

**Town of Wayland  
Board of Assessors  
Monday December 15, 2014**

In attendance: Chair S. Rufo, J. Brodie, D. Hill, M. Upton, Z. Ventress, Director E. Brideau and Administrative Assessor J. Marchant

**Meeting called to order**

S. Rufo called the meeting to order at 7:18pm.

**Review of Minutes from November 24, 2014 and December 1, 2014**

This item was deferred.

**FY 2015 – End of Year activity update**

**Tax Billing File**

Director Brideau stated that the billing file has gone to the tax collector's office. He can print them as soon as the BOA signs the third quarter warrant.

**Timeline for website update**

Director Brideau has transmitted the file to Vision. There is a two week time frame for them to update the FY 15 information. The goal is to have the file up for January 1<sup>st</sup>.

**Assessing Data for website**

Director Brideau stated she will publish all of the building tables, but these need to be transferred into Excel before they can be posted. She requested that the website will include a link to Vision as well as PDF's of each property record card.

**Abatement process and documentation**

Director Brideau distributed copies of the abatement applications to the board for review. The application includes additional requirements other than just the two- page state form, but it is the same format that Wayland has been using. A home inspection is required as part of the application process. The applications will be ready for the public by end of day December 31<sup>st</sup>. The due date this year is Monday February 2<sup>nd</sup>, so 7pm will be the deadline.

Director Brideau would like to continue with the same process as last year which includes meeting with two board members as applications are ready to be reviewed.

D. Hill asked how many informal hearings there were in October. 153. Over 200 properties were reviewed. Not all of them were adjusted, but many of them were.

M. Upton would like to have the property cards of the sales printed and arranged by style of home in a notebook at the counter. The BOA discussed and confirmed that the information can be found online by pulling up comps. Director Brideau confirmed she will create a booklet of property record cards in style order.

**FY 2016 – Overlay Forecast**

The board reviewed the worksheet that was handed out. Director Brideau stated that the numbers haven't changed since November.

Discussion:

J. Brodie stated that unless there's a prop 2 ½ override, there's no financial impact on the town at this point. The BOA will give the proposed number to the finance committee and it gets printed in the warrant. The only number that has an impact on taxes is the number that becomes final a year from now. We don't want to have to increase the number after it's been printed in April.

The BOA discussed the town center and the fact that the leases state they have to file for abatement. J. Brodie stated that the BOA has never faced this issue before-where there is a significant business establishment in town and the town relies on them to pay their taxes. There's a more significant risk than before with the possibility of unpaid taxes on a larger scale.

He proposed FY'16 values for several line items and gave his reasoning. The total amount proposed was \$700,000. He pointed out that as a starting point, that's \$250,000 less than FY'15.

The potential ATB cases for the town center are an unknown. And it will take years before the cases are even heard, so the BOA doesn't have any info with which to base their estimate.

The board discussed the Telecom cases. Director Brideau updated the board that the commissioner outlined updated methodology to value them based on the ATB decisions.

D. Hill was comfortable with the \$700,000 amount.

Z. Ventress stated the preliminary value seems good and pointed out that if they wait until after abatement season and see if the market is still going up, they can raise the overlay in February/ March.

J. Brodie moved that the FY'16 preliminary forecast for overlay be established at \$700,000. D. Hill seconded. Vote: unanimous

### **Solar Tax Agreements – informational overview**

Director Brideau informed the BOA that the town is negotiating with a company to place solar panels at the middle school, high school and DPW building. They will be in the form of carports and possibly adjacent to a ball field at the high school. Director Brideau explained to the committees involved that even though they would be on municipal land, they are taxable in this instance. They can be taxed straight, or a tax agreement can be negotiated as long as the assessors are part of that discussion.

The BOA discussed the difference between this situation and when a residential home has solar panels.

Here, the panels are owned by a leasing company and they are selling the energy for a profit, so they are taxable. If a homeowner owns their panels and is using most of the energy for themselves and/or selling back a minimal amount, they are not taxable for 20 years.

The board discussed many options and scenarios.

Z. Ventress suggested that Director Brideau write a memo to the selectmen and other boards on behalf of the BOA warning them of the repercussions if solar tax agreements are signed improperly. Namely, it can hold up state certification.

### **Property Tax Exemptions-Valor Act 2 - informational**

Director Brideau handed out a document highlighting what has changed in legislation regarding statutory exemptions.

There is a new program called Valor 2 that is a work off program for veterans. It would be funded out of the overlay account. The town would have to adopt it at town meeting and then vote on how much they want to fund it and that amount would be added as a line item to the overlay.

Director Brideau explained that there have been changes to these work off programs and now the applicants receive W-2s and checks are sent to them. This turns off many of the people that used to use the program.

S. Rufo read from the law with regards to how these programs are supposed to be run. She also read from the websites of other towns in Mass to show the variations of how the programs are run.

The board wondered how many veterans are in town and who will manage the program.

S. Rufo quoted some data she found that estimates the veterans in Wayland to be 450-475.

S. Rufo read from the town website and listed all of the many forms that are currently necessary to be mailed out, filled out and checked with regards to the senior work off program.

J. Brodie would like Director Brideau to speak to John Senchyshyn and Julie Secord about what is needed to manage the work off programs.

S. Rufo presented information from other towns -what applications and documents they use.

J. Brodie's concern is for the workload of the Assessing office. If there are additional duties coming into the office, who will take them on?

The board discussed if they should speak to other departments about getting the process changed so that checks are not sent, but that the money would come off of the taxes right away in January.

Director Brideau believes that the checks are all currently done in March so the money can be used for the 4<sup>th</sup> quarter bill.

S. Rufo stated that in another community, the working time frame is July 1- December 31<sup>st</sup> so that the money can be applied to the January bill.

Director Brideau stated it's the IRS that has changed policies and made the W-2 mandatory.

Z. Ventress left the meeting at this time.

#### **Documents for BOA Signature**

Warrant	Motor Vehicle Excise	2014-06	\$31,915.67
Month End	Motor Vehicle Excise	November	\$28.43
Month End	2014 CB Exemption	November	\$1,030.00

M. Upton moved that the BOA members come into the office individually to sign the 3<sup>rd</sup> quarter warrant and commitments for real estate, personal property and CPA when they are ready this week. J. Brodie seconded. Vote Unanimous.

#### **Exemption Applications**

Director Brideau recommended 30 exemption applications for approval that have been reviewed and meet the criteria. J. Brodie moved that the BOA accept Director Brideau's recommendation and approve the 30 FY'15 statutory exemptions by signature. M. Upton seconded. The board signed their approval.

#### **I&E Fines**

Director Brideau stated that there were 39 properties that did not send in their Income and Expense forms this year. There is a \$250 fine for commercial properties and \$50 fine for residential- use properties. The board signed their approval to fine these properties.

#### **River Trail Place Apportionment**

Director Brideau received a request to apportion River Trail Place so the sewer betterment can be apportioned. She was asked to divide the value by the 42 units. On January 1<sup>st</sup> they were a construction site, but hadn't filed a condo master deed. M. Lanza found a part of the law that deals with condos and learned how to apportion the property legally. A benefit to this request is; because the properties were divided, once the CO's are issued, the assessor can issue supplemental tax bills. Director Brideau showed her apportionment document to the BOA for their approval and signature so the Collector can bill these properties. The board signed.

#### **Topics not reasonably anticipated by the Chair 48 hours in advance of Meeting, if any**

None

#### **Thoughts and Concerns from BOA members**

J. Brodie thanked the staff for their work to get through the certification process.

S. Rufo confirmed with Director Brideau that she will send the board members a note when the third quarter warrant is ready to sign.

**Public Comment**

None

**Next Meeting**

Next meeting will be mid- January.

**Meeting Adjourned**

J. Brodie moved to adjourn at 8:54pm. M. Upton seconded. Vote: Unanimous

Respectfully Submitted,  
Jessica Marchant

WORKING PAPERS

STEPS TO DETERMINE FY'16 OVERLAY FORECAST (see note 9)

line #	\$ in FY'06	\$ in FY'09	\$ in FY'12	ave of 3 "reval" years	\$ in FY'12	\$ in FY'13	\$ in FY'14	ave of FY'12-FY14 to date	FY'16 preliminary forecast by Assessors (using average of FY12 to FY14)
Initial Allowance for Overlay	387,629	1,039,311	1,206,447		1,206,447	973,215	614,727	931,463	
1. Abatements									
2. Abatements-granted	221,000	337,146	84,157	214,101	84,157	33,376	31,036	49,523	
3. Total Abatement-ATB initial liability (note 1)	322,343	365,600	60,000	249,314	60,000	36,500	245,000	113,833	
3a. Abatement-ATB initial liability (w/o Telecom)	314,843	200,400	59,000	191,414	59,000	15,000	223,000	99,000	
3b. Abatement-ATB initial liability (Telecom only)	7,500	165,200	1,000	57,900	1,000	21,500	22,000	14,833	
4. Abatement-other liability (note 2)	0	1,768	78,827	26,865	29,887	72,738	497,290	199,972	
5. Abatement-other (note 3)								130,000	
6. subtotal-abatements	543,343	704,514	222,984	490,280	174,044	142,614	773,326	493,328	
7. Exemptions-statutory	83,062	85,539	70,882	79,828	70,882	55,910	57,769	61,520	
8. Exemptions-CB	70,157	90,871	140,663	100,564	140,663	117,366	127,882	128,637	
8a. number of CB applications (note 4)					150	127	135		
9. subtotal-exemptions	153,220	176,410	211,545	180,391	211,544	173,276	185,650	190,157	
10. Certain taxes (note 5)	0	0		0				0	
12. Preliminary FY'16 OVERLAY Forecast									
13. Tax Rate Rounding (not to exceed) (note 7)									
14. Final FY'16 OVERLAY Forecast									

\* avg w/o Telecom

notes:

- assume greatest difference between applicable assessment and taxpayer's estimated value noted on abatement form or for ATB or other documentation
- "uncollected taxes" (real and personal property) excluding those secured by tax title. Review to IGR - 11-101
- any significant assessment factor known to the Assessors
- Property Owners can apply for FY2014 CB match until 12/31/14
- Certain taxes that are budgeted elsewhere.
- Line 6 plus line 9 - Voted on \_\_\_\_\_
- Include sufficient funds to allow rounding of tax rate (per \$1,000) to whole penny
- This requirement driven by DOR software used in "recap" preparation.
- FY 14 CB data as of November 2014
- Forecast for FY'16 budgeting purposes only

WORKING PAPERS



**Town of Wayland**  
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OFFICE STAFF  
Ellen M. Brideau, MAA Director Assessing  
Denise Ellis, Assistant Assessor  
Jessica Marchant, Administrative Assessor  
Savitri Ramgoolam, Department Assistant

BOARD OF ASSESSORS  
Susan Rufo, Chairman  
Jayson Brodie, Vice Chair  
Molly Upton  
Zachariah L. Ventress  
David Hill

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**MEMO**

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**TO:** FINANCE COMMITTEE  
BRIAN KEVENY, FINANCE DIRECTOR

**FROM:** BOARD OF ASSESSORS  
ELLEN BRIDEAU, DIRECTOR OF ASSESSING *ans*

**CC:** BOARD OF SELECTMEN  
NAN BALMER, TOWN ADMINISTRATOR

**SUBJECT:** FY 16 - OVERLAY

**DATE:** 12/31/2014

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This memo is to advise you that on December 15<sup>th</sup>, 2014, the Board of Assessors voted that the Fiscal Year 2016 preliminary forecast for the overlay be established at \$700,000.

The vote was unanimous.

## Solar Tax Agreements

### A. Why do a tax agreement?

- Municipal land is ordinarily tax exempt under Massachusetts General Law (MGL)
- However, MGL c 59 § 2B, states municipal owned real estate **shall be valued, classified, assessed, and taxed annually to the lessee if used in connection with a business conducted for profit or leased or occupied for other than public purposes producing, manufacturing, and generating electricity for retail sale to the public.** Therefore, classified as a non-exempt property use
- MGL c. 59 §38H (b) allows electric generation companies to negotiate an agreement for payment in lieu of tax

### B. The need to protect the Towns interest

- The tax collector cannot place a tax lien on personal property or on town owned property
- A tax agreement creates a contractual obligation and includes language to incorporate provisions of MGL Chapters 59 & 60 relating to collections laws

### C. An Agreement or a Tax Break

- Tax Agreements per MGL c. 59 §38H (b) shall be the result of good faith negotiations and shall be the equivalent of their property tax obligation based on full and fair cash valuation.
- Tax agreement amounts are included in the tax base for purposes of determining the levy limit and the Minimum Residential Factor in classification of property

### D. How Solar Tax Agreements work

- The solar equipment and infrastructure has value as personal property similar to other utility companies
- Leased land has value as real estate
- Agreement sets a fixed valuation schedule based on two approaches to value
  - 1) Cost: Applies a depreciation schedule to the original cost of assets  
(Plus land value)
  - 2) Income Capitalization Approach: considers value of Cash Flows resulting from Income on sale of energy & SREC's less Expenses to operate the solar facility (plus land value)
- Each year the towns' tax rate will be applied to the fixed valuation schedule to generate quarterly property tax bills.
- Solar development will expand our Industrial and Personal Property tax bases and is considered New Growth creating additional tax levy capacity in our levy limit calculation.

## Solar Valuation Worksheet 4/8/2013

The following worksheet is designed to allow assessors to value solar projects based on project specification inputs as well as market-based default inputs.

<b>Name of Project / Identification (below):</b>			
Generic Solar Project Sansoucy Drive			
(A)	Project Size (kW) - AC		600
(B)	Estimated Project Cost (\$/kW) - AC		\$3,000
(C)	Annual Project Generation (kWh)		3,942,000
(D)	Calculated Capacity Factor (C÷(Ax8760))		75%
<b>Revenue Assumptions:</b>			
Contract Rate for Electricity (\$/kWh)		\$0.10	\$394,200
SREC Price 2013		\$200	\$788,400
			<b>\$1,182,600</b>
<b>Expense Assumptions:</b>			
O&M (\$/kW-year)		\$3.50 x A	\$2,100
Administrative and General (\$/kW-year)		\$2.00 x A	\$1,200
Insurance (\$/kW-year)		\$12.00 x A	\$7,200
Land Lease (\$/kW-year)		\$0 x A	\$0
<b>Total Expenses</b>			<b>\$10,500</b>
<b>Capitalization:</b>			
<b>(E) Pre-Tax Cash Flow (EBITDA)</b>			<b>\$1,172,100</b>
Property Tax Rate (\$/1000)			\$18.33
Capitalization Rate (results will return a False if less than 20% is used in analysis)			20.00%
<b>(F) Tax Effectuated Cap Rate</b>			<b>21.83%</b>
<b>(G) Estimated Value by Income Approach (result limited to 95% of Cost New) (E ÷ F)</b>			<b>\$1,710,000</b>
<p>Note: If land lease taken as an expense, land must be added to value. If no land lease, value of land included in worksheet results.</p>			
<b>Value Confirmation:</b>		95% of Cost New (G÷(AxB))	
Value confirmation is based on SREC input and is intended to provide general guidelines.			
<ul style="list-style-type: none"> <li>• If SREC &gt;\$300, value should be between 80-100% of cost new.</li> <li>• If SREC at \$200 to \$299, value should be between 58-79% of cost new.</li> <li>• If SREC &lt; \$199, value should be less than 58% of cost new.</li> </ul>			





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David Hill

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**MEMO**

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**TO:** ALL TOWN OF WAYLAND BOARDS AND DEPARTMENTS  
**FROM:** BOARD OF ASSESSORS *John*  
**SUBJECT:** SOLAR GENERATING POWER ON TOWN OWNED PROPERTY  
**DATE:** 12/9/14

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The Board of Assessors wishes to remind all Town of Wayland Boards and Departments that it is very important to keep the Board of Assessors involved with negotiations of Solar Tax Agreements.

Massachusetts General Law (MGL), c. 59 § 2B, states municipal owned real estate shall be valued, classified, assessed, and taxed annually to the lessee if used in connection with a business conducted for profit or leased or occupied for other than public purposes producing, manufacturing, and generating electricity for retail sale to the public.

MGL c. 59 §38H (b) allows electric generation companies to negotiate an agreement for payment in lieu of tax (Tax Agreement). A tax agreement creates a contractual obligation and includes language to incorporate provisions of MGL Chapters 59 & 60 relating to collections laws. This protects the Town because the Tax Collector cannot place a tax lien on personal property or on town owned land.

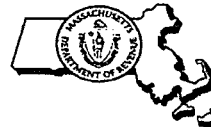
A Tax Agreement will fix the values and/or provide the formulas for determining the value of the property for taxation purposes. The value and/or formulas must have the Board of Assessors review and acceptance to insure that sound valuation principles have been employed.

The Department of Revenue requires the Board of Assessors to submit all Tax Agreements during the certification process for their review. If a Tax Agreement has been drafted without utilizing sound valuation methodology the Town will jeopardize receiving Department of Revenue approval of values.

If you have any questions or concerns please contact the Board of Assessors.

*Massachusetts Department of Revenue Division of Local Services*

*Amy A. Pitter, Commissioner Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs*



# Property Tax Exemptions

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*Prepared for Massachusetts Association of Assessing Officers  
October 2014*

<http://www.mass.gov/dls>

All exemptions now have some expiration deadline

## PERSONAL EXEMPTIONS

### WHAT IS NEW?

Valor 2 Act. eff July 2, 2014

### PERSONAL EXEMPTIONS

- **Paralegic Veterans** – Beginning in FY2016, exemption of 100% of taxes on domiciles of paralegics, their spouses where title held by spouse and surviving spouses will be granted locally under new Clause 22F.
- **Optional Additional Exemption** – Beginning in FY2016, the optional additional exemption of up to 100% for personal exemptions will be granted under a new local acceptance statute, G.L. c. 59, § 5C½, will apply to all exemption Clauses listed in first paragraph of G.L. c. 59, § 5, and after acceptance, exemption percentage voted before beginning of fiscal year in which it percentage is first implemented will apply until another percentage is voted before beginning of fiscal year new percentage will apply.
  - To implement for fiscal year, by July 1 legislative body must vote to:
    - Accept new G.L. c. 59, § 5C½, and
    - Specify exemption percentage.

Once voted stays in effect until change vote

Accept Statute by next July 1<sup>st</sup>

intentionally does not require annual vote = once done this yr.

### WORK ABATEMENTS

- **Seniors (G.L. c. 59, § 5K)**
  - Increase in maximum earned abatement (\$1,000, or 125 hours worked).
  - Proxy allowed to work for senior.
  - No new acceptance needed, but may need to amend selectboard or legislative body vote, by-law ordinance setting hourly rate and maximum abatement.
- **Veterans (G.L. c. 59, § 5N)**
  - Operates same as Senior Work Abatement.
  - Separate acceptance statute.
  - Eligible participants are veterans, the spouses of veterans with a service-connected disability and the surviving spouses of veterans.

**TABLE 1. Local Option Personal Exemption Statutes - Require Acceptance/Action by Legislative Body**

Citation	Exemption Type	Effect
G.L. c. 59 § 5, Clause 17C, 17C½, 17D	Senior, Surviving Spouse, Minor Child of Deceased Parent	Supersedes Cl. 17, or previously accepted version Increases whole estate limit
G.L. c. 59 § 5, Clause 17E	Senior, Surviving Spouse, Minor Child of Deceased Parent	Increases whole estate limit automatically each year by COLA determined by DOR
G.L. c. 59 § 5, provision added by St. 1995, c. 181 (last paragraph of c. 59, § 5)	Senior, Surviving Spouse, Minor Child of Deceased Parent	Increases exemption amount annually by any % up to COLA determined by DOR Legislative body must also vote to fix % increase
G.L. c. 59, § 5, Clause 18A	Hardship deferral	Legislative body may vote to reduce interest below 8%
G.L. c. 59, § 5, provision added by St. 1993, c. 110, §110 (last paragraph of c. 59, § 5, Clause 22E)	Veteran	Reduces residency requirement for veterans who were not domiciled in Massachusetts 6 months before entering the service from 5 to 1 year before application - Applies to all veteran exemptions (Clauses 22, 22A-22E)
G.L. c. 59, § 5, Clause 37A	Blind person	Supersedes Cl. 37 Increases amount of exemption to \$500
G.L. c. 59, § 5, Clause 41A	Senior deferral	Legislative body may vote to: <ul style="list-style-type: none"> <li>• Increase gross receipts limit up to income single seniors who are not heads of households may have to qualify for the "circuit breaker" state income tax credit</li> <li>• Reduce interest below 8%</li> </ul>
G.L. c. 59, § 5, Clause 41B, 41C	Senior	Supersedes Cl. 41, or previously accepted version Increases gross receipts and whole estate limits
G.L. c. 59, § 5, Clause 41C	Senior	Legislative body may vote to: <ul style="list-style-type: none"> <li>• Reduce eligibility age to 65</li> <li>• Increase exemption amount by up to 100%</li> <li>• Increase gross receipts limit up to \$20,000 single and \$30,000 married</li> <li>• Increase whole estate limit up to \$40,000 single and \$55,000 married</li> <li>• Exclude value of up to 4 family home from whole estate</li> </ul>
G.L. c. 59, § 5, Clause 41C½	Senior	Legislative body may vote to: <ul style="list-style-type: none"> <li>• Reduce eligibility age to 65</li> <li>• Increase exemption % up to 20%</li> <li>• Reduce durational residency requirement to 5 years</li> </ul>
G.L. c. 59, § 5, Clause 41D	Senior	Increases Clause 41, 41B or 41C gross receipts and whole estate limits automatically each year by COLA determined by DOR

Citation	Exemption Type	Effect
G.L. c. 59, § 5, Clause 50	Senior	Exempts value of improvements to residential property made to provide housing for person 60 or older who is not the owner
G.L. c. 59, § 5, Clause 52	Senior	Exempts amount of taxes that exceed higher water/sewer bills up to \$200 (only in community adopting water/debt shift under G.L. c. 59, § 21C(n))
G.L. c. 59, § 5, Clause 53	Residential	Exempts amount of taxes that exceed higher sewer bills up to \$300 for homeowners not connected to sewer system (only in community adopting sewer debt shift under G.L. c. 59, § 21C(n))
G.L. c. 59, § 5, Clause 55	Personal	Makes units leased to and occupied by members of cooperatives deemed owned by members
G.L. c. 59, § 5, Clause 56	Deployed Guardsmen & Reservists	Exempts up to 100% of property taxes assessed to Massachusetts national guardsmen and reservists deployed overseas
G.L. c. 59, § 5, Clause 57	Senior	Exempts seniors up to amount of "circuit breaker" state income tax credit received for domicile
G.L. c. 59, § 5C	Residential	Makes units leased to and occupied by members of cooperatives deemed owned by members
G.L. c. 59, § 5L	Deployed Guardsmen & Reservists	Defers payment of tax assessed to Massachusetts national guardsmen and reservists deployed overseas for 180 days following service
St. 1986, c. 73, § 4 (Current)	Personal	Increases all personal exemption amounts by up to 100% (annual vote)  Beginning in FY16, the optional exemption will be granted under G.L. c. 59, § 5C½ by acceptance, and a vote on the exemption percentage before the July 1 of the fiscal year that exemption will apply. That percentage will stand until another vote taken before the beginning of the fiscal year the new percentage is to apply. It will also apply to all Clauses listed in the first paragraph of G.L. c. 59, § 5. See St. 2012, c. 62, §§ 14 and 27.

**TABLE 2. Local Option Personal Exemption Statutes  
Require Acceptance by Referendum/Action by Legislative Body**

Citation	Exemption Type	Effect
G.L. c. 59, § 5, Clause 41C½	Senior	Supersedes Cl. 41, or previously accepted version Bases exemption on 5% of average residential value Increases gross receipts limit – tied to state senior circuit breaker limits which increase yearly Eliminates whole estate limit

**TABLE 3. Exempt Persons – Applicants  
Veterans under Clauses 22, 22A, 22B, 22C, 22D and 22E**

CLAUSE	TYPE	AMOUNT <sup>1</sup>	VETERAN	SPOUSE	SURVIVING SPOUSE	SURVIVING PARENT
22(a)	Veterans with minimum 10% service connected disability	\$400	X			
22(b)	Veterans of certain pre-World War I conflicts	\$400	X			
22(c)	Veterans awarded purple hearts	\$400	X			
22(d)	Spouses (when property is owned by spouse, not veteran) and surviving spouses of Clause 22(a) – (c) veterans	\$400		X	Until remarriage	
22(e)	Gold star parents	\$400				X
22(f)	Surviving spouses of World War I veterans whose whole estate, less mortgage balance on property, does not exceed \$20,000	\$400			Until remarriage	
22A	Veterans who lost, or had permanent loss of use of, one hand, foot or eye in the line of duty or were awarded Congressional Medal of Honor, Distinguished Service Cross, Navy Cross or Air Force Cross	\$750	X	X	X	

<sup>1</sup> With the exception of Clauses 22(a-f) and 22D, if the property is greater than a single-family house, the applicant receives an exemption for only that portion that corresponds to the segment occupied.

CLAUSE	TYPE	AMOUNT <sup>2</sup>	VETERAN	SPOUSE	SURVIVING SPOUSE	SURVIVING PARENT
22B	Veterans who lost, or had permanent loss of use of, two hands, feet or eyes in the line of duty	\$1250	X	X	X	
22C	Veterans with 100% disability in the line of duty and whose domicile is specially adapted housing acquired with assistance from VA	\$1500	X	X	X	
22D	Surviving spouses of some active duty service members or guardsmen (1) who were killed or are missing in action and presumed dead due to combat, or (2) whose death was proximate result of injury or disease due to being in combat zone <sup>3</sup>	Full			Until remarriage	
22E	Veterans with 100% disability in the line of duty (annual certificate required)	\$1000	X	X	X	
	Paraplegic veterans <sup>4</sup>	Full	X		X	

<sup>2</sup> With the exception of Clauses 22(a-f) and 22D, if the property is greater than a single-family house, the applicant receives an exemption for only that portion that corresponds to the segment occupied.

<sup>3</sup> See DOR Opinion 2014-319 on page 15.

<sup>4</sup> Currently, qualifying paraplegic veterans and surviving spouses are granted a Clause 22 exemption for \$400. The assessors abate the balance after DOR authorization under G.L. c. 58, § 8. Beginning in FY16, paraplegic veterans, their spouses who hold title to their' domiciles, and their surviving spouses will be granted the full exemption under Clause 22F. See St. 2012, c. 62, §§ 9 and 12.

**TABLE 4. Exempt Persons – Optional Additional Exemption<sup>1</sup>**

**Assumes First Adopted for FY2015  
Impact on Existing Recipients**

	FY 2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021
<b>Tax</b>	\$1000	\$1050	\$1075	\$1100	1200	1300	1400	1500
<b>Clause Exemption (22)</b>	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)
<b>Net Tax After Exemption</b>	600	650	675	700	800	900	1000	1100
<b>Optional Additional Voted (100%)</b>		400	400	400	400	400	400	400
<b>Optional Additional Allowed</b>		(50)	(75)	(100)	(200)	(300)	(400)	(400)
<b>Amount Due</b>	600	600	600	600	600	600	600	700

**Impact on New Recipients**

	FY 2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021
<b>Tax</b>	\$1000	\$1050	\$1075	\$1100	1200	1300	1400	1500
<b>Clause Exemption (22)</b>	0	(400)	(400)	(400)	(400)	(400)	(400)	(400)
<b>Net Tax After Exemption</b>	1000	650	675	700	800	900	1000	1100
<b>Optional Additional Voted (100%)</b>		400	400	400	400	400	400	400
<b>Optional Additional Allowed</b>		(0)	(25)	(50)	(150)	(250)	(350)	(400)
<b>Amount Due</b>	1000	650	650	650	650	650	650	700

<sup>1</sup> Currently does not apply to G.L. c. 59, § 5, Clauses 41C½, 56 or 57. See St. 1986, c. 73, § 4, as amended by St. 1988, c. 126. Beginning in FY16, the optional exemption will be granted under G.L. c. 59, § 5C½ by acceptance, and a vote on the exemption percentage before the July 1 of the fiscal year that exemption will apply. That percentage will stand until another vote taken before the beginning of the fiscal year the new percentage is to apply. It will also apply to all Clauses listed in the first paragraph of G.L. c. 59, § 5. See St. 2012, c. 62, §§ 14 and 27.



**TABLE 5. Senior/Veteran Work Programs**

Program Name	<p align="center"><b>Work-off Abatement</b>  <b>Requires Separate Local Acceptance</b>  <b>G.L. c. 59, § 5K (seniors) or G.L. c. 59, § 5N (veterans)</b></p>	Municipal Employment
<b>Assistance Type</b>	<p>Reduces by means of an abatement the local property tax liability of senior/veteran in exchange for volunteer service to municipality</p> <p>Abatement of actual tax is <u>exclusive</u> means of providing assistance and head of department where senior/veteran worked <u>must certify hours worked and wage rate to assessors before actual tax committed</u></p>	<p>Provides supplemental income to help taxpayer pay local property taxes (or water, sewer or other local charges)</p> <p>Tax (or other bill) paid in part from earnings</p>
<b>Statutory Eligibility</b>	<p>Senior under G.L. c. 59, § 5K – Must be 60 or older</p> <p>Veteran under G.L. c. 59, § 5N – Must meet definition of veteran in G.L. c. 4, § 7 Spouse of veteran with a service connected disability and surviving spouse of veteran also eligible</p>	Determined locally
<b>Other Eligibility (seniors/veterans who qualify for other tax reductions or co-own with others participating in program; income or assets tests, etc.)</b>	Determined locally	Determined locally
<b>Application Procedure</b>	Varies locally	Determined locally
<b>Assistance Amount</b>	<p>\$1,000 maximum abatement (or abatement attributable to 125 hours)</p> <p>Maximum hourly rate for service - state minimum wage (G.L. c. 151, § 1)</p>	Determined locally
<b>Income Tax Treatment</b>	<p><u>Federal</u> – Abatement earned considered compensation subject to federal income and FICA taxes and must be reported to IRS</p> <p>Treasurer should verify proper reporting procedure with IRS</p> <p><u>State</u> – Abatement earned <u>not</u> income for state income tax (or workmen’s compensation purposes) and need not be reported to DOR</p>	<p>Wages income for federal and state purposes and subject to all applicable federal and state withholding and reporting requirements</p>
<b>Accounting</b>	<p>Gross earnings charged to overlay</p> <ul style="list-style-type: none"> <li>• Assessors process abatement for earnings net of federal withholdings (as determined by treasurer) after actual tax committed and before actual bills issued</li> <li>• Assessors notify accounting officer of gross amount to charge overlay and notify collector and accounting officer of abatement amount</li> <li>• Collector shows abatement as credit against actual tax and calculates installment payments based on tax, as abated</li> <li>• Accounting officer transfers federal withholdings amount to agency account for payment to United States (Municipal share of FICA taxes are charged to FICA appropriation, but may be charged to overlay if that appropriation not sufficient)</li> </ul>	<p>Gross earnings charged to appropriation</p> <p>Municipal share of FICA taxes charged to FICA appropriation</p>

**TABLE 6. Exempt Charitable, Fraternal, Religious and Veteran Organizations - Jurisdictional Filing Requirements**

<b>ORGANIZATION AND PROPERTY</b>	<b>EXEMPTION APPLICATION</b>	<b>PROPERTY RETURN (FORM 3ABC)</b>	<b>PUBLIC CHARITIES REPORT<sup>1</sup> (FORM PC WITH FEDERAL FORM 990)<sup>2</sup></b>
<b>Charitable – Personal property</b> G.L. c. 59, § 5(3)	1 <sup>st</sup> fiscal year exemption claimed by organization	Annual	Annual
<b>Charitable – Real property</b> G.L. c. 59, § 5(3)	1 <sup>st</sup> fiscal year exemption claimed for particular parcel	Annual	Annual
<b>Fraternal – Personal property</b> G.L. c. 59, § 5(7)	Not required <sup>3</sup>	Not required	Not required
<b>Fraternal – Real property</b> G.L. c. 59, § 5(3)	1 <sup>st</sup> fiscal year exemption claimed for particular parcel	Annual	Not required
<b>Religious – Personal property</b> G.L. c. 59, § 5(10)	Not required <sup>4</sup>	Not required	Not required
<b>Religious – House of worship or parsonage</b> G.L. c. 59, § 5(11)	Not required <sup>5</sup>	Not required	Not required
<b>Religious – Other real property</b> G.L. c. 59, § 5(3)	1 <sup>st</sup> fiscal year exemption claimed for particular parcel	Annual	Not required
<b>Veterans – Real or personal property</b> G.L. c. 59, § 5(5, 5A, 5B, 5C)	Not required <sup>6</sup>	Annual	Not required

<sup>1</sup> Complete report must be attached to return for annual filing requirement to be met.

<sup>2</sup> Effective for fiscal years ending on or after December 31, 2010 (first reporting on 5/15/2011), the Attorney General no longer requires small organizations (gross support and revenue of \$5,000 or less) to include Form 990 with Form PC.

<sup>3</sup> Organization must file timely abatement application if a tax bill is issued for the property.

<sup>4</sup> Organization must file timely abatement application if a tax bill is issued for the property.

<sup>5</sup> Organization must file timely abatement application if a tax bill is issued for the property.

<sup>6</sup> Organization must file timely abatement application if a tax bill is issued for the property.

**TABLE 7. Exempt Charitable, Fraternal, Religious and Veteran Organizations – Exemption Application Filing Requirements**

**INITIAL APPLICATION MUST BE FILED FOR PROPERTY OWNED BY/ HELD IN TRUST FOR ORGANIZATION ON JULY 1**

**APPLICATION (Form 1-B-3 or 128) DUE SAME DAY ABATEMENT APPLICATIONS DUE FOR FISCAL YEAR**

*Assessors may review exemption application received before actual tax bills are issued.*

*If tax bill issued, entity must reapply by abatement application due date (or appeal directly to Appellate Tax Board under G.L. c. 59, § 5B)*

ORGANIZATION AND PROPERTY	FILING YEAR	SUPPORTING INFORMATION
<ul style="list-style-type: none"> <li>• <b>Charitable</b> – Real/personal property</li> <li>• <b>Fraternal</b> – Real property</li> <li>• <b>Religious</b> – Real property (except house of worship/parsonage)</li> </ul>	<ul style="list-style-type: none"> <li>• 1<sup>st</sup> fiscal year exemption claimed by organization</li> <li>• 1<sup>st</sup> fiscal year exemption claimed for real estate parcels not included in initial or additional application</li> </ul>	<ul style="list-style-type: none"> <li>• <b>CHARITABLE STATUS</b> <ul style="list-style-type: none"> <li>• Articles of incorporation or charter</li> <li>• Organization's by-laws</li> <li>• If charitable trust, the recorded trust and schedule of beneficiaries</li> <li>• List of names and residential addresses of current officers and directors or trustees of the organization</li> <li>• Certificate of exemption from Massachusetts sales tax</li> <li>• Federal exemption 501(c)(3) letter</li> <li>• Most recent annual financial report</li> <li>• Brochures or literature describing charitable activities</li> </ul> </li> <li>• <b>REAL PROPERTY USE</b> <ul style="list-style-type: none"> <li>• Copy of recorded deed if not yet received from Registry of Deeds</li> <li>• Description of organization's use of space</li> <li>• If vacant, reason for purchase and plans for use</li> <li>• List of all tenants, amount of space each rents and how space is used</li> <li>• For each charitable tenant, all of the information listed above under Charitable Status</li> </ul> </li> </ul>

Just because  
501(c)(3)  
Does not make  
organization  
Charitable -

has to be : Corporation or trust

Non-profit  
doesn't mean  
Charitable

defines ←  
Charitable

**TABLE 8. Exempt Charitable Organizations – Initial Determination of Exempt Status**

<u>DETERMINATION</u>	<u>DOCUMENTATION</u>
<p>1. Did the organization file a property return by March 1 (unless extension approved) for all personalty and/or parcels of real estate it owned on January 1?</p>	<ul style="list-style-type: none"> <li>• Form 3ABC</li> <li>• Form PC, including federal 990                             <ul style="list-style-type: none"> <li>• Complete report must be attached to return for annual filing requirement to be met.</li> <li>• Effective for fiscal years ending on or after December 31, 2010 (first reporting on 5/15/2011), the Attorney General no longer requires small organizations (gross support and revenue of \$5,000 or less) to include Form 990 with Form PC</li> </ul> </li> </ul>
<p>2. Did the organization file an initial exemption application by the abatement filing deadline for the fiscal year for which it first claims a tax exemption on personalty, or particular real estate parcel?</p>	<ul style="list-style-type: none"> <li>• Form 1-B-3 (Clause 3 exemption application) or Form 128 (abatement application)</li> </ul>
<p>3. Is the organization a charity as of July 1?</p> <ul style="list-style-type: none"> <li>• Charitable purpose</li> <li>• Operates to benefit public</li> <li>• No private inurement</li> </ul>	<ul style="list-style-type: none"> <li>• Articles of incorporation or charter</li> <li>• Organization's by-laws</li> <li>• If charitable trust, the recorded trust and schedule of beneficiaries</li> <li>• List of names and residential addresses of current officers and directors or trustees of the organization</li> <li>• Certificate of exemption from Massachusetts sales tax</li> <li>• Federal exemption 501(c)(3) letter</li> <li>• Most recent annual financial report</li> <li>• Brochures or literature describing charitable activities</li> </ul>
<p>4. Did the organization own each parcel of real estate on July 1?</p>	<ul style="list-style-type: none"> <li>• Copy of recorded deed if not yet received from Registry of Deeds</li> </ul>
<p>5. Is each parcel of real estate occupied by the organization for its charitable purposes or another charity for its charitable purposes on July 1?</p>	<ul style="list-style-type: none"> <li>• Description of organization's use of space</li> <li>• If vacant, reason for purchase and plans for use</li> <li>• List of tenants, amount of space each rents and how space is used</li> <li>• If any tenant claims charitable status, all of the information listed above in item 3</li> </ul>

**TABLE 9. Exempt Charitable, Fraternal, Religious and Veteran Organizations – Annual Property Return Filing Requirements**

**ANNUAL RETURN MUST BE FILED FOR PROPERTY OWNED BY/ HELD IN TRUST FOR ORGANIZATION ON JANUARY 1**

**RETURN DUE MARCH 1 UNLESS ASSESSORS GRANT WRITTEN EXTENSION  
(Latest Extended Due Date is Date Abatement Applications for Fiscal Year)**

ORGANIZATION AND PROPERTY	PROPERTY RETURN (FORM 3ABC)	PUBLIC CHARITIES REPORT <sup>1</sup> (FORM PC WITH FEDERAL FORM 990) <sup>2</sup>
<b>Charitable – Real and personal property</b> G.L. c. 59, § 5(3)	Annual	Annual
<b>Fraternal – Real property</b> G.L. c. 59, § 5(3)	Annual	Not required
<b>Religious – Real property (except house of worship/parsonage)</b> G.L. c. 59, § 5(3)	Annual	Not required
<b>Veterans – Real and personal property</b> G.L. c. 59, § 5(5, 5A, 5B, 5C)	Annual	Not required

<sup>1</sup> Complete report must be attached to return for annual filing requirement to be met.

<sup>2</sup> Effective for fiscal years ending on or after December 31, 2010 (first reporting on 5/15/2011), the Attorney General no longer requires small organizations (gross support and revenue of \$5,000 or less) to include Form 990 with Form PC.

Series Number	Description of Record	Length of Time Required to Retain Record	MGL / CMR
04.020	Data Processing Input Forms	Retain until verification of outputs.	
04.021	Deed and Title Abstracts	Retain until administrative use ceases. Permission from Supervisor not required for destruction.	
04.022	Department of Revenue Directives and Guidelines	Retain until superseded.	
04.023	Divided Assessment, Notice of	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	
04.024	Equalized Valuation LA-3 Status Report	Retain 3 years.	c. 58 ss. 9 and 10
04.025	Estimated Growth Report	Retain 5 years.	c. 58 ss. 9, 10
04.026	Exemption, Certificates of	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	c. 59 s. 5
04.027	Exemptions for Charitable Organizations, Application Files (includes 3ABC and Annual Reports)	Retain 3 years following audit following final settlement of levy following termination of exemption.	c. 59 s. 5 cl.(3)
04.028	Exemptions for Persons, Application Files, including Motor Vehicle Excise	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	c. 59 s. 5 cl. 17, 22, 37, 41, 42, 43 and c. 60A s. 1
04.029	Exemptions, Card Files of	Retain 3 years.	
04.030	Forest Land Classification Files, including Application for Classification (CL-1), Prop. Owners' Acknowledgements (CL-1(61), Notices of Action (CL-2, CL-7, CL-8, CL-10), Tax Lien (CL-3), Tax Lien Release (CL-9); Certificate of Penalty Tax (CL-6)	Retain for 10 years after following later of audit or final settlement of levy audit.	c. 61
04.031	Forms of List. Form 2, 2HF	Retain 3 years.	c. 59 ss. 29, 36
04.032	Geographic (Street) File	Retain until administrative use ceases. Permission from Supervisor not required for destruction.	
04.033	Income and Expense Statements	Retain 3 years.	
04.034	Land Court Records	Retain until administrative use ceases. Permission from Supervisor not required for destruction.	
04.035	List of Tax Bills Which Merit Exemption	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	c. 60A s. 1
04.036	Minimum Residential Factor Computation Form. Form LA-7	Retain until approval of new tax rate.	c. 59 s. 21C
04.037	Monthly List of Abatements of Motor Vehicle and Trailer Excise (to Accountant). Form 156	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	c. 60A s. 1
04.038	Monthly List of Taxes Abated, Real Estate and Personal Property. Form 155	Retain until completion of satisfactory audit or final settlement of levy, whichever is later.	c. 59 s. 23B



June 3, 2014

Senator Thomas P. Kennedy  
The State House – Room 1053  
Boston, MA 02133-1053

Re: Eligibility for Clause 22D Exemption  
Our File No. 2014-319

Dear Senator Kennedy:

You asked about the qualifications for a local property tax exemption under G.L. c. 59, § 5, Clause 22D. You state that you have been advised that local assessors are inconsistent in their determinations regarding the taxpayers who qualify and it was your intention that the exemption apply to “widowed spouses of military veterans killed in action for life regardless of the year the spouse passed away.” As explained below, the language in Clause 22D and a separate provision about its applicability has resulted in differing interpretations of the exemption.

The Commissioner of Revenue does not determine whether any particular property owner qualifies for a property tax exemption. This is because the property tax is solely a local tax. Only a community’s board of assessors, as the local tax administrator, has the power to make property tax exemption decisions. Upon receipt of a timely application for exemption, the assessors determine the facts and apply the statutory eligibility criteria. Their decision may be informed by their own interpretation of the statute and other sources, including but not limited to any advisory statements from our department. The recourse for a taxpayer who disagrees with the assessors’ decision is to appeal to the Appellate Tax Board, not this department. The fact-finding expertise of the Appellate Tax Board equips it to determine exemption qualification based on the totality of the circumstances.

The exemption at issue, Clause 22D, was amended as part of the Massachusetts Military Enhanced Relief Individual Tax (MERIT) Act, St. 2006, c. 260, which generally increased the amount of local property tax exemptions available to veterans for their domiciles. Previously, the Clause 22D exemption was only \$250 and eligible taxpayers were limited to the surviving spouses of servicemembers who died in combat in a particular military action (“surviving spouses of soldiers or sailors who lost their lives in combat as members of the armed forces of the United States in military action at the islands of Quemoy and Matsu in the Pacific Ocean [i.e. Taiwan Strait.]”). (Emphasis added.) The MERIT Act increased the exemption benefit to a full exemption capped at \$2500 in fiscal year six and after and removed the condition that the servicemember have died in a specific war-time or combat action (“surviving spouses of soldiers and sailors and members of the National Guard whose death occurred as a proximate result of an injury sustained or disease contracted in a combat zone, or who are missing in action with a presumptive finding of death, as a result of combat as members of the armed forces of the United States”). (Emphasis added.) The surviving spouse or servicemember must meet certain residency requirements and the surviving spouse loses the exemption upon remarriage. Section 9 of St. 2006, c. 260. Significantly, Section 17 of the MERIT Act provided that the amendments to Clause 22D were to “take effect as of September 11, 2001, for those soldiers, sailors and members of the National Guard who died or who became missing in action with a presumptive finding of death on or after September 11, 2001.” (Emphasis added). In 2012, the exemption benefit was increased to a full exemption regardless of the fiscal year granted. St. 2012, c. 108, § 8.

**TABLE 10. Exempt Charitable Organizations – Annual Review of Exempt Status**

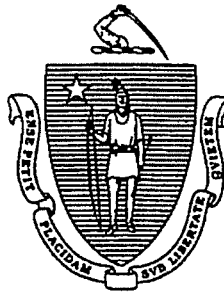
<u>DETERMINATION</u>	<u>DOCUMENTATION</u>
<p>1. Did the organization file a property return by March 1 (unless extension approved) for all personalty and/or parcels of real estate it owned on January 1?</p>	<ul style="list-style-type: none"> <li>• Form 3ABC</li> <li>• Form PC, including federal 990               <ul style="list-style-type: none"> <li>• Complete report must be attached to return for annual filing requirement to be met.</li> <li>• Effective for fiscal years ending on or after December 31, 2010 (first reporting on 5/15/2011), the Attorney General no longer requires small organizations (gross support and revenue of \$5,000 or less) to include Form 990 with Form PC</li> </ul> </li> </ul>
<p>2. Did the organization file an exemption application by the abatement filing deadline for the fiscal year for any parcel of real estate not exempt the prior year for which an exemption is now claimed?</p>	<ul style="list-style-type: none"> <li>• Form 1-B-3 (Clause 3 exemption application) or Form 128 (abatement application)</li> </ul>
<p>3. Is the organization still a charity as of July 1?</p>	<ul style="list-style-type: none"> <li>• Amendments to articles of incorporation or charter</li> <li>• Amendments to organization's by-laws</li> <li>• If charitable trust, amendments to the recorded trust and schedule of beneficiaries</li> <li>• Description of changes in activities</li> </ul>
<p>4. Did the organization own each parcel of real estate on July 1?</p>	<ul style="list-style-type: none"> <li>• Copy of recorded deed if not yet received from Registry of Deeds</li> </ul>
<p>5. Is each parcel of previously exempt real estate still occupied by the organization or another charity for charitable purposes on July 1?</p>	<ul style="list-style-type: none"> <li>• Changes in organization's use of space</li> <li>• If new tenants, amount of space rented and use</li> <li>• If new tenant claims charitable status, same information about organization as listed in item 3 for initial determination of exempt status</li> </ul>
<p>6. Is each parcel of newly acquired real estate occupied by the organization for its charitable purposes or another charity for its charitable purposes on July 1?</p>	<ul style="list-style-type: none"> <li>• Description of organization's use of space</li> <li>• If vacant, reason for purchase and plans for use</li> <li>• List of tenants, amount of space each rents and how space is used</li> <li>• If any tenant claims charitable status, all of the information listed in item 3 for initial determination of exempt status</li> </ul>



# The Commonwealth of Massachusetts

## Municipal Records Retention Manual

A Publication of the Supervisor of Records  
and the Records Management Unit



2011 Edition

William Francis Galvin  
Secretary of the Commonwealth

[www.sec.state.ma.us/arc/arcrmu/rmuidx.htm](http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm)

As you know, a court construes statutory language as written, in keeping with its plain meaning, but not in isolation. The language must be construed in association with all its parts and other statutory provisions that relate to the same subject matter in order to effectuate a harmonious whole. See *Commissioners of the Bristol County Mosquito Control District v. State Reclamation and Mosquito Control Board*. 466 Mass. 523, 528-529 (2013) and cases cited.

It is indisputable that eligibility for a Clause 22D was broadened so there is no longer a requirement that the servicemember have died in combat in a particular military action. We understand that the Department of Veteran Services and others may believe that in addition to the surviving spouses of active duty personnel who were killed or presumed to have been killed in combat, or who died as a proximate result of combat injuries or diseases, the amended statute also exempts surviving spouses of veterans, regardless of when the servicemember or veteran passed away. We respectfully disagree.

First, with respect to the eligibility of surviving spouses of veterans, that was not an issue under the prior version of Clause 22D, as it clearly applied only to surviving spouses of active duty personnel killed in the specified military action. (“soldiers or sailors who lost their lives in combat as members of the armed forces.”) In amending the statute to expand eligibility, however, we find it instructive that the legislature did not use the word “veteran.” In our view, a court would find that to be determinative in construing the meaning of Clause 22D in the context of the entire statutory plan of property tax exemptions for the homes owned and occupied by those who served in the military.

Specifically, an analysis of Clauses 22, 22A, 22B, 22C and 22E of G.L. c. 59, § 5 shows that the legislature has consistently used the term “soldiers and sailors” in those exemptions for surviving spouses or parents of servicemembers who died while serving in the military. See Clause 22(d) (“surviving spouse of soldiers or sailors ... who lost their lives while serving in said war or in said Insurrection or said Relief Expedition”) and Clause 22(e) (“Fathers and mothers of soldiers or sailors who lost their lives in such service.”) (Emphasis added.) In all of the other exemptions, however, the legislature has consistently used the term “soldiers and sailors ... who are veterans, as defined in clause 43 of section 7 of chapter 4 and whose last discharge or release from the armed forces was under other than dishonorable conditions.” (Emphasis added.) Thus, for purposes of local property tax exemptions, veterans are individuals who served in the armed forces during peace or wartime periods and were discharged from service. A veteran qualifies for one of various exemptions depending on the disability sustained from an injury received or disease contracted during military service or the awards received for that service. The disability does not have to be a result of combat, but does have to be service-connected according to the records of the United States Department of Veteran Affairs (VA) or the branch of service. During the veteran’s life, these exemptions are also available to the veteran’s spouse if the spouse holds title to the veteran’s domicile.. Upon the veteran’s death, the surviving spouse qualifies regardless of the cause of the veteran’s death.

As stated earlier, Section 17 of the MERIT Act provided that the amended Clause 22D was to “take effect as of September 11, 2001, for those soldiers, sailors and members of the National Guard who died or who became missing in action with a presumptive finding of death on or after September 11, 2001.” (Emphasis added). We note that this provision does not use the term “veteran” either. Moreover, such language is quite unusual for a statute amending property tax laws and has created ambiguity because of the enactment of the MERIT Act in August of 2006, almost five years after September 11, 2001.

The general rule is that changes in tax laws apply prospectively as of the next tax period after the effective date of the amendment, unless the legislature clearly intends otherwise. *Magee v. Commissioner of Corporations & Taxation*, 256 Mass. 512, 517 (1926); *United States Trust Co. v. Commissioner of Corporations and Taxation*, 299 Mass. 296, 299 (1938); *Squantum Gardens, Inc. v. Assessors of Quincy*, 335 Mass. 440, 452 (1957). Thus, absent any clear legislative direction to the contrary, the earliest a surviving spouse could have ordinarily applied for and been granted an exemption under the amended Clause 22D would have been for fiscal year 2008 based on meeting all exemption requirements on July 1, 2007. See G.L. c. 59, § 5 (“... age, ownership or other qualifying factors required by any clause shall be July first of each year ...”).

Plausibly, Section 17 was intended to make the amended exemption retroactive to the next tax period after the historically significant date of September 11, 2001, i.e., to July 1, 2002 for fiscal year 2003. Although we advised assessors that they should so treat Section 17, we have never been entirely certain of the intent given our experience with other legislation adding or amending property tax exemptions. There are several reasons for our uncertainty. First, it is highly unusual for a tax change to be made retroactive beyond the beginning of the year in which the statute becomes law. In addition, the legislature is presumed to be aware of existing statutes when it amends or enacts one. See *Charland v. Muzi Motors, Inc.*, 417 Mass. 580, 582-583 (1994). Therefore, in addition to knowing that a change in the qualifications for a local property tax exemption would apply as of the next July 1 for the fiscal year that begins on that date absent express language otherwise, the legislature is presumed to know that taxpayers are required to apply for property tax exemptions for any particular fiscal year by a certain time each year and that local assessors have no jurisdiction to grant an exemption without a timely application before them. See G.L. c. 59, § 59, which establishes the application deadline for Clause 22D (December 15 or 3 months after the tax bills are mailed, whichever is later) and *Old Colony Railroad v. Assessors of Quincy*, 305 Mass. 509, 511-512 (1940); *Guzman v. Board of Assessors of Oxford*, 24 Mass. App. Ct. 118 (1987) (Filing on time is an integral part of the right to exemption and failure to apply on time destroys the right even in sympathetic circumstances.) However, neither Section 17, or any other provision of the MERIT Act, contains a mechanism for taxpayers to establish their qualifications for any prior fiscal year beginning after September 11, 2001 for which the exemption application deadline had long since passed, e.g., by extending the application period for those years. Yet, the legislature has so provided in other cases and we would have expected it to do so here, particularly given the number of years at issue. See, e.g., Section 5 of St. 1986, c. 73, which expanded various exemption options for the purpose of providing tax relief from revaluation (“Notwithstanding any general or special law to the contrary, any city or town ... shall allow taxpayers an additional forty-five days ... to file applications for exemption thereunder...”)(Emphasis added).

With respect to when the member of the military or national guard died, we also find it instructive to compare Section 17 of the MERIT Act to the language used by the legislature when it expanded eligibility of the Clause 22A, 22B, 22C and 22E exemptions to surviving spouses of disabled veterans in 2000. St. 2000, c. 159. Before 2000, those exemptions were only available to a disabled veteran or the veteran’s spouse (if title to the domicile was held by the spouse). Once the veteran passed away, the surviving spouse could only receive a lesser Clause 22 exemption. In broadening the Clause 22A, 22B, 22C and 22E exemptions to apply to surviving spouses, the legislature expressly stated that the exemptions applied to the surviving spouses of veterans who died before as well as after the effective date of the amendment, but in that case only with respect to taxes for future fiscal years. See St. 2000, c. 159, § 487. (“Sections ... shall apply to the spouses of veterans who died before or after the effective date of this act, but shall apply only to taxes assessed beginning on or after July 1, 2000.”)(Emphasis added.) If the legislature intended the amended Clause 22D to apply to all surviving spouses regardless of when the member died, we would have expected it to say so, as it did in 2000.

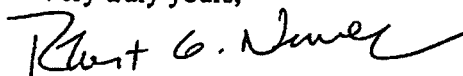
Finally, the prepositional phrase “on or after September 11, 2001” in Section 17 of the MERIT Act clearly relates to the soldiers, sailors and members of the National Guard “who died or who became missing in action.” Given the historical significance of September 11, 2001, it seems to us that the most grammatically sound and probable meaning is that the legislature expanded the exemption for the benefit of surviving spouses of active duty personnel killed or presumed to have been killed in, or who died from injuries or diseases sustained, in any combat engagement that takes place after the tragic events of that date. This conclusion is not free from doubt either, as arguably, the legislature could have inserted such a condition into the text of Clause 22D itself. As a result and in order to give meaning to “on or after September 11, 2001,” we have advised assessors that the death should have occurred on or after that date.

Although not raised as an issue by your letter, the administration of Clause 22D can also differ locally because it now requires local assessors to determine that the servicemember or guardsman died as a “proximate result” of an injury sustained or disease contracted in a combat zone. In the exemptions for veterans cited earlier, by contrast, the assessors are not required to determine the degree of a veteran’s disability or whether it was sustained in the line of duty. They must accept the determination reflected in the records of the VA or branch of service. Proximate result or cause is not defined in Clause 22D, so we assume the legislature intended the term have its usual and accepted meanings from sources known to it, such as its use in other legal contexts and dictionary definitions. See *Seideman v. Newton*, 452 Mass. 472, 477-478 (2008). Proximate result or proximate cause is a well-established legal standard that usually means the direct, nearest or most immediate cause. See *Commonwealth v. Pugh*, 463 Mass. 482, 501 (2012) (“Proximate cause ‘is a cause, which, in the natural and continuous sequence, produces the death and without which, the death would not have occurred.’”) (Cite omitted.) We are not experts on the statutory or regulatory standards applied by the VA or the military branches to determine whether a servicemember’s death is caused by combat injuries or diseases for purposes of federal benefits to a surviving spouse. However, we have advised assessors that they can certainly rely on any VA determination of such eligibility, but they are not required to do so and in its absence, they would have to make an independent determination of that cause from medical documentation provided by the applicant, subject to appeal. As you can see, this poses a challenge for the assessors in administering the exemption and makes the uniform determination of eligibility less likely in the absence of a controlling statutory construction.

In closing, please note that since 2006 we have frequently discussed these difficulties of interpretation with staff and members of the Department of Veteran Services, Veteran Service Officers Association, legislative committees and others. Our only interest, and the interest of the assessors, is clarity so that those surviving spouses intended by the legislature to be fully exempt will receive that exemption. We have repeatedly offered to review any proposed amendments intended to clarify the legislature’s intent regarding the surviving spouses eligible for the exemption. We continue to be available to provide that technical assistance.

If you have any further questions, please do not hesitate to contact us again.

Very truly yours,



Robert G. Nunes  
Deputy Commissioner

YEAR 2014

ASSESSORS WARRANT TO COLLECTOR  
**MOTOR VEHICLE AND TRAILER EXCISE**  
..... COMMITMENT 2014-06  
**SIXTH**

THE COMMONWEALTH OF MASSACHUSETTS  
WAYLAND  
**OFFICE OF THE BOARD OF ASSESSORS**

To .....**Paul W. Keating, Jr.**..... Collector of Taxes for  
.....**Wayland**.....In the County of .....**Middlesex**...

Greeting:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby required to levy on and collect from the several persons named in the excise list herewith committed to you the amount of the MOTOR VEHICLE AND TRAILER EXCISE assessed to each such person for the privilege of registration, as therein set forth, with interest, the sum total of such list being **THIRTY ONE THOUSAND NINE HUNDRED FIFTEEN DOLLARS AND SIXTY SEVEN CENTS.** (\$31,915.67)

And you are to pay over said taxes and interest to ...**Paul W. Keating, Jr.**...Treasurer of **Wayland**, or to his successor in office, at the times and in the manner provided by General Laws, Chapter 60, Section 2, and also to give to the treasurer as aforesaid an account of all charges and fees collected by you. And you are to make written return of said excises and interest with your tax list and of your doings thereon at such times as the assessors shall in writing require.

But you are to complete, and make up an account of, the collection of the whole sum hereby committed to you, with interest, on or before December 31 of the current year.

And if a person refuses or neglects to pay his excise for fourteen days after demand, you shall issue a warrant to collect said excise including interest, charges and fees. If a person refuses or neglects to pay his excise after you or your designee have notified the person by mail or other means that a warrant to collect has been issued, and you or your designee have exhibited a copy of the said warrant to collect, or delivered a copy thereof to the taxpayer, or left it at his last and usual place of abode, or of business, you or your designee may request a hearing in the district court having jurisdiction. If the court finds that the debt is owed and there is sufficient property and an ability to pay, a warrant to distrain or commit and take the body of such person and commit him to jail shall issue to you or your designee to serve upon said person, according to law. Upon the issuance of the warrant to distrain or commit, you or your designee shall proceed to enforce the collection of said excise in accordance with the provisions of said court warrant.

And in the levy and collection of the amounts hereby committed to you, and of interest, and charges, and fees as provided by law, you are to have and to exercise all the powers conferred by the laws of this Commonwealth upon collectors of taxes.

Given under our hands this 15<sup>th</sup> day of DECEMBER, 2014

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Board of Assessors  
Of Wayland

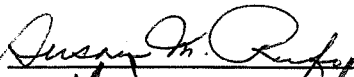

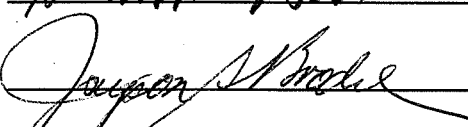
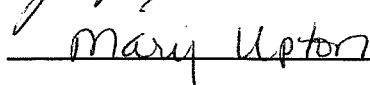
**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF WAYLAND  
OFFICE OF THE BOARD OF ASSESSORS**

TO: TOWN ACCOUNTANT/FINANCE DIRECTOR  
TREASURER/COLLECTOR

RE: **EXCISE ABATEMENT**  
DUE IN THE MONTH OF NOVEMBER 2014

<u>TYPE/REASON</u>	<u>QUANTITY</u>	<u>TOTAL</u>
60A	2	\$28.43
	TOTAL	<b>\$28.43</b>

You are hereby notified that excise taxes were **abated**, as specified in the above schedule, to the aggregated amount of **TWENTY EIGHT DOLLARS AND FORTY THREE CENTS**

BOARD OF ASSESSORS  
WAYLAND

Date: December 15, 2014

2

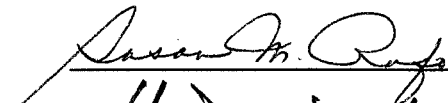
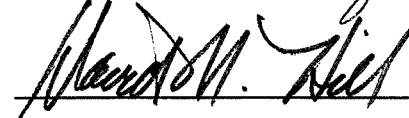
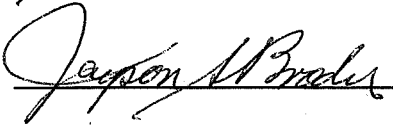
**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF WAYLAND  
OFFICE OF THE BOARD OF ASSESSORS**

TO: TOWN ACCOUNTANT/FINANCE DIRECTOR  
TREASURER/COLLECTOR

RE: LEVY OF **FISCAL 2014 EXEMPTION**  
DUE IN THE MONTH OF NOVEMBER 2014

<u>TYPE/REASON</u>	<u>QUANTITY</u>	<u>TOTAL</u>
CIRCUIT BREAKER	1	\$1,030.00
<b>TOTAL EXEMPTIONS</b>	<b>1</b>	<b>\$1,030.00</b>

You are hereby notified that taxes were abated/**exempted**, as specified in the above schedule, to the aggregate amount of **ONE THOUSAND THIRTY DOLLARS AND ZERO CENTS.**

  
  
  
 \_\_\_\_\_  
 Mary Upton  
 \_\_\_\_\_

BOARD OF ASSESSORS  
WAYLAND

Date: December 15, 2014





PID	CLS	NAME	FIRST	NO	ADDRESS
24-108	22	TURNER	RICHARD	7	NOB HILL ROAD
48-155	37	CROOK	ROBERT	16	GREGORY LN
42D-074	37	JUDGE	JOSEPH		PO BOX 5773
45-050A	37	LOOMIS	GRETA	18	STEEPLETREE
28-020	37	NEWBURY	NATHAN	138	PELHAM ISLAND ROAD
46D-081	37	PROFIT	MARY	139	WEST PLAIN STREET
52-088	22E	CASTAGNO	JOSEPH	49	DEAN RD
37-022	22E	MARSHALL	DAVID	28	MEADOWVIEW ROAD
42B-023	22E	WILLIAM	PAUL	15	ANTHONY ROAD
<b>43D-012</b>	<b>22PARA</b>	<b>HILDRETH</b>	<b>LESLIE</b>	<b>18</b>	<b>BAYFIELD ROAD</b>
51D-051	41C	BLAIS	MARY	10	SOUTH STREET
47A-001	41C	PAGANO	ALFRED	24	BAYFIELD ROAD
47B-028	41C	SCHNEPEL	MAYBELLE	28	SUNSET ROAD
46D-069	41C	SCHWARZ	ANNA	167	WEST PLAIN STREET
42-044	41C	THAYER	ELIZABETH	55	WOODLAND ROAD

*Susan M. Cofo*      12/15/2014  
*David M. Hill*  
*Jayson S. Broder*  
 Mary Upton



**Town of Wayland**  
41 COCHITUATE ROAD  
WAYLAND MASSACHUSETTS 01778  
www.wayland.ma.us TEL. 508-358-3788

OFFICE STAFF  
Ellen M. Brideau, MAA Director Assessing  
Denise Ellis, Assistant Assessor  
Jessica Marchant, Administrative Assessor  
Savitri Ramgoolam, Department Assistant

BOARD OF ASSESSORS  
Susan Rufo, Chairman  
Jayson Brodie, Vice Chair  
Molly Upton  
Zachariah L. Ventress  
David Hill

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**MEMO**

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**TO:** BOARD OF ASSESSORS  
**FROM:** ELLEN BRIDEAU, DIRECTOR OF ASSESSING  
**SUBJECT:** NON FILERS FOR I&E FINES – FY 2015 *EMB*  
**DATE:** 12/9/14

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The following attached list of properties failed to file their FY 2015 Income and Expense statements are required by MA GL Section 38D of Chapter 59. *39 H. Long*

*Susan M. Rufo* 12/15/2014  
*David M. Hill*  
*Jayson S. Brodie*  
*Molly Upton*

Map	Lot Location	LUC	Type	Style	Owner	Co-owner	Mailing Address	Town	ST	Zip	
	\$250 Fine										
21	10 524 BOSTON POST RD	3750 C	1	86	Tennis Club	LONGFELLOW ASSOCIATES	524 BOSTON POST ROAD	WAYLAND	MA	01778	
21	6 534 BOSTON POST RD	4040 I	1	41	Research/Devel	WATER EUGENIA B TRUSTEE	231 DESMONDE DR	WARLBORO	MA	01752	
23	22 334 BOSTON POST RD	3220 C	1	17	Store	SONYA T STARMER TRUSTEE	334-338 BOSTON POST ROAD NOMINEE TRUST	NATICK	MA	01760	
23	28 292 BOSTON POST RD	3220 C	1	17	Store	WEBSTER ANN TRUSTEE OF	25 ORCHARD RD	SCITUATE	MA	02066	
23	40 234 BOSTON POST RD	3220 C	1	17	Store	BOSTON POST LIMITED PARTNERSHIP	PO BOX 702	SCITUATE	MA	02066	
23	41 19 PELHAM ISLAND RD	3220 C	1	17	Store	REO REALTY LLC	32 BLACKMER RD	SUBURBY	MA	01776	
23	45 25 COCHITUATE RD	3220 C	1	17	Store	COMRIE CONNER	556 MASS AVE	ACTION	MA	01778	
23	20 356 BOSTON POST RD	3310 C	1	12	Commercial	CVS MA 1874 LLC/CVS CAREMARK CORP	25 COCHITUATE RD	WAYLAND	MA	01778	
23	14 325 BOSTON POST RD	3310 C	1	12	Commercial	356 BOSTON POST RD LLC	PO BOX 880	SPARKS	MD	21152	
23	33 262 BOSTON POST RD	3320 C	1	25	Service Shop	WEBSTER ANN & JULIE CHAPMAN TRUSTEE O	356 BOSTON POST RD	WAYLAND	MA	01778	
23	21 338 BOSTON POST RD	3340 C	1	26	Serv Sta 2-bay	SONYA T STARMER TRUSTEE	PO BOX 702	SCITUATE	MA	02066	
23	31 268 BOSTON POST RD	3340 C	1	26	Serv Sta 2-bay	SHEPARD MARK	25 ORCHARD RD	NATICK	MA	01760	
23	19 364 BOSTON POST RD	3400 C	1	18	Office Bldg	OSMOND RALPH S & GRACE M TRUSTEES	6 PLAIN ROAD	WAYLAND	MA	01778	
23	42 13 PELHAM ISLAND RD	3400 C	1	18	Office Bldg	13 PELHAM ISLAND ROAD LLC	364 BOSTON POST RD	WAYLAND	MA	01778	
23	13 311 BOSTON POST RD	3401 C	1	56	Condo Office	WAYLAND 311 POST LLC	311 BOSTON POST RD	WAYLAND	MA	01778	
23	013A 311 BOSTON POST RD	3401 C	1	56	Condo Office	WAYLAND 311 POST LLC	175 GREAT RD STE 100	BEDFORD	MA	01730	
23	6 73 PELHAM ISLAND RD	3420 C	1	18	Office Bldg	DANTONIO CHRISTOPHER TRUSTEES	73 PELHAM ISLAND RD	WAYLAND	MA	01778	
23	10 277 BOSTON POST RD	3500 C	1	12	Commercial	POISSON REALTY CO INC	50 WOODBRIDGE RD	WAYLAND	MA	01778	
23	26 300 BOSTON POST RD	3221 C	1	25	Service Shop	RECCO JOHN JR TRUSTEE	300 BOSTON POST RD	WAYLAND	MA	01778	
25	79 44 BOSTON POST RD	3180 C	1	17	Store	MAHONEY'S GARDEN CENTERS LLC	PO BOX 96	NEWTON UPPER FALLS	ME	03909	
30	71 115 BOSTON POST RD	3180 C	1	17	Store	HAWLEEN DEVEN'S H TRUSTEE	222 CAMBRIDGE ST	WINCHESTER	MA	01890	
30	63 55 BOSTON POST RD	3260 C	1	30	Restaurant	HAWLEEN REALTY TRUST /THE COACH GRILL	6475 CHRISTIE AVE #300	EMERVILLE	CA	94608	
30	94 78 BOSTON POST RD	3340 C	1	26	Serv Sta 2-bay	MOTIVA ENTERPRISES LLC	700 MILLAM ST OFFICE #2069A	HOLSTON	TX	77002	
55	24 119 MAIN ST	3340 C	1	50	C-Store	SUN REFINING & MARKETING CO	PO BOX 96	NEWTON UPPER FALLS	MA	01890	
42B	13 330 OLD CONNECTICUT PATH	322 C	1	80	Stores/Apt Com	LAVIN ROBERT T TRUST	330 OLD CONNECTICUT PATH	WAYLAND	MA	01778	
42B	14 328 OLD CONNECTICUT PATH	3400 C	1	18	Office Bldg	COCHITUATE REALTY NOMINEE TRUST	328 OLD CONNECTICUT PATH	WAYLAND	MA	01778	
47A	54 20 CREST RD	3260 C	1	17	Clubs/Lodges	COCHITUATE REALTY NOMINEE TRUST	20 CREST RD	WAYLAND	MA	01778	
51B	71 15 EAST PLAIN ST	3220 C	1	17	Store	15 EAST PLAIN LLC	12 WASHINGTON ST	WELLESLEY	MA	02481	
51B	031B 116 MAIN ST	3230 C	1	17	Store	MICHALOPOULOS DINO TRUSTEE	493 EDWARDS RD	FRAMINGHAM	MA	01701	
51B	33 14 WEST PLAIN ST	3400 C	1	18	Office Bldg	HOWLEE LIMITED LIABILITY CO	14 WEST PLAIN ST	WAYLAND	MA	01778	
51C	43 56 PEMBERTON RD	3551 C	1	81	Off/Apt	BRYANT JOHN C TRUSTEE	56 PEMBERTON REALTY TRUST	WAYLAND	MA	01778	
51D	78 188 COMMONWEALTH RD	3040 C	1	64	Nursing (SNF)	COMMONWEALTH AVENUE LLC	188 COMMONWEALTH RD	WAYLAND	MA	01778	
51D	39 115 MAIN ST	3220 C	1	17	Store	MICHALOPOULOS DINO TRUSTEE	403 EDWARDS RD	FRAMINGHAM	MA	01701	
51D	24 44 MAIN ST	3220 C	1	16	Shop Center LO	COCHITUATE COMMONS LLC	900 THIRD AVE STE #2	WALTHAM	MA	02451	
51D	21 35 MAIN ST	3230 C	1	31	Branch Bank	MAIN STREET PROPERTY INC	PO BOX 486	HOPKINTON	MA	01748	
51D	20 185 COMMONWEALTH RD	031R C	1	11	Res/Com	WAYLAND PROPERTY HOLDINGS INC	PO BOX 35	SO. GRAFTON	MA	01560	
	\$50 Fine										
Map	Lot Location	LUC	Type	Style	Owner	Co-owner	Mailing Address	Town	ST	Zip	
51C	27 30 BRADFORD ST	111C R	1	14	Apartments	KHAN RONALD A	224 WEST PLAIN ST	WAYLAND	MA	01778	
33	1 10 GREEN WAY	125C R	1	64	Nursing (SNF)	ATRIA LIVING GROUP INC	3 EDGEWATER DR STE 101	NORWOOD	MA	02062	
52	160 285 COMMONWEALTH RD	125C R	1	84	Nursing (ALF)	SUNRISE ASSISTED LIVING, INC	7900 WEST PARK DR	MICLEAN	VA	22102	



Parcel ID	Location and Description of Real Estate	No.	Location	Land/Condo Common Area Value	Description	Buildings		Total	Real Estate		CPA	Total	Paid 1st & 2nd Q Due 3rd & 4th Q					
						Value							Total Payment	Total Due				
023-197		351	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-200		361	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-199		371	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-202		381	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-201		391	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-204		401	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-203		411	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-206		421	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
023-205		431	Lillian Way	71,014.28				71,014	1,305.95	19.70	\$	1,325.65	\$	815.88	\$	509.77		
<b>Totals</b>								3,100,200	\$	57,012.68	\$	827.61	\$	57,840.29	\$	34,267.01	\$	23,573.27

\* If a tax apportionment remains unpaid for three months after commitment to the Collector of Taxes, the assessor maintains an action in his own name under the provisions of General Law (Ter. Ed.) Chapter 60, Section 35, as amended by Acts of 1938, Chapter 150, against the person liable for the tax in the same manner as for his own debt.

Date: December 15, 2014

*[Signature]*  
*[Signature]*  
*[Signature]*

Board of Assessors  
Town of Weyland