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# City and Town

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## A Foundation for Online Government

by David Davies

Over the last two years, the Division of Local Services (DLS) has been engaged in a substantial data conversion project. The project's primary objective is to lay the foundation for online submission of local data, removing some staff involvement and error-prone processes. With the foundation nearing completion at the end of this fiscal year, DLS hopes to have achieved the following, to improve the flow of data and communication between DLS and municipal officials.

- Conversion of applications for setting local tax rates, receiving Schedule A submissions, calculating and distributing local aid, and tracking the status and approvals of all the processes involved in these applications.
- Conversion of current and prior years' data, taking into account all the rule changes that have occurred over the years because of legislative action or administrative guidelines.
- Movement of some simple applications that require authentication of local officials to the Internet to test the acceptability and practicality of these necessary authentication approaches.

The local tax rate setting application is by far the most complex undertaking in the project. Creating an Intranet-based application modeled on the popular Automated Recap Program (distributed by DLS annually to cities and towns) requires integrating processes and data from the Bureau of Local Assessment's certification, new growth, and utility valuation processes with data

and processes of the Bureau of Accounts financial approvals. Finally, the Bureau of Municipal Data Management/Technical Assistance's (MDM/TAB) override data and processes are included. The Department of Revenue (DOR) designed this new application for its internal Intranet so that laptop-equipped DLS staff and local officials can eventually access the system. The tax rate application is now substantially complete and is being used in parallel with the older system this fiscal year.

The second application, the Schedule A, which comprises a great deal of the financial data in the Municipal Database, is now also in the testing phase. The decision to undertake the overall data conversion this year allowed DLS to implement a long-awaited objective of reducing the size of the Schedule A from 55 to 17 pages, saving time and money at both the local and state levels.

The third application will be incorporating all MDM/TAB data and processes relating to local aid calculation and distribution into the new database system, with enhanced security and tighter controls on applications involved in the \$5 billion annual program. The Division's Qualified Bond Program and Exemption Reimbursement programs will be included in this application development.

The fourth application, tracking data submissions, governs all other applications. DLS will develop programs to extract the tracking information typically sought by local officials and state legislators and make these available

over the Internet. If, for example, the tax rate status of a particular community is part of the database that is tied to the Internet, local officials can determine whether their tax rate has been set. When the Director of Accounts approves a tax rate with a computer keystroke, that information will become instantly available to waiting local officials.

A workable authentication program, one that provides security appropriate to the risk level involved in these local government submissions and one that meets local officials' ease of use requirements, is key to growth of online applications between local governments and DLS. Since DLS's conversion efforts began, the administration has implemented the mass.gov initiative, creating a single portal for interaction between state government and its customers. Part of that initiative is providing shared services for all state agencies using the portal. One of those shared services will be Internet

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### From the Deputy Commissioner

The Division of Local Services recommends that all cities and towns analyze and adjust property values annually to

reflect changes in the real estate market from the previous year.

There are a number of benefits to annually updating values. Some of these include:

- Improved equity. Values that do not accurately reflect changes in the real estate market can result in an inequitable distribution of tax obligations.
- Increased public acceptance of the property tax. An annual update process allows for changes in the market to be phased in. This avoids the impact that occurs when three year's worth of market appreciation is factored into a single reassessment cycle.
- Reduced abatement exposure. Values that do not reflect market downturns may create liabilities for the town. The Appellate Tax Board is not bound to the three-year certification cycle when evaluating the market value of properties in abatement appeal proceedings.

The Division has made reporting interim year adjustments as easy as possible. A simple one-page form needs to be submitted to the Bureau of Local Assessment only if the adjustments changed the overall taxable property value by 10 percent or more, less property tax base growth.

**Joseph J. Chessey, Jr.**  
Deputy Commissioner

# Legal

## in Our Opinion

### Are Assisted Living Facilities Taxable?

by James Crowley

In a long awaited decision, the Supreme Judicial Court denied an exemption from local property tax to an assisted living facility in Springfield, known as Reeds Landing. The case is *Western Massachusetts Lifecare Corporation v. Board of Assessors of Springfield*, 434 Mass. 96 (2001).

The Western Massachusetts Lifecare Corporation (Western) is a Chapter 180 nonprofit corporation whose income is exempt from federal income tax. Western was formed to provide housing, nursing care, recreational and other services to the elderly so that they could maintain an independent lifestyle. Under a ground lease with Springfield College, itself a Chapter 180 nonprofit corporation, Western built Reeds Landing, a continuing care retirement community which opened in 1995.

Entrance fees range from \$100,200 for a one-bedroom apartment to \$230,500 for a two-bedroom apartment. In addition, there are monthly service fees ranging from \$1,325 to \$2,050. If a resident leaves Reeds Landing, he or she can receive a partial refund of his or her entrance fee.

Under the ground lease, Western was required to pay all real estate taxes. For fiscal year 1998 the city assessed Reeds Landing for \$21,700,000 and assessed over \$482,000 in taxes. Western promptly filed an exemption application, which the assessors denied. There was a timely appeal to the Appellate Tax Board (ATB) which ruled that no portion of the premises was eligible for a charitable exemption. Western then appealed to the Supreme Judicial Court.

In agreement with the ATB, the Supreme Judicial Court held that Western was not a charitable organization for purposes of exemption under M.G.L. Ch. 59 Sec. 5 Cl. 3. In the court's view, a nonprofit corporation with Sec. 501 (c) (3) status was not automatically entitled to a charitable exemption. The corporation must prove that it is conducted in actual operation as a public charity. Citing earlier decisions, the court wrote that an organization is charitable if the dominant purpose of its work is for the public good. However, if an organization's dominant purpose was to benefit its members or a limited class of persons, it would not be classified as charitable even if the public is incidentally benefited.

Western argued that courts in Massachusetts have recognized that the provision of health care is a charitable purpose. The Supreme Judicial Court wrote, however, that Western did not satisfy a critical test for a charitable exemption. In the court's view, a very limited class of elderly people could pay entrance fees in excess of \$100,000 and steep monthly fees. Admittedly, prior Massachusetts court decisions recognized that an organization was not required to serve the poor or the needy to qualify as charitable. Also, an organization could still qualify under Clause 3 even if it charged substantial fees for its services. However, the Supreme Judicial Court held in *Western* that an organization that has expressly limited its services to the very wealthy is not charitable for purposes of a property tax exemption. Consequently, the Supreme Judicial Court held that Western did not satisfy the tests for a charitable exemption and Reeds Landing was taxable. ■

# Focus

## on Municipal Finance

### Community Preservation Act Update

by William Meehan

The Community Preservation Act (CPA) was the subject of an article in the October/November 2000 issue of *City&Town*. This Focus updates that article by identifying new Informational Guideline Releases (IGRs) and Bulletins issued by the Division of Local Services (DLS) regarding the CPA as well as by highlighting certain state administrative preparation activities. It also provides information concerning the status of adoption of the CPA by communities and the distribution of state matching funds. The data which is presented utilizes information maintained by the Department of Revenue (DOR), the Execu-

tive Office of Environmental Affairs and the Trust for Public Land.

#### New IGRs

In December of 2000, DLS issued (Informational Guideline Release) IGR 00-209, entitled Community Preservation Fund, detailing to local officials procedures for:

- accepting the act;
- assessing and collecting the surcharge;
- obtaining state distributions;
- accounting for community preservation fund monies;
- making expenditures from fund financing sources; and
- budgeting and accounting for fund monies in the tax rate process.

This IGR provided local officials with a basis for understanding the CPA, found in Massachusetts General Laws Chapter 44B.

In September of 2001, DLS issued IGR 01-207, entitled Community Preservation Fund, which amended IGR 00-209 in three general areas:

- accounting policy for surcharge abatements and exemptions;
- administration of the surcharge exemptions; and
- determination of the proper available fund balance as a financing source for community preservation initiatives.

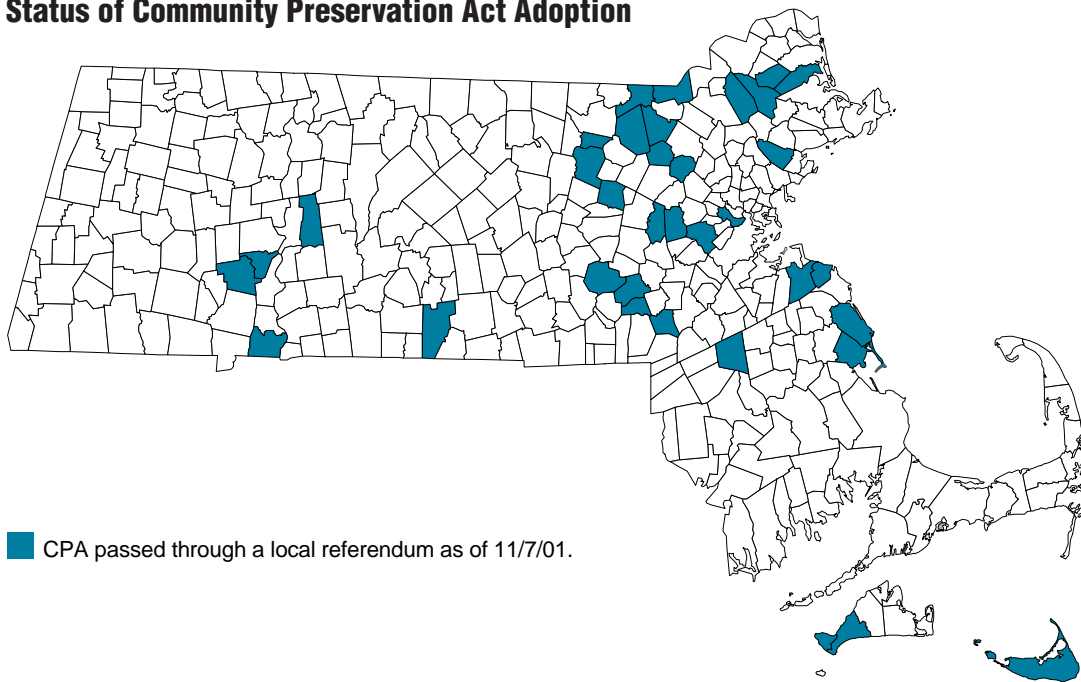
DLS also issued two Bulletins regarding the Community Preservation Fund and Community Preservation Act. These Bulletins, dated December 2000 and September 2001, supplemented

the IGRs with information relative to implementing the provisions of the CPA. The December 2000 Bulletin provides local officials with general guidelines on the provisions of the CPA. The September 2001 Bulletin provides answers to frequently asked questions received from local officials in the communities that accepted the CPA for implementation in FY2002.

These IGRs and Bulletins were widely distributed

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#### Status of Community Preservation Act Adoption



Source: The Trust for Public Land ([www.tpl.org](http://www.tpl.org))

Figure 1

## Community Preservation Act

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**Surcharge Percentages and Exemptions  
Adopted by Communities that  
Passed the Community Preservation Act**

Community	Surcharge % adopted	Exemption(s) adopted
Agawam	1	Low income
Amherst	1	Low income; first \$100,000
Aquinnah	3	First \$100,000
Ayer	3	Low income
Bedford	3	Low income; first \$100,000
Boxford	3	Low income; first \$100,000
Cambridge	3	Low income; first \$100,000
Carlisle	2	Low income; first \$100,000
Chelmsford	0.5	First \$100,000
Chilmark	3	Low income; first \$100,000
Cohasset	1.5	Low income; first \$100,000
Dracut	2	Low income
Duxbury	3	None
Easthampton	3	First \$100,000
Easton	3	Low income; first \$100,000
Georgetown	3	Low income; first \$100,000
Harvard	1.1	None
Hingham	1.5	Low income; first \$100,000
Holliston	1.5	Low income; first \$100,000
Hopkington	2	Low income; first \$100,000
Marshfield	3	Low income; first \$100,000
Medway	3	Low income; first \$100,000
Nantucket	3	Low income; first \$100,000; C&I
Newton	1	None
Norfolk	3	Low income; first \$100,000
N. Andover	3	Low income; first \$100,000
Peabody	1	None
Rowley	3	Low income
Southampton	3	First \$100,000
Stow	3	Low income; first \$100,000
Sturbridge	3	First \$100,000
Tyngsborough	3	Low income; first \$100,000
Wayland	1.5	Low income; first \$100,000
Westford	3	Low income; first \$100,000
Weston	3	Low income; first \$100,000

Table 1

to local officials and are available on the DLS website at [www.mass.gov/dor](http://www.mass.gov/dor). Two additional Bulletins, not available on the website, dated April 6, 2001 and October 16, 2001, and issued to municipal clerks attached a notification of acceptance indicating that it must be returned to DLS no later than September 15 of the fiscal year following the close of the fiscal year the surcharge is first assessed in order for the community to receive state matching funds.

### State Administrative Preparation Activities

Since the signing of the CPA legislation on September 14, 2000, DLS has presented information to local officials regarding this act in seminars and in other similar forums throughout the Commonwealth.

Procedures were established within DOR with respect to start-up and maintenance of the Massachusetts Community Preservation Trust Fund into which the registry fee surcharges imposed by the legislation would be deposited. In addition, DOR officials held meetings with registers of deeds and established procedures concerning the implementation of the surcharges.

### CPA Adoption Status

The CPA enables communities to establish a Community Preservation Fund by local option. Monies collected for this fund are from a surcharge of up to 3 percent on local real estate taxes and may only be spent for the creation and preservation of community housing, open space and historic purposes.

A majority of a city or town's legislative body must first approve a specific proposal to present to the voters. The proposal must then be presented to the voters for acceptance at the next regular municipal or state election. An alternative acceptance procedure, by petition signed by at least 5 percent of the registered voters of the community, may also be substituted for action by the legislative body.

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**Community Preservation Act**

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To date, 35 of 81 communities that have taken final action on this legislation have enacted the CPA. Of the remaining communities, 32 rejected it by ballot and 14 by town meeting or city council action. In several communities, final action is pending.

The number of communities that enacted the CPA for FY2002 may appear small. Contributing factors may have included:

- unfamiliarity with the new program by the voters;
- sequence of town meeting and town election, i.e., town meeting approval or an initiative petition is required before a CPA acceptance question may appear on the ballot; or
- competing priorities among voters in the community.

Figure 1 presents geographically the 35 communities that passed the CPA.

Communities that enact the CPA are thus authorized to impose a surcharge of not more than 3 percent on real estate bills and may exempt from the surcharge, at local option:

- \$100,000 of value of each taxable residential parcel;
- commercial and industrial properties in communities with classified tax rates; and
- residential property of qualified low- and moderate-income owner-occupants.

Table 1 presents the surcharge percentages and exemptions adopted by the 35 communities that passed the CPA.

**State Matching Funds**

Pursuant to the CPA legislation, surcharges are imposed on certain registry of deeds filings. These funds are remitted to the state for deposit into the

Massachusetts Community Preservation Trust Fund and will be distributed annually among participating communities by formula in three rounds as detailed in our October/November 2000 article. For FY2002, the available pool for state distribution is inflated since the surcharges at the 21 registries of deeds will represent 18½ months (December 2000 through June 2002) of collections. Because of this and the taxing levels of communities currently participating in the CPA, it is projected that matching funds for participating communities beginning in FY2002, to be distributed in October 2002 by the Department of Revenue, will be at the maximum level of 100 percent.

For FY2003 and ongoing years, the matching ratio will be determined most heavily by the number of communities participating, variations in their tax levies, and the surcharge rate. ■

**MassGIS Resources**

The advent of computers has brought speedy, efficient mapping capabilities to multiple professions and the public alike by utilizing Geographic Information Systems (GIS). However, there is much more to GIS than simply generating maps. What makes a GIS unique is that the database contains not only the map features, but other information describing these features. For example, a GIS database could include property boundaries and information about ownership and assessed value.

Fifteen years ago, the Executive Office of Environmental Affairs (EOEA) created MassGIS. Since then, MassGIS has become the official state agency assigned to the collection, storage and dissemination of geographic and environmental information.

MassGIS provides a comprehensive, statewide database of spatial information for environmental planning and management. The GIS database has more than 100 different discrete map features that are distributed in a variety of ways, including website downloads, thematic maps and a stand-alone, PC-based CD-ROM product called the MassGIS DataViewer.

The MassGIS website, [www.state.ma.us/mgis](http://www.state.ma.us/mgis), contains the document "Getting Started with GIS — A Guide for Municipalities," annotated examples of quantifiable GIS benefits and of GIS applications, technical information resources, a list of GIS contacts at the Regional Planning Agencies, and a list of companies providing GIS services.

Developing a GIS is not easy. For most municipalities, the essential first step to building a GIS database is converting their assessor's maps into a digital version. To assist this effort, MassGIS has posted on its website a template RFP for soliciting tax map conversion services. For further information contact Neil MacGaffey at [neil.macgaffey@state.ma.us](mailto:neil.macgaffey@state.ma.us). ■

## Cape Cod Land Bank Matching Funds

Fiscal year 2001, which ended June 30, 2001, was the second year of operation of the Cape Cod Open Space Acquisition Fund, otherwise known as the "Cape Cod Land Bank." Under the law that created this fund, each town receives state matching funds of 50 percent of the sums collected from the 3 percent surcharge on real and personal property tax bills to the extent of the state appropriation.

For fiscal year 2001, a total of \$4,765,391 was distributed among the 15 towns on Cape Cod. The state Department of Revenue is responsible for administering the distribution of the matching funds, which were wired to the communities by the state treasurer in mid-November.

This law requires that each Cape community establish an open space committee to acquire open space in accordance with the provisions of the act. The purpose of this committee is to recommend acquisition of specified land areas. Every Cape town must also establish a separate account, known as the Land Bank Fund. All monies collected from the additional excise and any funds received from the state or any other source for Land Bank purposes must be deposited in this account.

Any property purchased with land bank funds must be retained in natural, scenic or open condition. However, towns may make improvements to promote recreation that are not inconsistent with the purpose of the law. ■

## School Enrollment Forecasts

Since 1983, the Massachusetts Institute for Social and Economic Research (MISER) has provided school enrollment forecasting services to cities and towns. According to Lonnie Kaufman, MISER Education Coordinator, "Our school enrollment studies provide vital information to schools and communities as they plan for capital improvements, sufficient teacher workforce, and other budgeting needs." Individual grade and school year enrollments are forecasted for up to 10 years. MISER offers three types of forecasts:

### Individual School Report

This forecast is based on historical patterns of student enrollment as school districts on October 1 of each year.

### School Attending Children

This forecast includes all students from individual communities who either attend their local school district or other options, such as charter schools, other public schools, vocational schools or collaborative programs. This report identifies the maximum number of local students that are eligible to attend a particular community's schools, although they may currently be choosing alternatives.

### Scenarios

These forecasts provide adjustments to enrollment projections to see how changes in the community, such as a new charter school or large business establishment, might effect school enrollments.

Public schools and state agencies receive a 20 percent discount on MISER's fees for these forecasts. For more information, call Lonnie Kaufman at (413) 545-3460. ■

### Cape Cod Land Acquisition Program FY2001

Community	Collections	Reimbursement (50%)
Barnstable	\$1,926,678	\$963,339
Bourne	610,928	305,464
Brewster	478,434	239,217
Chatham	286,637	143,318
Dennis	604,430	302,215
Eastham	285,875	142,937
Falmouth	1,421,694	710,847
Harwich	646,683	323,341
Mashpee	623,030	311,515
Orleans	353,933	176,967
Provincetown	386,077	193,039
Sandwich	730,918	365,459
Truro	173,219	86,610
Wellfleet	105,064	52,532
Yarmouth	897,181	448,591
<b>Total</b>	<b>\$9,530,780</b>	<b>\$4,765,391</b>

# DLS Update

## Daytime Assessors' Course

This spring, Course 101 will be offered during the day in Boston. This three-day course will be held Thursdays, May 2, 9, and 16.

Attendance at Course 101 and successful completion of the examination satisfies minimum qualification requirements for assessors that were established by 830 Code of Massachusetts Regulation (CMR) 58.3.1. Assessors, and assistant assessors with valuation responsibilities, must fulfill minimum qualifications within two years of the date of their original election or appointment. All participants who successfully complete this course will receive a certificate.

Registration will be limited and priority will be given to participants who are approaching the two-year deadline for completing the course. A registration bulletin with further details will be issued in March 2002.

## FY02 Sewer Rate Relief

The Sewer Rate Relief Fund was established in 1993 by Section 2Z of Chapter 29 of the General Laws to provide assistance to mitigate sewer rate increases. The FY02 appropriation for Sewer Rate Relief is \$58,655,355; there is also a small balance in the fund from prior years.

To receive Sewer Rate Relief funds, an entity must issue long-term debt to finance or refinance the costs of planning, design or construction of any water project. The borrowing term must be greater than five years and these projects must comply with the Federal Water Pollution Control Act. Projects that receive state grant assistance are not eligible, as well as projects financed with subsidized loans from the Massachusetts Water Pollution Abate-

ment Trust (unless the amount financed through the Trust exceeded \$50,000,000 on June 30, 1995).

The Division of Local Services is responsible for administering this program, in consultation with the Department of Environmental Protection (DEP). DEP reviews each project and certifies that the project was undertaken to comply with the Federal Clean Water Act. Due to the lateness in finalizing the state budget for FY02, the deadline for submitting applications was December 31, 2001. In FY01 an appropriation of \$53,914,000 was distributed to 132 entities.

## FY02 Cherry Sheets

The FY2002 state aid to municipalities and regional school districts totals \$5.135 billion, an increase of \$277 million or 5.7 percent from FY2001 Cherry Sheet totals of \$4.858 billion. The increase is primarily attributable to a \$223 million increase in Chapter 70 aid, a \$48 million increase in Lottery aid and a \$41 million increase in School Construction aid. Local officials should also be aware of reductions to certain accounts, below the level appearing on the preliminary Cherry Sheets issued last March. Highway Fund aid was reduced by \$32.6 million, or 75 percent, and state-owned land was reduced by \$6 million, or 28.6 percent. Lottery aid was reduced by \$11.9 million to reflect the shortfall of the estimated FY01 lottery surplus paid last May. Consequently, the second quarter local aid distribution will *not* be reduced to reflect this shortfall.

The Massachusetts Comprehensive Assessment System (MCAS) Remediation Assistance distribution that appeared on the preliminary Cherry Sheets has not been included in the final Cherry Sheets. Since Remediation

Assistance was funded as a grant program, districts must apply to DOE to receive funds. Also, the Tuition of State Wards program was not funded, however, this line-item was not included on the preliminary FY02 Cherry Sheets.

The Cherry Sheets were given the name because they were traditionally printed on cherry-colored paper. They are available on the Department of Revenue's website ([www.mass.gov/dor](http://www.mass.gov/dor)) under the Division of Local Services. ■

[Online Government](#) [continued from page one](#)

security and authentication. DLS has, therefore, submitted its basic requirements and implementation ideas to the Commonwealth's Information Technology Division (ITD) staff and consultants who are now devising approaches for different types of authentication needed by different agencies.

When an authentication approach is agreed upon and programmed, DLS will develop and test some relatively simple applications in cooperation and consultation with local officials. Building on that foundation, DLS hopes to rapidly expand the two-way functionality of secure Internet applications to make local submissions, inquiries, support requests, and computer-based training readily available anytime, anywhere. ■

## DLS Profile: Production Unit

Each city and town throughout the Commonwealth receives dozens of mailings every year in the form of bulletins, Informational Guideline Releases, Cherry Sheets and other notices from the Division of Local Services (DLS). The production unit, staffed by director **Deborah Diamond** and her assistant, **Emanuela Achin**, is responsible for producing and coordinating the mailing of all these materials.



**Deborah Diamond and Emanuela Achin of the Production Unit.**

Debbie and Mannie also produce materials for various DLS training courses, such as the "New Officials Finance Forum," "What's New in Municipal Law?" seminar and Course 101, the basic course for assessors. Debbie is responsible for purchasing all office supplies for the Boston DLS office as well as the regional offices in Worcester and Springfield. Debbie and Mannie also produce various materials for other divisions within the Department of Revenue (DOR).

Debbie has been the director of the production unit since 1991. Mannie has worked side by side with Debbie for six years. They are compatible since they both "like to keep busy" and can withstand the pressure of producing high volumes of material under tight deadlines. They also enjoy the variety of tasks that their duties entail. In September 2001, Debbie was recognized as DOR Employee of the Month. ■

## Code of Conduct

The conflict of interest law, M.G.L. Ch. 268A, prohibits public employees from soliciting or accepting gratuities of substantial value for, or because of, their official duties. The Office of the Inspector General has developed a code of conduct as a supplement to the conflict of interest law (available online at [www.state.ma.us/ig/publ/code.htm](http://www.state.ma.us/ig/publ/code.htm)). This code recommends standards of conduct for public employees engaged in official business relationships and addresses five major areas:

- gifts and gratuities;
- reimbursement for travel expenses;
- honoraria;
- testimonial and retirement functions; and
- groundbreaking and dedication ceremonies.

For more information or advice on matters not covered by this code, contact the State Ethics Commission at [www.state.ma.us/ethics](http://www.state.ma.us/ethics) or (617) 727-0060. ■

### City & Town

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

**Joan E. Grouke**, *Editor*

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

- website: [www.mass.gov/dor](http://www.mass.gov/dor)
- telephone: (617) 626-2300
- mail: PO Box 9490, Boston, MA 02205-9490

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