



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Current Use Assessment: 50 Years of Open Space Preservation

Presented By:

Barbara T. Reid, NHMA Government Finance Advisor

And

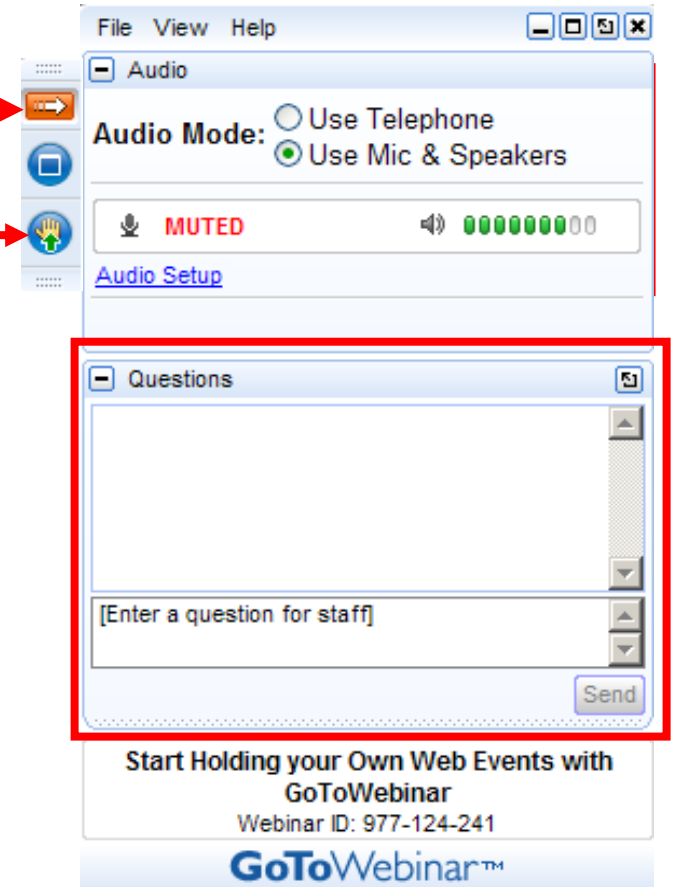
Normand Benaiche, Assessor and Current Use Board Member

October 18, 2017



How to Participate Today

- Open and close your Panel →
- Submit text questions →
- Q&A addressed at the end of today's session
- Two Pop Quizzes today



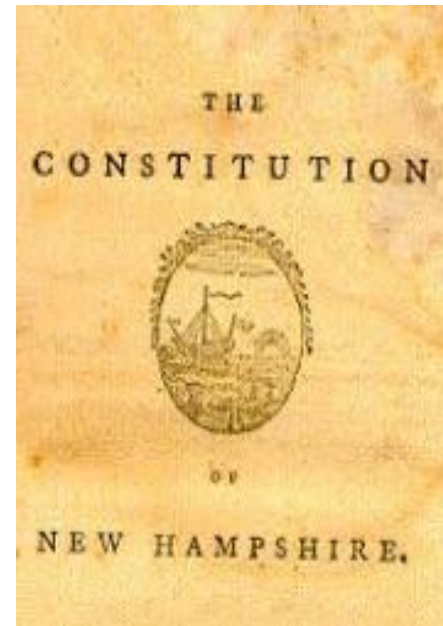


Current Use Assessment

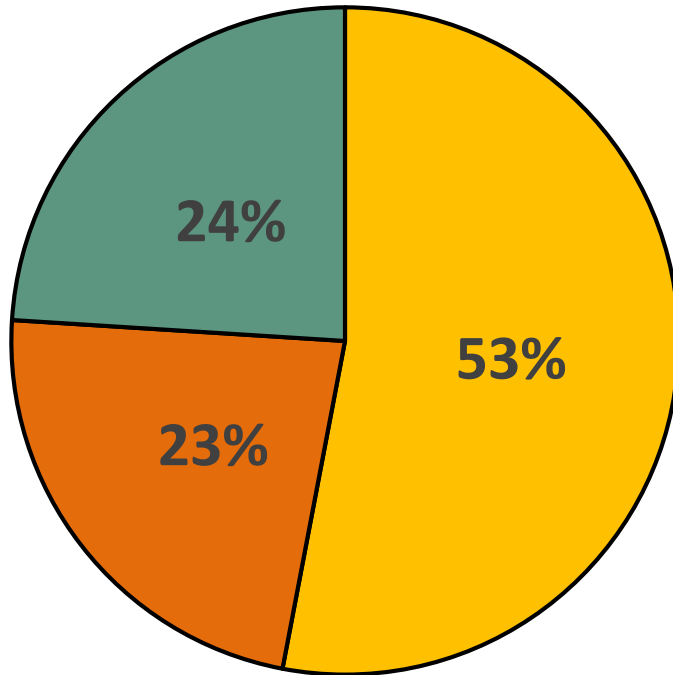
- History and Statistics
- Application Process
- Assessment Process
- Land Use Change Tax
- Pending Issues
- Pop Quizes!

History of Current Use

- NH Constitution Part II, Art 5 – taxes must be proportional and reasonable
- 1968 Constitutional Amendment Part II, Art 5-B... *“to provide for the assessment of any class of real estate at valuations based upon the current use thereof.”*
- 1973 Current Use Law RSA 79-A



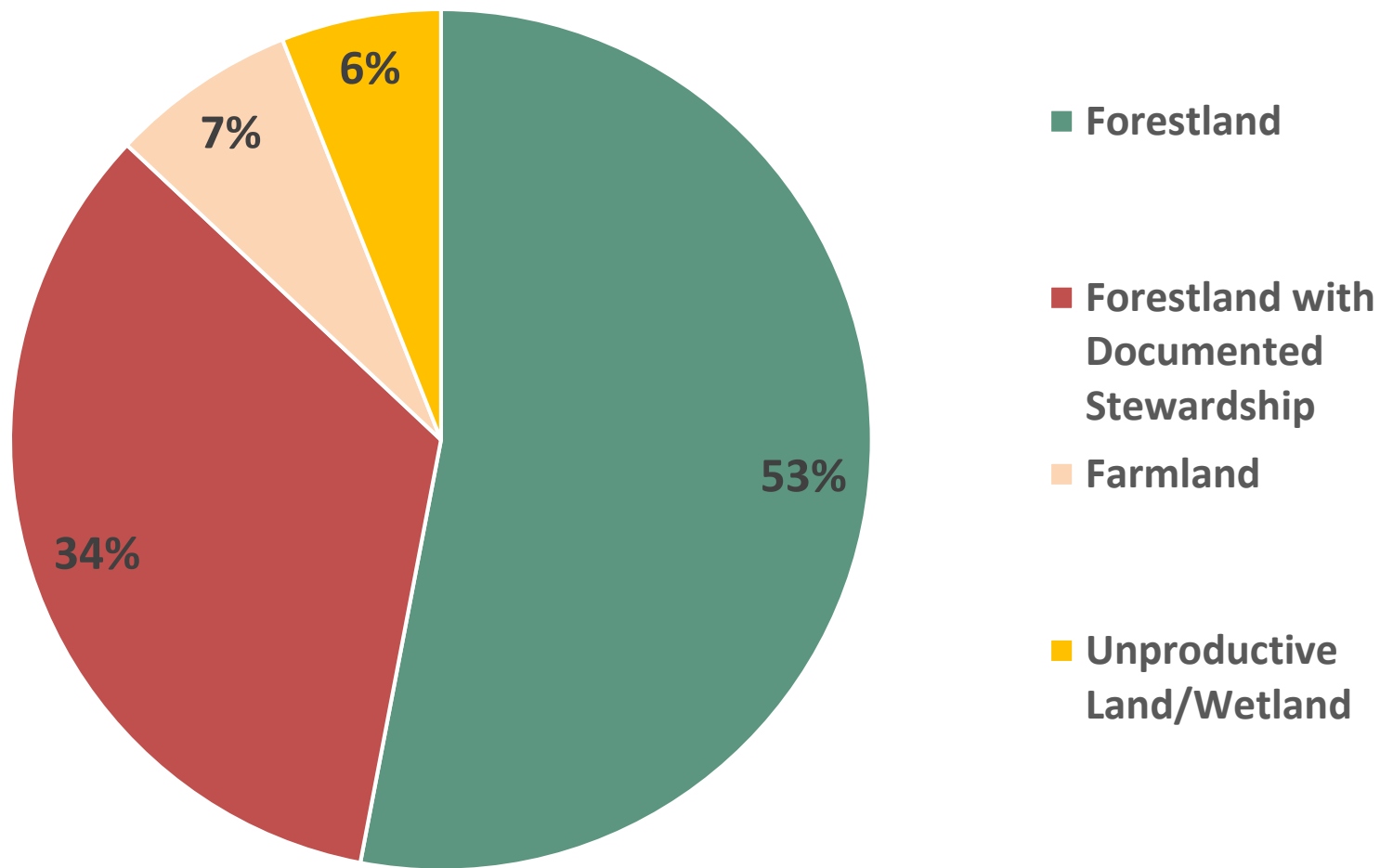
2016 Current Use Statistics



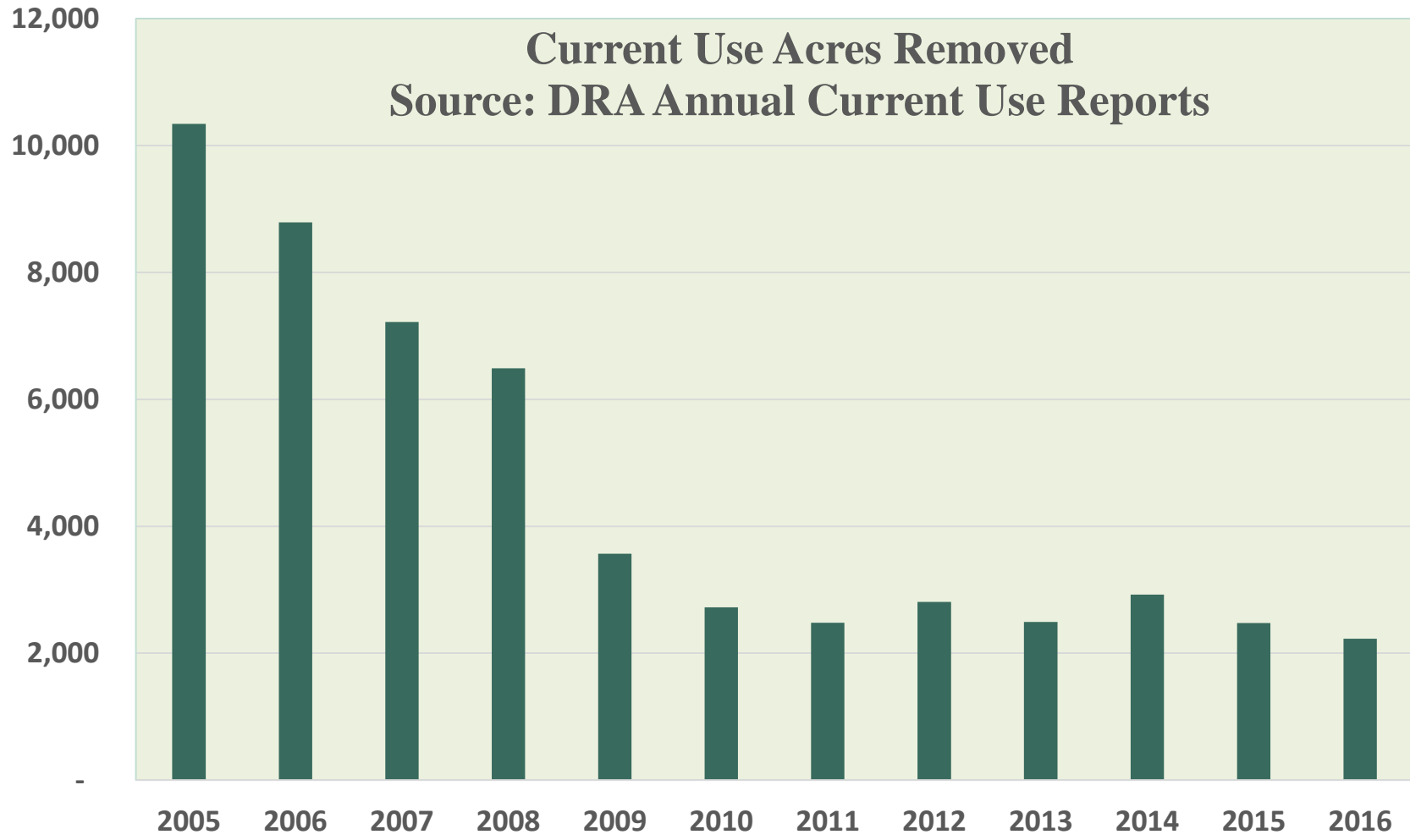
- 68,200 CU parcels
- 41,600 CU landowners

- Current Use Land
- Other Conservation Land
- Other Taxable Land

Current Use Statistics



Current Use Statistics



Current Use Statistics

- LUCT revenue statewide \$2.6 million in 2015
- 144 municipalities (61%) have some portion (3% to 100%) of the LUCT going into the Conservation Fund



Four Cornerstones of Current Use



- Income-producing capability of the land
- Excludes building, appurtenances, or other improvements on the land
- Disqualified when developed or does not meet size requirements – no buyout.
- LUCT 10% of the “full and true value” at the time of change on amount of land disqualified

Application Process

Must include:

- Map or drawing of entire parcel
- Signatures of ALL owners
- Filing fee, RSA 478:17-g, I

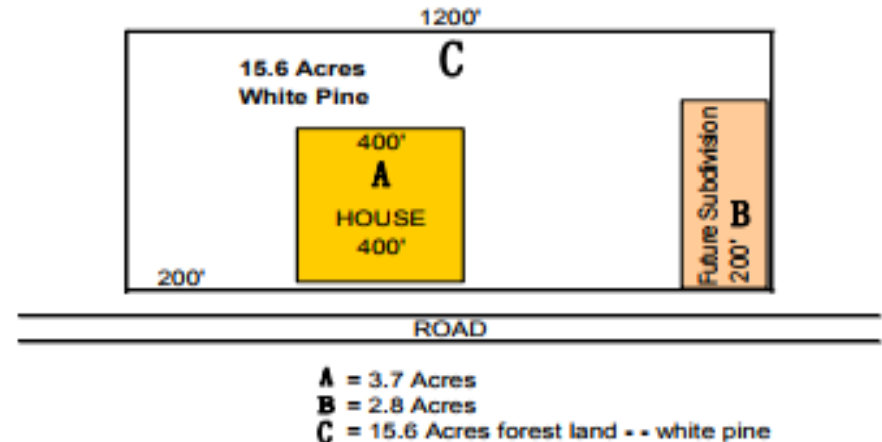
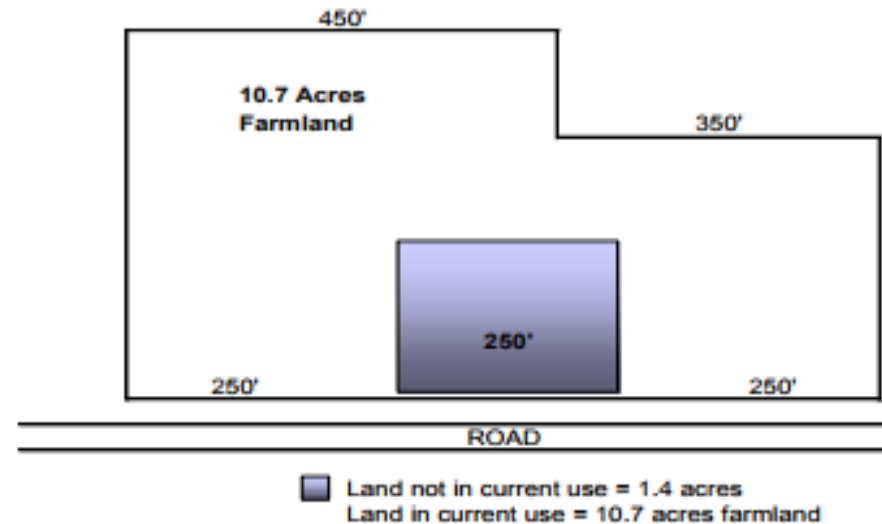
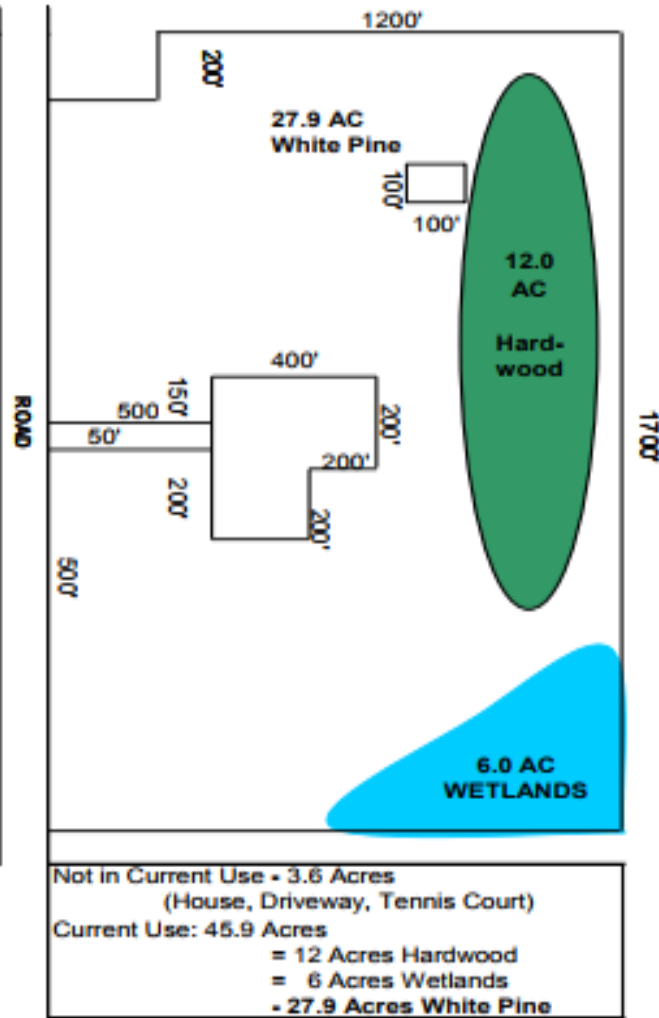
May include:

- Soil Potential Index (SPI) of farm land
- Forest land stewardship documentation



Application Process

Sample Maps





Current Use Qualification


- Undeveloped tract of 10 acres or more
- Tract of any size, actively devoted to growing agricultural or horticultural crops (\$2,500 gross sales)
- Certified tree farm of any size
- Tract of unimproved wetland of any size
- Appeal to Board of Tax & Land Appeals or Superior Court

Contingent Lien

- Recording at Registry of Deeds creates a contingent lien on property: notice to all that if and when property is disqualified from current use, then a lien is created.
- Lien “runs with the land”.







Other than the unincorporated places, which New Hampshire municipality has the largest percentage of land enrolled in Current Use?

1. Pittsburg
2. Franconia
3. Cornish
4. Dorchester
5. Westmoreland

Assessment

- Current use land can be posted (no trespassing) and closed to public access
- 20% recreational adjustment - allow hunting, skiing, fishing, snowshoeing, hiking, nature observation



Assessment

2016 / 2017 Current Use Assessment Ranges April 1 – March 31

FARMLAND	\$25 -\$425 per acre	*****
FOREST LAND	Forest Land WITH Documented Stewardship	Forest Land WITHOUT Documented Stewardship
White Pine	\$66 - \$99 per acre	\$110 - \$165 per acre
Hardwood	\$28 - \$43 per acre	\$47 - \$71 per acre
All Other (<i>Including Naturally Seeded Christmas Trees</i>)	\$20 - \$30 per acre	\$34 - \$51 per acre
UNPRODUCTIVE LAND	\$20 per acre	\$20 per acre
WETLAND	\$20 per acre	\$20 per acre

Note: Values must be equalized with DRA equalization ratio. RSA 79-A:5, I.

Assessment

Farm Land Assessment range:

- \$25 - \$425 per acre
- Soil potential Index (SPI) used to determine value within the range
- Landowner provided SPI



Assessment

Forest Land assessment within the range depends on:

- Grade (steep slopes, boulders, rocks),
- Location (restrictions to access),
- Site Quality (soil quality, climate, elevation),
- Type (tree species)



Assessment

Using high-end value of the CU forest assessment ranges, without making any distinction or adjustments for the physical characteristics of the land, is not in accordance with applicable law.

*Town of Marlow, BTLA Docket No.
18478-2001RA, July 30, 2001*






Assessment

Unproductive land assessment range:

- \$20 per acre
- No structures, incapable of producing agricultural or forest products, left in natural state
- Wetlands: incapable of producing and by reason of wetness, being left in its natural state







Who was elected Governor of New Hampshire on the same ballot that “Proposition 7”, the constitutional amendment enacting Current Use, was approved?

1. Meldrim Thomson, Jr.
2. John W. King
3. Walter R. Peterson
4. Wesley Powell
5. Vesta Roy



Land Use Change Tax

LUCT permits a town to “recapture some of the taxes it would have received had the land not been in the lower open space tax category.”

Opinion of the Justices, 137 N.H. 230 (1985)





Land Use Change Tax

Land changes to a use which does not qualify for current use assessment when:

- Parcel sold or transferred *and* no longer meets minimum acreage requirements, or
- Development occurs which changes condition of land so as to disqualify it from open space assessment.



Land Use Change Tax

If any physical changes are made (i.e. roads, utilities installed) prior to issuance of required permits or approvals, assessing officials may delay LUCT until all approvals are secured, and may assess LUCT upon land's full & true value *at that later time*. RSA 79-A:7, V.



Land Use Change Tax

“By enhancing the land’s value because of the betterments that served it, when calculating the full and true value of the petitioner’s property, the Town complied with RSA 79-A:7, I, and our decision in *Appeal of Town of Hollis*”

Woodview Dev. Corp. v. Pelham, 152 N.H. 114, 117 (2005)





Land Use Change Tax

- 10% tax on full and true value; no exemptions
- Contingent lien 24 months from date of change
- Billed within 18 months of the date of change:
 - Written notice from landowner
 - Date local assessing officials actually discover that LUCT is due and payable
- LUCT Form A-5 = Warrant for tax collector
- RSA 80 collection procedures apply

Land Use Change Tax

Towns failure to bill within 18 months results in loss of ability to assess the LUCT



Magee v. Town of Ossipee, BTLA Docket
Nos.:19992-2003LC and 20001-2003LC,
February 25, 2005



Land Use Change Tax

- All LUCT deposited in general fund.
- Towns *may* vote to place some or all LUCT into conservation fund.
- Towns *may* vote to place all revenue into LUCT fund to allow next town meeting to decide use.





Land Use Change Tax Appeal Procedures

- Request for abatement within 2 months*
- Selectmen grant or deny within 6 months*
- Within 8 months* property owner may appeal to BTLA or to Superior Court

* Notice of Tax = Date LUCT was mailed



Pending Issues with Current Use

- Determination of 2018 assessment ranges
- Maintenance of Current Use records under ASB standards
- Committee to study effects of Current Use on small and rural communities



2017 Public Forums, Meeting, Hearings

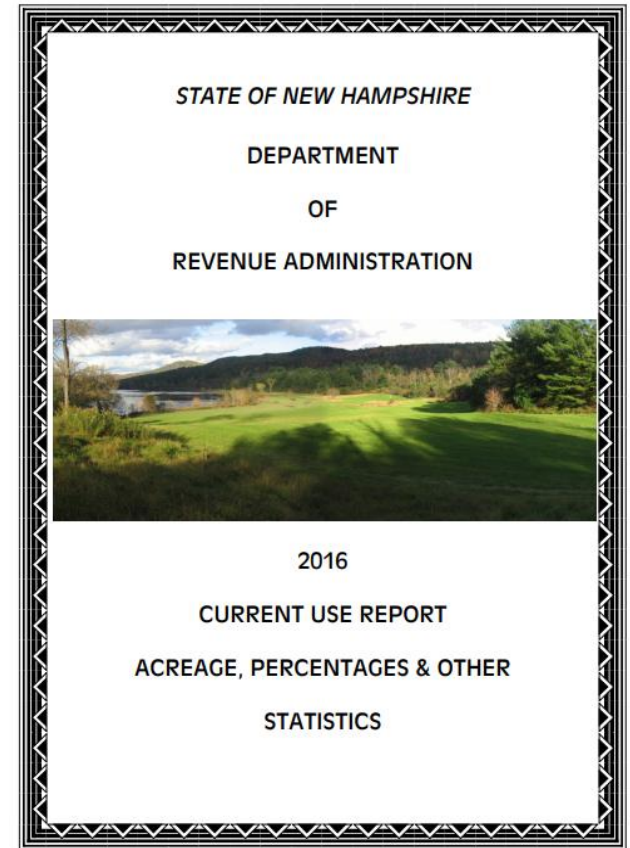
- 10/24/17 CU Board meeting 9:30 - DRA
- 11/8/17 Lancaster 6:00 pm – North Country Resource Center
- 11/13/17 Claremont 6:00 pm – Location TBD
- 11/17/17 Concord 9:30 am – DRA
- 11/17/17 CU Board meeting following forum
- 12/15/17 Concord 9:30 am - tentative date for rulemaking public hearing



Current Use Resources on DRA Website

[https://www.revenue.nh.gov/
current-use/index.htm](https://www.revenue.nh.gov/current-use/index.htm)

- Current Use Booklets
- Meeting Schedules and Minutes
- Statistical Reports
- Information on SPI

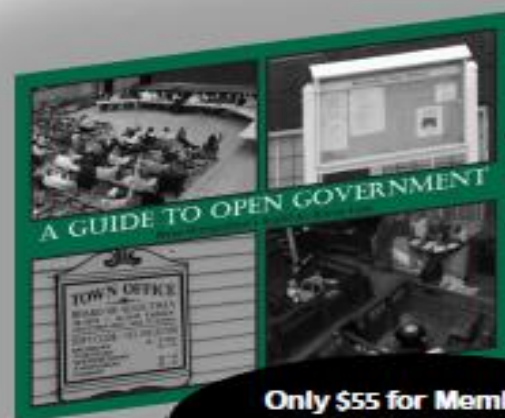






NHMA RELEASES NEW PUBLICATION ON NEW HAMPSHIRE'S RIGHT-TO KNOW LAW

Check out our new
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for public
officials when
confronted with the
numerous legal
issues surrounding
New Hampshire's
Right-to-Know Law.



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The Right-to-Know Law (RSA Chapter 91-A) affects every aspect of local government in our state. Every board, committee, commission, and sub-committee in every town, city and village district in New Hampshire must comply with this law. As a result, all local officials and employees must understand the law and their responsibilities regarding both public meetings and governmental records.

Join Legal Services Counsel Stephen Buckley, Government Affairs Counsel Cordell Johnston, and Staff Attorney Margaret Byrnes for a full day workshop on Thursday, September 14 on the Right-to-Know Law. They will address some of the most difficult issues under the law, including confidential information, electronic records and communication, procedures for nonpublic sessions, and communications outside a meeting. There will be ample time for questions and answers on all aspects of the law.

Go to NHMA's online store at www.nhmunicipal.org/shop
to order your new book today!



**Learn more about the Right-to-Know Law at a full-day
workshop on Thursday, September 14
at NHMA Offices in Concord.
\$90 includes workshop, meals and new book!
Check our website for registration details.**



The Challenge of Change

NHMA Annual Conference

November 15-16, 2017

Radisson Hotel, Manchester, NH



*...for attending our
webinar presentation
today!*

Mission Statement

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