease to the assessment that is changed by the BAA. (CGS §12-114)
3. They shall not reduce the valuation or assessment of property on the Grand List belonging to any person who does not appear at a hearing before the BAA, or have their attorney or agent appear before the BAA and offer or consent to be sworn before it and to answer questions concerning their taxable property within the town, (CGS §12-113)
4. The BAA may not remove the 10% assessment penalty for late or non-filing of the Income & Expense Form as required by CGS §12-63c unless the municipality adopts the ordinance outlined in CGS §12-63c(d).
5. When the BAA increases or decreases the gross assessment of any taxable real estate or interest therein, the amount of the gross assessment shall be fixed until the next revaluation unless the Assessor increases or decreases the gross assessment to (1) comply with a court order, (2) reflect an addition for new construction, (3) reflect a reduction for damage or demolition, or (4) correct a factual error by issuance of a certificate of correction. (CGS §12-111)
6. They may not hear appeals which have not been made at the proper time; that is for the current Grand List year by February (or March) 20th or during September, which are reserved for appeals related to motor vehicle assessments only. (CGS §12-112)
7. They may not perform unlawfully, or omit any necessary action connected with the assessment process. (CGS §12-170)

8. They may not charge or receive illegal fees. (CGS §12-170)

In addition, the General Statutes contain the following provisions that hold boards of assessment appeals, along with other municipal officers, accountable to state authority:

If the Secretary of the Office of Policy and Management decides that a BAA has failed in its administrative duty, by law, he or she may bring this in writing to the attention of the BAA. Should the BAA not comply, the Secretary of OPM may apply to the Superior Court in the judicial district where the BAA is located; if the court finds the facts stated in the application to be true, it issues an order requiring compliance. (CGS §12-4)

If the state's attorney believes that a BAA has falsified records, or has appropriated money for its own use or the use of others not entitled to it, he or she may apply to the Secretary of the Office of Policy and Management. The Secretary may order an audit of the BAA's record and transmit a certified copy of his or her report to the State's Attorney. Any audit costs are borne equally by the municipality and the state.

An official of a municipality who has falsified any books, accounts or records or has appropriated any monies inappropriately, or who refuses to deliver them to the Secretary of OPM or his or her agent, shall be charged with a Class D misdemeanor (CGS §12-6).

The Secretary of OPM has considerable power over property tax administration. In practice, he or she generally goes along with the majority vote of the BAA. However, on questions concerning the proper execution of law, CGS §12-4 permits the Secretary of OPM to investigate irregularities.

Besides appealing to the Secretary of OPM, a board member with a complaint against other board members may also appeal to the Chief Administrative Officer and the town counsel.

The Secretary of the Office of Policy and Management may hold meetings, conferences and schools for assessors, boards of assessment appeals, tax collectors and/or municipal finance officers. (CGS §12-2b)

Records must be kept in accordance with the Connecticut State Library as set forth by the following retention schedule:

M4-010. Appeals, including appraisals and any related notifications (CGS §12-111, CGS §12-113).

1. Minimum retention is one year if no court appeal taken.
2. May be destroyed after receipt of signed form RC-075.

## ***CONFLICT OF INTEREST***

BAA members should avoid the appearance of conflict of interest. A conflict of interest exists when one is acting in their official capacity and has a personal interest such as a close relative or business associate or a financial interest in the matter being considered.

At times there may be a perceived conflict of interest. The “appearance of impropriety” is a phrase referring to a situation where a lay person, without knowledge of the specific circumstances, might raise ethics questions. Although there is no specific rule, BAA members should consider what a reasonable member of the general public would think and recuse themselves from any discussion or decision where a perceived conflict exists.

## **CHAPTER 3: APPEALING THE BOARD'S DECISION TO THE COURTS**

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### ***APPEALS TO THE COURTS***

Decisions rendered by the Board of Assessment Appeals are binding unless altered by the Assessor as described in CGS §12-111 or are appealed to the Superior Court as described in CGS §12-117a or CGS §12-119.

Following a decision by the BAA, assessors may only increase or decrease assessments of any taxable real property for new construction, demolition or to correct a factual error. If the assessment is changed prior to the next revaluation for these reasons, the Assessor must submit a written explanation to the BAA setting forth the reason and append a written explanation to the property record card. (CGS §12-111) In general, the BAA's work is ended once a case goes to court. It should be noted that the meeting minutes and board members' notes are subject to the discovery process with the appeal. This means that the meeting minutes and notes may be requested by the attorneys representing both the plaintiff and defendant. Additionally, the BAA may also be asked to testify.

During the court appeal period, the BAA cannot review the case again just as the Assessor or town counsel cannot reduce an assessment after a case is brought to court.

### ***WHO MAY APPEAL THE BOARD'S DECISION***

Following an appeal to the BAA, the individuals or organizations listed below may appeal the decision to Superior Court.

1. Any person claiming to be aggrieved by an action of the BAA. This includes any lessee of real property whose lease has been recorded, as provided in CGS §47-19 and who is bound under the terms of the lease to pay real property taxes. (CGS §12-117a)
2. Any person aggrieved by an action of the BAA in compiling a supplemental list. (CGS §12-115)
3. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization denied tax exempt status. (CGS §12-89)
4. Any farmer or group of farmers denied tax exemptions of farm machinery, horses or ponies owned in the state. (CGS §12-91)

5. Any owner of farm land (CGS §12-107c), forest land (CGS §12-107(d)), open space (CGS §12-107(e)) and CGS §12-107(f)) and maritime heritage (CGS §12-107(g)) and others qualifying under CGS §12-96 to CGS §12-100, who were denied special classification for taxation purposes (CGS §12-103) and any person who disagrees with the additional conveyance tax determined under CGS §12-540(a) to CGS §12-504(f).
6. Anyone (ie: veteran, spouse of a veteran or blind person or spouse) that was denied a property tax exemption. (CGS §12-81)
7. Any other individual or business denied exemption under the various exemption laws of the state.
8. Any person receiving an increase as a result of a certificate of correction for a clerical error (CGS §12-60) or new real estate construction. (CGS §12-53a)
9. Any owner of commercial, industrial, utility or apartment property with an assessed value of \$1,000,000 or more whose appeal the BAA has chosen not to hear. (CGS §12-111)

### ***COURT PROCEDURES***

Under CGS §12-117a, the following procedures must be followed for appealing BAA decisions to the Superior Court for the judicial district in which the town is located:

1. The appeal must be in the form of an application and accompanied by a citation to the taxpayer's town or city to appear before the court.
2. The citation must be signed by the same authority and the appeal served and returned in the same manner as a summons in a civil action.
3. The authority issuing the citation must take from the applicant, a bond or recognizance to the town or city, with surety to prosecute the application and to comply with all court orders and decrees.
4. If a new assessment year begins during a pending appeal to the court, the applicant may amend his or her application. The applicant does not have to appear before the BAA again to make the amendment effective.
5. An appeal from a BAA decision is considered a preferred case. It will be heard by the Superior Court at its first session – unless good cause appears to the contrary – or the court will appoint a committee to hear the case. **Board members are typically not called upon to participate in the appeals before the court; the Assessor and town attorney will be called on to present the town's position.**
6. Pending the appeal, the town or city cannot collect more than 75% of the tax assessed or 90% if the assessment is \$500,000 or more. Still, while the right to enforce payment is suspended by the appeal, the accrual of interest is not.

7. If the court reduces the assessment, the municipality must reimburse the applicant for any overpayment of taxes. Costs and interest may be awarded at the discretion of the court.
8. The Superior Court has the power to grant relief in equitable ways. For example, the court may add property to the Grand List. It may impose double or triple costs, if the application appears to have been made without probable cause, and it may charge court costs at its discretion. However, the court will not generally reduce the valuation below that given by the owner nor will it place the valuation higher than that of the Board of Assessment Appeals.

The town counsel and taxpayer's attorney may reach agreement in a disputed assessment case. Even so, they must bring the case to the Superior Court for the judicial district in which the taxpayer's property is located and obtain approval of the court. The court may or may not follow their advice, but a court case cannot be avoided by seeking an agreement out of court.

## ***COURT APPEALS***

CGS §12-117a:

It is basic to a CGS §12-117a tax appeal that “the taxpayer bears the burden of establishing that the Assessor has over-assessed its property.”

Without a significant foundation for an appraiser's opinion of value, the court should give deference to valuation arrived at by the BAA or the Assessor. The town, in support of its valuation does not need to provide an appraisal and is not required to do so.

If the plaintiff's appraiser provided an incomplete appraisal, failed to use actual income and expense figures or failed to use credible comparable properties to arrive at the value of the subject property, the court should not credit that testimony.

When an appraiser uses the Income Approach as a method of determining the value of income producing property, the appraiser must be aware of CGS §12-63b(b) that requires the Assessor and therefore the appraiser to consider the contract rent of the subject property when determining market rent.

The ultimate question in a CGS §12-117a appeal is not the value of separate segments of the taxpayer's property, but rather the ascertainment of the true and actual value of the taxpayer's property. The court has rejected a plaintiff's claim that the court is limited to considering only valuation of a portion of the property when that is all that the plaintiff led in its complaint. The Supreme Court in *Konover v. Town of West Hartford* concluded that the trial court could not exclude part of the taxpayer's property from consideration and therefore must consider all of the property as a whole.

CGS §12-119:

This section differs from CGS §12-117a in that the taxpayer files suit directly with Superior Court within one year of the October 1<sup>st</sup> assessment date and not with the BAA. The burden of proof is on the taxpayer to prove malfeasance on the part of the Assessor. This process is designed to request relief against an illegal tax and the procedure differs from an appeal to the BAA which is designed to act directly on valuations on the Grand List. The mere fact that a property has been overvalued is not grounds for relief under this section; the taxpayer must prove that the Assessor disregarded fair market value statutes and established an assessment that was manifestly excessive.

***ACTION BY THE MUNICIPALITY***

Once the value is determined by the court, the Assessor must maintain that value for succeeding years until he or she finds that the value of the property has increased or decreased. (CGS §12-117a) The final court stipulation for judgment typically contains language that allows adjustments in property valuation for improvements or deletions made to the subject property.

## **Chapter 4: FREEDOM OF INFORMATION**

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### ***AGENDAS, MINUTES, RECORDS & NOTICES ETC.***

The BAA is considered a public agency and falls under the auspices of the Freedom of Information Act. Their duties must conform to the requirements of the act as promulgated under the Freedom of Information Commission (FOIC).

The FOIC was created in 1975 with the General Assembly's passage of the Freedom of Information Act. The act provides the public with rights to access records and meetings of public agencies. If people feel that they have been denied their rights, they may file appeals with the FOIC (CGS §1-206). **With this in mind, it is crucial to maintain detailed notes/minutes.** Appellant's name, property location, unique identifier such as map and lot number, mailing address, BAA members' names who heard the appeal, the names and decision of how each member voted and in-depth notes regarding the appeal are key elements for the minutes.

### ***PUBLIC AGENCIES***

A person has the right to obtain records and attend meetings of all public agencies.

### ***PUBLIC MEETINGS***

1. Meetings, such as hearings and other proceedings, must be open to the public – except in limited situations. (CGS §1-225(a))
2. A public meeting is any hearing or other proceeding where a public agency discusses or acts on a matter over which it has authority. It may also include a gathering of, or communication by or to, a quorum of a multi-member agency (CGS §1-200(2)). Any conversations or communications by email or between BAA members regarding appeals should be avoided as they may be considered public meetings.
3. No registration or other requirements may be imposed on those wishing to attend public meetings. (CGS §1-225(e))
4. The following are not public meetings: meetings of certain personnel search committees, collective bargaining strategy and negotiating sessions, and caucuses. (CGS §1-200(2))



5. The public, as well as the news media, may photograph, record or broadcast meetings. This is subject to reasonable rules regarding non-interference with the conduct of the meeting. (CGS §1-226)
6. Each year, agencies **must file schedules** of their regular meetings by January 31<sup>st</sup> with their own Town Clerk or City Clerk; or for multi-town districts and agencies file with each municipal member of the district or agency. (CGS §1-225(b))
7. Only three kinds of meetings are recognized under the Freedom of Information Act: regular, special and emergency. An emergency meeting is called when unexpected and immediate action is needed but is normally not within the realm of the BAA.
8. Special meetings may be called up to 24 hours before regularly scheduled meetings (weekends, holidays, and days when the Secretary of the State's or municipal clerks' offices are closed are excluded). A notice must be prepared stating the time, place and business to be transacted and is filed with the municipal clerk; or for multi-town districts and agencies, with the clerk of each municipal member of the district or agency. (CGS §1-225(d))
9. Agencies **must notify** people of their meetings if they request it in writing. Notices shall go out a week prior to the meeting. Agencies may also charge a reasonable fee for this service. (CGS §1-227)
10. Agendas must also be available at least 24 hours before the meeting. New business- that is business not on the agenda- may be considered and acted on only on a 2/3 vote by agency members. Note: the public is entitled to copies of the notices, as well as meeting agendas. (CGS §1-225(c))
11. The public agency may adjourn any regular or special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular meeting, the clerk or the secretary of such body may declare the meeting adjourned to a stated time and place, and shall cause a written notice of the adjournment to be given in the same manner as provided in CGS §1-225 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular or special meeting was held, within 24 hours after the time of the adjournment. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings, by ordinance, resolution, by law or other rule. (CGS §1-228)

## ***MEETING MINUTES***

The BAA shall make, keep and maintain a record of the proceedings of its meetings.

Agency minutes and record of votes must be available to the public. The votes must be put in writing, and made available to the public within 48 hours of the meetings (excluding weekends and holidays). Minutes must be available to the public within seven days of each meeting, either in the agency's office or the office of the Secretary of the State. They must contain the record of each member's vote. (CGS §1-225(a))

## ***EXECUTIVE SESSIONS***

Agencies may close portions of their meetings, with a vote by 2/3 of the members present. This vote must be taken at a public session. (CGS §1-225(f))

Meetings to discuss the following matters may be closed: records, tax returns, reports and statements exempted by general statutes such as Personal Property Declarations (CGS §12-41(c)) or any matter that would disclose a public record exempted from disclosure requirements. (CGS §1-200(6))

While agencies may invite people to present testimony or opinion, their attendance must be limited to the time it takes to deliver their comments. (CGS §1-231)

## ***PUBLIC RECORDS***

The public may inspect or copy most records or files of state and local agencies, including minutes from meetings. This encompasses information or data which is typed, handwritten, tape recorded, printed, photographed, or computer-stored, along with most interagency and intra-agency memoranda or letters. (CGS §1-210)

A person may inspect public records during regular office hours, but copies, printouts or transcripts should be requested in writing. (CGS §1-210) The fee for copies of public records shall not exceed 50 cents per page. A fee for computer disk, tape or printout, or for a transcript or a copy of a transcript, must not exceed the actual cost to the agency involved. (CGS §1-212(b)) Additional fee for certifying any copy of such records or files, or certifying to any fact appearing therefrom, shall be \$1 for the first page of such certificate, or copy and certificate and for each additional page, 50 cents. (CGS §1-212(b)(e))

If the estimated cost is \$10.00 or more, agencies must require prepayment of these fees. No sales tax may be imposed for copies of the public records. (CGS §1-212(b)(c))

The agency is required to waive any fee for copies if the person requesting the copies is poor and cannot afford it, or if the agency determines that the request benefits the public welfare. (CGS §1-212(d)) There is an additional charge for a certified copy of a public record. A person is entitled to prompt access to inspect or copy public records. If an agency fails to

respond to a request within 4 business days, this can be treated as a denial of the request. (CGS §1-206(a))

Any individual may copy a public record through the use of a hand-held scanner. A public agency may establish a fee structure not to exceed twenty dollars for an individual to pay each time the individual copies records at the agency with a hand-held scanner. As used in this section, "hand-held scanner" means a battery operated electronic scanning device the use of which (1) leaves no mark or impression on the public record, and (2) does not unreasonably interfere with the operation of the public agency. (CGS §1-212(g))

Records specifically exempted from disclosure by federal law or state statute, are NOT open to the public (Most commonly Income and Expense Statements (CGS §12-63c(b)), Personal Property Declarations (CGS §12-41(c)) as well as the residential, work, or school address of any person in the Address Confidentiality Program (CGS §1-210(21)). Furthermore, the following may not be available as well: (1) some preliminary drafts or notes provided that the public interest in withholding such documents clearly outweighs the public interest in disclosure, (2) records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security and integrity of an Information Technology system, (3) real estate appraisals and construction contracts (until all property has been acquired), (4) the personal financial data required by licensing agencies, (5) tax returns and communications privileged by attorney-client relationships. (CGS §1-210)

### ***PENALTIES***

Any person who willfully, knowingly and with intent to do so, destroys, mutilates or otherwise disposes of any public record without the approval required under section 1-18 or unless pursuant to chapter 47 or 871, or who alters any public record, shall be guilty of a Class A misdemeanor and each such occurrence shall constitute a separate offense. (CGS §1-240(a))

Any member of any public agency who fails to comply with an order of the Freedom of Information Commission shall be guilty of a Class B misdemeanor and each occurrence of failure to comply with such order shall constitute a separate offense. (CGS §1-240(b))

### ***DENIAL OF ACCESS TO PUBLIC RECORDS OR MEETINGS***

Any denial of the right to inspect or copy records provided for under CGS §1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request. Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

Any person denied the right to inspect or copy records under CGS §1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information

Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than 30 days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than 30 days after the person filing the appeal receives notice in fact that such meeting was held. For purposes of this subsection, such notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked, if received more than 30 days after the date of the denial from which such appeal is taken. Upon receipt of such notice, the commission shall serve upon all parties, by certified or registered mail, a copy of such notice together with any other notice or order of such commission. (CGS §1-206)

**Note: Information on F.O.I. can be found in the Connecticut General Statutes, online at [www.cga.ct.gov/current/pub/chap\\_014.htm](http://www.cga.ct.gov/current/pub/chap_014.htm)**

## CHAPTER 5: GENERAL INFORMATION

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### ***RELATIONSHIP WITH THE ASSESSOR***

The BAA does not function in a governmental vacuum. The BAA interacts with many municipal officials, and frequently calls on their help or, in turn, offers them assistance. The Assessor, Town Clerk or City Clerk, Board of Finance, Mayor, managers, and selectmen may work with the BAA at one time or another.

The official with whom the BAA has the most contact is, of course, the Assessor. Assessors have a four-fold task. The Assessor makes the preliminary compilation of the Grand List, describes the property enumerated on the Grand List, determines the valuation of each item of property, and records all property descriptions, exemptions and valuations.

The close operations between the BAA and the Assessor's office make them partners in assessment administration, particularly as the two have the common goal of fair and equitable assessment. The satisfactory achievement of this goal depends, for the most part, upon a professional working relationship.

There are many ways to facilitate good relations between BAA members and the Assessor. The BAA meeting with the Assessor prior to hearing the appeals has numerous advantages. New BAA members can learn from the Assessor, the community's assessment practices and the factors used in calculating valuations such as cost schedules, classification systems, depreciation tables, land value charts, etc.

In a revaluation year, all BAA members could gain an understanding of the changes brought by the revaluation by meeting with the Assessor and a member of the revaluation company. In a non-revaluation year, the BAA may inquire with the Assessor to find out why certain assessments have changed. Knowing the reason for the changes can put the BAA in a better position to answer taxpayer's questions on their assessments and further aid them in carrying out their duties.

After listening to an appeal but before reaching a decision, the BAA may wish to consider any additional information that could impact their decision. However, they must keep in mind that the full BAA cannot meet with the Assessor unless it is a scheduled meeting open to the public. Individual members may meet with the Assessor outside of the meeting but must disclose anything that was discussed that may affect the BAA's ultimate decision.

Should the Assessor be present when the BAA hears appeals? This is frequently asked by new BAA members. The answer is, there are advantages and disadvantages to this practice.

The advantages are that it gives the Assessor a chance to discuss the case in question with the taxpayer, and to explain how he or she arrived at the assessment figures. However, most taxpayers should do this before they appeal their assessment. Moreover, having the Assessor present during the appeal means that the taxpayer receives immediate answers to some of their questions rather than having to wait several days while the BAA contacts the Assessor. However, taxpayers should ask their assessor all questions that they can before they appeal to the BAA.

The biggest disadvantage of having the Assessor present is that taxpayers may hesitate to speak openly, especially if they have a contentious relationship with the Assessor. Appeals should be conducted in a dignified and orderly fashion- the same as a court trial – and if the Assessor is there, some taxpayers may feel as though they are facing their accusers.

It is an individual preference whether the Assessor should be in attendance. It depends upon the type of appeal heard, the personality of the Assessor, and the conditions within the municipality. For the most part, however, assessors and BAA members alike feel that the Assessor should be available, but not present, unless they are specifically requested to be there to explain a particular assessment. There would be no point for appeal to the BAA if the Assessor were to attend every hearing; conversely, it would be difficult for the BAA to function at all if it did not consult with the Assessor.

After completing its review and correction, the BAA should meet again with the Assessor to explain the changes made and the reasons for them. This is important as property cards may need to be updated.

### ***RESPONSIBILITIES TO THE PUBLIC***

As an arm of the municipal government, the BAA has important responsibilities to the public.

Board members generally are long-term residents of their community. That means they usually have many acquaintances in the area. Maintaining friendships without permitting friends to seek an advantage is a balancing role that becomes part of the BAA's total operation, just as it does for any governmental official.

Board members may know a great deal about the residents' personal affairs, such as the size and worth of their holdings. This is the kind of information few people want revealed to the public, any more than they wish to have their income publicized. The BAA, therefore, is obligated to perform its duties with discretion. However, under the state's "right-to-know" law (CGS §1-210 and CGS §1-225), all BAA records, like other official government records, must be made public, unless this would adversely affect the financial interests of the town or city, or the reputation or character of a taxpayer. The following practices can help BAA members in their unwritten responsibilities to the public:

- 1) Before holding meetings, the BAA should be thoroughly familiar with the assessment systems in their town or city. This helps them understand and explain the assessment to the taxpayers. Often times, taxpayers make their complaints known first to the Assessor; in these cases, the BAA may be able to secure information on the appeals from the Assessor, together with the Assessor's comments. This allows BAA members to familiarize themselves, in advance, with some of the questions or problems that will be raised at the hearing.
- 2) All hearings should be conducted in a dignified and judicial manner and BAA members should assume professional demeanors.
- 3) Meetings must conform to the requirements of the Freedom of Information Act. (*See Chapter 4: Freedom of Information*).
- 4) The BAA has the power to administer oaths (CGS §1-24), and is required to take all testimony under oath.
- 5) When a taxpayer contests an assessment, BAA members should personally inspect the property under question, if feasible. (Many changes however merely reflect clerical errors on cards).
- 6) Unless the regular process had produced an assessment that is obviously excessive, the BAA should make changes in keeping with the municipality's system. This ensures uniform assessment, and helps to avoid charges of inequities by taxpayers. The BAA should have a rationale for changes, which is consistent with the municipality's assessment system and can be justified within it.

## ***FINES AND PENALTIES***

For any infringements of the laws, BAA members as individuals or a collective body are subject to the following penalties and fines:

- 1) Individuals who fail to discharge their administrative duties according to law, and who fail to comply after it has been put in writing by the Secretary of the Office of Policy and Management will be subject to mandamus by the court requiring compliance. (CGS §12-4) Additionally, the court shall render judgment against the BAA with costs. If the BAA does not heed the mandamus, it shall be held in contempt, and the court may punish the members as in mandamus proceedings. (CGS §12-4)
- 2) Boards who hinder or refuse to deliver records upon demand by the Secretary of the Office of Policy and Management, or his or her agent shall be guilty of a Class D misdemeanor. (CGS §12-6)
- 3) Individuals who commit unlawful acts or omit necessary acts must pay \$50 to the aggrieved person. (CGS §12-170)
- 4) Individuals who receive illegal fees must forfeit \$50, plus an amount double that of the illegal fees, to the aggrieved person. (CGS §12-170)



## CHAPTER SIX: REVALUATION OVERVIEW

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The term “revaluation” refers to the process of conducting a mass appraisal within a municipality to equalize the property tax burden. This is done by establishing a current market value for all properties as of the revaluation date. The State of Connecticut has a long history of requiring cities and towns to revalue (reappraise) all real estate on a periodic basis. In fact, nearly all jurisdictions throughout the United States are required to perform periodic revaluations to ensure the property tax is fair and equitable, so Connecticut is certainly not unique in this regard.

Connecticut municipalities are required to conduct a revaluation at least once every 5 years and most do so by hiring a mass appraisal company. The prudent assessor oversees the mass appraisal process from beginning to end and works with the staff of the revaluation company to ensure the most accurate assessments possible. It is advisable that BAA members attempt to gain an overview of the valuation process after a revaluation has been performed in their community. This can be done by setting up a meeting or interview with the Assessor, revaluation company representative or both, to gain insight and background as to the overall revaluation process and to what specific information might be helpful to the BAA as they carry out their duties regarding assessment appeals.

Real estate values change over time but not all properties change at the same rate. Depending primarily on economic conditions and other factors as well, property values will either appreciate or depreciate between revaluations. The rate of change for property values will usually vary to some degree or another according to property type. For example, residential single family homes may be in a flat market in a given geographical area while at the same time, in that same area high end apartment buildings may be experiencing tremendous growth. As time goes on, the value of properties within a municipality may also become more disparate from the value that was established during the previous revaluation. As this happens the tax burden begins to fall disproportionately on various groups of properties.

Factors such as location, supply and demand, new emerging neighborhoods, and older aging neighborhoods all contribute to the disparate changes that occur over time. To correct these conditions and restore fairness to the property tax system, a revaluation must be conducted to establish uniformity again by bringing all properties to current market value as of a common date. Once conducted, the new values remain in effect until the next revaluation (5 years) assuming the property is not renovated or physically altered or changed during that time. Connecticut’s five-year requirement is designed to ensure that a new revaluation program is conducted before property values become too disparate and disproportionate.

To ensure that a revaluation program is conducted properly and the newly established values are accurate, the Assessor must conduct a series of analyses and statistical tests to demonstrate that the results fall within acceptable limits. The Assessor must further demonstrate this by submitting these results to the State Office of Policy and Management (OPM) for their approval. In order to prove that a revaluation was conducted properly, a Certified Assessor together with a Certified Revaluation Supervisor must sign-off to the results, and submit a “Performance Based Revaluation Standards Certification” to OPM in conformance with CGS §12-62 and CGS §12-62i-1 to CGS §12-62i-8 of the Regulation of Connecticut State Agencies before the revaluation can be implemented.

It is common practice for the company performing the revaluation, or, if the revaluation is performed “*In-house*”, for the Assessor to hold informal hearings to address property owner concerns regarding value and equity. This is an excellent opportunity for the property owner/taxpayer to meet directly with the individual(s) responsible for the new assessments.

Once the Assessor has certified the Grand List implementing the revaluation, any disagreement over the value of a property must then go before the local BAA for review and adjudication. In any year during the 5 year period between revaluations, property owners have the right to appeal the value established as of the municipality’s revaluation date, as long as the board has not already made changes to the assessment.

It is important to note that even as values continue to change over the 5 year period of time, the BAA must always look back to the economic conditions occurring as of the revaluation date when deciding an appeal. This is called a retrospective estimate of value – this represents a look back in time at historical market data. This can be accomplished by examining sales transactions and other market conditions in effect during the period of time leading up to the date of revaluation.

It is also important for the BAA and the Assessor to explain this concept to those appealing their property value. This means that any appraisal or other evidence submitted for an appeal should be based on this concept of retrospective value, and should be a look back at historical data instead of market conditions occurring after the revaluation. In Connecticut a person must be licensed or certified to perform an appraisal and offer an opinion of value of real estate. A Broker Price Opinion (BPO) or other similar report, submitted by someone other than an appraiser, should not be substituted for an appraisal. Although it may contain useful information, a BPO is created to establish a listing price and may not be applicable in a property appeal before the BAA.

An owner may offer an opinion of value for a property without an appraisal. In fact, owners are required to include a statement of value on the application under oath before the appeal can be heard by the BAA: see *Chapter 2, Duties and Activities of the Board, Appeals Procedure*.

Because a property appeal must be a historical look back at market data, current appraisals, sales transactions, and economic conditions occurring after the revaluation date should be given little or no weight in the appeal process. This is especially true for appeals that occur long after the revaluation date. The BAA should give proper care to ensure that all value reviews are held to the same standards and criteria established during the revaluation to maintain the integrity and equity of the tax base - otherwise the tax burden gets shifted to other property owners unfairly.

The BAA should also be mindful when an appeal is based on a statement that taxes are too high or where little or no actual evidence is presented. In such cases, care should be taken to explain that the appeal process is the appellant's opportunity to present evidence as to the retrospective market value of the property, and that the BAA's decision must be based on the presentation of that evidence. Through the consistent application of these principles and concepts, each municipality is better able to maintain an acceptable level of fairness, uniformity, and equity until the next scheduled revaluation takes place.

## ***THE VALUATION PROCESS AND APPRAISAL METHODS***

The real estate valuation process involves employing generally accepted methods to establish a value as of a specific date. There are many types of value estimates such as market value, assessed value, investment value, insurance value, liquidation value, cash value and so on. In Connecticut, the recognized legal standard of establishing an accurate value for ad valorem property tax purposes starts with "**market value**" - the assessed value is simply 70 percent of the market value.

The following definition of "**market value**" comes from the Connecticut Association of Assessing Officers (CAAO) *Handbook for Connecticut Assessors*:

*"The most probable price in cash that a property would bring in a competitive and open market, assuming that the buyer and seller are acting prudently and knowledgably, allowing sufficient time for the sale, and assuming that the transaction is not affected by undue pressure".*

To determine market value, there are primarily three generally accepted methods employed; the Cost Approach, the Income Capitalization Approach and the Sales Comparison Approach. It is not necessary to use all three approaches to value every property. In fact, to establish an accurate and credible value, the Assessor will choose the most reliable approach to develop based upon the type of property and the availability of sufficient, relevant market data. Once the chosen approaches are developed, the resulting values can be reconciled into a final value estimate. The reconciliation process considers the reliability of each approach as it relates to the property being appraised, and the most reliable approach is given the greatest weight in establishing the final value.

For example, the most widely used method for valuing most residential real estate is the Sales Comparison Approach. This is especially true when there are many market sales transactions to analyze, and when age and condition factors make the cost approach less reliable. Market sales reflect the value that buyers and sellers establish after having considered all relevant factors, so it is the competitive and open market that actually establishes value through this approach. The Assessor determines values based upon their analysis of what is reflected through these market transactions.

In the case of a newly constructed property, many times it is the Cost Approach that results in the most accurate value. This is especially true for special purpose and unique properties such as dams, sports stadiums or complexes, museums, to name but a few, and institutional buildings such as schools and churches. A newly constructed property does not suffer a loss in value from age and declining condition. Where sales of new properties are available they usually reflect the land value and construction cost plus entrepreneurial profit. Where sufficient market sales are lacking, the Cost Approach often becomes the most reliable method. Use of the Cost Approach in these circumstances is supported by the principle of substitution, which states that a buyer will pay no more for a property than the cost of an equally desirable (and comparable) alternative property.

The Income Approach to Value is best suited for properties that are bought and sold on the basis of the rental income they produce. The sales price of income producing properties may depend on many factors that are less market driven, but are more specific to the buyer or seller's financial expectations than anything else. These market participants focus on the income and expenses of owning a property over the course of a desired holding period, based on their economic predictions and expectations over that same holding period. They also factor in what they believe the property will sell for at the end of the desired holding period. Retail, warehousing, office, medical office, apartments, flex space and industrial space are all examples of properties that are well suited to the Income Approach to Value.

## ***SALES COMPARISON APPROACH***

The Sales Comparison Approach is developed by comparing the subject property to recent sales prices of other similar properties. This approach is used to value improved properties and is usually the preferred method to value vacant land when sufficient comparable land sales are available. To develop the Sales Comparison Approach, common units of comparison are selected and adjustments are applied to the comparable sale properties to reflect differences in market conditions, location and physical characteristics. For example, if the subject property is a ranch style home, it should be valued based on the recent sales of other similar ranch style homes in a similar neighborhood and so on. Depending on the amount of living area, the number of bedrooms, bathrooms, garage space and other features, adjustments should be made to the recent sales prices to reflect those differences from the subject. If a comparable property contains more living area than your subject property, one should adjust the price of the comparable sale downward to account for the difference in living area. If the comparable property contains less living area, then you should adjust the comparable sale price upward, and so on. After the comparable sales prices have been properly adjusted, they will provide a benchmark for the indicated value of other similar unsold properties.

It should be noted that sales used in a Sales Comparison Approach should be validated, arm's length transactions. Sales that should not be considered are sales between family members, foreclosure deeds, sales following foreclosure, estate sales, sales to or from a governmental agency and others. In conforming to the definition of market value, BAA members should be aware of the conditions for each comparable sale.

## ***COST APPROACH***

This approach to value is based on the economic principle of “**substitution**”. Essentially, the theory is that no one will pay more for a property than it would cost them to acquire a similar property. This approach is best employed where the improvements are in good condition and new or relatively new. The difficulty of estimating the proper deduction for depreciation renders this approach less reliable as property improvements get older and are in need of repair or updating.

In the Cost Approach, the current cost to construct a reproduction or replacement of the improvements, including entrepreneurial profit, is developed. The Cost Approach to Value involves estimating and combining three components:

To arrive at a value in the cost approach, one must do the following:

1. Add replacement or reproduction cost of improvements

2. Subtract (-) accrued depreciation
  
3. Add (+) land value.

Replacement cost is what it would cost to replace the existing structures and other improvements with new construction of equivalent usefulness, but not necessarily the same design and construction technologies and materials. Reproduction cost is what a replica would cost. Accrued depreciation is the loss in value due to physical deterioration, functional obsolescence, and economic (external) obsolescence. The land or site value is developed, usually through the Sales Comparison Approach using sales of vacant land with the same location, area, shape, and physical characteristics, and allowable uses.

The Cost Approach has its problems, but it enjoys the position of being the default valuation approach in many assessment jurisdictions because it was the first mass appraisal approach to be developed and due to the fact that data on replacement costs are inexpensively available from publishers which also serve the appraisal, insurance and construction industries.

### ***INCOME CAPITALIZATION APPROACH***

The Income Capitalization Approach converts future anticipated benefits such as cash flow (rents, etc.) and resale value into a current value estimate by using an **overall rate of capitalization** to **capitalize** the projected income stream. Generally there are two methods of applying the Income Capitalization Approach; direct capitalization and yield capitalization (discounted cash flow analysis). The more commonly used **direct capitalization** method establishes a value by taking one year's net income and dividing it by a capitalization rate. The capitalization rate is chosen based on several economic factors including expected changes in income and expenses over time. The **yield capitalization** method uses several years of projected annual cash flows and expenses for a specified holding period and a resale value at the end of the holding period. The resulting cash flows are discounted back to a single present value using a chosen discount rate. Although the Assessor may frequently deal with the yield capitalization method, it generally may be beyond the scope of a BAA appeal.

It should be noted that the collection of the income & expense data is vital to this approach to value. The collection and the reporting of the data are required by statute and are used in the development of the CAMA system modeling. This data is often reflected on the commercial property record cards.

## **MASS APPRAISAL**

Mass appraisal is the term used to describe the appraisal method used in developing value estimates for revaluation. The central idea of mass appraisal is the development of appraisal models that are applied to groups of properties in a cadastral (map) database to produce estimates of value of all properties in the group. In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.

A mass appraisal includes: 1) identifying properties to be appraised, 2) defining market areas of consistent behavior that apply to properties, 3) identifying characteristics (supply and demand) that affect the creation of value in that market area, 4) developing a model structure that reflects the relationship among the characteristics affecting value in the market area, 5) calibrating the model structure to determine the contribution of the individual characteristics affecting value, 6) applying the conclusions reflected in the model characteristics of the properties being appraised, and 7) reviewing the mass appraisal results. (*Standard 6, USPAP 2016-2017 Edition, The Appraisal Foundation*).

Mass appraisals can be prepared with or without computer assistance and it is worth noting that mass appraisals for ad valorem tax purposes may be subject to various state, county and municipal laws. See Connecticut's Performance-Based Revaluation Testing Standards CGS § 12-62i-1.

To achieve credible results utilizing a calibrated mass appraisal model, an appraiser must value improved parcels by recognized methods or techniques. Recognized methods include the cost approach, the sales comparison approach, the income approach or a well-reconciled blend of any or all of the three methods.

In reconciling a mass appraisal it is implicit that even when properly specified and calibrated mass appraisal models are used, some individual value conclusions will not meet the standards of reasonableness, consistency, and accuracy. However, appraisers engaged in mass appraisal have a professional responsibility to ensure that, on an overall basis, models produce value conclusions that meet attainable standards of accuracy. This responsibility requires appraisers to evaluate the performance of models, using techniques that may include but are not limited to, goodness-of-fit statistics and model performance statistics such as appraisal-to-sale ratio studies, and analysis of residuals.

## Frequently Asked Questions

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### **GENERAL**

#### **1. Can the Board of Assessment Appeals adjust prior Grand List years?**

The BAA usually hears appeals for the current Grand List year only. However, with regard to adjustments, the following exceptions apply. A taxpayer whose assessment has changed as a result of: 1) certificate of correction (CGS §12-60), 2) addition of new real estate construction (CGS §12-53a), or 3) as a result of an audit (CGS §12-53), may appeal to the next succeeding Board of Assessment Appeals. (*Chapter 2 - Accountability*).

#### **2. Can someone who is not the appellant of the property disputed appear before the BAA? If so, what do they need to provide?**

A property owner's attorney or duly authorized agent may appear in person before the BAA. They must have the signature of the owner to act as their agent. (*Chapter 2 – Appeals Procedure*).

#### **3. Can a current owner, who was not the owner on the 10/1 assessment date, file an appeal and appear before the BAA?**

Anyone to whom the title to such property has been transferred since the assessment day may appeal to the BAA. (*Chapter 2 - Who May Appeal*).

#### **4. Can the BAA grant exemptions? Can the BAA do so retro-actively?**

Exemptions can only be granted for the current Grand List year.

The BAA may grant exemptions to disabled veterans whose proof of disability was not filed by the October 1<sup>st</sup> deadline.

The BAA can also grant exemptions to the following property owners whose application for exemption the Assessor has denied:

- Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization that claims property tax exemption under provisions of CGS §12-81, and files a tax exempt statement with the Assessor or Board of Assessors (CGS §12-89).



- Any farmer or group of farmers applying for tax exemptions of farm machinery, horses or ponies owned in the state. (CGS §12-91) (Chapter 2 – Statutory Duties).

**5. *What type of property, personal, real, or motor vehicle, can be heard at the BAA September session? At the March session?***

The September session is solely for the purpose of hearing appeals of motor vehicle assessments, as the July tax bill serves as the assessment notice for regular motor vehicle accounts.

The appeal of assessments of all property types may be heard at the March session. Unregistered motor vehicles are declared via the Declaration, and those appeals are heard during the March sessions. (*Chapter 2 – Statutory Duties, and Chapter 2-Appeals Procedure*).

**6. *Can the BAA do phone hearings under extenuating circumstances for those who are sick or away?***

No. Per CGS §12-113, the Board of Assessment Appeals shall not reduce the valuation or assessment of property on the Grand List belonging to any person who does not appear at a hearing before the Board of Assessment Appeals, either in person or by such person's attorney or agent, and offer or consent to be sworn in and answer all questions regarding such person's taxable property situated in the town. (*Chapter 2 – Appeals Procedure*).

**7. *Can hearings be conducted by webcam or Skype?***

No. Hearings must be in person. (*Chapter 2 – Appeals Procedure*).

**8. *Can the BAA accept an application emailed or faxed on the 20th of February, or does a physical copy have to be in the Assessor's hands by that date?***

The BAA can accept an application filed by email or fax on the 20<sup>th</sup> of February, provided that it is filed before the close of business as this would constitute the form being 'filed in writing' by the 20<sup>th</sup>. If the 20<sup>th</sup> is not a business day, the application must be filed by the close of the preceding business day. (*Chapter 2 – Appeals Procedure*).

**9. *Should the BAA accept postmarks dated February 20th as timely?***

No. Applications are considered filed when they reach the Assessor's office, not when they are submitted to postal carriers. (*Chapter 2 – Appeals Procedure*).

**10. Can the BAA or the Assessor reschedule meetings for individuals who request a different time?**

Yes, although they are not required to do so. (*Chapter 2 Statutory Duties*).

**11. Can the BAA reschedule to a date not published on their schedule?**

The BAA can reschedule at their own convenience on business days and Saturdays during the month of March, however notice must be made and the special meeting must be added to the published schedule in accordance with the FOI requirements for public meetings. (*Chapter 2 Statutory Duties, and Chapter 4 Freedom of Information*).

**12. Can the BAA reschedule into the month of April?**

No. Per CGS §12-110, the BAA shall meet in the month of March. However, if an extension is granted to any assessor or board of assessors by the CEO of the municipality pursuant to CGS §12-117, the date by which a taxpayer shall be required to submit a written request for appeal to the Board of Assessment Appeals shall be extended to March 20th and said board shall conduct hearings regarding such requests during the month of April. (*Chapter 2 Statutory Duties*).

**13. Does the BAA have to post its minutes and if so, where and when?**

Yes. Minutes shall be available for public inspection at the Town Clerk's Office within seven days of the session to which they refer. Board member votes must be put in writing, and made available to the public within 48 hours of the meetings (excluding weekends and holidays). (*Chapter 2 Statutory Duties, and Chapter 4 Freedom of Information*).

**14. What should the posted minutes include (discussion, vote, etc.)?**

While the discussion is not required to be listed, the BAA must identify each property and the corresponding vote of each board member so as to comply with the FOI requirements as a public meeting. Discussion or notes, including the reason for board member action are often

helpful to assessors going forward and it is recommended they be included in the BAA file if possible. (*Chapter 2 Statutory Duties, and Chapter 4 Freedom of Information*).

**15. Should individual board members communicate their opinions on an appeal prior to deliberations with the BAA as a whole?**

Board members should refrain from making any statements which could lead a taxpayer to believe their appeal may be granted or denied prior to deliberations with the entire BAA. (*Preface - The Board of Assessment Appeals Defined*).

**16. Can BAA members discuss appeals outside of the meetings?**

Any discussions by the BAA as a whole are required to take place during the BAA's scheduled meetings pursuant to FOI requirements. Any meeting of all BAA members is considered a quorum and is a public meeting. (*Chapter 4 Freedom of Information*).

**17. Does the BAA need to administer an oath to aggrieved taxpayer?**

The BAA has the power to administer oaths (CGS §1-24), and is required to take all testimony under oath. Attorneys do not need to be sworn in by the BAA as they are already considered commissioners of the court. (*Chapter 2 Appeals Procedure, and Chapter 2 Powers of the Board*).

**18. Can the BAA reduce assessments for hardship?**

No. All assessors and boards of assessment appeals are required to value property at its fair market value. (*Chapter 1 Assessment Process*).

**Real Estate**

**19. Can the BAA adjust a real estate assessment more than once between Grand Lists that are within the same revaluation cycle?**

After the BAA has increased or decreased an assessment, it shall remain fixed until the next revaluation. Only the Assessor may subsequently adjust the assessment during the revaluation cycle: a) to comply with a court order, b) reflect an addition for new construction, c) reflect a reduction for damage or demolition, d) correct a factual error by issuance of a

certificate of correction or e) reflect a change of use of the property. (CGS §12-111) Should an adjustment be made by the Assessor, it is only then that a taxpayer may re-apply to the BAA and the BAA may grant a second reduction during the same revaluation cycle. (Chapter 2 Accountability).

**20. Can the BAA reduce a real estate assessment for which an inspection was denied by the homeowner?**

While the Statute does not preclude the BAA from reducing an assessment for which an inspection has been denied, it is not recommended, in keeping with the goal of uniformly assessing property. Furthermore, case law has implied that the taxpayer has an obligation to cooperate with the Assessor regarding interior inspections.

**21. Can the value of real estate be reduced based on a submitted appraisal? Does this take the place of an actual inspection?**

The value of real estate may be reduced based on a submitted appraisal but it does not take the place of a physical inspection. In addition, appraisals should be reviewed by someone with expertise in the subject matter who should ensure that the appraisal is credible, as of the date of the last revaluation, and for the intended tax appeal purpose.

**22. Can the BAA remove an Income and Expense Form penalty?**

If the owner of the real property required to submit the information is not the owner of such property on the October 1st assessment date for the Grand List to which such penalty is added, the BAA may waive an Income and Expense Form penalty. The BAA may **only** waive such penalty upon receipt of such information in any town in which the legislative body adopts an ordinance allowing for such a waiver. Without the ordinance, neither the Assessor or the BAA may waive the penalty (CGS §12-63c(d)). (*Chapter 2 Powers of the Board and Chapter 2 Accountability page*).

## *Personal Property*

### **23. Can a personal property assessment be reduced if the owner did not file a Personal Property Declaration?**

The owner must file a Personal Property Declaration with the BAA, even if such person initially refused or neglected to file a declaration with the Assessor. The BAA may not make an adjustment until information to substantiate such value has been provided in accordance with CGS §12-53(c), such as tax returns, IRS Forms 4562 or Form 179, fixed asset schedule, balance sheets or asset listings. (*Chapter 2 Accountability*).

### **24. Can the BAA remove a 25% penalty on personal property?**

The BAA may not remove a penalty imposed under CGS §12-41(d) for individuals who fail to timely file a Personal Property Declaration or a penalty that is imposed for omitted property. Penalties, however, may be adjusted to reflect an increase or decrease to the assessment that is changed by the BAA (CGS §12-114). Penalties may be removed if the taxpayer proves that a declaration was filed in a timely manner. (*Chapter 2 Accountability*).

## *Motor Vehicle*

### **25. Is there a statutory deadline for filing an appeal to the September hearings?**

There is no deadline to file an appeal to the September hearings, however, the taxpayer must appear on the prescribed dates. (*Chapter 2 Statutory Duties*).

### **26. During Motor vehicle or open sessions, can the BAA leave early if no one shows?**

No. The BAA should remain until the end of the scheduled hearing window to allow taxpayers the chance to arrive and be heard.

**27. Does the value granted at a motor vehicle appeal stand until the owner disposes of the vehicle?**

No. Because motor vehicles are revalued annually, a subsequent application to the BAA must be made each year that the owner is not in agreement with the calculated value. *(Chapter 1 Assessment Process).*

**28. Can the BAA hear an assessment appeal in September for a motor vehicle that has been assessed as personal property?**

No. A motor vehicle that has been assessed as personal property can only be appealed as such during the March session of the BAA. *(Chapter 2 Appeals Procedure).*