

D.D. 111

Final Report, December 1994

This report encompasses the one hundred sales of town owned real estate by the town officials. These sales have generated losses to the town due to the inability of the former boards of selectmen, assessors, as well as the former tax collectors, treasurers, accountants, town clerks, and town council, to follow Mass. General Laws. In short the entire government. Our system is a system of checks and balances. It was the intent of the founding fathers to safeguard against the assumption of power in order to bring about fair, honest, and open government, insuring that all our rights be protected.

D.D. 111 is proof of what can happen when no one watches the store. The governments of the past have clearly and blatantly ignored this most common principle. In some cases this ability to ignore the law resulted in personal monetary gains to some former town officials. To "turn a deaf ear" to these apparent wrongdoings would suggest that this administration condones such actions and accepts the wrongdoings as a matter of proper, responsible government.

This administration's main goal is to restore a sense of fiscal responsibility and fiscal stability to the town. **Since 1992 this administration has identified five hundred and one properties that have "escaped" the attention of the former assessors and tax collector.** Our current tax collector and tax assessors have made sure that these properties join in the privilege of contributing to the fair share of the tax burden. These properties fall into the following categories:

380 + tax takings
100 D.D.111
<u>21</u>
501 + total properties

All these properties should be generating taxes.
All these properties shall be generating taxes.

In June of 1994, our town began its long journey

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toward fiscal responsibility and stability. We shall soon experience the high cost of "paying for our sins of the past."

We can not allow our selves to be taken again, it would be easy to say that things were better when... but, our suffering should be reminder enough that at some point we need to pay for not doing things properly. Our tax rate will increase by about 30%, our town supplied services have been cut by more than 25%, our infrastructure, our town buildings, our environmental resources, all suffer due to lack of attention and necessary funds to properly maintain their existence.

We hope that this report shall inform you as to how we dealt with D.D.111, and more importantly, how this will never happen again. We seek your acceptance of our actions as well as your support and trust as we continue working on the difficult tasks ahead of us. We remain;

Sincerely your selectboard;

James R. Foley
Guy Barbiery
Thomas O'Connell

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The process of selling land that the town owns or has received through the tax taking process is a burdensome process at best. Mass. General Law (M.G.L.) guides the municipality through the process to insure fairness, and accountability, as well as ethics.

As Ms. Talbot, the tax collector, began her efforts to clear up the mess of the back taxes there seemed to be a handful of properties that produced "holes" in the books. These properties questioned the integrity of the tax office and the collection of taxes.

For the sake of convenience and a better understanding of D.D. 111, we have broken it down into the following categories.

- I. 12 properties sold, no deeds issued, some taxes paid**
- II. 18 properties sold, no deeds issued, no taxes paid**
- III. 47 properties sold, deeds issued, lack of commitment, loss of revenue**
- IV. 24 properties town possessions**
- V. 05 properties ethics issues.**

This administration along with the advice of the department of revenue, gave the original buyers the option to purchase these properties that they previously thought that they owned.

The buyer needed to pay the town all outstanding taxes along with the 1995 taxes. This would have been part of the selling price. This would also "satisfy" all the books that were left open and outstanding, due to the lack of anyone doing anything that would have stopped the sale from going through.

It should be noted that any monies that were already in the system would not be reimbursed to the buyer. Should he decide not to purchase the property the town would assume the property and sell it at a later date.

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Category I. Properties sold, no deeds issued, some taxes paid.

These properties were sold to individuals that should have had reason to believe that the town was selling "in good faith." These properties should be theirs. We honor these sales by allowing those that bid and won their bid at the auctions to have first option on the lands again. The selectmen allowed each buyer forty-five (45) days to contact their own lawyers for advice. We then expected payment. After the forty-five day period we assumed the land for the town and will place it up for auction. Of these first twelve properties two buyers "bought" back their rights to the land, totaling \$1962.73.

Total assessed value in 1994.....\$157,200.00

Loss due to inadequacies.....\$10,881.74

About two-thirds of the loss was due to the inability to collect, and the other one-third was due to the fact that the former board of assessors did not commit to the tax collector, thus she could not issue a bill to the individuals owning the property.

Category II. Properties sold, no deeds issued, no taxes paid.

Eighteen properties were sold at public auction or at private land sales. Both of these practices were questionable. The more alarming fact was that taxes were never collected on these properties, nor was there ever an attempt made to collect taxes on these properties. As a Matter of fact, the board of assessors never attempted to commit to the tax collector a figure of assessment for any of these properties.

Some of these properties were held in exempt¹ status for up to fifteen years.

¹ Property owners claimed exemptions as nonprofit organizations without prove or having filed the necessary papers

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Again, the selectmen honored these sales to those who first purchased the property. Five of the eighteen buyers came forward to purchase the properties that they originally bought, paying \$6,248.87 in back taxes.

It should also be noted that because of no commitment by the assessors no interest or penalties could be charged. Had the town been able to collect these charges we may not have incurred a loss.

Total assessed value in 1994..... \$86,100.00

Loss due to inadequacies..... \$11,338.68

Category III. Property sold, deeds issued.

Most of these sales come into question when you begin to realize that these sales were not even complete and the deeds were being issued. In category II it took up to fifteen years to issue a deed but, in category III, the deeds were issued in most cases before the parcel was paid for.

One could wonder what the relationship was of those who bought land in category III to the officials selling the land, compared to those in category II.

The loss here was again, due to the lack of commitment by the former boards of assessors. One must be reminded that the losses within this report seem to point to the assessors, but remember there should also be checks and balances.

The selectmen are obligated to know and to follow-up on these sales to insure compliance. To believe that the selectmen did not know what was going on is foolish. When I took office, we, the selectmen, received many letters asking for "our deeds," yet, an "older" member of the board seemed to skirt the issue each and every time it was brought up.

Back to checks and balances; the former tax collectors, treasurers, town clerks, and accountants, all knew that these lands were sold, or at least that they caused some type of problems in their "books." There was no follow-up!!!

Total assessed value in 1994\$537,200.00

Loss due to inadequacies.....\$34,246.08

And again, no commitment, no interest, no penalties.

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Category IV. Town possessions.

This group of properties was never bought during the auctions of private land sales held by the former boards of selectmen. They will be reviewed and if they appear to be worth keeping for future development for the town we shall keep them. If not, we shall put them up for auction. There was no loss in this category.

Total assessed value in 1994 \$236,800.00

Category V. Properties with ethics issues.

This is the most disturbing category yet. It speaks of how we were "dubbed" into believing in our government. Blind trust has never served a useful purpose. Again, we have got to go back to "checks and balances." Although there are only five (5) properties in this category they constitute the worst violation. They justify a complete breakdown of the public trust.

These properties were sold to friends and relatives of elected officials, in private. Then, the deeds were issued before final payment. Next the property taxes were **EXEMPT**. Many times the taxes that were exempt equalled the sale price. Thus, giving the land to the individual almost free of charge. Aside from the loss of revenue, the most heinous of all was the violation of the public trust. We, the members of the selectboard, shall seek to bring those individuals responsible to the forefront.

Total assessed value in 1994.....\$186,300.00
Loss..... 4,241.27

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Prevention

This board shall begin to auction off some of the lands from either D.D. 111 or through the tax taking process. We shall set up procedure and policy as to what is expected and what is to follow. This will be done following Mass. General Laws. A file will be produced for each land sale and kept for public review.

It will be the policy of this administration not to lose money in selling off the real estate. A collection of a fair market price and of all fees, costs, and taxes due shall come before the issuing of deeds. Should there be an issue of injustice, those involved shall be subject to the full extent of the law.

The law must be followed no matter how difficult that law appears to be.

Appendix

The Appendix is a list of all properties included in this report and show the lot # as shown on the assessors maps; loss per property; total loss; and the 1994 assessed values.

Also, the losses generated by D.D.111 should cease as we rectify all the books that these lands pertain to.

Respectfully yours;

James R. foley, chairman
Holland Board of Selectman