

**From:** MacLean, Alex  
**Sent:** Thursday, May 12, 2011 11:03 AM  
**To:** Markowitz, Deb  
**Subject:** Fwd: H. 436 and current use

Deb -

Please see below change. Can we talk about this?

Thanks!

A

Sent from my iPhone

Begin forwarded message:

**From:** "Ross, Chuck" <[Chuck.Ross@state.vt.us](mailto:Chuck.Ross@state.vt.us)>  
**Date:** May 12, 2011 8:48:19 AM EDT  
**To:** "Peterson, Mary" <[Mary.Peterson@state.vt.us](mailto:Mary.Peterson@state.vt.us)>, "Lofy, Bill" <[Bill.Lofy@state.vt.us](mailto:Bill.Lofy@state.vt.us)>  
**Cc:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Subject:** RE: H. 436 and current use

thanks.

chuck

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**From:** Peterson, Mary  
**Sent:** Thursday, May 12, 2011 8:42 AM  
**To:** Ross, Chuck; Lofy, Bill  
**Cc:** MacLean, Alex  
**Subject:** RE: H. 436 and current use

Chuck: Happy to chat with you more about the process to date, and next steps. We will be discussing this, among other things, tomorrow at Tax staff meeting. Mary

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**From:** Ross, Chuck  
**Sent:** Thursday, May 12, 2011 8:26 AM  
**To:** Lofy, Bill  
**Cc:** Peterson, Mary; MacLean, Alex; Bothfeld, Diane; LaClair, Jolinda; Jensen, Sylvia; Zamos, Diane  
**Subject:** RE: H. 436 and current use

no veto makes sense given the bill it was on. discussion of enforcement in light of the process and consequence of this provision does seem like next place to go.

I will be with some conservation types today and will monitor reactions.

chuck

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**From:** Lofy, Bill  
**Sent:** Thursday, May 12, 2011 5:12 AM  
**To:** Ross, Chuck  
**Cc:** Peterson, Mary; MacLean, Alex; Bothfeld, Diane; LaClair, Jolinda; Jensen, Sylvia; Zamos, Diane  
**Subject:** Re: H. 436 and current use

Let's discuss further. The only thing I'll say for now is that this wasn't "last minute." Mary Peterson included this in a report I received from her on April 18. Where was the bureau when this was added? This was not a provision that was added in the dark of night, and the governor isn't going to veto the tax bill because of it. The question of enforcement by Tax is where this discussion should go next, but I want to be clear that a veto over this provision is highly unlikely.

On May 11, 2011, at 10:19 PM, "Ross, Chuck" <[Chuck.Ross@state.vt.us](mailto:Chuck.Ross@state.vt.us)> wrote:

Bill et al,

Here is another perspective on the current use language in the misc tax bill. I continue to wonder if the PVR can implement this change given the language of the bill and the "contractual" nature of the current use program with landowners.

chuck

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**From:** David Miskell [[misktome@gmavt.net](mailto:misktome@gmavt.net)]  
**Sent:** Wednesday, May 11, 2011 12:47 PM  
**To:** Ross, Chuck  
**Cc:** Tim Buskey  
**Subject:** FW: H. 436 and current use

chuck – see my below letter to the governor. I watch current use quite closely thru the Dodd report and farm bureau. It is real discouraging to have this last minute disaster. Anything you can do to inform the governor that this last minute addition to H.436 has problems with many in the Vt. Ag community and the governor should veto it until the impact has been investigated will be appreciated. Once again current use changes have been postponed for another year. This addition should be part of that study.

My problem is without current use I am finished farming and I certainly will not be able to sell my farm as a farm without being able to be enrolled in current use. the greenhouse would need to be removed and the land sold as 2 building lots. My tiny house would be taken down by recycle north, a mcmansion would be built instead and a smaller (\$500K house built on my greenhouse lot). Sad.

Thanks, david miskell

318-0576

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**From:** David Miskell [<mailto:misktome@gmavt.net>]  
**Sent:** Wednesday, May 11, 2011 12:05 PM  
**To:** Governor Shumlin  
**Cc:** Tim Buskey; [kwebb@leg.state.vt.us](mailto:kwebb@leg.state.vt.us); Ginny Lyons ; [dsnelling@leg.state.vt.us](mailto:dsnelling@leg.state.vt.us); Darby Bradley; Clark Hinsdale; Liam Murphy  
**Subject:** H. 436 and current use

Governor Shumlin – I implore you to either veto H. 436 or direct the tax department to not enforce the last minute addition of levying the penalty and kicking parcels out of current use that have municipal development permits or state WW permits in place for 2 years or more and not to have an easy out.

My situation is that I have 12.7 acres in the gold town of Charlotte. It was originally 1 lot as part of a preservation project of Vt. Land Trust who preserved 101 acres of the original 120 acre parcel once owned by the Pizzagalli family. The Vt. Land Trust has the right of first refusal on my land. I put up a large greenhouse in 1994 and all the land was the collateral for the loan. I subdivided the land in 2008 into 2 lots so we could have 1 lot for the greenhouse, use it for collateral for the greenhouse loan, and a possible house lot for my daughter who is interested in the farm. The second lot serves as collateral for our house that we built on it. I got appropriate municipal and state permits for the subdivision. All the land except the 2 acre homestead is presently (and has been since 1986) in current use which is the only way I can continue to farm and live in Charlotte. Our house is tiny but the property is over assessed due to Adirondack views. My greenhouse is way over assessed which I have appealed and lost and then worked with Farm Bureau to get farm buildings included in Current Use.

What do I do? If you sign the bill and this undiscussed addition goes into law I will certainly need to sell my farm. My subdivision was done to improve the vitality of the farm. There is no intention of parking the land. Do I go back to the town and desubdivide my lots then have problems with my 2 lenders regarding the collateral? Do I go back to the State and get rid of my WW permit? All lots throughout the state need WW permits now. Would I need to vacate my house since I would no longer have a WW permit since both lots are on the WW permit? Would I then apply for a new WW permit for just the house? Are there any plans by the Tax Dept. for enforcement? Will the towns have to take on this burden?

When I signed up for Current Use I considered that I signed a contract with myself and the State each being bound to honor such a contract. If there were to be changes in the contract they would be openly discussed with all points of view heard. I follow current use discussions quite closely through the Vt. Farm Bureau and Phil Dodd's Current Use Report as it is critical to the survival of my farm business.

It is discouraging to have this rule come out of nowhere with little if any discussion that will negatively affect many farmers in Vt. I hope my input will have some affect in having you take a in depth look at the problems, and the lack of forethought of this last minute addition to H. 436.

I have asked Tim Buskey to get this alert out to the Farm Bureau membership.

Sincerely,

David Miskell

Miskell's Premium Organics

718 Greenbush Road

Charlotte, VT. 05445

802-318-0576, 425-3959

<image001.jpg>

## Vermont Current Use Report 2011

No. 12, May 11, 2011

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### Legislature Subjects Parcel Penalty; "Serious Ramificati Use Enrollees

In a move that surprised many, the Legislature included provisions in the Tax bill (H.436) that will levy a development penalty and kick out of the current use program if they have had permits or state wastewater permits in place for two years or more.

The bill says the change takes effect shall apply to any land permitted before or to any land permitted after the bill into effect once it is signed by the Governor.

This means parcels that have had state wastewater permits in place for two years might - in theory - be in violation of the development penalty, though the Legislature is studying the legislation and any action will be interpreted or implemented after discussion is whether landowners given the chance to "renounce" their status in current use.

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Typically, when changes are made, landowners are given a chance to opt out without paying the penalty, a "right to be heard." This legislation contains a "right to be heard" for landowners: once their land has been placed in the program for two years, the bill says the penalty is due, and the property is removed from current use the

Under current law, the penalty is based on the fair market value of the change in use. If the parcel has been continuously in current use for more than 10 years.

The changes in H.436 affecting the penalty are said to be the brainchild of Sen. Westman (R-Lamoille), who aims to deter and/or punish the "parking" of land that an owner intends to develop. Sen. Westman for comm

The idea was first added to H.436 when it reached the House - when it reached the conference committee at the time of the session, a slightly different version was agreed to by the House and S

The revised statute now says the penalty (officially called the "land use penalty") be applied to land enrolled in the program "or two years after the issuance of a permit required by a municipality for development, or two years after the installation of a wastewater system and potab

Once the penalty is due, enrollment in the current use program and the fair market value.

H.436 also requires the state's Department of Valuation and Review (PVR) to track the issuance of wastewater permits ... on land enrolled in the appraisal program." It is not clear when sufficient municipalities have issued permits, had been issued to local municipalities and assessors, perhaps local listers and assessors, parcels to the state.

Tom Vickery, who is the assessor of Waterbury and Duxbury, told the development penalty would have "serious ramifications" on property owners enrolled in current use.

For example, he said he was aware of one property that the owner had subdivided. Under the statutory change, the entire parcel would incur the development penalty and the owner would start paying property taxes based on the new valuation. Vickery said he was aware of other current properties in his town that had either state permits or both.

Some property owners in current use who have obtained permits with the intent of building and selling lots in the future; these owners may complain that the state is changing the rules. Landowners may have obtained permits with the intent they could some day build a home. It's a prudent course, given that the market can change - and now risk having their land permanently removed from current use.

One current use advocate noted that agricultural land statewide is penalized and converted to other uses as a result of this change. This could lead to more land parcels being converted in the near future, and encourage the loss of farm and forestland - something that should deter.

The changes in H.436 raises many questions. The answer: how and when will the development penalty on current use be applied? Who had permits for two years? Will properties that have a permit be penalized and converted to other uses? Will owners keep in or re-enroll parcels in current use? What new tax revenue will be realized from this provision? What impact will this have on efforts to pass H.237 (the current use tax) in the Senate next year? Will there be any effort to remove or alter this new provision?

Stay tuned for more details.

## **Property Transfer Tax On C Rise July 1**

The Miscellaneous Tax bill (H.4) Legislature includes a provision property transfer tax for land program, effective July 1, 201 pushes the transfer tax rate of 250%. The tax increase was e or no opposition from legislators

The Vermont property transfer sold, and usually paid by the b value of the real estate, but th certain properties qualify for l the current use program prese transfer tax rate of 0.5% (the if the land becomes subject to within the following three year

For a current use property sell pending change to the full tax transfer tax will rise from \$500 July 1, the date current use la taxed at the 1.25% rate.

The revenue to be raised by th used to help the state shift to the current use program.

## **Senate Expected To Take U Next Year; Plum Creek Gets**

The current use bill (H.237) th voice vote in the waning days session (see VCUR #11) was n this year, so further work on t be put off until the second hal begins next winter.

Before then, the Current Use T planning to study and make re the topics that the bill suggest review, so it is possible additio brought up in the Legislature r

Meanwhile, efforts by Plum Cr



change the law that applies w  
large parcel is improperly cut  
were unwilling to make retroa  
of the current use law that wo  
other large landholders.

The timber company is also ch  
decision to exclude over 56,00  
current use for five years as a  
140 acres. That court case wil  
could eventually reach the Ver  
there is a settlement or some  
dispute.

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