

Lebanon Reassessment of Current Use

Docket No. 11127-91CU

DECISION

This proceeding was initiated by the board pursuant to RSA 71-B:16 II, RSA 71-B:5 I and RSA 79-A:12. The board held a preliminary hearing, requiring the "City" to show cause why the board should not institute proceedings to review the City's handling of current-use taxation since 1985. The show-cause order was issued following the board's hearing in City of Lebanon v. Dartmouth College and City of Lebanon Board of Assessors, Docket No. 10914-91. At that hearing, the board learned the City had improperly released property from current use without complying with RSA ch. 79-A. At the show-cause hearing, the City submitted a list of 35 properties with potential problems with their current-use status. These properties fell into five general categories:

Category One. Properties that had been assessed in current use and had recorded current-use liens but from 1986 forward were assessed at ad valorem values without legal reason, without releasing the current-use liens and without assessing the RSA 79-A:7 land-use-change tax;

Category Two. Properties that never benefitted from current use but had recorded current-use liens;

Category Three. Properties that had been or were being assessed in current use for which current-use applications were on file but for which no liens had been recorded;

Category Four. Properties assessed in current use but for which no current-use applications were on file and for which no liens had been recorded; and

Category Five. Properties assessed in current use with recorded liens that contained errors.

(Attached to this decision is a list of the properties and taxpayers for

each category. Note: Two properties owned by Dartmouth College Trustees have been listed in category one, but those properties have been dealt with in a separate proceeding, Docket No. 10914-91.)

Following the show-cause hearing, the board asserted RSA 71-B:16 II and RSA 79-A:12 jurisdiction over the City and the taxpayers named in the various lists. The parties were notified by certified mail that the board was taking jurisdiction over this matter and that the board had scheduled a hearing. A

lengthy hearing was held to determine what steps should be taken to correct this situation. This order addresses (i) the corrective action already taken by the City and some of the taxpayers and (ii) actions now ordered by the board. Included in this decision is an order that the City, within 10 days of the clerk's date below, record all executed corrective documents with the registry of deeds and certify such compliance to the board.

CATEGORY ONE - - PROPERTIES IMPROPERLY ASSESSED AT AD VALOREM VALUES.

Except for taxpayers specifically discussed below, this order applies to all category-one taxpayers.

This category contains the most significant issues involved in this proceeding. The City underwent a city-wide revaluation for the 1986 tax year.

The then assessor unilaterally decided to stop assessing some properties in current use even though the properties were in current use.

As stated at the hearing, once property is placed in current use, it cannot be taken out of current use by either the municipality or the property owner. RSA 79-A:5 (municipality shall appraise property in current use at current-use values). Rather, the current-use status can only be removed when the property no longer qualifies for current use. RSA 79-A:7 (land comes out of current use when its use changes to a nonqualified use). Therefore, the City erred when it stopped assessing these properties in current use.

The only way to properly remedy the City's failure is to order the City to:

- 1) Revise the property-record cards to reflect the properties' current-use status;
- 2) Assess the properties in current use until a property is released from current use in accordance with RSA ch. 79-A and the regulations thereto; and
- 3) Abate all overpaid taxes that were calculated using ad valorem values rather than current-use values from 1986 forward with interest at six percent from the date the taxes were paid to the refund date. See RSA 76:17-a.

Within 60 days of the clerk's date below, the City shall file with the board, copying each category-one taxpayer:

- 1) a list showing the total abatement due to each category-one taxpayer, itemizing: a) the original assessments and taxes; b) the corrected assessments

and taxes; and c) the amount of refund, itemizing the abated taxes and the interest; and

2) a proposed repayment plan, under which all abatements shall be fully paid before March 31, 1993. (All abatements shall continue to accrue 6% interest until paid.)

Category-one taxpayers may object to the City's filing by filing an objection within ten days of the City's filing of the above. Taxpayers shall state with specificity the basis of the objection, and they shall copy the City with the objection, certifying compliance on the objection.

Bagley (4-23)

In addition to the above, the City shall, within 20 days of the clerk's date below, assess an RSA 79-A:7 land-use-change tax for the .86-acre parcel deeded to an abutter in 1986, recording the appropriate release for the .86-acre parcel.

Mans (5-13)

The board's hearing notice was returned "unclaimed," and the board has learned this property was transferred to Mascoma Savings Bank. Therefore, the board has issued a separate notice and order to the bank. The above discussion does not apply to the bank if the bank objects in accordance with the separate order.

The Hitchcock Clinic (10-11)

The taxpayer has asked the board to rule the property was never properly placed in current use because the recorded lien form recited the wrong tax map and lot. The board denies the request. The taxpayer and its predecessor organization should have discovered at the registry that some land owned by its grantor was in current use. The taxpayer should have then gone to the City and their taxpayer's grantor to determine whether the property the taxpayer was purchasing was in current use. The search at the City would have revealed the registry book and page reference for the current-use property, i.e., Book 1364, Page 388. The Derrick et al. deed to The Hitchcock Clinic, Inc. stated, "Meaning and intending to describe and convey *** Book 1364, Page 388." Therefore, notice of the property's current-use status was sufficient. We conclude the lien form needs to be corrected, but the defect did not affect the property's current-use status. Therefore, the City shall abate the ad valorem taxes as ordered above. The City shall, within 10 days of the clerk's date below, prepare and send the taxpayer a corrective lien form. The taxpayer shall execute and return to the City the lien form within 10 days of receipt. The City shall then record the form.

Bagley (11-67)

Before abating the ad valorem taxes, the taxpayer and the City shall, within 20 days of the clerk's date below, meet to discuss what corrective action is required to clarify what land has been kept out for the house lot. As part of this process, the City shall determine whether the taxpayers'

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removal of fill in 1986 requires the assessment of the RSA 79-A:7 land-use-change tax. Such corrective documents shall be recorded within an additional ten days along with a report to the board.

Laches

The City did not challenge the board's authority to order the City to prospectively assess these properties in current use.

The City argued, however, that laches prohibits the board from abating taxes back to 1986. The board disagrees, concluding the principles of laches are not violated by the abatement order. This section will begin by stating the statutory basis for the board's jurisdiction here. A general discussion of laches will follow, concluding with an analysis of the facts under the announced principles.

a) Board's jurisdiction

The board has asserted jurisdiction over this matter under RSA 71-B:16 II and RSA 79-A:12. RSA 71-B:16 II states:
The board may order a reassessment of taxes previously assessed * * * of any taxable property in the state:

II) When it comes to the attention of the board from any source, except as provided in paragraph I, that a particular parcel of real estate * * * has not been assessed, or that it has been fraudulently, improperly, unequally, or illegally assessed * * *.

RSA 71-B:16 grants the board broad authority and responsibility to rigorously scrutinize the legality of assessments and to remedy improper and illegal taxation. Appeal of Wood Flour, Inc., 121 N.H. 991, 994 (1989) (hereinafter "Wood Flour").

In addition to RSA 71-B:16 II, the board has jurisdiction under RSA 79-A:12, which authorizes the board to review current-use classification when it comes to the board's attention from any source that "a particular parcel of land has been fraudulently, improperly or illegally so classified * * *." RSA 79-A:12 does not specifically state the board has jurisdiction over property illegally removed from current use. However, RSA 79-A:12 is a remedial statute, like RSA 71-B:16 II, and given the holding in Wood Flour, RSA 79-A:12 grants the board jurisdiction to review the illegal removal of a property from current use.

The board has authority to review and then remedy the illegal removal of property from current use and the illegal ad valorem assessing of properties. We turn now to the board's remedial powers. Once the board has jurisdiction over a particular matter it may institute its own investigation, hold hearings and "take such other action as it shall deem necessary." RSA 71-B:5 I. RSA 71-B:16 specifically authorizes the board to abate taxes previously assessed. While RSA 71-B:16 does not recite a time limit on this abatement power, the board

recognizes a time limitation exists. Lacking an explicit limitation, the board will use the principles of laches to determine whether it has the authority to abate taxes from 1986 forward. We note that laches is a limit on a party's right to assert a claim, not a limit on the tribunal's authority. Nonetheless, the general principles of laches shall be used to decide this issue.

b) Principles of laches

Laches, an equitable doctrine, limits a party's right to seek a remedy when that party has failed to assert the right within a reasonable time and the unreasonable delay prejudices the other party. E.g., State v. Weeks, 134 N.H. 237, 240 (1991); Wood v. General Electric Company, 119 N.H. 285, 289 (1979). Time is certainly an element of laches, but it is not the only consideration. Wood, 119 N.H. at 289.

The City, the party asserting laches, has the burden to show that abating the taxes from 1986 forward is unreasonable (a) because the delay is unreasonable and (b) because such an order would prejudice the City. See Weeks, 134 N.H. at 240; Wood, 119 N.H. at 289. We find the City did not carry its burden.

The City argued the delay was unreasonable because the time lines found in RSA 76:16-a (6 months in 1986) have long since passed. We reject this argument for several reasons. First, RSA 76:16-a governs appeals of individual taxpayers. Since taxes are assessed annually, the deadline must be short. Here, the board, not an individual taxpayer, is acting under RSA 71-B:16, scrutinizing the City's handling of current use. RSA 71-B:16 does not state a specific time limit, but it does authorize the board to abate "taxes previously assessed ***." Therefore, the board certainly may go back some time to abate taxes. Moreover, as held in Wood Flour, 121 N.H. at 994-995, RSA 71-B:16 is a remedial statute, and the board could not correct the errors found in the City without the authority to go back several years. We conclude, therefore, the RSA 76:16-a deadlines do not apply to the board's RSA 71-B:16 powers.

Lacking any statutorily specified deadline, the board must decide whether going back six years is unreasonable. We conclude it is not because current use has long-term effects. The current-use law aims to promote the preservation of open space. RSA 79-A:1. Reading RSA ch. 79-A as a whole

demonstrates the intent to provide a long-term mechanism for preserving open space. To this end, a lien is placed on the property, the land cannot be removed from current use--it comes out when the use changes--and a land-use-change tax must be paid when the use changes. Given these long-term factors with indeterminable time periods, it is prudent to correct the errors here because the errors will eventually have to be addressed, e.g., on transfer of property when recorded lien is discovered or when use changes and the land-use-change tax would be due. These errors, left uncorrected, are like time bombs that may explode several years or even decades later. It is our job to defuse them in an equitable way. Given the long-term effects of current use, we conclude six years is not an unreasonable delay.

We now turn to whether the board's order results in any prejudice to the City. In analyzing this issue, we remember the City itself caused the problem here by not complying with the law. Therefore, any harm the City might suffer (refunding illegally assessed taxes) is due to its own actions. The board merely is requiring the City to comply with RSA ch. 79-A as the City should have been doing. Having illegally removed property from current-use assessment with the advantage of collecting ad valorem taxes, it would be inequitable to allow the City to avoid repayment of those illegally collected taxes. Finally, the City did not present any facts indicating it would be prejudiced by an order requiring it to pay the illegally collected taxes.

This conclusion--that the City will suffer no undue prejudice--is bolstered by two additional factors. First, the evidence indicated taxpayers may have been unaware their property was being assessed at ad valorem values because the assessor stopped the current-use assessments during a revaluation year when taxpayers could have assumed the higher assessments were due to the revaluation, not due to the cessation of current-use assessment. Second, taxpayers that discovered the error were told by the City they had no recourse.

Given the above analysis, the board rules that abating the previously assessed taxes from 1986 forward is authorized by RSA 71-B:16, RSA 71-B:5 and RSA 79-A:12, or is not barred by the principles of laches.

CATEGORY TWO - - PROPERTIES WITH RECORDED LIENS BUT THAT HAVE NOT BENEFITTED FROM CURRENT USE.

Karl (1-3)

The board adopts the City's recommendation that the lien be released as having been recorded in error.

Bagley (11-100)

The information on this lot is unclear. The City shall within 20 days meet with the Taxpayer to determine if the lien was recorded in error. The City is advised that whether an error was made will require a review of RSA ch. 79-A and the regulations thereto. The City shall within an additional 10 days inform the board if its recommended resolution with facts and documents to support the position, indicating whether the taxpayer concurs and copying the taxpayer with the filing.

Bosworth (5-17)

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Within 10 days of the clerk's date below, the taxpayer shall file a revised current-use application and lien, showing Map 5, Lot 18, Map 8, Lot 102 and Map 5, Lot 17 as being in current use, excepting the land appurtenant to the "house lot" on Lot 5-17. See definition of "house lot" in the 1992 New Hampshire Current-Use Criteria Booklet, Cub 303.02. The City shall record the lien within an additional 10 days.

CATEGORY THREE - - PROPERTIES BENEFITTING FROM CURRENT USE BUT LACKING RECORDED LIENS.

All category-three taxpayers had signed liens the City was to record, except for the following:

Bogart (9-137);

Mack (2-18);

Wiley (8-35); and

Walter E. Ward Revocable Trust (5-61).

Bogart (9-137) and Ward Trust (5-61)

Within ten days of the clerk's date below, Bogart and Ward Trust shall execute the current-use lien forms prepared by the City. The City shall then record those liens within ten additional days. If Bogart and Ward Trust fail to execute the liens, the City shall inform the board, (supplying the board with a copy of the lien forms) and the board shall issue an order that can be recorded at the registry of deeds to perfect the lien without the taxpayers' signatures. **Mack (2-18)**

The board's July 1, 1992 order and hearing notice was returned unclaimed. Therefore, Mack will be served by the sheriff. A copy of the order to Mack shall be sent to the City. Once service is completed, the board shall act in accordance with the order served on Mack.

Wiley (8-35)

There is insufficient information upon which to make a decision. Therefore, the board shall schedule a hearing to investigate whether the current-use lien was properly released by the City in 1989.

CATEGORY FOUR - - PROPERTIES BENEFITTING FROM CURRENT USE BUT LACKING APPLICATIONS AND RECORDED LIENS.

Having reviewed the evidence submitted by the City and the one taxpayer who appeared -- Jean L. Cole -- the board issues the following orders.

Cole (5-8-1)

The title records established there was no unity of ownership between Lot 5-10 and Lot 5-8-1. Therefore, Lot 5-8-1 should never have been placed in current use. To remedy this error, the City and Cole shall:

- 1) Revise and correct the current-use application, the plan and the property-record cards so only Lot 5-10 is in current use;
- 2) Release the current-use lien to the extent it applies to Lot 5-8-1;

and

3) Assess Lot 5-8-1 at ad valorem values, beginning in tax year 1992.

Rhodes (8-42)

The board was told the City has a corrected lien and application, and thus the board will make no further orders.

Taylor (10-55-2)

The taxpayer failed to appear at the hearing, and therefore the board's decision is based on the information submitted by the City. The Taxpayer shall, within 10 days of the clerk's date below, a) complete and execute a lien form

with cross reference to the Sobel lien and b) submit an updated property sketch, indicating what part of the property is in current use and the specific current-use category. If the taxpayer fails to comply, the City shall notify the board, and the board shall issue an order authorizing the City to record the lien without the taxpayer's signature.

CATEGORY FIVE - - PROPERTIES BENEFITTING FROM CURRENT USE WITH RECORDED LIENS THAT HAVE TYPOGRAPHICAL ERRORS.

Tadmore Farm, Inc. (4-5), the Townsend Trust (4-3), Haggerty (not listed) and LeBrun (11-77)

The City stated corrected liens had been obtained from these taxpayers.

Estate of Leon Dulac (7-14)

No corrected lien has been obtained. Therefore, the board orders the current owner of Lot 7-14 to sign a corrected lien form supplied by the City within ten days of the clerk's date below. The City shall record the lien within an additional ten days. If taxpayer fails to do so, the City shall so notify the board, and the board shall issue an order authorizing the City to record the lien without the taxpayer's signature.

Rehearing Motions:

Rehearing motions concerning this decision must be filed within twenty days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

The board compliments the City, especially Mr. David Johnson and his staff, for the fine job they performed in collecting and organizing the documents requested by the board.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Ignatius MacLellan, Member

Michele E. LeBrun, Member

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CERTIFICATION

I certify that copies of the within Decision have this date been mailed, postage prepaid, to David Johnson, City Assessor; and all taxpayers listed on the attached sheets.

Melanie J. Ekstrom, Deputy Clerk

Date: October 2, 1992

0009

Lebanon Reassessment of Current Use

Docket No. 11127-91CU

ORDER

On October 2, 1992, the Board of Tax and Land Appeals issued an order directing the sheriff of Volusia County, Daytona Beach, Florida 32115 to serve Patricia Mack of 2833 Rickenbacker Trail, Daytona Beach, Florida 32014 with a writ directing that the addressee execute a current use lien form provided by the City of Lebanon, provide a sketch of the subject property (FL Map 2, Lot 18; New Map 188, Lot 1, Poverty Lane, 55.9 acre) with appropriate current use categories indicated on the sketch. The service was made by the sheriff on October 10, 1992, (9:20 a.m.) at 2882 Rickenbacker Trail, Daytona Beach, Florida (corrected address).

The Board of Tax and Land Appeals therefore orders the assessor's office, Lebanon, N.H. to immediately record a lien in the county registry - unsigned by Ms. Patricia Mack.

In its October 2, 1992 order the Board of Tax and Land Appeals gave Ms. Mack 20 days to comply. In the meantime, the Board has been advised by the City that a bank foreclosure is imminent. Therefore, the Board amends its October 2, 1992 order by removing the 20 day response time limit and agrees to take any corrective action deemed appropriate as a result of the City's early recording of the unsigned lien.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to David Johnson, City Assessor; and Patricia Mack, taxpayer.

Valerie Lanigan, Clerk

Date: October 21, 1992

0009

Lebanon Reassessment of Current Use

Docket No.: 11127-91 CT

ORDER AND HEARING NOTICE

DATE & TIME: TUESDAY, JULY 28, 1992, AT 9:00 A.M.

**PLACE: BOARD OF TAX AND LAND APPEALS HEARING ROOM,
107 PLEASANT ST., 3RD FLOOR, CONCORD, NH**

Pursuant to RSA 71-B:16 II, the board has asserted jurisdiction over you concerning property in the City of Lebanon (the City). The board is investigating whether the City has complied with RSA ch. 79-A, the current-use statute, and RSA 75:1, the ad valorem assessing statute. The board became aware that:

1) certain properties had a current-use lien recorded and were at sometime benefitting from current-use assessments but such benefit was ended without legal reason, without releasing the lien, and without assessing the RSA 79-A:7 land-use-change tax;

2) certain properties had a current-use lien recorded but never benefitted from current-use assessment;

3) certain properties received or are receiving current-use assessments, and a current-use application was on file but no lien was recorded;

4) certain properties are receiving current-use assessments, but no current-use application is on file and no lien was recorded; and

5) certain properties are receiving current-use assessments but there are errors in the recorded lien.

The City has prepared a list (attached) so you can see what category you are under.

You must attend this hearing to protect your interests. The hearing shall address what remedial steps should be taken to correct the errors in assessing these properties. Taxpayers shall be prepared to address his/her position on the property's current-use status and history, bringing all documents to address these issues. A review of ad valorem assessments may also occur. Before the hearing, taxpayers should review the City's files and his/her own records, and the parties should meet to seek an understanding of the issues and to discuss possible resolutions. All agreements, however, must be made in accordance with RSA ch. 79-A and RSA 75:1 and must be approved by the board. Because each situation may be different, the board must meet with the parties to approve all settlement agreements.

Taxpayers in category 5 may avoid the July 28 hearing by correcting the lien form. This may be done through the City assessor, and a copy of the correction shall be filed with the board before the hearing for board approval.

The City shall, before July 21, 1992, file for each taxpayer:

- 1) a chronological summary of all pertinent events;
- 2) a set of all documents; and
- 3) a proposed resolution.

The filing shall be copied to the subject taxpayer.

The hearing shall begin with a discussion of the problems and the parameters for resolution. Time shall then be available for the parties to discuss resolution. Finally, the board shall review all agreements and schedule the unresolved matters for hearings.

The parties may contact the board's clerk with any questions.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I certify that a copy of the within order has been mailed, postage prepaid, to the City of Lebanon; and all parties on the attached lists.

Dated: July 1, 1992

Valerie B. Lanigan, Clerk

0007

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Docket No. 11127-91CU

ORDER

This is a response to the "City's" October 19, 1992 letter (copy attached), requesting authorization to pay the ordered abatements in installments over several years. The board denies this request. At the hearing, the board attempted to work with the parties to adopt an installment plan. However, the City would not engage in such discussions. Therefore, the board decided the abatements should be made by March 31, 1993. Obviously, this order does not prevent the City from trying to reach agreements with taxpayers to accept the abatements in installments.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within Order have been mailed this date to Steven L. Smith, City Manager; David Johnson, Assessor; and all taxpayers listed on the attached sheets.

Valerie B. Lanigan, Clerk

Date: October 30, 1992

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Docket No. 11127-91CU

ORDER

This order applies only to Walter J. and Betty L. Paterson and is a response to their letter received on October 23, 1992, requesting that their land not continue to be in current use. The board denies the "Taxpayers'" request. The board's October 2, 1992 decision clearly enunciated the reasons underlying the board's decision, and those reasons will not be reiterated here.

If the Taxpayers had information that could have changed the board's decision, they should have attended the July 28, 1992 hearing. The Taxpayers were notified of the hearing and that notice specified the issues that were to be discussed. The hearing notice also stated, "You must attend this hearing to protect your interests." The Taxpayers did not attend nor did they submit any written material to the board.

The Taxpayers did not include anything in their letter indicating how the board had erred as a matter of fact or law. The letter erroneously stated that the Taxpayers' land has been out of current use for 12 years. At the hearing, the "City" submitted documents showing that the Taxpayers' land had benefitted

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from current-use assessment through 1986. The Taxpayers also stated they could not have built their house if the land had been in current use. The City

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indicated 2 acres were released for the house site in March 1982, and a land-use-

change tax was paid. The remainder of the land remained in current use and should have been assessed accordingly.

Based on the evidence received at the hearing, the board denies the Taxpayers' request. The remedies stated in the board's October 2, 1992 decision shall apply to these Taxpayers.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

(Concurred, unavailable for signature.)
Michele E. LeBrun, Member

I certify that copies of the within Order have been mailed this date to Steven L. Smith, City Manager; David Johnson, Assessor; and Walter and Betty Paterson, Taxpayers.

Valerie B. Lanigan, Clerk

Date: December 15, 1992

Lebanon Reassessment of Current Use

Docket No.: 11127-91CU

DECISION

This decision applies to Joseph Willey (the Taxpayer) and is issued following the board's February 22, 1993 hearing, which the "City" attended but the Taxpayer did not. The board's October 2, 1992 decision is attached to and made part of this decision. In the October 2, 1992 decision, the board addressed most of the parties subject to this matter, but the board was unable to address the Taxpayer's property due to lack of information. With reference to the earlier decision, we note that the Taxpayer was listed under category three, but the category one issues are more germane to the Taxpayer.

The following is a chronology of the events in this matter.

| <u>Date</u> | <u>Description</u> |
|-------------|--|
| 1978 | Taxpayer's predecessor placed 100 acres in current use |
| 1978 | no current use lien was recorded |
| 1978-1985 | the property was assessed in current use |
| 1986-1987 | the property was assessed at <u>ad valorem</u> values |
| 1988 | the current-use lien was recorded for 100.5 acres |
| 1988 | the Taxpayer annexed 13 acres to the property* |
| 1989 | the current-use lien was released without any change |

tax

*Note: The Taxpayer did not file an amended current-use application, and

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therefore the annexed 13 acres were never placed in current use.

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Given these facts, the board orders the City to comply with the remedies stated on page two of the October 2, 1992 decision, namely the 100 acres placed in current use in 1978 shall be placed back in current use, the 13 acres annexed in 1988 for which no current-use application was filed shall be assessed at ad valorem values, and the City shall abate the taxes collected on the ad valorem assessment on the 100 acres. The City shall comply with this order within 30 days of the clerk's date of this order, filing a letter stating compliance.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Joseph Willey, Taxpayer; and David Johnson, City Assessor.

Valerie B. Lanigan, Clerk

Date:

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Final Order Relating to Reassessment

The board has reviewed the "City's" reports that described the current-use reassessments conducted in accordance with the board's orders. The City has corrected the current-use records and the registry records and has abated taxes accordingly. The only issue outstanding is recording the corrective lien for Lot 11-67 owned by Gordon E. Bagley, Jr. Notwithstanding the board's order below, the City shall collect the land-use-change tax and file the lien.

The board finds the City has complied with the board's orders and all orders are hereby removed. See RSA 71-B:17 (supp 1992).

The board compliments the City, especially David Johnson, City Assessor, and Kathy Casale, Assessing Secretary, on their efforts in this matter and the organized presentations that were made.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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CERTIFICATION

I certify that copies of the final order have been mailed this date, postage prepaid, to David Johnson, City Assessor; and all Taxpayers listed on the sheets attached to the board's July 2, 1992 decision.

Date:

Valerie B. Lanigan, Clerk

0005

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Order

This order responds to the "City's" June 30, 1993 letter, which requested an order to record the current-use notice of lien without the signature of Joseph Willey (Taxpayer). The board grants this request.

The board's March 24, 1993, decision ordered the City to place the Taxpayer's land (100 acres) back into current use, abate the taxes collected on the ad valorem assessment for the 100 acres, and assess the remaining 13 acres at ad valorem values. The City has been unsuccessful in contacting the Taxpayer to have the new current-use application signed.

The City shall record the current-use notice of lien, unsigned by the Taxpayer. The City shall reference this order on the Taxpayer's signature line on the form, attaching a copy of this order to the lien for recording.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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CERTIFICATION

I certify that copies of the final order have been mailed this date, postage prepaid, to David Johnson, City Assessor; and Joseph Willey, Taxpayer.

Date: July 27, 1993

Valerie B. Lanigan, Clerk

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