

**Town of Marlow**

**Docket No.: 18478-01RA**

**ORDER**

This order responds to the “Town’s” October 5, 2001 letter (“Letter”) filed by its attorney, Genienne A. Hockensmith, requesting “an extension of the deadlines imposed in the July 30, 2001 order or other guidance as the [b]oard sees fit.” The Letter was submitted in response to the board’s provision on page 3 of the July 30, 2001 Order (“Prior Order”), requiring the Town to notify the board every six months “as to the progress it has made in carrying out this ordered reassessment of CU forest land” for the 2002 tax year.

The board denies the Town’s request for an extension beyond the 2002 tax year for revising its current-use assessments. The reasons put forth in the Letter do not establish either the necessity for any extension or a basis for the Town’s additional argument that the Prior Order’s corrective actions are moot because of recent legislative developments. In 2001 the legislature enacted Ch. 297, § 2 (RSA 21-J:14-a and b) and Ch. 158, § 56 (RSA 21-J:11-a), creating an assessing standards board and establishing procedures for periodic certification of assessments by the department of revenue administration (“DRA”). These enactments do not in any way change a municipality’s responsibility of annually reviewing assessments (RSA 75:8) and properly assessing current use property in accordance with RSA Ch. 79-A and the current use board’s rules. To the contrary, the assessing standards board and the DRA’s certification

process will likely ensure that these statutory obligations are complied with in the future in a more consistent and timely fashion.

As noted in the Prior Order, the current-use statutes and rules are very clear as to how to assess CU forest land. Further, the board's Prior Order is quite clear as to what the Town's assessing responsibilities are, and provides suggestions as to how to carry out that responsibility.

The board notes the DRA is equally clear about the need for municipalities to apply the CU statutes and rules, particularly RSA 79-A:5, I and CUB 304.03. In a technical information release issued on August 15, 2001 to town officials and landowners (TIR 2001-12), the DRA cited the board's Prior Order, this statute and this regulation and noted: "The laws and rules require assessing officials to consider the class, grade, location, site quality and type as defined by Cub 304.03(a) when determining where a particular parcel of land is placed within the forest land range of assessments, rather than placing all properties at one end of the range."

Consequently, the Town should not be "confused as to what action [it] should be taking at this point in time."

The Town must immediately begin the process of complying with the Prior Order to improve its current-use records and assessments in accordance with the statutes and rules. As the Letter mentions, part of that process could include consulting with the DRA's representative as to how best to improve its current-use records and assessments.

The Town shall, within 30 days of the date of this Order, submit an additional update to confirm that it has taken substantive steps to accomplish that process. If the Town's progress is unsatisfactory, the board will schedule a show cause hearing to determine if the board should

certify, in accordance with RSA 71-B:17 and 18<sup>1</sup>, its Prior Order to the DRA to carry out the reassessment of current use properties for tax year 2002.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Michele E. LeBrun, Member

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<sup>1</sup>**71-B:17 Procedure For.** When ordered to make an assessment or reassessment the selectmen or assessors shall make it within such time as the board orders. . . . If the assessment or reassessment is not made in conformity with the order, . . . or if it is not satisfactory to the board, the board may certify the order to the commissioner of revenue administration who shall cause the reappraisal to be made by his department or by professional appraisers employed for the purpose. . . .

**71-B:18 Expense of.** The expense of such assessment or reassessment, if made by the commissioner of revenue administration or by professional appraisers employed by him, shall be promptly paid to the state by the town or city in which the property assessed is situated upon notification by the commissioner of the amount due.”

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Douglas S. Ricard, Member

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Albert F. Shamash, Esq., Member

**CERTIFICATION**

I hereby certify that copies of the within Order have this date been mailed, postage prepaid, to: Genienne A. Hockensmith, Esq., counsel for the Town; Chairman, Selectmen of Marlow; Guy Petell, Director, Property Appraisal Division, Department of Revenue Administration; and David and Linda Kinson, Taxpayers.

Date: October 15, 2001

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Lisa M. Moquin, Clerk