



Honorable Ernest J. Dronenburg, Jr.

March 3, 1979

James M. Williams

Assessee's Right to Address the Board

On March 6, 1979, your staff requested a brief opinion on whether or not a state assessee had an absolute right to publicly address the Board at the time an escape assessment against that assessee was under consideration. Presumably, the purpose of the address would be to persuade the Board against entering the escape either by inaction or an immediate vote not to enter. It is our view that an address of this nature would not be proper.

Initially, it should be borne in mind that there is no legal requirement that ministerial acts of an assessor must be actually decided in public session. Although the Board chooses to do so, usually during an administrative agenda, it does so by its own prerogative and not via mandate. Thus it follows that if the Board is permitted to take such action in private, then there is no absolute right for an assessee to address the Board just because it has chosen to decide such a matter in public session.

Obversely, it is clear, both as a matter of statute and fundamental due process, that once a decision that affects the assessee's property has been made, that the assessee is absolutely entitled to notice of the action and the right to be heard in appeal of that action. Concurrently, it is imperative that the assessee's right to a fair hearing not be impaired. If the assessee was heard and his position rejected in relation to the entering of the escape, it would then be highly suspect as to whether he would be fairly heard by the same body at the time of his statutory appeal. As a practical matter, appearances before the Board at this time should be discouraged in all cases simply because if it were decided to grant one or two such requests, it would then become necessary to draw the line against other assessees on a time available basis and this would obviously result in arbitrary action from the assessees' perspective.

Our conclusion against a public appearance before the Board should not, however, be construed as a denial of the assessee's right to communicate with their elected Member, the Chairman or the other Members. The assessee is entitled to meet with or communicate his position in writing to any Member in the normal course of business. Communications of this nature are essentially private but may certainly be used by the Member to challenge the staff's position on the propriety of an escape assessment.

JMW:fr

bc: Mr. Douglas D. Bell
Mr. J. J. Delaney
Mr. Glenn L. Rigby
Mr. Walter R. Senini
Mr. Neilcn M. Jennings
Mrs. Janice Masterton