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Procedural requirements at the Appellate Tax Board

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It is very important that property owners who are seeking tax abatements comply with all procedural requirements.

We are now in fiscal 2011, which began on July 1st, 2010, and ends on June 30th, 2011. The procedural requirements for the timely filing of an application for abatement and an appeal to the Appellate Tax Board (ATB) are not the only procedural requirements.

The 38D Request is a good example. Assessors routinely send out a request for information under Massachusetts General Laws, Chapter 59, Section 38D. A property owner must respond to a 38D Request within sixty (60) days. In the event the property owner fails to respond within that time, the assessors may file a motion to dismiss together with an affidavit of the assessor regarding the failure to comply with Section 38D.

The ATB will grant the motion. The property owner has lost on a procedural requirement. The assessors make the point that they can not put a value on income producing property without having the income and expenses. The 38D Request applies to all real property, not just to income producing property. It is a simple matter to comply with a 38D Request. Property owners must calendar this as well as the deadlines for the application and the appeal and, in each instance, comply on time.

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