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Towns Get a Win in Utilities' Lawsuit Over Pole Valuations

But it's not the end of the story

Charlie Darling, *Beacon* staff

New Hampshire utilities that string wires on poles are appealing the property taxes they've been charged by most New Hampshire towns that use the Replacement Cost New Less Depreciation (RCNLD) valuation method (which Andover's assessor, Avitar, uses) rather than the Unit Method Allocation (UMA) method. RCNLD yields higher values for the utilities' poles than UMA, meaning the utilities pay more in property taxes when a town uses RCNLD.

Andover is one of the towns whose taxes charged in 2011 and 2012 are being appealed. The disagreement has gone on for years, and the correspondence about it currently fills nearly two feet in one of the filing cabinet drawers in Town Administrator Marj Roy's office.

To protect the Town against the possibility that the utility companies might win their appeals, the Board of Selectmen, acting on the advice of Avitar, have set aside \$60,000 a year for each of the past three years in order to be able to re-pay to the utilities any taxes that the appeals board may determine the Town collected in error.

(As a point of interest and to put some of these figures in perspective, New Hampshire Electric Cooperative pays the Town of Andover about \$56,000 a year in taxes; Public Service of New Hampshire (now Eversource) pays Andover about \$44,000.)

To protect itself against the utilities' appeals, Andover joined with seven other towns that are using RCNLD, and the group retained the law firms of Upton, Hatfield and the Mitchell Group to defend the towns.

With the appeals moving into the hearing phase this year, legal fees have gone up sharply. Andover's 2015 budget called for \$18,000 for legal fees for all matters, for the whole year. So far this year, the legal fees just for the utilities' appeals have already cost the Town about \$13,000.

A Good Win

On July 7, the Board of Selectmen received a rather encouraging letter from Avitar, stating that in hearing the utilities' appeals, the Board of Tax and Land Appeals found the municipal experts more credible than the utilities. Gary Roberge of Avitar characterized the decision as "a good win, but not as clear and concise as I was looking for." In fact, he continued, "a legislative solution [may be] required" in order to achieve that clarity.

But in any case, Gary feels it's "Round One to the Municipalities!"

That's good news, but the \$180,000 that the Selectmen have set aside isn't entirely safe yet. Between possible further appeals, the possible need for a legislative solution to finally settle the matter, and the question of what will happen concerning tax years after 2011 and 2012, there may yet be demands on that \$180,000 reserve.

But with "a good win" under its belt, the seven towns may yet get out from under this cloud without each having to deal with a major budget-buster. Stay tuned

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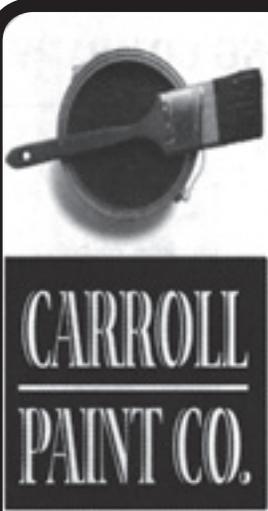
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