

## What to Expect:

### Buying, Selling, and Financing Properties Enrolled in Current Use

The State of Vermont Current Use Program (<http://tax.vermont.gov/property-owners/current-use>) allows landowners to pay reduced taxes on actively managed forest and farm land, to conserve these lands, and slow development. In order to protect the State's financial interest in the property, a lien is placed on the property. Typically, the land use change lien runs (stays) with the land, and has to be paid off by the seller when sold in order to convey 'free and clear' title OR the buyer has 30 days to re-enroll the property in the Current Use Program. If the buyer does not re-enroll in the Current Use Program, the buyer would be responsible for the Land Use Change Tax from un-enrolling the property and the buyer would be free to develop the land subject to zoning laws. However, in order to close a loan so that the title transfers to the new owner with the land use change lien in place, then

**Current Use Liens Must be subordinated by the Vermont Department of Taxes.** If your buyer needs financing *and* intends to keep the property in current use. He/she will need to complete **FORM CU-306, Application for Subordination of Current Use Lien**, and pay a non-refundable \$179 fee since the lender wants their mortgage to be first in line and will not close unless the State agrees to subordinate. These forms are available on the VT Dept. of Taxes website. (<http://tax.vermont.gov/property-owners>) As part of the review process the state will also request a copy of the lender's Financing Commitment Letter, the buyer's attorney's Title Work (opinion or commitment), the completed Subordination Agreement prepared by the attorney, and a copy of the Appraisal.

The Department of Taxes has a very specific process they use to determine the amount of equity in the property that is the basis for their decision to subordinate or not. *"To pass the equity test, the mortgage amount plus the estimated land use change tax liability must be less than or equal to 90% of the listed value (divided by the CLA) OR the appraised value."*

**How can the Listing or Selling Agents Help?** When taking the listing of a property in current use, it is helpful for the listing agent to find out the current use lien amount. This can be accomplished by calling Laurie Hostetter or Douglas Farnham at the Vermont Department of Taxes at 802-828-6829 and giving them the property SPAN number. *Assuming* the property appraises at the listing price, you can multiply the price x 90% and subtract the land use change tax to determine the maximum mortgage amount that the State will subordinate to. Selling agents: Is the financing amount on the offer presented to the seller the same or less than this amount? If yes, and the buyer qualifies for that loan amount, you may be good to go. Possible remedies for cases where there is not enough equity, the loan amount may need to be reduced via the buyer putting more money down, the current use lien being paid by the seller, or the sales price being renegotiated. Contributed by Helen Wachtel, Assistant Vice President & Sr. Mortgage Officer, The Brattleboro Savings & Loan Association, 802-275-3902 or [hwachtel@brattbank.com](mailto:hwachtel@brattbank.com).