

MINUTES OF THE
CURRENT USE BOARD

Rules Subcommittee Meeting

DRAFT

DATE: July 10, 2018

TIME: 1:00 p.m.

LOCATION: Department of Revenue Administration – Training Room, 109 Pleasant Street, Concord, NH

SUBCOMMITTEE MEMBERS:

Steve Hamilton, Susan Bryant-Kimball, Barbara Richter, Mary Pinkham-Langer

MEMBERS of the PUBLIC:

Rob Johnson, NH Farm Bureau

Mr. Hamilton convened the meeting at 9:00 a.m.

Mr. Hamilton began the meeting by summarizing the work of the subcommittee to update the Cub Administrative Rules by integrating previously considered changes and incorporating the necessary changes for the agricultural structure issue that has been identified to the Board on several occasions. He introduced Mary Pinkham-Langer of the DRA who works closely with the current use program as well as the administrative rules within the Department and will be assisting the subcommittee in preparing the rules for the rulemaking process.

Ms. Pinkham-Langer briefly gave an overview of her experience with the current use program including teaching the 3-hour mini-course throughout the state, assisting towns with the timely process of updating their current use records and answering questions about the program. Through the process of updating records, various issues and errors have been discovered due to older applications, lack of knowledge and understanding of the process to place land into the current use program as well as removing land and applying the land use change tax.

Agricultural Structures

Ms. Pinkham-Langer began by stating she has reviewed the rules and had provided some suggestions to start the conversation. The first important issue is to address agricultural betterments which include water lines and fencing among other improvements. One distinction for any betterment is to determine if it is temporary or permanent and whether or not its use is exclusively related to agriculture. A discussion ensued about how the business of agriculture is changing with the rise of industrial manufacturing; agricultural enterprises that incorporate controlled environments inside structures using computerized systems. When it comes to the rules, it is important distinguish about the kinds of betterments allowed on land in enrolled in current use such as “demountable greenhouses” that promote growth of products in the ground versus manufacturing buildings worth millions of dollars.

The first suggestion was to add a definition for “agricultural betterment,” the installation or construction of water sources or fencing, not including structures, used exclusively for growing products on farm land or for pasturage. This provides a distinction from “betterments”, which is for improvement such as roads, water lines, and sewage lines that pertain to development of structures or subdivisions. The inclusion of “on farm land” was to make clear the manufacturing facilities could not exempt their extensive water and sewer areas that are part of the curtilage of

those structures. The rules for farm land include the provision that less than 10 acres may qualify for current use assessment if those acres are devoted to growing crops in the ground and they produce \$2,500 worth of receipts from agricultural products not including products such as jams or jellies. The important distinction for growth is “in the ground,” and it is also important for pasturage to allow for watering troughs for cows, horses, etc.

The other important distinction between the definitions of “betterment” (Cub 308.02) and “agricultural betterment” is betterment is linked to and used in the calculation of the land use change tax; an agricultural betterment is not a disqualifying event. It was suggested by having both definitions, the distinction is clarified. The definition of agricultural betterment was to describe the types of betterments allowed under the current use program; those not considered structures that would cause a disqualifying event.

A discussion followed as to the types of betterments suggested for discussion that might be allowed under current use assessment including fencing, water sources such as watering lines, irrigation canals, water ponds, livestock watering troughs and directly affiliated power sources used exclusively for sustaining livestock, game animals or farm land agricultural crops. These are further described in Cub 303.

Concern was expressed at the mention of large scale versus small scale operations and the perceived notion that if a large scale operation does not qualify for current use then a smaller operation with the same type of use would not qualify. If a property does not qualify, the size should not matter, only criteria for not qualifying or a disqualifying event should be considered. Ms. Pinkham-Langer responded to the concern stating that is the reason for the definition of “demountable greenhouse” to make the distinction between a large, industrial facility growing plants versus a demountable greenhouse or high tunnel used on a farm. The key is growing in the ground, which the industrial facilities do not do and whether or not the betterment is permanent. The criteria for the greenhouses come from RSA 72:12-d.

The definition of “municipality” was added to make the Cub rules consistent with other department rules; and “municipal assessing officials” replaced “local assessing officials” and “assessors” to be more consistent and clear. The term “curtilage” was discussed and clarified as the area that supports a structure and the use of a structure. The definition of “structure” was added and a brief clarification was provided for utility lines; when they are part of curtilage and when they are not.

A question was asked whether a bridge constructed on land in current use would be allowed; a brief discussion followed. It was suggested a definition be added for recreational road structures to include structures that promote recreation such as pedestrian or bicycling bridges. Ms. Pinkham-Langer offered to work on that.

A discussion followed about RSA 72:12-d, exemption for demountable greenhouses. In summary, as long as the utility of the underlying real estate is not affected; it is not permanently affixed to the underlying real estate with concrete or similar non-portable footings, removal of the greenhouse can be accomplished without significant damage to the greenhouse and will not render the greenhouse unfit for subsequent use; greenhouses specifically designed, constructed, and used for culture, propagation and protection of agricultural product and the demountable greenhouse is not used for the retail sale of any non-agricultural products. A brief discussion followed to clarify non-agricultural products and benches which are included in this statute but not in the Cub rules. It was stated the RSA pertains to the structure while the rules pertain to current use and the effort to allow greenhouses to qualify; to tie it in with “grown in the ground.” It was decided more work was needed. Ms. Pinkham-Langer will continue to work on the definition of “greenhouses” within the rules and bring back suggestions to the committee.

Forms

A discussion ensued about the forms and descriptions being in the wrong place in the rules. The descriptions are currently under Cub 302 and would be more appropriate under Cub 309. Some potential changes were discussed including adding more space for multiple map and lots (and book and page numbers). Ms. Pinkham-Langer will be going through the forms and will bring back suggestions at the next meeting as well as continue with review and edits from Cub 306 forward.

Next Meeting

Wednesday, July 25, 2018, at 9:00 a.m. at DRA

The next meeting will include a review of documents and changes up to Cub 305 and suggestions for Cub 306 forward. Further discussion on identifiable boundaries was suggested and ideas were encouraged to be considered and brought forward on how to distinguish land in current use versus the land not in current use and the use of measurements and landmarks, such as stone walls.

Respectfully Submitted, Stephanie Derosier
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Current Use Board may be submitted, requested or reviewed by:

Telephone: (603) 230-5955
Facsimile: (603) 230-5947
E-mail: cub@dra.nh.gov
Web: <http://revenue.nh.gov/current-use>

In person at 109 Pleasant Street, Concord
In writing to:
NH Department of Revenue Administration
Current Use Board
PO Box 487
Concord, NH 03302-0487