

Conservation Matters

A monthly column focused on conservation education, as the result of collaboration among several area conservation commissions and organizations. If your town's commission or conservation organization would like to contribute articles, please contact Jessica Tabolt Halm jess_tabolt@hotmail.com

Title: Current Use in New Hampshire

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“It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources. “

This opening sentence of New Hampshire's Current Use Law (RSA 79-A), embodies a far-sighted vision of what N.H. is today, forty years later: clean, bucolic, scenic, heavily forested, with hillside and valley farms, and clean abundant waters that underpin a thriving resource-based economy, including forestry, agriculture, travel/tourism and outdoor recreation. And, a great place to live!

This remarkable law was to counter a surge in N.H. population growth and rampant development beginning in the 1960s, particularly in the seacoast, southern tier and Connecticut Valley regions. More people led to more development, which led to higher land values, resulting in higher assessments and property taxes. Towns were under enormous pressure to fund the increased services they were obligated to provide – improved and new roads, larger schools, police and fire protection, municipal water and sewer systems, etc. Soon open space lands were being assessed as if there were already houses and families there! The resulting annual property taxes were driving landowners to subdivide or sell to pay the taxes; it couldn't be done by growing timber or milking cows, even though generations before them could.

The mechanism that would best encourage the protection of open space was the assessment of land value, and thus property taxes, on its current use, rather than its perceived development value. Qualifying land (undeveloped lands greater than or equal to 10 acres) was to be assessed by its income-producing capability – the growing and harvesting of forest or farm crops – rather than its real estate (ad valorem, or “highest and best use”) value. This required an amendment to the state's constitution, allowing different assessments for different classes of property. A hard-fought “Yes on 7” campaign

carried the day in 1968 and was signed into law by Governor Walter Peterson. The key theme rested on the premise that “It is further in the public interest to prevent the loss of open space due to property taxation at values incompatible with open space usage.”

In a state so heavily reliant on local property taxes to provide services to citizens and communities, you can imagine the controversy that followed. A coalition of varied groups and citizens – conservation organizations, business leaders, municipal and legislative officials, forestry and agriculture interests, landowners – labored for nearly five years to craft the Current use Tax Law. A unifying principle is stated in the preamble: “Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens.” Gov. Meldrim Thomson signed the law in 1973; every N.H. governor since had supported Current Use, as have the legislative and judicial branches of the Granite State, no matter their political persuasion.

Key provisions of the Current Use Law include: It is voluntary – landowners must enroll (a straight-forward process, \$12 fee); the enrollment runs with the land (land remains in C.U. until actual use changes, even with changes of ownership); assessment ranges are set by category use and reviewed annually by the Current Use Board – towns administer the law on the local level but must assess within proscribed ranges; enrolled lands open to public recreational use (must allow hunting, fishing, snowshoeing, hiking, skiing, and nature observation) receive a 20% assessment discount; when C.U. land is changed (improved, developed, or divided into parcels less than ten acres), a one-time penalty – the Land Use Change Tax, or LUCT – is charged. The LUCT is equal to 10% of the newly assessed (i.e. real estate) value, calculated and payable to town where the property is located.

Today, 40,000 landowners have over three million acres enrolled in Current Use. That’s half the land in N.H. and half of that is open to public recreation. Landowners can afford to hold onto their land, for conservation purposes, management/production, and legacy goals. The LUCT allows towns to “recapture” tax revenues when land is taken out of C.U. Sixty-five percent of N.H. towns dedicate some or all of LUCT revenue for conservation efforts. The N.H. landscape and resource-based economy is stable, the envy of most other states throughout the Northeast.

Challenges to Current Use will continue to arise, as they have for the last forty years. As federal and state revenues decline, N.H. communities are pressured to seek more local revenue to provide needed services. Undermining Current Use – by far the most effective and affordable land conservation strategy in our state – is not a solution; it is in the public interest to maintain the intent, inherent fairness and administration of our open space law.