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I. THE LISTER

A. Background and History

Vermont's [constitution](#), drafted in 1777, states "every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute the member's proportion towards the expense of that protection..." (Article IX). The most basic responsibility of the lister is to determine each person's proportion.

In 1778, "An Act Directing Listers in Their Office and Duty" called for all inhabitants to give in writing "a true account of all their listable polls, and all their rateable estate." This list was to be carefully scrutinized and validated by the listers. Because items were assigned listed values by category and not by market value, listers were appropriately named.

In the beginning, the grand list was extremely detailed. There were, for example, four different categories of cows, each having a different value. During the first 100 years of Vermont's property tax, the legislature attempted to keep the categories of items up-to-date, so that the grand list would be an accurate measure of each citizen's ability to pay. In 1797, for example, mules and jackasses, house clocks not made of wood, gold watches, and other watches were added to the list. Although money on hand was always listed, by 1825 stock in corporations was added, and by the middle of the century we listed distilleries, pianos, organs, pleasure wagons, carriages, sleighs, dogs, and swarms of bees.

General Walker, writing in the [Political Science Quarterly](#) of 1888, pointed out two benefits of the early property tax: 1. property was easy to tax because it was tangible and everyone knew how much each person owned; and 2. property was an index of the ability to pay, and thus a fair basis for taxation. However, even in the early years there were people "who reckoned on their wits rather than their property for an income", and a "faculty tax" was imposed on them. Listers were directed to use their best judgment and discretion in valuing and listing the faculties of attorneys, physicians and surgeons. ([History of Taxation in Vermont](#) (1894) Frederick A. Wood).

Although the listers' duty is still to determine the assessment each person should pay taxes upon, many of the specific rules have changed. Instead of setting all property in the grand list at a fixed amount as was originally done, listers are now directed to appraise property at its fair market value, or, for qualifying property, at its use value. The faculty tax was repealed in 1850, after great minds argued that great minds would leave the state in order to avoid this obnoxious tax. In addition, only the real estate belonging to individuals, and not the detailed categories of personal possessions, are now entered in the grand list.

In 1997 Vermont's Supreme Court ruled that education is the state's responsibility. It said the state has a responsibility under the Constitution to provide "substantially equal access" to a quality basic education to all Vermont students, regardless of where in Vermont they may live. This led to passage of Vermont's Equal Education Opportunity Act providing for a statewide education property tax. This act included an income sensitization provision relating to primary residences. The

need for assessment equity within towns and across town lines became more important than ever and led to a new partnership between town and state government.

B. Job Description

The overarching responsibility of the lister is assessment equity. Generally speaking, assessment equity is the degree to which assessments bear a consistent relationship to market value. In order to do this listers must understand appraisal methods and property assessment administration in Vermont.

With inflation, development, and subdivision, the grand list may soon be out of date. Between the years in which complete townwide reappraisals are completed, you will have to make corrections, additions and adjustments to maintain equity among properties. To do this, you will need to analyze and interpret sales data.

To determine the value of property, you must consider the governmental regulations affecting potential uses and value. This means you must understand your town plan and zoning regulations, the method for determining a housesite and homestead value, the use appraisal program, and State Health Department subdivision regulations. You may have to analyze Act 250 or determine how to assess property subject to federal housing subsidies, or property subject to a conservation easement. The Secretary of State published [the Vermont Municipal Guide to Land Use Regulations](#). It is suggested you be familiar with that material.

If your town or city chooses to tax business inventory and machinery and equipment, you will need to learn how to assess such property. This involves understanding the businesses in your town as well as depreciation.

Many of the listers' activities have requirements concerning timing, notification, and format, as well as substance, which must be strictly adhered to. Towns have lost too many cases because procedural details were overlooked. You must carefully read, understand and follow the statutes. Because many of the details are easily forgotten, we recommend reading and re-reading the appropriate sections of the statutes for each task, each year. The [Vermont statutes](#) can be accessed on-line or be read in the town clerk's office.

To be effective, listers must be knowledgeable, fair, open, honest, patient, sympathetic and willing to meet with people. The job has become much more complicated and demanding and many feel the title should be changed from lister to assessor. If you are a new lister, we hope that you will recognize and accept the responsibilities of your job, and continue your professional education. It is recommended that listers avail themselves of training and resources available to them, such as education offered by:

- the Vermont Assessors and Listers Association ([VALA](#)),
- the [Division of Property Valuation and Review](#),
- the International Association of Assessing Officers ([IAAO](#)), and
- annual conferences and seminars sponsored by the [UVM Extension Service](#).

C. The Lister as a Public Official

You have been elected to determine everyone's fair basis for taxation. You are now a public trustee and servant. Article VI of the [Vermont Constitution](#) states, "all power being originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them."

Although you have been elected by townspeople and you are a town officer, it is important to remember that "towns are mere creatures of the Legislature constituted for governmental purposes, possessing only such powers as are expressly granted or implied... Like all corporations, both public and private, they necessarily act through agents; but municipal officers derive their authority, largely, if not wholly, from the law and not the municipality..."[New Haven v. Weston](#), 87 Vt. 7, (1914). You cannot, for example, decide that your town will exempt a property from taxation without clear legislative authority to do so.

The Legislature has declared "that public commissions, boards and councils and other public agencies in this state exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont constitution." [1 V.S.A. § 311](#). To be properly accountable to the people, you must make it possible for those interested to inform themselves of your actions and to review and comment on your decisions.

There are several laws that give specific requirements for notices and meetings to be held for listing, and these will be discussed later. There are also general laws, the Open Meeting Law and the Access to Public Records Law, which direct the activities of all public officials.

The **Open Meeting Law** ([1 V.S.A, Chapter 5](#)) states that the public must be warned of all your meetings, that your meetings must be open to the public, and that you must take minutes. This includes grievance hearings and any meetings where the board of listers takes official action, such as the lodging of the abstract of the grand list. [The Pocket Guide to the Open Meeting Law](#) published by the Secretary of State is an excellent source on the topic.

These requirements needn't be adhered to regarding the daily work of a lister (viewing properties, running cost valuation, etc.), as these activities are not considered "meetings". Warnings and minutes are not necessary.

The law gives guidelines for allowing the public to review or copy all of your records, with the exception of inventories. The records should be available between 9 and 12 a.m. and between 1 and 4 p.m., or during customary office hours if your office is not normally open during those hours. It is recommended that the listing records are kept at the municipal office, and you make arrangements with the town or city clerk so citizens can review a record even when you are not there. If records are being kept outside the municipal office, you must still respond to requests and make reasonable arrangements for viewing and copying. The Secretary of State has published "[A Matter of Record: A Guide to Vermont's Public Records Law.](#)"

If a person requests a photocopy of certain records, you must make the copy and you can charge for it. Your town or city clerk will have guidelines on how much you can charge. The Secretary of State's

[“Official Fee Schedule for Copying Public Records”](#) will guide you in what can be charged.

While it is important to understand these statutes, it is even more important to understand the ideas they embody. Government is of the people and must be accessible to the people. Many listers say that giving taxpayers clear and thorough explanations of the listing process is probably the most effective way to accomplish this objective.

Listers frequently ask about their *relationship to each other and to the selectboard*. The listers are elected by the voters and operate independently of the selectboard, with a few exceptions. The selectboard sets the listers' pay, unless the town has set the compensation under [24 V.S.A. § 933](#). The selectboard authorizes the expenditure of funds, including employing assistance. [32 V.S.A. § 4041](#). The approval of the selectboard is required for the listers to ask the Director of Property Valuation and Review for an extension of time on their schedule. [32 V.S.A. § 4342](#). And, the approval of the selectboard is required for the listers to correct an error in the grand list. [32 V.S.A. § 4261](#). Although no formal approval of the selectboard is required for the other work of the listers, the listers and the whole town benefit from a good working relationship between the two boards.

Listers are created equal. Although many boards divide the duties for efficiency, the division of labor that your board works out should not be such that one person makes the decisions while another fills in the forms. Each lister is equally responsible for the work of the board. Cross training is essential.

II. LISTER’S CALENDARS

A. The Grand List

Population of:	Less than 5,000	5,000 and over
Assessment Date	April 1	April 1
<i>Homestead Declarations timely filed</i>		<i>April 15</i>
Latest Abstract of Individual Lists Can be Lodged	June 4	June 24
Latest Change of Appraisal Notices Can be Sent	June 4	June 24
Grievances must be filed by (above date plus 14)	June 19	July 9
Grievance hearings end	July 2	July 22
Result of Grievance Mailed	July 9	July 29
Results must be mailed within 7 days of close of hearings. Send certified mail, registered mail, or certificate of mailing to avoid any controversy.		
Latest Grand List Can Be Lodged	July 25	August 14
Deadline for Filing Appeal to BCA	14 days from date of mailing of result of grievance	
BCA Hearings Begin	14 days after last date allowed for filing appeal notice	

These are the last dates possible to meet the statute. Filing may occur anytime after April 1 and prior to these dates. Read 32 V.S.A. §§ [4111](#) and [4341](#) together. The May 5 date in section 4111 is extended 30 days for those towns with a population of less than 5,000; and 50 days in towns with a population of 5,000 and over. May 5 plus 30 days is June 4. May 5 plus 50 days is June 24.

If a town lodges the abstract of individual lists and sends out change of appraisal notices on May 10, the last day a person could grieve would be May 24. That is the date of lodging plus 14 days. Note that when counting the 14 days, day one is the day after mailing. Extensions may be granted pursuant to 32 V.S.A. § [4342](#). If such extensions are granted, the letter from the director of PVR granting the extension must be lodged in the grand list book.

B. Annual Activities

This is a guide to help you plan your yearly activities. In most communities, listers maintain year round office hours. Property transfer information, zoning permits, and other changes are reviewed throughout the year and the period between April 1 and the filing of the abstract and grand list is less hectic.

After the grand list has been finalized (BCA appeals heard and tax bills issued) is a good time to begin work for the next year. Read deeds that have been recorded since April 1. Check any new surveys of record. Start the inspection process. Begin to compile the grand list for the next tax year.

Some dates (marked with a *) depend on the size of your town. *Fill in the appropriate dates for your town.* See provisions of 32 V.S.A. § [4341](#), for automatic extensions of 30 and 50 days depending upon population.

Please keep in mind that when an act under this subtitle is required to be done on or before a date which falls on Sunday, such act shall be valid if done on the following Monday. 32 V.S.A. § [3004](#).

January 15 - Property Valuation and Review sends each town a list of current use parcels that have received preliminary approval for the upcoming tax year. PV&R asks you to consider such questions as: Is the parcel listed to the owner of record? Is the total acreage listed correct? Is there any reason to believe this parcel is not eligible? Return the list with corrections and comments by February 15. 32 V.S.A. § [3756](#)(b).

PVR requests final submission of signed abstract (411 form) and electronic 411 and grand list. This final submission is used for the reconciliation (true-up) done by the Department of Education.

February - If, on the first Tuesday in February, there is no appeal or suit to recover taxes pending, you and the selectmen must so certify in the grand list book (form 4155). If an appeal or suit is pending, certify as soon as it is settled. By taking this action, you ensure the grand list cannot be challenged. 32 V.S.A. § [4155](#).

The use value appraisal list sent out January 15 must be reviewed and Property Valuation and Review notified by February 15 of any corrections or reasons the property should not be enrolled. 32 V.S.A. § [3756](#) (b).

Homestead declaration files begin to be placed on .ftp server by Tax Department for capture by listers.

March - With April 1 fast approaching, listers must continue inspections and working on the completion of the grand list.

Homestead declaration files regularly placed on .ftp server by Tax Department for capture by listers.

After town meeting, newly elected listers must take the required oath. 32 V.S.A. § [3431](#). The board meets and discusses how they will proceed. Many listers recommend also meeting with the selectboard

at this time to discuss any reappraisal activity or other concerns. Look for new lister training announcements from Property Valuation and Review.

If your Town or City taxes personal property, as soon as possible (by April 1), you must send inventory or personal property forms to all owners of taxable personal property. 32 V.S.A. § [4003](#).

If you're doing a townwide reappraisal, and your Town or City has housing that must be appraised using market rents, actual expenses and mandated cap rate, be sure you have latest data. See [32 V.S.A. §3481](#).

March/April - Town Officer Education Conferences, sponsored by the [Extension Service](#), are held in several locations within the State. Listers are urged to attend. 32 V.S.A. [3434](#).

April 1 - This is the assessment date. 32 V.S.A. §§[3651](#) and [3691](#) and [4041](#). Listers must determine the value of all property as of April 1 of each year. Pay special attention to those properties under construction. Properties in transition should be inspected as close to April 1 as possible. Have most of your inspection work done prior to April 1. Inspections should be an ongoing activity, and the time right around April 1 used to inspect new construction, to check on your mobile homes, and to inspect those properties you know have been recently improved, such as those with a new deck or addition. Any changes made after April 1 cannot be reflected in this year's grand list, but should be noted so a follow up can be conducted for next year.

If your town or city is undergoing a reappraisal that will be effective for this April 1, make sure you have requested an updated common level of appraisal to be used in determining the education tax rates in your municipality. 32 V.S.A. §[5406](#)(c).

Homestead declaration files regularly placed on .ftp server by Tax Department for capture by listers

April 15 – Deadline for taxpayers to timely file homestead declarations with the Department of Taxes.

On or about **April 15**, Property Valuation and Review will place a file containing data on all parcels enrolled in the use value appraisal program on the Tax Department .ftp server for capture by the listers. 32 V.S.A. § [3756](#) (h). The appropriate listed values and any necessary data changes must be reported back electronically. This information will be used in determining the taxable value for enrolled parcels and those values must be made a part of your grand list book. The updated information is due back to PV&R by July 5.

Make all required name and appraisal changes.

Prepare to notify all owners of property where values have been changed, including any changes resulting from enrollment in use value appraisal, and those which have a change in the homestead or housesite values. 32 V.S.A. §§ [4111](#) and [3756](#) (d). Although you are not required to prepare change of appraisal notices when a parcel has changed owners but not appraisal value, many listers feel this is a valuable tool to notify new owners of their responsibilities.

April is also the time most people file their income tax forms including the homestead declaration and property tax adjustment claim. This often brings questions on homesteads and housesites.

If applicable, after **April 20**, check to see that all personal property inventory forms have been completed and returned. If any owners have not responded, or if you have changed the estimate of value on any owners, notify them of your estimates of value, and of the grievance date using the "No or Unsatisfactory Inventory Form". 32 V.S.A. §§ [4084](#) and [4085](#).

May 1 - Property Valuation and Review furnishes copies of inventory forms filed by public utilities. 32 V.S.A. § [4452](#). Listers use this information to determine utility listed values. Contact Property Valuation District Advisors if you need help.

Homestead declaration files regularly placed on .ftp server by Tax Department for capture by listers

On or about May 1 - PVR provides assessed values of state buildings and lands, as defined in 32 VSA § [3701](#), to each municipality to which a payment-in-lieu-of-taxes (PILOT) is due. Municipalities have 30 days in which to appeal to superior court.

May 15 – Tax Department provides files on homestead declarations. Listers must review this information and notify the Department of errors. Response is due back June 1.

June 1 – Listers return homestead declaration information to Tax Department—noting corrections and comments. Tax Department makes corrections and returns the updated files June 15. *This exchange of information continues as new or corrected homestead information is received. No changes to the grand list occur as a result of declarations received September 1 or later, however.*

Homestead declaration files and current use files regularly placed on .ftp server by Tax Department for capture by listers

On or Before June 4* or June 24*- Abstract of individual lists (preliminary grand list) must be filed with the town clerk. On that same day, post notices of grievance day and send out notices of change of appraisal. Remember that notices must also be sent on homestead and housesite values that have changed and on all use value parcels. 32 V.S.A. §§ [4111](#) and [3756\(d\)](#). *June 4 is the latest this may be done in towns with a population of less than 5,000. June 24 is the final date in towns with a population of 5,000 or more.*

About **June 15** - Property Valuation sends a list of sales to review for the equalization study. This is the town's opportunity to provide input on whether the sale is an arms-length transaction, and to ensure the listed values, categories, etc. are accurate. Your district advisor will offer to meet with you and discuss this information.

_____ - Grievance hearings begin 14 days after the mailing of the change of appraisal notices. Objections to individual appraisals must be submitted in writing to the listers on or before that date. 32 V.S.A. § [4111](#).

_____ - Grievance hearings close no later than 13 days after they start. 32 V.S.A. § [4221](#).

_____ - Notify the grievants of your decision within 7 days of the close of the hearings. Unless these notices are sent by registered mail or certified mail, or an official certificate of mailing is obtained, in the case of any controversy subsequently arising, it shall be presumed that the personal notices were not mailed as required. Include in your notice information about appealing to the board of civil authority. 32 V.S.A. § [4224](#).

June 30 - Department of Taxes notifies Towns of education property tax rates. 32 V.S.A. § [5402](#).

July

Homestead declaration files and current use files regularly placed on .ftp server by Tax Department for capture by listers

On Or Before **July 5** – Deadline for listers to electronically report the final use value numbers to Property Valuation and Review. This data includes pertinent listed values, acreage corrections, any comments re change of ownership, eligibility, etc. 32 V.S.A. § [3756\(h\)](#).

_____ - The grand list book and abstract of the grandlist (411) must be lodged with the town clerk. 32 V.S.A. §§ [4151](#) and [4181](#). Recommend doing this immediately after last grievance notices have been sent.

_____ - Municipal tax rates are set by selectboard.

August

Expect lister education payments to be sent to towns. This money can be used only for costs to acquire assessment education provided under 32 [V.S.A. §3436](#) of this title. [32 V.S.A. §4041a](#)

On or before **August 15** – An electronic copy of your grand list and forms 411 (Abstract of the Grand List) must be sent to Property Valuation and Review. 32 V.S.A. §[5404](#). Although this is the clerk's responsibility, he or she often cannot fulfill this requirement without the cooperation of the listers. A speedy filing will help your town by giving you and Property Valuation more time to analyze the data to be used in determining the education property value. The 427 form (statement of tax rates and taxes levied) is also due at this time and the listers may be asked to assist with municipal grand list information for that form.

As soon as the grand list has been put to bed for the present year, the process can begin for the following year. In those towns using computer-assisted mass appraisal (CAMA) software, rollover must be done before changes to the database can begin.

Homestead declaration files and current use files continue to be regularly placed on .ftp server by Tax

Department for capture by listers

September 1 - Applications for the use appraisal program are due at Property Valuation and Review. This may prompt questions from your landowners on eligibility and obtaining maps. If you or the property owner needs assistance, contact PVR at 828-5861.

Homestead declaration files and current use files continue to be regularly placed on .ftp server by Tax Department for capture by listers

October/November – Property Valuation and Review is completing the sales ratio study and getting ready to send the equalized education grand lists, CLAs and CODs out.

Homestead declaration files and current use files continue to be regularly placed on .ftp server by Tax Department for capture by listers

November 1 - State payments to towns for loss in municipal revenue as a result of use value appraisal. 32 V.S.A. § [3760](#). State payments-in-lieu-of-taxes (PILOT) to towns. 32 V.S.A. § [3706](#). Both these calculations use grand list data from the previous year, e.g. the November 2008 payments will be based on April 1, 2007 grand lists.

Homestead declaration files and current use files continue to be regularly placed on .ftp server by Tax Department for capture by listers

December - The Director of Property Valuation and Review will notify you of the municipality's equalized education grand list, common level of appraisal and coefficient of dispersion. 32 V.S.A. § [5406](#). Review this carefully. Petitions for redetermination (appeal) can be filed pursuant to 32 V.S.A. § [5408](#). Such petitions must be timely and be filed by your legislative body (selectboard in most towns). **A common level of appraisal of less than eighty percent and/or a coefficient of dispersion higher than twenty percent *can mean your town will be subject to a reappraisal order.* 32 V.S.A. § [4041a](#).**

December 30 – Last day for errors and omissions changes to the grand list. 32 V.S.A § [4261](#).

III. APPRAISAL AT FAIR MARKET VALUE

A. Fair Market Value Defined

Generally speaking, property is to be appraised at its fair market. Fair market value is defined in 32 V.S.A. § [3481](#) as:

the price which the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition which combine to give property a market value. Those elements shall include a consideration of a decrease in value in nonrental residential property due to a housing subsidy covenant as defined in section [610 of Title 27](#), or the effect of any state or local law or regulation affecting the use of land, including but not limited to [chapter 151 of Title 10](#) or any land capability plan established in furtherance or implementation thereof, rules adopted by the state board of health and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative.

This is not a handbook in conducting appraisals, and it contains only an overview of the appraisal process. There are many textbooks on appraisal and assessment. We recommend [Property Assessment Valuation](#), and [Property Appraisal and Assessment Administration](#). The International Association of Assessing Officers publishes these. Other excellent texts are available from the Appraisal Institute.

IAAO
130 East Randolph St. Suite 850
Chicago IL 60601-6217
Ph. 312-819-6100
www.iaao.org

Appraisal Institute
550 West Van Buren St. Suite 1000
Chicago IL 60607
Ph. 312-335-4100
www.appraisalinstitute.org

B. Highest and Best Use

In order to estimate fair market value, you must first determine the highest and best use of the property. **“Highest and best use”** relates to the monetary return one can realize from a property. It is “that use that will generate the highest net return to the property over a reasonable period of time.” *Property Assessment Valuation 2nd Ed.*, IAAO (1996). To determine the highest and best use, you must consider what is physically possible, what type or types of use are legal, what is financially feasible, and in today’s market and the near future, what use will bring in the most monetary return.

Consider the following **when determining the legal uses of a property in Vermont**:

- public health regulations adopted under [18 V.S.A. § 102](#);
- [18 V.S.A. Chapter 23](#) concerning water pollution;
- the laws governing public water supplies in [Chapter 56 of Title 10](#);
- town plans; and local bylaws, including local zoning regulations;

- subdivision and solid waste regulations; and
- [Chapter 151 of 10 V.S.A.](#) (Land Use and Development Plans, a.k.a. Act 250).

The Vermont Department of Environmental Conservation (DEC) has a [Permit Handbook](#). It may prove helpful. [DEC regional offices and phone numbers](#) are also available online. The Secretary of State's publication, "[Vermont Municipal Guide to Land Use Regulation](#)" is helpful in understanding government regulation of private property.

To further the town plan, local zoning regulations are adopted. To achieve the goals of the plan, the regulations may restrict uses or density in certain areas, and therefore limit the potential use. Depending on demand, a 10-acre parcel subdivided into five 2-acre lots may have a higher value than a 10-acre parcel in an area zoned so that only one dwelling can be constructed on 10 acres. The effects of zoning in your town should be one of the items considered when analyzing sales data.

The **state subdivision regulations** set standards for water supply and sewage disposal to prevent health hazards. A permit certifying that a water system and a sewage disposal system may be safely developed is required for any subdivision (unless the owner certifies that the use of the parcel will not require water or generate sewage). These regulations affect the development potential in three ways: the amount of time that is involved in securing the necessary permits; the risk that the permit may not be granted; and the cost of the required systems necessary to meet standards. All such permits may have an effect on the value of property.

Act 250 does not apply to most single family residences, subdivisions of fewer than ten lots, or housing projects of fewer than ten units. The exceptions depend on the involvement of the developer and related parties in other projects and not on the project itself.

In most cases, you will not be valuing property as though the highest and best use were one that would come under Act 250 review. However, if you do, it is important to realize that Act 250 represents another permit which affects the price through the cost of the conditions or requirements for changes and improvements imposed by the District Commission. A 100-acre lot without permits cannot be valued as an approved subdivision of ten 10-acre lots without making significant deductions for risk, time, work, and improvements.

Act 250 has limited jurisdiction and limited effect on the fair market value of most property. It is a review process to ensure that proposed developments will conform to the local and regional plans, and not adversely affect the environment. It does not prohibit certain potential uses of the land outright. Very few Act 250 applications are denied, but its necessity may delay development. The following development projects would come under Act 250 review:

- any construction of improvements for any purpose above the elevation of 2500 feet;
- the construction of improvements for any commercial or industrial purpose (including not-for-profit developments but excepting farming, logging or forestry) on more than 10 acres of land; or on more than one acre of land if the municipality does not have both permanent zoning and subdivision bylaws;
- the construction of more than ten housing units within a radius of 5 miles, or the construction or maintenance of mobile homes or trailer parks with 10 or more units;

- the subdivision of land into 10 or more lots of any size within a 5 mile radius or within the jurisdictional limits of a District Commission within a continuous period of 5 years;
- the construction of improvements for a road incidental to the sale or lease of land if the road is to provide access to more than 5 lots or is more than 800 feet in length;
- the construction of improvements for a government purpose (either state or local) if the project directly involves more than 10 acres or is part of a larger project that will involve more than 10 acres of land;
- any construction of improvements for a commercial, industrial or governmental purpose which will be a substantial change or addition to or expansion of an existing pre-1970 development of the type which would require a permit if built today.

C. Appraisal Principles

There are twelve economic principles that form the basis for the highest and best use analysis.

Anticipation. This relates to the future benefits associated with property. It is closely related to the principle of change.

Buyers may, for example, foresee a change in the demand for housing due to the expansion of a local college. This may affect the value of apartment buildings, restaurants and other properties often used by students.

Balance. The maximum return is realized when the four agents of production (land, labor, capital and management) are balanced.

This principle comes into play when examining the different parts of a particular property. A two-bedroom house would generally not have three bathrooms. The cost to build that third bathroom would probably not be realized if the property were to sell. That is, a person looking for a two-bedroom house is probably not willing to pay more for one with three bathrooms than for a similar house with two.

The principle of balance should also be applied to a neighborhood. Certain facilities are desirable in a community—homes, gas stations, grocery stores, schools, churches and bakeries. The individual properties and the neighborhood as a whole achieve maximum market value when these uses complement each other and are in balance. The principle of increasing and decreasing returns often comes into play in this circumstance, also.

Change. Because of the principle of change, an appraisal is only applicable on the day it is made.

Demands change. Communities change. Interest rates change. Because things that affect value are subject to change, all must be examined and re-examined to determine the value of a property on any given day. For instance, two bedroom houses with one bath were more desirable at one time than they are now. Consider also the principle of increasing and decreasing returns.

Competition. Buyers and sellers are attracted to the market by the desire for profit. Profits encourage competition for those profits. An oversupply can reduce profits and therefore value. A shortage in the supply can bring about higher profits and therefore increase value. Excess can mean a loss in value for all facilities of that type. A neighborhood may be able to support one bowling alley, but more than one may create excess competition and result in lowering the value of all bowling alleys in that neighborhood. Excess competition destroys balance.

Conformity. Property value can be affected by how the property relates to its surroundings. Maximum value is realized when the subject property is reasonably similar to the properties surrounding it, and when the demographics of the owners (age, income, education, etc.) are similar.

You might hear about a person having “overbuilt” for the neighborhood—having built a \$500,000 house among moderately priced homes. This would be taken into consideration when appraising that property. Because it does not conform to the other properties in the neighborhood, it will probably not be as valuable as the same house built in a neighborhood of similar homes.

Consistent Use. This principle requires that an entire parcel must be valued with a single highest and best use. That is, the land cannot be valued on one basis and the buildings on another.

This principle is very important when appraising property in transition from one use to another. Consider the farm property situated in an area in transition to residential development. It would not be proper to value the land on the basis of what it would bring on the market if purchased for single-family homes’ development, and then to appraise the barns and miscellaneous outbuildings at their value for farming. In this instance, the property may be more valuable if the barns and outbuildings are removed. The cost to remove would be a negative value.

Contribution. The value of any component of a property depends upon that component’s contribution to the whole. In other words, cost does not necessarily equal value. It may cost \$10,000 to build a garage. That does not necessarily equate to an increase of \$10,000 to the parcel. Having a garage on that parcel may only add \$8,000 to the value. That means \$8,000 is the contributory value of the garage.

Adjustments made to properties when doing a sales comparison approach to value are based on the principle of contribution. The sale prices of similar properties are adjusted based upon how the comparables differ from the subject. Perhaps you have three almost identical homes that sell as follows:

Home #1	Home #2	Home #3
\$100,000	\$105,000	\$100,000

You note that the only substantive difference in Home #2 from the others is that it has a two-bay garage, rather than a single-bay. You can infer that having that extra garage space adds \$5,000 to the price of a home. The extra bay contributes \$5,000.

Contribution relates to principles of balance, increasing and decreasing returns, and surplus productivity.

Increasing and Decreasing Returns. It is described as "...when successive increments of one agent of production are added to fixed amounts of the other agents, future net benefits (income or amenities) will increase up to a certain point (the point of decreasing returns) after which successive increments will decrease future net benefits." Property Assessment Valuation, 2nd edition, 1996.

The agents of production are land, labor, capital and management. Increasing one or more can increase the value of a property, but only up to a certain point. For example, a residential property may increase in value by \$50,000 when two acres of protection land are added to its original house and one-half acre lot. You cannot conclude, however, that every acre will increase the value by \$25,000. Chances are the increase in value per acre added will drop off. The agent of production added in successive increments in this example is land.

Let's take an example where the agent of production added is management. The rent that can be charged (and therefore the return on investment) may increase in an apartment building in an urban setting when the service of a security guard is provided. Tenants may be willing to pay more for the security of knowing their building is safe. Adding two guards will cost the building owner twice as much, but will probably not double the return on investment.

Other related principles are balance, contribution, and surplus productivity.

Progression and Regression. This is related to the principle of conformity. A lower priced (cost to build) property located among higher priced properties, will likely increase in value because of its association with the properties surrounding it. Conversely, a higher priced property located in a neighborhood of lower priced homes will tend to see a decrease in market value. A \$250,000 home in a community of \$80,000 homes is an example of such an overimprovement.

Substitution. This is the underlying principle of the three approaches to value—cost, market and income. It states that value is determined by the cost of acquiring, within an acceptable period of time, an alternative property that is equally desirable.

Supply and Demand. The price a property will bring in the market varies in accord with the abundance of that property and the number of buyers trying to purchase.

Many factors can influence supply and demand. A large employer leaving an area can mean an increase in the supply of homes due to employees moving with the company. Lower interest rates can increase the demand by making borrowing more attractive to buyers.

Surplus Productivity. This is the net income realized after having satisfied the costs of labor, management, and capital. It is essentially the profit earned by the land. It relates to the principles of balance, contribution, and increasing and decreasing returns.

Consider the building contractor. The contractor purchases a tract of land and obtains the proper permits, etc. for construction. The land is cleared, roads built, and utilities supplied. Homes are constructed and marketed. The net realized from the sale of the properties after payment for all these costs is the surplus productivity.

D. Approaches to Value

There are three approaches to determining the fair market value of a property—cost approach, market data approach, and income approach. In theory, if all three approaches are utilized to appraise any given parcel, the resultant values will be the same. In practice, however, some properties and some situations lend themselves to the use of one approach over another. Listers should have a general understanding of the income approach, and a more thorough knowledge of the cost and market data approaches.

Cost Approach to Value

This is sometimes called the summation approach, the theory being that the value of a property can be estimated by summing the land value and the depreciated value of any improvements. It is the land value, plus the cost to reconstruct any improvements, less the depreciation on those improvements. The value of the improvements is sometimes abbreviated to RCNLD—**R**eproduction **C**ost **N**ew **L**ess **D**epreciation, or **R**eplacement **C**ost **N**ew **L**ess **D**epreciation. Reproduction refers to reproducing an exact replica. Replacement cost refers to the cost of building a house or other improvement with the same utility, but using modern design, workmanship and materials. The Marshall Swift version of Vermont's CAMA system produces an estimated *replacement* cost which is then adjusted to market value.

In most instances, when the cost approach is involved, the overall methodology used is a hybrid of the cost and market data approaches. For instance, while the cost to construct a building can be determined by adding the labor and materials costs together, land values and depreciation must be derived from an analysis of the market data.

It is best not to rely exclusively on a cost approach estimate of value on appeals—especially those that go beyond the board of civil authority. And, it is important that you be able to explain how the estimate of value was determined. Be prepared to explain the data and the calculations, especially the land schedules and depreciation schedules used. To do this, you must be familiar with the market data approach.

Because of the necessity to classify property as homestead and nonresidential property, the requirement to value housesites, and the requirements for valuing farm buildings enrolled in current use, it is recommended the market data approach not be solely relied upon. The cost approach is an excellent tool for those instances where a contributory value must be ascertained and should also be available.

It is highly recommended that a file be maintained on properties that have recently been sold. This information will assist in establishing time/location factors, land schedules, and depreciation schedules, and will be a valuable resource when the listers are called upon to support assessments under appeal. Contact your district advisor for assistance in setting up and maintaining such a file.

Market Data Approach (Sales Comparison Approach) to Value

Simply put, the sales of properties similar to the subject are analyzed and the sale prices adjusted to account for differences in the comparables to the subject to determine the fair market of the subject.

Your data display might look something like this:

	Subject	Sale 1	Sale 2	Sale 3
Sale Price	-	\$96,300	\$82,400	\$83,400
Date of Sale	-	5/12/97	11/1/97	11/15/97
Age of Improvements	10 years	10 years	12 years	8 years
Condition	Good	Average	Good	Average
Lot size	50' x 100'	70' x 200'	50' x 100'	60' x 175'
Floor Area (square feet)	1,500	1,700	1,600	1,500
Garage	Attached	Attached	Detached	Attached
Quality	Good	Good	Good	Average

In order to make the proper adjustments to the above, a detailed analysis of all sales data would have to have been conducted and some determination as to the impact of differences in various attributes be obtained. This is the most difficult part of the sales comparison approach. The sales comparison model must be calibrated using one or more methods. The methods most often used are paired sales (sometimes called matched pairs), multiple regression analysis, and cost.

It is highly recommended that a file be maintained containing data on properties that have recently been sold. Contact your district advisor for assistance in setting up and maintaining such a file. Very often the listers do not do this initial study, but rather use the results of the study done by a professional appraisal firm to maintain the grand list following a complete townwide reappraisal. This study will result in such products as a land schedule, a depreciation schedule, neighborhood codes and a time/location factor. The listers will be called upon to support the values established using these schedules and factors not only the year of the reappraisal, but in subsequent years. **It is therefore very important that the listers be involved in reappraisal activities and that the town require complete documentation from the appraisal firm.**

The next step is to adjust the sales based on this data. This can be done using lump sum adjustments, cumulative percentage adjustments, multiplicative percentage adjustments or a hybrid

Income Approach to Value (Income Capitalization)
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This method is most often used in the appraisal of income producing properties—commercial, industrial and rental properties. The present worth of future benefits is determined. To do this, the income stream is analyzed in terms of quantity, quality and duration. It is then converted to market value by means of the application of an appropriate capitalization rate.

To conduct an income approach appraisal on an apartment building, for instance, you would need such data as:

1. potential gross income from the market
2. vacancy rate and collection loss from the market
3. operating expenses
4. capitalization rate

Simply put, expenses are deducted from gross income. The resulting net operating income is capitalized to determine value.

It is important to note that the income and expense figures should come from the market, not simply from the subject. If, for instance, the subject property has a high vacancy rate, it does not necessarily translate into a lower value. Other factors, such as how property is being managed, may be adversely affecting the income. The income figure should be the potential income, which can be significantly different than the actual income.

Listers wishing to learn more about this approach may wish to take the Tax Department's Course III, Income Approach to Value. There are also many texts and other classes on the subject.

Gross Income Multiplier (GIM) - This ratio (often called the gross rent multiplier) expresses the relationship between gross annual income and property value. It is derived by dividing the property value (selling price) by the annual gross income at the time of sale. For example, if an apartment building sells for \$250,000 and its annual gross income was \$28,300, the GIM is 8.7.

The use of the GIM is limited. It requires the assumptions that the highest and best use of the property is constant, that the income will be constant and there is no expectation of a change in the vacancy rate, that the property being appraised and the comparables are similar and subject to the same market influences. Unless the differences between the comparables and the subject are reflected in the difference in the rent, the GIM is not a very effective tool.

Provided the assumptions are met, the mechanics of its use are simple. You estimate the value of the subject by multiplying the annual economic rental of the subject by the GIM. The GIM is not very reliable unless there is substantial reliable data to compute the ratio.

IV. CAMA 2000

Property Valuation and Review is required to develop improved methods for standardizing property assessment procedures, and to provide technical assistance and instructions to listers in a uniform appraisal system. [32 V.S.A. §3411](#). One way it has fulfilled this requirement is with the development of a Vermont Computer-Assisted Mass Appraisal (CAMA) system. The latest version CAMA 2000.

The CAMA system was introduced in 1996. The appraisal modules are tools to generate values using the cost approach, to do comparable sales analysis, and to provide the capability to estimate values using the income approach.

New England Municipal Resource Center ([NEMRC](#)) provides the grand list administration module used to generate the reports that become the grand list book and change of appraisal notices. The NEMRC module is provided free of charge to all towns. Towns wishing to use the appraisal modules must purchase a license from the vendor.

Contact your district advisor or the Montpelier office with questions on CAMA 2000. The Property Valuation and Review main office number is 828-5860 (Current Use is 5861). For information on the grand list module and for help with the transfer of homestead and current use information, contact the computer help desk staff at 828-0428.

V. ANNUAL REPORTING AND MAINTENANCE

A. Ongoing Analysis and Maintenance

In a perfect world, you would visit and appraise each property on April 1, and determine an amount exactly equal to the fair market value that would be frozen for 365 days. Unfortunately, you will find that your appraisals, even if perfect on April 1, can soon become out of date as the market changes. In the real world, all properties cannot be appraised every year. The challenge becomes maintaining a fair and equitable grand list taking into account changes in property and changes in the market and adding new properties as subdivisions and new construction occurs.

Municipalities are required to reappraise all property if their common level of appraisal (CLA) falls below 80 percent or the coefficient of dispersion, a measure of uniformity of appraisal, is above 20 percent. [32 V.S.A. § 4041a](#). An ongoing analysis of the market and keeping abreast of changes in properties can make reappraisals less costly.

You should review sales as an on-going process to determine the ratio of the listed values to the sale prices in order to determine if any general adjustments are warranted. Your district advisor can assist in this analysis. You may decide the land schedule needs to be updated, or the depreciation schedules are no longer indicative of the local market, that your time/location factor needs adjustment, or a combination of these. **Do not** simply multiply all properties by a factor. That will increase the inequity. Analyze the information and determine what changes are needed.

The assessment of subdivisions and new construction is an ongoing challenge. Even though the statutes direct you to appraise all properties at fair market value, you must ensure the value of new or changed properties is at the same percentage of fair market value as other properties. [Kachadorian v. Town of Woodstock](#), 144 Vt. 348 (1984). As an example, consider a town that reappraised four years ago. Although the property was listed at 100% of fair market value then, an analysis of sales indicates that residential property is now listed at about 85 percent of fair market value. This year a new house is built in town. Because it would not be fair to list a new house at its current value, appraise the new house using the same schedules and practices as were used in determining the values of other similar properties. This is often referred to as back-dating the appraisal. Do not appraise the new house at fair market value and adjust that by 85%. Doing so violates the listers' oath to appraise uniformly and undermines the equity already existing in the grand list.

In the years after a reappraisal, the grand list begins to display inequities. If all property values changed at a uniform rate, the grand list would remain a valid means of determining everyone's just proportion, and thereby assessing taxes. However, different types of property tend to appreciate/depreciate much more rapidly than other types. For example, lakeshore property may be appreciating much more rapidly than large tracts of forestland. Equity must be maintained not only within categories of property but across property types. The goal is townwide equity. Back-dating appraisals on new construction is an effective method for maintaining equity in the short term, but eventually a complete reappraisal of all properties is required to restore equity within the grand list.

Selective Reassessment . The practice of adjusting an individual property's appraised value to the

value reported in a recent sales transaction for that parcel (or the sale price adjusted by the common level of appraisal), is not an acceptable assessment practice. It's sometimes called "welcome stranger" or "sales chasing." The practice greatly undermines the overriding concern of equity by creating a dual system of valuation: one for newcomers to a neighborhood and one for existing owners.

Similarly, listers cannot selectively reappraise discreet neighborhoods or discreet market sectors without compelling evidence that the neighborhood or market sector is appraised at a substantially different level from the rest of the town. If challenged, the listers must be prepared to show how any change brings such assessment into line with those of other properties whose assessments go unchanged.

The overriding goal is to ensure that a property's listed value corresponds with the listed value of comparable properties so that no taxpayer pays more than his or her fair share of the property tax burden. Allen v. Town of West Windsor (2003).

B. Reappraisal

Because the recognition of an inequitable situation has not always proven to be enough to convince the voters to reappraise, the legislature provided additional incentive with the implementation of [32 V.S.A. § 4041a](#).

The common level of appraisal and COD are determined annually by the Department of Taxes. If the common level of appraisal is less than 80 percent or the COD is greater than 20 percent, the Town will be notified that a reappraisal must be conducted. The Town is given an opportunity to develop a plan to comply with the reappraisal order. If the Town fails to submit an acceptable compliance plan or fails to carry it out, the State can withhold education, transportation and other funds until such time as the Department certifies that the Town has carried out the plan.

Each town receives an annual payment from the State to help with the cost of reappraisal and the maintenance of the grand list. The amount is \$8.50 per parcel per year.

Property Valuation and Review also provides training and support in the use of the state-supported computer-assisted mass appraisal (CAMA 2000) system. CAMA 2000 is a mass appraisal tool that uses [Marshall and Swift](#), a national provider of cost data, as the basis for generating values using the cost approach to value. It also provides the capability to estimate values using a comparables sales analysis or a value based on the income approach. Use of a CAMA system greatly enhances the ability of the assessing officials to analyze their data and to make the necessary changes to cost and depreciation schedules, land schedules, and other factors. This means future reappraisals can be done more often and more cost effectively.

There are other CAMA vendors besides CAMA 2000. If you're in the market for a CAMA program, we encourage you to shop around and gain familiarity with the pros and cons of the

various options. We hope you go with CAMA 2000, the state-supported program, but we recognize the decision is a local matter.

When a full reappraisal is necessary, most municipalities choose to contract with professional appraisers. A [list of appraisal firms](#) that have been approved to contract for municipal reappraisals can be obtained from PVR. Even if the reappraisal is to be conducted by a contractor, the listers must, of course, be involved. Although their participation varies from town to town, listers often provide measurements of buildings, acreage calculations, maps and previous appraisal cards. They may also make appointments for site visits, accompany the contractor on site visits, compile sales information, and hold informational meetings with the contractor to explain the appraisal methods to the public. Lister involvement can often result in substantial savings in the cost of the reappraisal. More importantly, lister involvement in the reappraisal prepares them to uniformly maintain the grand list in the years following the reappraisal.

Even if the town hires a contractor for the reappraisal, the listers will later have to defend and update the values, and a thorough understanding of the appraisal methods is crucial. The Vermont Assessors and Listers Association ([VALA](#)) offered the following several years ago. It remains good advice.

Participate from the beginning, questioning, reviewing and commenting on values, so that you feel comfortable with the values and the system.

Be sure that the system is reasonable and consistently applied.

Conduct a preliminary analysis of the sales data.

Be accessible to the public. Be open and candid.

After a reappraisal, but before grievance hearings, give taxpayers an opportunity to come in and speak with a knowledgeable person about their values and how they were determined. This will point out mistakes, help the taxpayers understand the appraisal, and reduce the number of appeals.

Retain the contractor for appeals.

Talk with listers and selectboard members in towns where a contractor has previously worked before deciding on a firm. Inquire as to whether the contractor completed the work in a timely manner. Ask whether the contractor provided sufficient training and documentation to allow the appraisal system to be used by the listers. Were the final results accurate and supportable? Was the contractor accessible to the public? Did staff demonstrate good public relations skills?

C. Grand List Book

Complete, accurate, and consistent information is very important. The grand list book is the basis for the collection of all property taxes in the State—over \$1 Billion annually. The information contained therein is also used for a myriad of other purposes, from determining the average value of a home in a

given area, to determining the amount of money each town will receive in reappraisal funds. Please carefully review the requirements for the grand list book contents.

The grand list book must contain all items below.

The grand list book must contain a listing, in alphabetical order by owner, for every real estate parcel and for all taxable personal estate. All exempt property is to be included in the grand list, and summarized on the form 411 (abstract of the grand list). Towns and cities will receive the \$8.50 and \$1 per parcel payments, as well as the per parcel payments to assist with lister education, on all real estate parcels that have been assessed, both taxable and exempt. 32 V.S.A. §§[4041a](#) and [5405](#).

Each listing must contain:

1. complete name and mailing address of owner
2. brief description of property
3. school property account number (SPAN)
4. parcel size
5. homestead declaration receipt information (whether filed and if timely filed)
6. homestead value (if applicable)
7. housesite value (if applicable)
8. nonresidential value (if applicable)
9. resident status (see following pages on these codes)
10. real estate HBU codes--R1, R2, etc. (see following pages on these codes)
11. listed value of real estate
12. housesite value, if applicable
13. listed value of taxable personal property, if applicable
14. use value data, if applicable
15. if the property would be taxable otherwise, and it has been voted exempt, or the value or taxes stabilized, the taxable listed value must be shown along with the details of the contract or exemption.

16. if the property is exempt, the listed value assuming no exemption must be shown and details as to the reason for the exemption.

A number of summaries, listed by owner, must also be included in the back of your book. They are:

1. Properties exempt by statute (churches, town-owned property, etc.)
2. Local Agreements (exemptions) -- Properties exempt by vote (grange halls, properties owned by fraternal organizations, farm buildings that have been voted exempt, etc.). The summary must contain columns for: owner; brief description of property; property category (Farm, Commercial, R1, etc.); statute utilized to vote exemption; full listed value of property (broken out by homestead and nonresidential); listed value exempted; effective and ending date; whether this local agreement is also approved for exemption from education taxes.
3. Local Agreements (contracts) -- Properties subject to a stabilization agreement. There must be columns for: owner; brief description of parcel; statute granting authority to stabilize; property category; full listed value of property (broken out by homestead and nonresidential); value subject to taxation; effective and ending date; whether this local agreement is also approved for exemption from education taxes; and, if available, taxes paid on the property.
4. Lease land. We need name of lessee (occupant), brief description of property; property category; size of parcel in acres; rent paid; and name of lessor.

Please check your coding carefully. Some common errors are improperly categorizing property, not supplying complete information on exemptions and contracts, and not providing accurate acreage figures. Improper coding can lead to errors in the sales ratio study. It also means inaccurate information may be reported to the General Assembly and the many other users.

A number of notices and certificates must be made part of the grand list book as each step in the process is completed. A certificate signed by the listers is attached when the abstract of individual lists is completed and lodged with the town clerk. The town clerk also signs a certificate receiving the abstract of individual lists.

A notice to taxpayers is signed by the listers giving official notice of the lodging of the abstract and of the date of grievance meetings.

At close of grievance, the listers subscribe their oath to the book and it is turned over to the town clerk. It is then the grand list of the town and the town clerk certifies for receipt of it.

Questions on the listing process should be addressed to Property Valuation and Review in Montpelier or your district advisor.

Real Property Highest and Best Use Codes

In order to estimate fair market value, you must first determine the highest and best use of the property. **“Highest and best use”** relates to the monetary return one can realize from a property. It is “that use

that will generate the highest net return to the property over a reasonable period of time.” Property Assessment Valuation 2nd Ed., IAAO (1996). To determine the highest and best use, you must consider what is physically possible, what type or types of use are legal, what is financially feasible, and in today’s market and the near future, what use will bring in the most monetary return.

Dwellings

Residential (R1 and R2) - Include houses with four apartments or less and non-operating farms with a highest and best use as year-round residences. If the parcel would more likely sell to be occupied on a seasonal basis, it would be more accurately defined as a vacation property. Always keep in mind the highest and best use of the property when making this determination. *The present use of the property and the ownership of the property are not the deciding factors.*

If your town or city has enough condominiums to warrant a separate category, it is recommended that you use the “Other” category for that purpose—especially if the market shows condo values changing at a different rate than other properties.

R1 - residential property with less than six acres of land.

R2 - residential property with six or more acres of land.

MHU - Mobile home unlanded. This is a mobile home set up on land not owned by the owner of the unit. Also include trailer coaches (so-called travel trailers) which are taxable under 32 VSA § 3692(b) unless you have designated the “Other” category specifically for this type of property.

MHL - Mobile home landed. A mobile home set up on land owned by the owner of the mobile home.

Vacation (V1 and V2) - Include all properties with a highest and best use for seasonal occupancy. This may include: summer homes, ski chalets, hunting camps, camps and cottages on lakes and ponds, etc. The highest and best use of the property determines the category. *The present use of the property and the ownership of the property are not the deciding factors.*

If your town or city has enough condominiums to warrant a separate category, it is recommended that you use the “Other” category for that purpose—especially if the market shows condo values changing at a different rate than other properties

V1 - Vacation property with under six acres of land.

V2 - Vacation property with six or more acres of land.

Commercial

C - Commercial. Include properties whose highest and best use is in providing goods and services for sale. These include retail stores, malls, motels, hotels, filling stations, restaurants, office buildings, bowling alleys, golf courses, etc. Do not include industrial manufacturing plants (businesses which use

raw materials to produce a product, rather than simply providing a product or service for sale). Includes these in the Industrial categories.

Utility property is distinguishable from commercial property because of its specialized function, which limits its highest and best use to that of a public utility. For instance, a natural gas pipeline or a water filtration plant owned by a public utility would be coded UO. An office building which is not fitted especially for use by a public utility (e.g. administrative headquarters), which is likely to sell as a commercial enterprise, would better be coded Commercial. A specialized building, such as a telephone switching office, which is specially fitted for telecommunications purposes would be unlikely to transfer to any entity other than another telephone company, should be coded UO. The market is the controlling factor.

CA - Commercial Apartments. Apartment buildings with more than four apartments.

Industrial

Industrial property is distinguished from commercial property in that raw materials are used to produce a product, rather than a product or service simply being sold. There are three industrial categories—I, UE and UO.

Utility property is distinguished from commercial property because of its specialized function and therefore limited market. For instance, a natural gas pipeline or a water filtration plant owned by a public utility would be coded UO. An office building which is not fitted especially for use by a public utility (e.g. administrative headquarters), and would likely transfer to a commercial user as well as to another utility, would better be categorized as commercial. A specialized building, such as a telephone switching office, which would be unlikely to transfer to any entity other than another telephone company, should be coded UO. Consider the market for such a property. What is its highest and best use?

I - Manufacturing Plants - Include properties such as cheese-making facilities, microchip manufacturing plants, sawmills, creameries, ice cream factories, etc.

UE - Electric Utilities. Property owned by a public utility and used in the production, transmission or distribution of electrical energy. This includes hydro plants, substation, poles, lines and fixtures, etc. Property owned by a public utility, that has a highest and best use other than for the production, transmission or distribution of electrical energy, would be coded otherwise. For instance, an office building would be coded Commercial. Vacant land would be coded Miscellaneous.

UO - Other Utilities. This includes real property owned by public utilities other than electric companies for which the highest and best use is in carrying on the business of that utility. This might include real property owned by a water companies, telephone switching offices, and natural gas distribution pipelines.

Property owned by such a utility for which the highest and best use is for other than the business of the utility would not be included in the UO category. For instance, vacant land owned by a telephone company would be coded Miscellaneous. A house owned by a cable television company would be coded R1 or R2.

CABLE TV. Note that cable television lines and fixtures are to be coded as Personal Property-Cable. Land and buildings that have a highest and best as a cable television transmission entity would be coded UO. An office building with a wider market than just for cable tv services would likely best be coded as a commercial property.

Do not include property used in carrying on a propane business in the utility category. This is not an industrial type property, but rather a commercial operation. Propane tanks owned by such companies are coded PP-M&E.

Farming

F - Farm. Include operating farms with buildings involved. Do not include properties that were formerly farmed and now have a highest and best use as a residential or vacation property.

Do not include vacant land in this category, even if it is used in the farming operation. Only include operating farms with buildings. A non-contiguous 15-acre parcel the farmer owns down the road, and upon which corn or hay is grown, is not a farm. It is vacant land and is to be coded as Miscellaneous.

Vacant Land

W - Woodland. Include undeveloped land that is mostly wooded. Such parcels may have buildings of little value, such as the 100-acre parcel of forestland with a small deer camp of little value.

M - Miscellaneous. Include undeveloped land that is not mostly forest covered. Include shore lots, residential building lots, unimproved agricultural land, etc. Such parcels may have buildings of little or no value.

Other

O - Other. Contact Property Valuation and Review for guidance on the use of this category. It is only to be used for a specific type of taxable property.

The board of listers may choose to use it for all condominium properties, rather than dispersing these within the R1 and V1 categories if there is a distinguishable market for such properties. Listers may choose to use this category to separate the trailer coaches (travel trailers) if you have a large number of such properties and the market for these is different than for MHU's.

Do not use this category for exempt properties. Do not use this category unless it has been specifically earmarked for a type of property, and be sure you specify what type of property you are including when the 411 is filed with PVR.

Personal Property Category Codes

PP-I - Inventory (stock-in-trade). Inventories of goods for sale, materials used in the manufacturing process, timber rights, etc.

PP-M&E - Machinery and equipment. Office furniture and equipment, equipment in a retail establishment not classified as fixtures, propane tanks, hotel and motel furniture and equipment, fixtures which are severable or removable without material injury to the real property, etc.

PP-Cable TV - Cable television lines and fixtures.

Ownership Codes

Check this coding carefully. This data is being used more extensively in decision-making. Without accurate data, the General Assembly and others will not have the information needed to make informed decisions.

Keep in mind that all types of property owned by a corporation, partnership or other entity must be coded as such. For instance, Brown Brothers Farm Inc. is corporate-owned. The property does not have to be a large commercial or industrial property to warrant this type of ownership code. Many vacation and residential properties are owned by business entities. Please code all such properties as such.

Please check all these codes yearly--especially on those properties that have transferred. Many times the ownership code changes when the property changes hands. For those towns which are on computer systems, make sure your data entry people know the meanings of these codes so they can make the necessary changes as they come up. The listers and assessors are responsible for the accuracy of this data, and for the training of those employees using the computer system.

T - Town Residents. People who live in the town where the property is located.

S - State Residents - People who live in Vermont, but not in the town where the property is located.

NS - People who live outside of the State of Vermont.

C - Corporations, partnerships and other entities. Include all properties owned by these business entities-- regardless of the category of property. This ownership coding applies to all types of property, not just to commercial, industrial and utility.

D. Sales Reports from Department of Taxes

As a lister, you will be constantly concerned with maintaining equity within your town as economic forces operate differently on different portions of your grand list. Because the grand list forms the basis for the assessment of the statewide education tax, it is important to ensure fairness and equity among towns, also. The Department of Taxes conducts an annual study to determine the equalized education grand list of each school district, the common level of appraisal and coefficient of dispersion. It is very important that the listers actively participate in this study and analyze the results to ensure their town or city is receiving fair treatment.

The sales data is from the Property Transfer Tax Returns. The listers are sent a printout of the sales in their municipality, and asked to point out any errors in the data. They are also asked for input on

the validity of the sale, as the listers may have personal knowledge regarding the details of sales in their towns. The following are some of the reasons a sale may not be used in the equalization study.

Either the sale may not be considered an arms-length transaction and therefore its sale price not indicative of fair market value, or there is no listed value which corresponds with the property as it existed at the time of sale, such as in the case of a subdivision.

Sales between members of the immediate family.

Sales between a corporation and a stockholder.

Tax sales, sheriff's sales, bankruptcy, foreclosures, dissolution, liquidation.

Sales by guardians, trustees, executors and administrators.

Sales to or from any charitable, religious or benevolent organizations.

Sales where unusual financing significantly affected the sale price.

Sales where all assessed interests were not sold, e.g. a life interest retained.

Sales of property assessed in more than one town.

Sales of property with no corresponding listed value, such as subdivisions.

Property Valuation and Review also audits this sales information and contacts many of the buyers and/or sellers of property to acquire details on sales.

E. The "411" Form

The listers are required to provide an annual abstract of the grand list to the town clerk. This data is electronically forwarded to the Division of Property Valuation and Review. 32 V.S.A. § [4181](#). This is an abstract (summary) of the information contained in the grand list. It will show by property category, the homestead education grand list, the nonresidential education grand list and the municipal grand list. It will contain information on exemptions and local agreements, etc. Differences will exist between the total education grand list and the total municipal grand list if:

- The town or city assesses and taxes business personal property (such property is exempt from the education grand list)
- The town or city has voted to exempt a property from the grand list, but it is not exempted from the education grand list
- The town or city has voted to stabilize the value or taxes on a property, but the stabilization agreement does not affect the education grand list.

Failure to file complete information in a timely manner results in the withholding of state highway and education aid. [32 V.S.A. §5404](#)

The above requirements are satisfied with the filing of the Property Valuation and Review form 411-4181--commonly called the "411". The town must file a signed copy and provide an electronic version of both that form and the complete grand list book. This data is the basis for many of the reports required to be completed by Property Valuation and Review, as well as a key source for the compilation of the equalized education grand list. ***To ensure your town or city receives fair treatment with regard to the education tax, and to assist Vermont's lawmakers in making informed decisions relative to the property tax, it is imperative the 411 and grand list book be accurate and complete.***

The 411 requires the listed value be reported on all taxable personal property, and on all real property (including property exempt by statute).

In addition to reporting the listed values and property counts for the different categories of taxable property, the form also requires detailed information on local agreements, veteran's exemptions and other property exempt from taxation. If a property is exempt, you must be able to explain why and include the statutory citation. Some examples follow.

A town cannot tax an American Legion hall. Such property is exempt under 32 V.S.A. § [3802\(2\)](#). A building owned by a fraternal organization (such as the Mason's) is taxable, however, unless the town votes to exempt it under 32 V.S.A. § [3840](#). The property owned by the fraternal organization must be detailed on the 411 as a local agreement. The American Legion hall is included on the 411 form as a statutory exemption—one in which the town has no choice but to exempt.

Another example of a town-voted exemption is that provided by 32 V.S.A. § [3836](#), which allows a town to exempt up to \$75,000 on new homes. Only those properties which the town, through its voters, has chosen to exempt and which would otherwise be taxable, are included under local agreements. If the property cannot be taxed (public school building, church edifice, Girl Scout camp, etc.), it is reported as a statutory exemption.

Also, please be sure any exempted value is not included in the taxable listed values reported. For example, if the total value of a property is \$200,000 and it is subject to a \$20,000 veteran's exemption, only \$180,000 would be included in the listed value section under R1, R2 or whatever. Failure to complete this section of the 411 properly can result in your town's equalized education property value being skewed. Any questions on these exemptions should be addressed to Property Valuation and Review in Montpelier or to your district advisor.

The 411 also asks for the number of veteran's exemptions granted and the total amount exempted. If your town has voted to grant an additional exemption (up to total of \$40,000 as provided in 32 V.S.A. § [3802\(11\)](#)) that information must also be reported.

The 411 asks for details on any stabilization agreements entered into by the selectboard. For example, the town may vote to give the selectboard the power to contract with owners of industrial

property. Under such an agreement, the property owner is not required to pay the full tax, but rather a lesser agreed upon amount. It may be in the form of:

- fixing and maintaining the tax rate
- fixing and maintaining the listed value
- or fixing the tax paid.

The 411 must contain complete information on these properties. You should have a copy of the stabilization agreement and know:

- the full listed value of the property if it were not stabilized
- the value taxed (homestead and nonresidential)
- the value not taxed (homestead and nonresidential)
- the amount of tax assessed on the property
- the date the agreement was voted
- first year stabilized (April 1, _____)
- last year stabilized (April 1, _____)
- whether the agreement affects the education grand list.

Your selectboard will need the above information to determine whether a local agreement rate must be set and if so, the amount of that rate.¹ Please read the instructions on the form carefully. Contact PVR in Montpelier or your district advisor if you have questions.

An electronic version of the 411 and an electronic copy of the grand list book must be filed along with the signed 411 form. 32 V.S.A. §[5404](#). Failure to file complete information in a timely manner results in the withholding of state highway and education aid.

F. Determining Acreage and Property Mapping

In many towns, the acreage in the grand list has been determined over the years through a combination of deed records and casual agreements, supplemented by occasional survey figures. While some deeds may be extremely accurate, often the comparison of survey to deeded acreage will result in a variation of up to 25 percent.

We recommend that you list acreage in the grand list according to the best information available to you. If the deed says 100 acres plus or minus, and the landowner has a map from the Natural Resources Conservation Service (NRCS) which has been planimetered to show 93 acres, you may choose to list 93 acres. The acreage determined by the NRCS was planimetered from an aerial photograph that is usually not rectified and does not have an accurate scale. Therefore the NRCS considers this figure to be an estimate--which is usually close. If the deed indicates a metes and bounds description that closes and indicates that the parcel contains 100 acres, you may choose to list it as 100

¹ A municipality shall assess a tax on its municipal grand list at a rate sufficient to raise an amount equal to the difference between the municipality's total education property tax liability to the state under this chapter and the amount collected from education property taxes in the municipality after reductions for all tax agreements in effect in the municipality as defined in subsection (c) of this section. Any such tax assessed under this section shall be identified on the tax bill of the municipality as a separate tax for municipally voted tax agreements. 32 V.S.A. § 5404a(d).

acres even though the NRCS estimate is 93 acres.

When a parcel is subdivided or sold it is often surveyed. If the deed refers to a recent survey (after July 1, 1988), the survey must be provided or referenced. 27 V.S.A. § [341\(b\)](#).

Property mapping, often referred to as tax mapping, is extremely helpful. It not only aids in establishing the acreage of each parcel, but also in identifying and listing parcels. The listers once probably knew exactly where all the boundaries of each parcel were. Now they are not always sure, and contract appraisers certainly do not have personal knowledge of where boundary lines fall.

The Vermont Base Map orthophoto sheets (digital and paper), aerial photos which have been corrected so they are accurate for determining distance and acreage, are now available for every town. Property lines can be plotted directly over the clearly recognizable hedgerows and stone walls, and then acreage can be measured accurately. This makes mapping easier, and it also allows landowners the ability to verify the mapping and listing of their property. The orthophoto is also the base landowners must use when enrolling in the use value appraisal programs.

We recommend you undertake tax mapping a year or two in advance of a reappraisal. After the tax map has been prepared, notify landowners of any changes in the acreage you will be listing for their parcels. Landowners can then come to the office to look at the map and decide whether or not to appeal. If a change in acreage results in a change in listed value, you must send out change of appraisal notices to those affected, and follow grievance procedures. See 32 V.S.A. § [4111 et seq.](#) Once the appeals on acreage changes have been resolved, you will have a very solid basis for organizing and undertaking a reappraisal.

Tax maps, although they do not carry as much weight as a registered survey, are an excellent tool for determining acreage. These maps, prepared from aerial photographs, are entitled to substantial weight. As a general rule a survey done by a Vermont registered land surveyor is entitled to the greatest evidentiary weight, followed by a tax map and, finally, by a recorded deed. Surveys, maps, deeds and any other evidence of acreage of a particular parcel should ALL be considered by a lister in determining value of properties.

The computerization of tax mapping in Vermont was greatly enhanced with the formation of the Vermont Center for Geographic Information ([VCGI](#)). In the fourth edition of [Property Mapping Guidelines](#), computer mapping is addressed within the ARC/Info format. Topology, attributes and codes, pseudonodes and data layers are addresses within the specifications. Our selection of ARC/Info is based on the VCGI selection of that software. Currently, road centerline, surface water and soils data are available of much of the State in the ARC/Info format. If the tax map is prepared in the same format, no conversion is necessary to prepare a plot showing the soils, property ownership and town zoning. Computerized maps can also be enlarged, reduced, combined

or separated to suit your needs. It is not necessary to re-draft a map after a few changes. The computer does it faster than a person, at less cost, and more accurately.

The [Vermont Mapping Program](#) has information on contract specifications, professional tax mapping, and computer mapping. Call us at 828-0575 or 0574.

G. Water and Sewer Assessments

In some areas, charges for use of public water or sewer facilities are added to the taxpayer's property tax bill. Although the charges are often determined by some estimate of actual use, they also may be calculated as a percentage of the listed value. If your town uses the listed value to calculate the sewer or water charge, you must assess property that benefits from the public facilities but which is exempt from property taxes. For example, if there is a state building in your town which is exempt from property taxes but which is connected to the public water or sewer system, it must be assessed so the state can be billed for the water and/or sewer services. 24 V.S.A. [Chapter 89](#) and [Chapter 101](#)

Property that is owned by a consolidated sewer district is exempt from all property tax. 24 V.S.A. § [3683](#). Property of a consolidated water district is exempt from property tax in any town of the district. 24 V.S.A. § [3352](#).

H. Determining Who the Owner Is

Taxable real estate is to be listed to the last owner or possessor on April 1. 32 V.S.A. § [3651](#). Generally, personal property is listed to the last owner on April 1. However, taxable tangible personal estate owned by persons residing outside the state and taxable tangible personal estate owned by persons unknown to the listers shall be listed to the persons having the same in charge. 32 V.S.A. § [3691](#).

When real estate is mortgaged, the mortgagor (borrower) is the owner. But, if the mortgagee takes possession, then the mortgagee (usually a bank or mortgage company) becomes the owner. 32 V.S.A. § [3652](#).

An undivided estate must be listed to the Estate in care of the executor or administrator. 32 V.S.A. § [3654](#).

Real estate held in trust must be listed to the trustee(s).

When property is conveyed by a deed which reserves the use and possession for the grantor for his or her life, the property is generally listed to the life tenant and not to the remainderman, according to common law. *Wilmot v. Lathrop*, 67 Vt. 671 (1895). However, listers may choose to list it to either the owner or possessor. It may be advisable to list the property to the life tenant in order to accommodate those instances where the life tenant will be filing a homestead declaration.

One town felt that the remainderman was also an "owner" of the property and therefore could be held liable for the tax at the election of the listers. The court agreed, stating, "if the legislature had intended

that in a case of divided ownership the life tenant, if any, should be the only one to be considered as the "owner" of the property it could easily have so provided in express terms." Brattleboro v. Smith, 117 Vt. 425 (1952).

When real estate is subject to a perpetual or 99 year lease, it must be listed twice. Unless specifically exempted by the original grantor or by a statute, the lease is listed to the lessor at an amount of which the rent is 6%. For example, if the rent is \$6, the lease would be listed to the lessor at \$100. The property is listed to the lessee at its fair market value, except that the annual rent paid must be credited against the property tax payable. 32 V.S.A. §[3609](#) and [3610](#). When real estate is subject to a lease that is for a term less than 99 years, the listers may list it to either the owner or the possessor, but we would recommend listing it to the owner of record.

We are often asked if it's okay to change the name when one owner dies and a certified copy of the death certificate is of record. In cases when the property was held in joint tenancy, including by the entirety, ownership is necessarily changed by the death of the joint owner. In such cases, ownership is not vested in the estate of the deceased, rather the transfer is automatic and without necessity of probate. If you are not sure, consult your town attorney.

Do not make changes without written documentation in your land records to back you up. Sometimes a lister will be asked to list a building to other than the owner of the underlying land. For instance, a son or daughter might build a house on the parents' land and then ask that the house be listed separately to the child. Absent some written instrument conveying the house to the child being recorded in the town office, the listers should treat the house as a part of the parcel on which it is situated. Another situation that often occurs . . . you get a phone call indicating someone has died, or informing you of a name change. This is not sufficient to make a change on your grand list. You must have something recorded in your town records, such as a death certificate or a name change notice as provided in 27 V.S.A. §[350](#).

I. What is a Parcel?

The grand list must contain "a brief description and the listed valuation of each separate piece or parcel of taxable real estate. "Parcel" is defined as:

all contiguous land in the same ownership, together with all improvements thereon. 32 V.S.A. § [4152](#)(a)(3).

Though not specifically stated above, the accepted interpretation is that division of a tract by a road does not create two parcels.

Rule 2(c) governing the current use program states:

A tract of qualifying land shall be considered contiguous for the purpose of determining eligibility for use value appraisal even though divided by a right-of-way, highway or town line

Furthermore, the definition of "homestead" contained in 32 V.S.A. §[5401](#)(7) provides the parcel of land surrounding the dwelling shall be determined without regard to any road that intersects the land.

These definitions are for administrative purposes. These govern how to list properties in your grand list book. **It does not govern the listers' determination of the highest and best use of a property and thus its fair market value.**

The Court had offered guidance in the form of what factors must be considered when making a valuation determination. Those factors included: whether property was conveyed in one deed; the land's character and use; whether separately deeded tracts are contiguous; and whether the property functions as one tract for the owner. Neun v. Roxbury 150 Vt. 242, 552 A.2d 408 (1988).

The above should still be considered when making a determination of value. The definitions in 32 VSA, § [4152](#) and [5401](#)(7) **do not preclude your determining that the highest and best use of a tract is as more than one parcel.** For instance, you may have a 4-acre parcel that was acquired by two deeds. Suppose Ms. Smith owned a house and two acres. An adjoining two-acre piece is acquired as protection land. The grand list will contain a 4-acre parcel coded as an R1. In determining the value of that property, however, you must determine the "highest and best use" of that parcel. If it is as two pieces--a house and two-acres, and a buildable 2-acre lot--then the listed value should reflect that determination.

You cannot group tracts together that are under different ownerships. The Court held in Petition of Mallary, 127 Vt. 412, that properties owned by the petitioner could not be listed with properties owned by the petitioner and her husband jointly.

Noncontiguous land must not be grouped together into one parcel. Each separate tract is listed as a separate parcel. Bullis v. Town of Grand Isle, 151 Vt. 503, 561 A.2d 1359 (1989).

Contact Property Valuation and Review with questions on specific properties.

VI. GRIEVANCES AND APPEALS

The decisions you make as a lister will be questioned. Taxpayers may appeal the assessed values on their properties. Individuals and organizations may appeal your denial of a request for an exemption. The figure you allocate for the homestead portion of a property may be grieved. Grievances and appeals are expected. They are part of the duties of a lister and should be handled in a professional and timely manner, and as dispassionately as possible. Try to keep principles above personalities.

The Secretary of State's office has an [Appeals Handbook](#). It is recommended reading.

Prior to Grievance - Be open and forthcoming about the assessment process. Be available to answer questions and listen to concerns. This is especially important during a townwide reappraisal. Informal public meetings to explain the methods used in establishing values, and to answer questions from the property owners has proved helpful in many jurisdictions. This can minimize the number of formal grievance hearings necessary.

Change of Appraisal Notices - Change of appraisal notices must be sent the same day that the abstract of individual lists is lodged with the town clerk. Notices must be sent to each property owner whose value has changed since the previous assessment. This includes changes in homestead and housesite values, or a change in the allocation of value on properties enrolled in the use appraisal program. 32 V.S.A. §§ [4111](#) and [3756](#). The notice must include information on how to grieve and the deadline for filing a written grievance.

Notices are to be sent by certificate of mailing, certified mail, or registered mail. If a question arises later and the listers cannot produce proof of mailing by one of these methods, it will be presumed the notices were not sent and there is a risk the value of the property will be rolled back to that set the previous year.

Grievance Hearings - Be prepared to briefly state how the value was determined. Listen carefully and politely to the taxpayer's statements. Allow sufficient time for the taxpayer to make her or his case. Answer all questions you can. If you determine that a site inspection is necessary, make an appointment to visit the site. Do not make your decision during the hearing. Thank the property owner for his/her time and attention and state when the decision can be expected. 32 V.S.A. § [4221](#).

Result of Grievance Notice to Taxpayers - The notice must be mailed to the taxpayer within seven days of the close of grievance hearings. It should include the decision of the listers with respect to the grievance, and instructions on appeals to the board of civil authority from this decision. 32 V.S.A. § [4224](#).

Appeals to the Board of Civil Authority - Property owners have fourteen days from the date of mailing of the result of grievance notice in which to appeal to the board of civil authority. The

town/city clerk will notify the listers if any such appeals are received of the date and time of the hearing. 32 V.S.A. § [4404](#).

Be prepared to support the assessment value and to answer any questions from the board of civil authority members, and to respond to evidence presented by the property owner. Be familiar with the subject property, and with any comparable properties. Be prepared to explain the cost data, how the time/location factor was determined, the land schedule and the depreciation schedules. Include relevant sales data to support your value.

Appeals Beyond the Board of Civil Authority - The listers may be called upon to support, or to assist in supporting, the Town's case in appeals from the decision of the board of civil authority either to the superior court or to the State Appraiser. 32 V.S.A. § [4461](#).

As with appeals to the board of civil authority, be prepared to testify as to the assessment value and to answer any questions from the State Appraiser or Court. Be ready to respond to evidence presented by the property owner. Be familiar with the subject property, and with any comparable properties. Be prepared to explain the cost data, time/location factor determination, land schedule and depreciation schedules.

More market analysis is expected at this level of appeal. The Court or the State Appraiser will expect evidence of the fair market value of the subject property. Cost approach appraisals should be supplemented with market data appraisals and, when applicable, income capitalization appraisals.

Selective Reappraisal: Bear in mind that listers cannot selectively reappraise discreet neighborhoods or discreet market sectors without compelling evidence that the neighborhood or market sector is appraised at a substantially different level from the rest of the town. If such action has been taken and it is challenged, the listers must be prepared to show how any such change brought the changed properties into line with those of other properties whose assessments were not changed.

VII. THE BOARD OF TAX ABATEMENT

Listers are members of the board of tax abatement (BTA). The BTA is comprised of the listers, the selectboard, justices of the peace, the town clerk, and the town treasurer. 24 V.S.A. §§ [1533](#) and [801](#). The BTA may, in accord with 24 V.S.A. § [1535](#), abate in whole or in part, municipal taxes, interest, and collection fees under specific circumstances, including taxes:

1. of persons who have died insolvent;
2. of persons who have removed from the state;
3. of persons who are unable to pay their taxes, interest and collections fees;
4. in which there is manifest error or mistake of the listers;
5. upon real or personal property lost or destroyed during the tax year;

The Board of Tax Abatement also has authority to abate taxes on veteran's exemption amounts of persons otherwise eligible who for cause failed to file a timely claim; taxes on mobile homes removed from town as a result of a park closure or change in use of the park; and the land use change tax under very limited circumstances. See 24 VSA § [1535](#)(6-9) for details on these abatement issues.

The abatement of a tax automatically abates any uncollected interest and fees relating to the amount abated.

There is no specific meeting time required by statute. Customarily, boards meet at least once a year. After a decision is made by this board, the reasons for that decision must be stated in writing. The affected property owner should receive a copy of that decision.

A record of the taxes, interest and fees abated is recorded in the town clerk's office and a copy forwarded to the collector of taxes and the town treasurer.

Abatement may be in the form of a refund or a credit, depending on the order of the board. Interest is payable in some instances. See [Chapter 51 of 24 VSA](#) §1535-1537.

The legislative body of a municipality has the authority in cases of hardship² to abate all or any portion of a homestead penalty appealable to the listers and any tax, penalty, and interest arising out of a corrected property classification. The legislative body may delegate the authority to abate in such instances to the board of tax abatement or the board of civil authority. 32 V.S.A. §[5410](#)(j).

² Hardship means an owner's inability to pay as certified by the commissioner of taxes in his or her discretion; or means an owner's filing an incorrect, or failing to file a correct, homestead declaration due to full-time active military duty of the declarant outside the state, serious illness or disability of the declarant, serious illness, disability, or death of an immediate family member of the declarant, or fire, flood, or other disaster.

VIII. ERRORS AND LIABILITIES

It is inevitable that errors will be made. The most common type of mistake is that committed honestly, without malice or prejudice. There are remedies available to correct most of these.

If you find listing errors, these can be corrected, but the procedures vary according to the type of error and the timing. From the time that the listers first compile and lodge the list with the town clerk for public inspection until the date it is lodged with the town clerk a second and final time, it is called the "abstract of individual lists," or just the "abstract." You may also hear it called the preliminary grand list. After grievances are closed, the book is turned over to the town clerk and it becomes the "grand list."

The statutes direct different procedures for correcting different types of errors. Errors in your appraisal or your listing are very often discovered during grievance hearings. These may be corrected according to the provisions for amending an abstract, and notices must be sent to the taxpayers. 32 V.S.A. § [4224](#).

If you discover an error or omission in the listing of property before it becomes the grand list (while it is still the abstract of individual lists) you can correct it without asking for approval from the selectboard. 32 V.S.A. § [4111](#)(f). You must send written notice to any affected taxpayers allowing them to grieve.

If you discover a procedural error affecting the validity of the abstract of individual lists (such as missing a deadline, or a defective notice), you can correct this on or before February 1 of the following year according to the procedures in 32 V.S.A. § [4112](#) et seq.

If you discover an error or omission in the listing of property after it became the grand, (the book has been turned over to the town clerk), the approval of the selectboard is needed to make a correction. Such errors or omissions of individual property listings may be corrected until December 30 (before December 31). 32 V.S.A. § [4261](#)

If you discover that you have made a procedural error affecting the validity of the entire grand list, you can correct this error on or before February 15. 32 V.S.A. § [4262](#) et seq.

If taxpayers feel that you have made some other type of error and decide to sue, they can sue the town. Provided there was no malice involved, the town will cover the costs of the trial and of any damages. 24 V.S.A. § [901](#).

Vermont law does provide for penalties in some instances. If you fail to or neglect to perform a duty imposed on you by law, you can be fined. 24 V.S.A. § [902](#). Mistakes made with bad faith or

malice that deprive a person of any of their civil rights are punishable under the federal Civil Rights Act.³

For mistakes involving misuse of office, such as accepting bribes or commissions, you can be punished under state law. 13 V.S.A. [Chapter 21](#). Listers who knowingly make or return an incorrect 411 (abstract of the grand list) can be fined up to \$500. 32 V.S.A. § [4182](#). We assume that those of you who read this handbook are not intent on finding out more about these types of mistakes.

³ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen . . . of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. US Code: Title 42, §1983

IX. FAQ - SPECIAL PROPERTIES

Property Valuation and Review receives so many inquiries about these types of property, we offer this compilation for reference.

A. Trailer Coaches (Mobile Homes)

A trailer coach is “any trailer or semi-trailer designed to be towed by a motor vehicle and designed, equipped or used for sleeping, eating or living quarters.” 23 V.S.A. § [4](#). The term “trailer coach” as defined in 23 VSA § 4(41) includes mobile homes not affixed to land. PVR Rule 82-1 §(32)3802(4).

Generally speaking, trailer coaches are taxable unless they are registered yearly and designed and used for recreational purposes. The listers must determine whether the property in question is real property and taxable as such, personal property and taxable as such, or personal property and exempt as such.

A trailer coach is listed as real property and is taxable if:

1. it is affixed to the land (water and sewer hook-up; electricity, etc.), or
2. it is situated in the town on the same trailer or campsite for more than 180 days during the 365 days prior to April 1. 32 V.S.A. § [3692](#).

A trailer coach is personal property and taxable in the municipal grand list if:

1. it is inventory and inventory is taxed in your town. This would include inventory of a dealer and any trailer coach owned by an individual that is for sale, as distinguished from the one simply stored on property on which the owner resides in another dwelling. This property is exempt from the education grand list, whether for sale or being stored.
2. it is not affixed to the land and is used for income-producing purposes. This would include trailer coaches that are rented, or used for storage of materials, or used at construction sites. This would be listed in the municipal grand list as machinery and equipment if your town taxes such property. This property is exempt from the education grand list.

Because mobile homes tend to be mobile, there are a few special provisions for dealing with the collection of property taxes. An owner of a mobile home (except those held for sale by a manufacturer, distributor or dealer that are stored or displayed on a sales lot and are not connected to utilities) may not sell, trade, transfer, or move the home without a mobile home uniform bill of sale endorsed by the clerk of the municipality in which it is located. In the case of removal of a mobile home from the municipality, or of a sale, trade, or transfer that will result in the removal of the

mobile home from the municipality, the clerk shall not endorse the mobile home uniform bill of sale unless all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid. 32 V.S.A. § [5079](#).

If a mobile home is sold, traded or moved between April 1 and the time that the grand list has been completed, listers may be asked to help estimate the amount of tax to be paid by the owner for that year.

B. Construction Equipment (“Yellow Metal”)

Very little "yellow metal" is actually taxable.

Property tax law specifically exempts motor vehicles. The term "motor vehicle" is not defined in tax law, but according to motor vehicle law the term includes "all vehicles propelled or drawn by power other than muscular power, except...motorized highway building equipment, road making appliances...". 23 V.S.A. § [4\(21\)](#).

The Supreme Court held that construction equipment including dump trucks, rollers, power shovels and backhoes are motor vehicles and not taxable unless they are used exclusively for the building, repair or maintenance of highways. Pizzagalli Construction Co. v. Town of Whitingham, 146 Vt. 490 (1986). Even vehicles which have not actually been registered but which should have been registered would be exempt.

We have concluded from the above information that only construction equipment used exclusively for the repair or maintenance of highways (in other words, essentially none) is taxable in Vermont.

C. Condominiums/Common Interest Ownership

By definition, there is common property involved in condominium ownership, and in property subject to the Uniform Common Interest Ownership Act (UCIOA) contained in Title 27A of the Vermont Statutes Annotated. The assessment of each unit must include the value of that unit's percentage of undivided interest in the common areas and common facilities. 27 V.S.A. § [1322](#) and 27A V.S.A. § [1-105](#).

As an example, in a 100 unit condominium where each was purchased with an undivided interest in the common land, the grand list would have 100 parcels, each including 1% interest in the common property. The building, the land and any of the common areas and facilities are **not** to be separately listed.

Condominiums that involve time-sharing have different listing rules. See below.

D. Time-sharing

For property tax purposes, a property involving time-share estates is considered to be a single property owned by the owner's association or whatever entity is authorized to manage the common property. Although the individual owners are ultimately responsible for paying their shares of the taxes, it is the

responsibility of the association to allocate the shares and to obtain payment from the individuals. 32 V.S.A. § [3619](#).

E. Swimming Pools

A swimming pool is taxable only if it is considered to be a fixture that is attached to the land and therefore real property. If excavation other than simple landscaping is involved in installing the pool, it is real property, even if most of the pool is above ground.

F. Farms

Farm land and buildings, including silos and sugarhouses are taxable. Farm buildings may be fully or partially exempted by vote under 32 V.S.A. § [3607a](#).

Be careful not to violate the principle of consistent use when appraising a farm. Do not appraise the land based on its potential value for development, and then appraise the buildings based on their value for farming. If the farm has development potential and is valued accordingly, the farm buildings, when viewed in the same manner, will have little if any contributory value.

Farm machinery that is predominantly used in farming activities is not taxable. Farm machinery includes tractor drawn equipment, milking equipment including bulk tanks, gutter cleaners, silo unloaders, and maple syrup and sugaring equipment. 32 V.S.A. § [3802](#)(8); Rule 82-1 § (32)3802(8)-2.

G. Timber and Forest Land

The value of timber can be an important component of the purchase price of large tracts of forestland. When valuing a large tract of forestland, be sure the comparables used have similar forest potential.

Vermont law instructs listers to not take into consideration the effect of standing timber having been conveyed on a parcel. 32 V.S.A. § [3606](#). When the standing timber on a parcel has been sold and conveyed, but the trees remain standing, you must list the property as if the conveyance of standing timber has not taken place.

Be aware that “standing timber” and “timber rights” have different meanings. A purchase of the standing timber is generally the right to a one-time cut of the timber on the property during a limited period of time. “Timber rights” are most often the long-term rights to cut timber, often granted in the form of a lease.

H. Utilities

The Division of Property Valuation and Review provides copies of inventories filed by utilities. Copies of these reports are sent to the listers on or about May 1 (32 VSA §[4452](#)). This information may be helpful in determining listed values, and in determining if there have been any changes in the property since the previous year. If you have questions on how best to use this material, contact your Property Valuation District Advisor.

Much of the property owned by utility companies is taxable. Easements and rights-of-way for poles and lines are not taxable. *Electric utility poles, lines and fixtures* are real estate and are taxed at fair market value, even when owned by a municipal corporation. 32 V.S.A, §§ [3620](#) and [3659](#).

Only *land and buildings of a telephone company* are taxable locally. 32 V.S.A, § [3803](#). Telephone companies also pay a corporation tax. 32 V.S.A. §[8521](#).

The property of cable television companies must be analyzed to determine what is real and what is personal property. All *real property owned by a cable television company* (land/buildings) is to be included in the education grand list. It will appear in the real property category UO. *Cable television lines* (including wires, poles, insulators, anchors and guy wires), the head ends, and housedrops are also included in the education grand list in the PP-Cable TV category. Real property will be appraised at fair market value. Personal property will be appraised at either fair market value or, in those municipalities that have so chosen, at a value established in accord with 32 V.S.A. § [3618](#).

Special rules apply to utility property owned by municipal corporations. See Municipal Land, page 50. If the utility company is not a municipal corporation, all real property must be listed at fair market value.

The information which utilities prepare for rate setting purposes may be helpful in determining the listed value, but it should not be the only consideration. Valuation for rate setting and valuation for taxation may be very different. N. E. Power Co. v. Town of Barnet, 134 Vt. 498, (1976). When no comparables exist, the town must adjust the listed valuation to the level of other properties in the town. Village of Morrisville Water and Light Dept. v. Town of Hyde Park, 134 Vt. 325 (1976).

I. Railroad and Ferry Boat Companies

Property involved in operating railroad freight line and equipment companies is exempt from local property tax. This includes rights-of-way, freight yards, tracks, and any buildings that are still being used in the railroad operation. Railroad buildings that are used for other purposes can be taxed locally. 32 V.S.A. § [3803](#). Railroad property pays a corporate tax pursuant to 32 V.S.A. §[8431](#) et seq.

Real estate and land-bound personal property owned by a ferryboat company are listed at the local level. The boats themselves are not taxable.

J. Partial Rights and Private Restrictions

In general, when you appraise a parcel, you assign all rights of ownership to the fee owner, except for those rights precluded by governmental restrictions or those specifically mentioned in the statutes. When you have partial interests, there are two listing issues: whether you divide the tax

responsibility among various owners of partial interests; and whether the existence of various lesser interests affects the fair market value of the property.

The law provides that "taxable estate shall be set in the list to the last owner or possessor thereof on April 1." 32 V.S.A. § [3651](#). The Legislature did not intend for the listers to research, identify and tax all the holders of various interests, and to adjust and assign appraisal values accordingly. Village of Lyndonville v. Town of Burke, 146 Vt. 435 (1985) The whole parcel is listed to the fee owner, with only the few exceptions which are specifically listed in the statutes:

Water rights, owned separately from real estate interests, are appraised and set in the grand list as real estate in the name of the owner of the rights. 32 V.S.A. § [3605](#).

An interest in a mine or quarry (without the land) is listed to the owner of the interest, as long as it is not a perpetual or redeemable lease. 32 V.S.A. § [3604](#).

An owner of land on which the development rights are owned by the town, a state agency, or a qualified organization (such rights held by a qualified organization are subject to certification by the commissioner of taxes), under the provisions of [10 V.S.A. chapter 155](#), is taxed "only on the value of those remaining rights or interests to which he retains title." 10 V.S.A. § [6306\(b\)](#).

Lands over which the state acquires an easement for flood control are appraised with consideration of the restriction. If the restriction has reduced the appraisal value from that of the year preceding the acquisition, the amount of the reduction is listed to the State. 32 V.S.A. §§ [3611](#) and [3612](#).

The second issue is whether the existence of lesser interests is considered in determining the fair market value. The court has defined fair market value as "the price which a property will bring in the market taking into consideration its availability, use and limitations." Villeneuve v. Town of Waterville, 141 Vt. 154 (1982).

Restrictions on the property which are due to governmental laws, rules or programs must be considered in determining fair market value:

The appraisal shall include a "consideration of the effect of any state or local law or regulation affecting the use of land, including but not limited to [chapter 151 of Title 10](#) or any land capability plan established in furtherance or implementation thereof, rules adopted by the state board of health and any local or regional zoning ordinances or development plans." 32 V.S.A. § [3481](#).

There are many parcels in Vermont from which certain **rights have been conveyed to a qualifying organization** and which have been certified under the provisions of [Chapter 155 of Title 10](#) of the Vermont Statutes Annotated. Such rights are exempt under 10 VSA §[6306](#), and the remaining rights are taxable at fair market value. The question becomes, what is the fair market value of the remaining rights?

Each parcel must be looked at individually. There is no magic formula for an appraisal of this type. All factors that combine to give a property value must be examined. The effect will be great in some instances, in others very small. Consider a 5-acre parcel on the Shelburne Road in South Burlington. If all but the right to use the property for agricultural purposes is removed, the fair market value will likely be very low in comparison to other similar parcels with all rights intact. On the other hand, if all development rights are removed from a 200-acre forest tract in the Northeast Kingdom, most often little or no change in value will occur. The highest and best use of that property will probably remain woodland. The highest and best use of the South Burlington parcel will have changed dramatically, however. What was probably a prime commercial parcel is now limited to agricultural use and must be valued accordingly.

If the highest and best use of the property is for farming, and that use can continue, little or no change in value may have occurred. You may want to make a minor downward adjustment in value to account for the fact that most people are willing to pay more for a property without restrictions. It's human nature. If the property is in transition, however, a larger adjustment may be necessary. That is, if there is development pressure in the area of the parcel being appraised, an adjustment must be made to account for the loss of that use. It's similar to making adjustments because of zoning or similar restrictions. If a piece of property's highest and best use is for commercial development, but zoning restricts the use of the property to residential/agricultural, the property is less valuable than a similar piece zoned for commercial use.

You will want to look at exactly what was conveyed in each instance. In many cases not all development rights are conveyed. Often some development, such as another residence, is allowed.

Read the deed.

You may also want to examine the effect these conveyances have on other properties in the area. Has the neighboring property value risen because it borders a property that cannot be developed? This may occur in some instances, such as in our South Burlington example above.

Listers and assessors may contact Property Valuation and Review on specific properties.

It takes some research to determine whether privately arranged restrictions affect the valuation. An owner of a gas station which was subject to a renewable lease and pre-emptive purchase option in favor of Getty Oil Company appealed the town's appraisal, arguing that the lease/option must be taken into account. The court agreed, finding:

Although we are concerned here with a privately imposed restraint on land, it is clear that the Legislature intended that bona fide restraints affecting property, at least those governmental in origin, should be a factor in determining fair market value. The extension of this practice to situations such as that posed here is not contrary to the logic of the statute and is consistent with prior Vermont case law. Winthrop Townsend and Marie Boisvert v. Town of Middlebury, 134 Vt. 438, (1976).

When land is subject to a perpetual lease, the statutes specify that its appraisal value must be determined taking into consideration all limitations upon the use of the land by the lessee. 32 V.S.A. § [3610](#). However, there are few guidelines for determining when other types of privately imposed

restraints on land are sufficiently bona fide to decrease the value of the property. *PVR holds that the existence of short term leases and restriction agreements that may be freely renegotiated do not reduce the appraisal value of the property.* Therefore, privately imposed restraints that you might consider in determining a value would include those that are perpetual and not renegotiable.

K. Public Land

The general long standing policy of the State of Vermont is that public land is not taxable. "An Act Prohibiting the Taxing of Public land" was passed by the Vermont General Assembly on June 17, 1785. Currently, 32 V.S.A. § [3802](#)(4), exempts real and personal estate granted, sequestered or used for public purposes from property tax.

Municipal Land - Notwithstanding the general principle, real estate owned by a municipal corporation and located outside its territorial limits is taxable by the municipality unless specifically exempted. 32 V.S.A. § [3659](#).

Property owned by a municipality which is located within that municipality and which is used for municipal purposes including the provision of utility services is exempt from the education tax. 32 [V.S.A. §5401](#)(10)(F).

A municipality includes "a city, town, town school district, incorporated school or fire district or incorporated village and all other governmental incorporated units." 1 V.S.A. § [126](#).

A municipal corporation includes a city, a town, a village, a school district, a fire district, a union municipal district, a regional mass transportation authority, a local housing authority, or a consolidated water or sewer district. 24 V.S.A. § [1751](#).

A specific method of taxation of a municipal corporation's land located outside the municipality is prescribed as a sort of compromise. The property is listed at the value fixed preceding the acquisition by the municipal corporation. In subsequent years, the land is listed as other comparable property is listed. The town or city cannot tax personal property, or any improvements made after the acquisition. In compensation for this loss of taxes, the town or city can impose an additional tax that may not exceed 75% of the appraisal of the land. If there are no improvements or personal property, the additional tax cannot be imposed because the town or city has not lost any taxes. City of Montpelier v. Town of Berlin, 143 Vt. 291, (1983).

In general, municipal land will fall into this category. However, there are specific exceptions:

A municipal corporation's utility poles, lines and fixtures located in another town are taxable at fair market value. 32 V.S.A. § [3659](#).

Property owned by a consolidated sewer district is exempt from all taxation by any town. 24 V.S.A. § [3683](#).

Property owned by consolidated water district is exempt from taxation by a town within the district. 24 V.S.A. § [3352](#).

Property owned by a municipal housing authority is exempt from all real and personal property taxes imposed by any political entity within the state. 24 V.S.A. § [4020](#).

Property owned by a municipality for purposes of urban renewal is exempt. 24 V.S.A. §[3216](#).

State Land and Buildings - Property owned by the State of Vermont is exempt. 32 V.S.A. § [3802](#)(1). There is a provision for a payment in lieu of taxes (PILOT) on certain state-owned property, however. 32 V.S.A. §[3701-3708](#).

The State annually, prior to May 1, provides the assessed values of state buildings and lands as defined in 32 V.S.A. §[3701](#) to every municipality to which a payment in lieu of taxes (PILOT) is due. The listers should check this listing annually to make sure all pertinent property has been included and to ensure the land values are accurate. The municipality has thirty days in which to appeal this assessment to the superior court.

When state-owned land, buildings or permanent fixtures are leased to another entity, they are still treated, for tax purposes, as state land. As an example, the Sherburne Corporation leased land from the state, and ski lifts and structures were attached to that land. The Court held that the land was still "owned" by the state and that improvements on the leased premises were not personal property, but real property that would revert to the state, and thus the property of the state. The land is therefore taxable to the state according to the provisions of section 32 V.S.A. §[3708](#) (lands held by Agency of Natural Resources) and the improvements and buildings are not taxable. Sherburne Corporation and State of Vermont v. Town of Sherburne, 145 Vt. 581 (1986). However, if the lease agreement stipulates that the fixtures or buildings are owned by the lessee of the land, they are listed to the lessee/ owner and not to the state. 32 V.S.A. § [3608](#).

Federal Property - Federal property is not taxable. 32 V.S.A. § [3802](#)(1). Towns that have land in the Green Mountain National Forest (GMNF) receive a payment in lieu of taxes (PILT) from the federal government. See 1 V.S.A. § [557](#).

Quasi Public - There are many authorities and commissions established by the legislature that are specifically declared to own and use their land for public purposes, thereby making them exempt from the local property tax. In addition, the listers may determine that other properties are used for public purposes and therefore exempt. 32 V.S.A. § [3802](#) (4). (See Chapter X on exemptions for more information.)

L. Lakes and Ponds

The general rule is that the 280 natural lakes and ponds in the state which are larger than 20 acres are public waters, and not taxable.⁴

⁴ Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust. It is the policy of the state that these waters and lands shall be managed to serve the public good. 29 V.S.A. § [401](#). As such, they are not taxable. 32 V.S.A. §§ [3802](#)(1) and [3802](#)(4). See also 10 V.S.A. [Chapter 49](#), and Hazen v. Perkins, 92 Vt., 414,419 (1918).

"Public waters" means navigable waters excepting those waters in private ponds and private preserves as set forth in [chapter 119](#) of Title 10." 29 V.S.A. § [402\(7\)](#) and 10 V.S.A. § [1422\(6\)](#).

"Navigable waters" are all streams, ponds, flowages and other waters within the state which are boatable. 10 V.S.A. § [1422\(4\)](#).

Private ponds are generally considered to be natural ponds less than 20 acres, or artificial ponds entirely on the owners' premises. 10 V.S.A. § [5210](#). Private preserves are bodies of water over which the owner has exclusive control and which have been stocked and posted according to the provisions of 10 V.S.A. [chapter 119](#). The public use exemption does not apply to these ponds.

Exceptions include some artificial lakes that may be larger than 20 acres and still taxable because they are privately owned, and some smaller ponds that are public, such as Elfin Lake.

M. Personal Property

Personal estate is defined as including "all property other than real estate." 1 V.S.A. § [129](#). Personal property means items which are movable (sometimes called chattel), not permanently affixed to the real estate. The International Association of Assessing Officers' text, [Property Assessment Valuation](#), 2nd edition, 1996, states on page 338:

The courts tend to agree that a chattel loses its nature as personal property and becomes real property if it is affixed in such a way that it loses its original physical character and cannot practically be restored to its original condition. Two common tests are: the intention of the person who put the item in place, and whether the item can be removed from the real estate without loss of value to either. For example, if a tenant places a screen in front of a fireplace, there is no intention of permanent installation, and the screen can easily be removed when the tenant moves. The screen is clearly personal property. If, however, the property owner installs a light switch in the wall, the wall would be damaged by removal and therefore the switch is part of the real estate. In another example, machinery or equipment bolted to a floor or concrete base simply for ease of operation should not be considered to be affixed. Unclear cases must be resolved by reference to state statutes and court decisions.

Vermont law specifically provides the manner in which certain types of property are to be listed. For example, manufacturing equipment such as engines and boilers, electric motors, air compressors, traveling cranes and machinery, so fitted and attached as to be a part of a manufacturing or other plant and kept and used as such, shall be set in the grand list as real estate. 32 V.S.A. § [3602](#). Similarly, section [3602a](#) provides that all structures, machinery, poles, wires and fixtures of all kinds and descriptions used in the generation, transmission or distribution of electric

power that are so fitted and attached as to be part of the works or facilities used to generate, transmit or distribute electric power shall be set in the grand list as real estate

32 V.S.A. § [5401](#)(10) makes clear the education grand list is to include the following property:

- utility cables, lines, poles and fixtures (unless owned by telephone companies);
- gas distribution lines (but not aboveground meters, regulators and gauges).

Very little personal property is included in the education grand list - Property that is to be taxed for education purposes shall be listed in the appropriate category so it can be included in the education grand list. Cable television lines, for example, are to be coded as PP-Cable TV, while cable television real property (e.g. buildings) should be listed as UO. Ski lifts and affixed snowmaking equipment will be included as part of the Commercial listing only on the municipal grand list (MGL). Electric utility poles, lines and fixtures go into UE (Utility-Electric). Gas distribution lines (e.g. Vermont Gas Systems and Portland Pipeline) are to be coded UO (Utility-Other). **DO NOT** classify gas distribution lines as personal property. Incorrect classification will mean a loss in tax dollars. See the following examples.

Listing Examples Based on Vermont Statutes and Case Law

<u>Description</u>	<u>Category</u>	<u>In EGL</u>	<u>In MGL</u>
Electric utility lines/poles/fixtures	Real - UE	Yes	Yes
Cable TV lines and fixtures	PP - PP-TV	Yes	Yes unless M&E Voted Exempt
Ski lifts	Real - Comm	No	Yes
Movable Shelving in a Store	PP - M&E	No	Yes unless M&E Voted Exempt
Gas Distribution Lines	Real - UO	Yes	Yes
Snowmaking Equipment			
Water lines and pumps	Real - Comm	No	Yes
Movable snow guns	PP - M&E	No	Yes unless M&E Voted Exempt

Cable Television Property - The Education Grand List. *All real property owned by a cable television company is to be included in the education grand list. It will appear in the real property category UO. Cable television lines and fixtures are also included in the education grand list in the*

PP-Cable TV category. Real property will be appraised at fair market value. Personal property will be appraised at either fair market value or, in those municipalities which have so chosen, at a value as provided in 32 V.S.A. § [3618](#).

Those towns and cities that have not chosen to exempt business inventory and/or machinery and equipment will continue to include such property *in the municipal grand list*. All business personal property, including cable television lines and fixtures that are personal property, will be assessed and taxed locally unless voted exempt by the town or city.

Voted Exemptions on Personal Property - By majority vote at an annual or special meeting, a town *may opt to exempt* business inventory, and/or all or a portion of the business personal property from local taxation. 32 V.S.A. § [3618](#), [3848](#) and [3849](#). The town can also exempt inventory and appraise machinery and equipment at fair market value. A town or city can choose to exempt inventory and appraise machinery and equipment under two depreciation methods.

The following personal property *is exempt under Vermont law without the need for a local vote*: personal property owned and used by churches, schools, government agencies, charitable organizations; tractors and machinery of farmers; personal farm property used for storage of manure and designed to avoid water pollution; tools and implements of mechanics or farmers; motor vehicles; and personal property used in operating a railroad, telephone, or rail transportation agency. 32 V.S.A. §§ [3802](#) and [3803](#).

If a town elects to tax business personal property according to the procedures specified in 32 V.S.A. § [3618](#), the taxpayer can choose to have an item appraised by either of the following methods which are both based on the depreciation value used for the federal income tax:

1. At 50% of its cost during the [IRS depreciation](#) period, and at 10% thereafter, or
2. At net book value until the item has been depreciated to 10% of its cost or less, and 10% thereafter.

If a town has not made this election, the provisions of 32 V.S.A. § [3618](#) do not apply and business personal property must be listed at its fair market value in the municipal grand list.

It is essential that all property to be taxed be listed in its appropriate category. Questions on specific items can be addressed to the Property Valuation District Advisors.

N. “Subsidized Housing”

For residential rental property that is subject to a housing subsidy covenant or other legal restriction, imposed by a governmental, quasi-governmental, or public purpose entity, on rents that may be charged, [fair market value](#) must be determined by the income approach. The following elements must be used in that approach.

- (A) market rents with utility allowance adjustments for the geographic area in which the property is located as determined by the federal office of Housing and Urban Development;
- (B) actual expenses incurred with respect to the property as provided by the property owner and certified by an independent third party;
- (C) a vacancy rate that is 50 percent of the market vacancy rate as determined by the United States Census Bureau with local review by the Vermont housing finance agency; and
- (D) a capitalization rate that is typical for the geographic area determined and published annually prior to April 1 by the division of property valuation and review after consultation with the Vermont housing finance agency.

There is a spreadsheet available on the Tax Department’s website that can be used to facilitate these appraisals. If you have questions or need assistance, contact your PVR district advisor.

X. EXEMPTIONS

There is a long list of property exempt from the property tax. The following sections A through F list property that is exempt by state or federal law. Chapter XI speaks to property that is subject to locally voted exemptions or stabilization agreements (local agreements). All properties, including those exempt from taxation, must be included in the grand list. The listing must include the statutory authority for the exemption. It must also be coded so as to provide a report of the exemptions that becomes part of the abstract of the grand list (411) that is reported to PVR.

The fair market value of property which is automatically exempted by federal or state statute is not included in the education grand list. The full fair market value of some property exempted by vote of the town is included. See Chapter XI for information on local agreements.

A. Public Property

1. Property of the United States Government. 32 V.S.A. § [3802](#)(1).
2. Property owned by a municipality which is located within that municipality and which is used for municipal purposes including the provision of utility services. 32 V.S.A. § [5401](#)(10)(F).
3. Property of the State of Vermont. 32 V.S.A. § [3802](#)(1).
4. Property owned by the Housing Finance Agency. 10 V.S.A. § [641](#).
5. Property owned by the Small Business Administration. Town of Bristol v. United States, 315 F.Supp. 908, (1970).
6. Property of a municipal housing authority. 24 V.S.A. §§ [4003](#) and [4020](#).
7. Property of Vermont Student Assistance Corporation. 16 V.S.A. § [2825](#).
8. Property acquired and held by a municipality for purposes of urban renewal. 24 V.S.A. § [3216](#).
9. Property owned by a consolidated water district in a town within the district. 24 V.S.A. § [3352](#).
11. Property owned by a consolidated sewer district. 24 V.S.A. § [3683](#).
12. Approved air pollution treatment facilities. 10 V.S.A. § [570](#).
13. Approved water treatment facilities. 32 V.S.A. § [3802](#)(12).
14. Unrented property in an industrial park which is owned by a public development corporation and subject to a mortgage from Vermont Economic Development Authority

(VEDA) is exempt from property taxes, but shall make payments for highway maintenance, fire protection and other services. Rented property is listed and taxed to the tenant.

If the unrented property is owned by VEDA because of a foreclosure, it is exempt from taxes for the remainder of the year in which VEDA acquires title, and for the following year. Afterwards, the VEDA shall pay 50% of the taxes. 10 V.S.A. §§ [236](#) and [251](#).

15. Rights and interests in real property acquired under the authority of Title 10, Chapter 155. This chapter authorizes towns, certain state departments, and qualifying organizations to acquire rights in certain types of land. The owner of any remaining rights or interest is taxed on those interests only. [10 V.S.A. chapter 155](#).

16. Property of the Vermont Educational and Health Buildings Financing Agency. 16 V.S.A. § [3859](#).

B. Charitable, Religious, or Public Organizations.

1. Property owned and used as its regular meeting place by a post of a veteran's organization chartered by act of the U. S. Congress, not leased or rented for profit. 32 V.S.A. § [3802](#)(2). This includes the American Legion and the Veterans of Foreign Wars.

2. Property owned by and used for the purposes of its work by a nonprofit organization chartered by act of the U.S. Congress, such as the Red Cross, Girl Scouts, Little League Baseball, and the Daughters of the American Revolution (DAR). 32 V.S.A. § [3802](#) (2).

3. Buildings, land and personal property owned and occupied by a YMCA or YWCA for the purposes of its work, as long as the income is entirely used for such purposes. 32 V.S.A. § [3802](#) (6).

4. Property owned and used by a religious society including buildings used as churches, parsonages, and immediate out-buildings, convents, schools, orphanages, homes or hospitals, and adjacent land kept and used as a parking lot, lawn, garden or playground. 32 V.S.A. §§ [3802](#) (4) and [3832](#).

5. Lands used for cemetery purposes and the structures thereon, trust funds and other property belonging to or held by cemetery associations, and the lots of cemetery proprietors. 18 V.S.A. §§ [5317](#) and [5376](#); 32 V.S.A. § [3802](#) (7).

6. Property owned by free public libraries. 22 V.S.A. § 109; 32 V.S.A. § [3802](#) (4).

7. Grounds and property owned and occupied by agricultural societies so long as the same are used annually for agricultural fairs. 32 V.S.A. § [3802](#) (9).

8. Hospital service corporations and medical service corporations are exempt from all forms of taxation. 8 V.S.A. §§ [4518](#) and [4590](#).

9. Property of certain non-profit health centers and rural health clinics. 32 V.S.A. §[3802](#) (16).

10. "Real and personal estate granted, sequestered or used for public, pious or charitable uses...". 32 V.S.A. § [3802](#) (4). This exemption has been difficult to interpret, and the subject of many lawsuits. The court holds that the four following conditions must exist in order for the public use exemption to apply:

- a. The property must be dedicated unconditionally to public use.
- b. The primary use must directly benefit an indefinite class of persons who are part of the public, and must also confer a benefit on society as a result of the benefit conferred on the persons directly served.
- c. The property must be owned and operated on a not-for-profit basis.
- d. The benefit must be direct and immediate and not just remote or incidental. American Museum of Fly Fishing, Inc. v. Town of Manchester (1989) 151 Vt. 103, 557 A.2d 900.

The listers make the initial determination of which parcels are eligible for this exemption, and their decisions may ultimately be appealed to the Supreme Court. The Secretary of State's Office reports that most listers take a hard line on marginal properties, which they feel is appropriate. The court has held, "Any exemption from property taxation provided by statute is to be strictly construed in favor of the taxing authority as against those who seek its benefits. Any doubts that may arise as to the application of a particular tax statute should be interpreted against the exemption." Stowe Preparatory School, Inc. v. Town of Stowe, 124 Vt. 393 (1964).

Appeals from decisions of the board of listers regarding exemptions should be in the form of a Motion for Declaratory Judgment to the Superior Court.

C. Property Used for Education

1. Lands leased by towns or town school districts for educational purposes. This exemption does not cover lands or buildings rented for general commercial purposes, nor farming or timber lands, except for the so-called school or college lands that were sequestered to such use before January 28, 1911. 32 V.S.A. § [3802](#) (4).

2. A college fraternity/sorority or society house, the land occupied by it, and adjacent land used as a lawn, playground or garden, and the household furniture, and equipment in actual use in such fraternity/sorority or society house held by and for the benefit of college fraternities/sororities and societies and corporations, if acquired before April 1, 1941. This exemption does not cover other property that may be owned by a fraternity/sorority or society. Real property acquired after April 1, 1941 shall be listed and frozen at its value preceding the date of acquisition, regardless of subsequent improvements. The value may be modified following a townwide reappraisal under certain circumstances. The town may vote

to exempt the property. 32 V.S.A. §§ [3831](#) and [3802](#) (5).

3. Property acquired prior to April 1, 1941 and used by any college or university. The exemption does not apply to farmland, forestland, land used for recreation, etc. "It is the use of the property that must govern the decision as to whether it is a college or public school for the purposes of § [3831](#) and § [3802](#) (4) of this title, and not the purposes set out in the articles of association of the institution." *International Living Inc. v. Brattleboro*, 127 Vt. 41, (1968).

D. Personal Property and Equipment

Personal property not used for profit is exempt. That includes:

1. Household furniture, provisions, and equipment not regularly used for income producing purposes. This exemption applies to lawn mowers and garden tractors, privately owned satellite dishes, and swimming pools that are not attached to the land. 32 V.S.A. § [3802](#) (8); Rule 82-1 (32)3802(8)-1. Household fixtures used by bed and breakfast establishments are taxable because they are regularly used for income producing purposes.

2. Personal wearing apparel and adornment. 32 V.S.A. § [3802](#) (8).

3. Private and professional libraries. 32 V.S.A. § [3802](#) (8).

4. Shrubs and plants in a commercial greenhouse. 32 V.S.A. § [3802](#) (8).

5. Fowl and baby chickens, sheep, cattle, horses, goats, swine and bees. 32 V.S.A. § [3802](#) (8).

6. Hay and produce sufficient to winter out the stock. 32 V.S.A. § [3802](#) (8).

7. Farm property constructed and used for manure storage and designed to avoid water pollution. 32 V.S.A. § [3802](#) (8).

8. Tractors and other machinery of a farmer, including tractor drawn equipment, milking equipment, bulk tanks, gutter cleaners, silo unloaders, and maple syrup and sugaring equipment, not used for hire or contract purposes. 32 V.S.A. § [3802](#) (8); Rule 82-1 (32)3802(8)-3.

9. Hand tools and implements of a farmer, mechanic, carpenter, electrician, plumber, or other craftsperson. 32 V.S.A. § [3802](#) (8); Rule 82-1 (32)3802(8)-3.

10. Aircraft, automobiles, and other motor vehicles. See the sections on mobile homes and construction equipment for more information on these two categories. 32 V.S.A. § [3802](#) (8).

11. Money, stocks, bonds, mortgages, etc. 32 V.S.A. § [3803](#).

12. Personal property owned by an inhabitant of this state but situated and taxed in another state. 32 V.S.A. § [3802](#) (3).

13. Personal property owned by the federal, state or municipal government. 32 V.S.A. § [3802](#).

14. Snowmobiles, boats and outboard motors except those held as inventory or stock in trade or used for income purposes, and travel trailers which are not on the same camp site for at least 180 days of the 365 days preceding April 1. 32 V.S.A. § [3692](#). See the section on mobile homes for more details on travel trailers.

15. Personal property in interstate transit is exempt from local taxation by federal law. If the property is changed (processed) during the course of its stay in one place, it can be considered to have come to rest and be taxed.

E. Veterans and Immediate Families of Veterans

1. The first \$10,000 (may be increased to up to \$40,000 by a vote of the town) of appraisal value of the established residence of a qualifying veteran, his or her surviving spouse or child is exempt if:

a. the residence is owned in fee simple by one or jointly by a combination of them, and,

b. a written application for the exemption is filed before May 1 of each year, and

c. a written statement has been sent by the Veteran's Administration showing that the required compensation or pension is being paid. 32 V.S.A. § [3802](#) (11).

The Veteran's Administration will issue a letter to verify that a person's disabilities would qualify the family for the exemption, and the letter will generally mention either the property tax exemption, or include the words "this is for the use of your listers." If you have questions on a person's eligibility, call the Veteran's Administration at 802-295-9363.

If the above letter is received, it can be assumed the individual qualifies, however, many listers want further clarification. Essentially, the exemption applies if a payment is received for:

- death compensation, or
- dependence and indemnity compensation, or
- a disability pension is paid thru the veteran's administration or any military department, or
- disability compensation (at least 50% disability).

Also, the widow or widower of a veteran who was qualified for the exemption at the time of his

or her death still qualifies for the exemption.

F. Fallout Shelters, Railroads, Telephone Business

1. Fallout shelters, built at any time in compliance with then existing standards of the Department of Defense, Office of Civil Defense, as long as they are used only as fallout shelters. 32 V.S.A. § [3802](#) (13).
2. Property used in operating a railroad. 32 V.S.A. § [3803](#). Such property is taxed by the state.
3. Real and personal estate, except land and buildings, used in carrying on a telephone business or in operating a transportation company in the state. 32 V.S.A. § [3803](#).

XI. LOCAL AGREEMENTS (TOWN-VOTED)

Vermont law provides numerous opportunities for voters to reduce or eliminate property taxes on certain properties. The other taxpayers in the town bear the cost of tax agreements that are entered into or proposed and voted locally.⁵ A local agreement rate is levied to collect the foregone education tax revenue. The listers' job is to determine the value of such property assuming no agreement or exemption and to list the property in the grand list appropriately so the correct tax bills can be issued and data collected. 32 V.S.A. §[5404a](#).

Towns and cities may request approval to have the burden from certain locally approved tax agreements shared by all the taxpayers in Vermont. Application is made to the Vermont Economic Progress Council ([VEPC](#)) or the Department of Housing and Community Affairs ([HCA](#)). 32 V.S.A. §[5404a](#).

Listers should contact PVR if there are questions on the listing of such properties.

A. Volunteer Fire, Rescue and Ambulance Organizations

Towns and cities may vote to exempt property owned by and used for the purposes of non-profit volunteer fire, rescue and ambulance services. If so voted, such property is also exempt from the education grand list and the equalized education grand list. This results in the cost of funding these exemptions from the education tax being borne by all Vermont taxpayers.

B. The Vermont Economic Progress Council ([VEPC](#))

32 V.S.A. §[5930a](#) created the Vermont Economic Progress Council. It is attached to the Vermont Department of Economic Development. VEPC acts upon applications for approval for statewide funding of those tax agreements which have been voted locally and which relate to economic development, e.g. stabilization agreements for commercial and industrial property voted under 24 V.S.A. § 2741. [VEPC](#) can only accept applications on those projects that have already received local approval.

Example - The voters of a town may grant the selectboard the authority to enter an agreement with an industrial property owner pursuant to 24 V.S.A. § [2741](#). In order to have the *loss in education revenue funded statewide*, the approval of VEPC is necessary. If such approval is sought and granted, the property subject to the agreement is exempted from the equalized education grand list and it will not pay municipal or education taxes. No municipally voted tax agreement rate (local agreement rate) is set to recoup the loss in revenue from the other taxpayers.

If VEPC approval is not sought, or if it is sought but not granted, the property subject to the agreement can still be exempt from the municipal and education tax. A "local agreement rate" would be set to

⁵ Locally approved tax agreements that were entered into or proposed and voted by the town *prior to July 1, 1997* are *grandfathered*, which means that the entire state—not just the town—bears the cost of the reduction in the education property tax liability resulting from the agreement.

recoup the loss in education taxes. And without approval the value subject to the agreement is not exempted from the equalized education grand list.

C. Local Funding of Tax Agreements

The cost of some stabilization agreements and voted exemptions are borne entirely by the taxpayers in the town or city wherein the property is located. Except for the volunteer organization agreements in the previous paragraph, and economic development agreements authorized by [VEPC](#) or [HCA](#), town-voted agreements reduce the education property tax bill of the taxpayer subject to the agreement but do not reduce the education property tax liability of the town.

Example - An example of a *locally funded agreement* is the grange hall or Elks Club in town. The voters decide to exempt it pursuant to 32 V.S.A. §[3840](#). The exempted value is included in the equalized education grand list established by Property Valuation and Review and in the education grand list reported to the Department of Education, and the rest of the property owners in town pick up the loss in revenue.

The following page entitled “Local Agreements” lists the different types of tax agreements available and states whether they must be locally funded. It also indicates those instances where towns may request the approval from the Vermont Economic Progress Council ([VEPC](#)) There are also special provisions for properties relating to low-income housing. Approval may be requested from the Vermont Department of Housing and Community Affairs ([HCA](#)) in those instances.

Check any local tax agreements in place against the chart to assist in listing such properties. Be sure your grand list book contains all pertinent data on these properties. You must include the beginning and ending dates, title and section of the statute enabling the agreement, whether approval has been granted, etc.

If you have questions on how to list exempt properties, please contact your district advisor or our office in Montpelier.

LOCAL AGREEMENTS

Owner	Property Use	Statute Title/Section	Foregone Revenue Funded
Vol Fire, Ambu, Rescue	station house, etc.	32/3840	Statewide, provided the town votes the exemption
Fraternal Org.	meeting place	32/3840	Townwide
Person	farm/forest/open land	24/2741	Townwide
Person	alternate energy generating plant	24/2741	Townwide
Person	subsidized housing	32/3843	Townwide unless approved by VEPC or HCA
Person	commercial/industrial	24/2741	Townwide unless approved by VEPC
Organization	health/recreational	32/3832 (7)	Townwide
Person	economic development	32/3834-3838	Townwide unless approved by VEPC
Person	alternate energy sources	32/3845	Townwide
College, univ, frat	any real property	32/3831	Townwide
Qualified Veteran	home	32/ 3802 (11)**	Townwide
Person	farming	32/ 3607a	Townwide
Municipal Corp	property held in trust for municipal corporation	32/3832 (1)	Townwide
Home/Hospital	property leased to another for profit	32/3832 (6)	Townwide
Person	improvements to low income housing	32/3847	Townwide unless approved by HCA

XII. HOMESTEAD DECLARATIONS - CLASSIFICATION

The education tax rate levied on a property will depend on whether it is classified as homestead or as nonresidential property. Property is classified as a homestead when a Vermont resident files a homestead declaration (HS-122) with the Department of Taxes. All property not identified by homestead declaration is automatically classified as “nonresidential.” Each town and city will levy separate homestead and nonresidential school tax rates applying them to all properties based on this classification system.

A **homestead** is the principal dwelling owned and occupied by a Vermont resident individual as the individual’s domicile. A homestead includes the entire parcel of land surrounding the dwelling, determined without regard to any road, river or stream that intersects the land. A homestead does not include buildings or improvements detached from the home and used for business purposes, and does not include that portion of a principal dwelling used for business purposes if the portion used for business purposes includes more than 25 percent of the floor space of the building. The value of outbuildings and other improvements not used for business purposes are included in the value of the homestead, e.g. swimming pools, tennis courts, landscaping. See 32 VSA § [5401\(7\)](#) and [Reg. § 1.5401\(7\)](#) for details and examples.

Property tax adjustments are based on the value of the **housesite**. A housesite is that portion of a homestead that includes the principal dwelling and as much of the land surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit, and in the case of multiple dwelling units, no more than two acres per dwelling unit up to a maximum of 10 acres per parcel. See 32 VSA § [5401](#) (11).

In order for a property to be classified as homestead property for any tax year, the Department of Taxes must receive a [Homestead Declaration](#) on or before the due date for filing income tax returns (April 17 in 2007). On this form, a resident is required to declare his or her homestead as of April 1. 32 V.S.A. § [5410](#). In the absence of a declaration, the listers will classify the property as nonresidential. If a Homestead Declaration is filed late, but by September 1, the grand list book will indicate that fact and the property tax bill will be adjusted to reflect the homestead rate, but the filer will be subject to a penalty. Declaring a nonresidential property as a homestead will also subject the filer to a penalty.

What’s the Homestead Declaration?

The homestead declaration (HS-122) is the document a property owner uses to declare his or her homestead to the Department of Taxes. It asks the taxpayer to provide some information

from their property tax bill, including the property location and the SPAN (school property account number). The taxpayer will also be asked to provide:

- Percentage of business use of **dwelling** (if more than 25% of floor space)
- Percentage of rental use of dwelling (the actual percentage should be declared without regard to 25% de minimis)
- Whether any detached buildings or improvements on the parcel are used for business or rental purposes
- Whether the following special circumstances apply:
 - ✓ taxpayer is grantor and sole beneficiary of a revocable trust that owns the property
 - ✓ taxpayer is owner of life estate
 - ✓ declarant resides in a dwelling owned by a related farmer.
 - ✓ taxpayer is owner of homestead property that crosses town boundaries.

When does the board of listers receive information on the homestead declarations?

Annually, beginning in February, the Tax Department will provide an electronic file of homestead declaration information. It will be placed on an ftp server that can be accessed by the town. The listers will use this information to classify properties in their grand list.

What is required of the board of listers with regard to this homestead declaration file?

Beginning in February (and no later than June 1), the listers will notify the Tax Department of any parcels on the list that they have reason to believe do not qualify as homesteads. The Department will be asking the listers to report:

NR – not a town resident

NS – SPAN has no match – can't match this to property in town

SP - Incorrect SPAN reported – property is in this town, should be SPAN _____

NF – Non-filer – this is a primary residence, but no HS-122 filed to date.

The final determination as to whether the property qualifies as a homestead lies with the Commissioner of Taxes. The listers should notify the Tax Department if they have good reason to believe a property does not qualify as a homestead. The Department will conduct post-filing examinations.

If a property owner files a declaration, listers should assume the property is a homestead and should code their grand list accordingly.

Multi Use Properties

There will be parcels that contain both homestead and nonresidential property, e.g. a Mom and Pop store where the owners live upstairs; a dairy farm; a parcel where one or more of the outbuildings are used for commercial purposes, etc.

If the taxpayer has declared a percentage of the dwelling is rented or used for commercial purposes, allocate the value of that dwelling based on the percentage declared unless you have evidence of a

more appropriate methodology. If there are improvements that are used for commercial purposes, those improvements are classified as nonresidential. All the land is classified as homestead.

What portion of a house is declared business use when there is a childcare business?

If more than 25% of the floor space is used for this business, that percentage must be declared. Taxpayers are to report the same percentage on the homestead declaration as is appropriate on the federal schedule used to report business use of home (unless it's 25% or less). The IRS publication [#587](#) on business use of homes is helpful.

How is a parcel that used to be a dairy farm classified? There's a house and land and several outbuildings. They grow and sell baled hay to the horse owners in the area. They use a tiny corner of one room for an office—only about 5% of the total area of the house. The tractor and related equipment, as well as the hay that's for sale is kept in one of the barns. They also grow vegetables that are sold at a farm stand, along with pies and assorted baked goods. What portion of the property should be classified as nonresidential?

The owner should have declared that other buildings are being used for business purposes in #7 on the HS-122. Since they use less than 25% of the house for business purposes, they don't declare anything under #5 on the Declaration. The listers should classify the barn used to store the hay and equipment as nonresidential. The rest of the property is homestead.

There's a house and about 35 acres. Along with the residence, there's a small hunting camp on the property and a sugarhouse. Do we classify any of my property as being used for business purposes?

If the deer camp and sugarhouse are for the owners' use only, no. If they rent the deer camp and/or if they sell the maple syrup (or other maple products) they produce, yes.

What about a **hobby farm**? For example, we have some old dairy farms in our town that have been purchased by people who use the property for a residence but also have some horses or maybe a llama or some sheep. I understand that a dairy farmer that makes his or her living from milk production is running a business and therefore the farm buildings can't be included in the homestead value (but can be enrolled in the use value appraisal program). Can the horse barns and related outbuildings of a hobby farmer be classified as homestead?

Yes. If the barns and other improvements are not being used for the business of farming, they can be classified as homestead property. Cultivating crops or operating a farm for recreation or pleasure rather than a profit is not the business of farming. [Reg. § 1.5401\(7\)\(e\)\(5\)](#). (These buildings cannot be enrolled in the use value appraisal program.)

What about improvements like **ponds** and **fencing** on a farm? Are these nonresidential?

If these improvements are used for business purposes, they cannot be included in the homestead value. A picket fence around the main dwelling or a decorative pond close to the dwelling and not accessible to the farm animals is homestead property. Fencing used to control the dairy herd is nonresidential.

On a practical note, improvements such as these often represent a very small percentage of the total value of the property and may not be separately valued. If the listers do not have a contributory value for these components, that is acceptable. They do not need to make that allocation for tax classification purposes.

The homestead declaration indicates whether some buildings are being used for business purposes on a property. What if there are a lot of buildings on the property. **How do I know** which ones they are? What if I suspect there are buildings being used for business purposes and the taxpayer has made no such declaration?

That's a judgment call the board of listers must make. In most cases, the taxpayer will be honest and forthcoming. And in most instances, it will be obvious what buildings are being used for business purposes. In those instances where it is not obvious or where you have good reason to believe business use should have been declared but was not, you can request information from the property owner.

How do the listers classify the land on a property that is a homestead but also has nonresidential use?

If there is a homestead, **all the land** is to be classified as homestead. Some of the buildings and other improvements may be nonresidential. Consider the duplex on five acres. The property appears on the list of declared homesteads. The report indicates the owner has declared that 50% of the dwelling is rented. Half the value of the dwelling would be classified as homestead. All the land would be included in the homestead value.

What about a parcel with two houses?

A. Let's say John and Bill own the property jointly. John lives in one house and Bill lives in the other. Either John or Bill filed a homestead declaration. Assuming none of the property is being used for business purposes, the entire property is classified as homestead.

B. Again, John and Bill own the property jointly. John lives in one house, Bill lives in Massachusetts and the other house is rented to a third party. John must file a homestead declaration. John's house and the land would be classified as homestead. The second house would be classified as nonresidential. It is a detached building used for business purposes. Site such as water and sewer related to the rented house would also be assessed as nonresidential property.

C. John and Bill own the property jointly. John lives in one house. Bill lives in Massachusetts and uses the second house as a weekend getaway. John must file a homestead declaration. The entire parcel is classified as homestead. (This differs from example B above in that the second house on the property is treated as a detached building not used for business purposes.)

D. Joe and Alice own a farm with two houses. They live in one house and their parents live in another. Joe and Alice are farmers and have checked the pertinent special situation box (Residing in a dwelling owned by a related farmer) of the HS-122. Both houses are classified as homestead property. The definition of homestead provides that if the property is owned by a farmer and occupied by the owner's parent, sibling, child or grandchild, it is a homestead.

A family owns a house and some other buildings on 50 acres. They rent 30 acres and a barn to a nearby farmer. Is the entire property valued as homestead?

No. The dwelling and all contiguous land is homestead. The rented barn is nonresidential property, however. The value of improvements relating to that barn (such as water and sewer) would also be classified as nonresidential property.

Ownership Issues

Can a property that's held in trust be a homestead?

A dwelling held in trust and occupied by the beneficiary of the trust as her/his principal dwelling should be declared as a homestead only if:

- the declarant or the declarant's spouse or civil union partner was the grantor of the trust
- the trust is revocable or became irrevocable solely by reason of the grantor's death
- the declarant is the sole beneficiary of the trust. If husband and wife or civil union partners together are the only beneficiaries, the sole beneficiary requirement is met.

The declarant that qualifies thus should have marked the 4a special circumstances code on the HS-122. You may contact Taxpayer Services (828-2865) if there are questions on a specific property.

There's a property in town that is in an estate. The owner passed away a number of years ago and the estate has not been settled. There's a dwelling on the property that is occupied by the daughter of the deceased. Should she file a homestead declaration?

No. To be a homestead, the property must be owned by the occupant. The daughter is not the owner of the property.

My uncle died in February. The estate hasn't been settled and the house was empty on April 1. Should this property be subject to a homestead declaration?

Yes. The administrator of the estate should file the homestead declaration. There is an exception in the case of an individual that passed away recently leaving his or her property in an estate. For the purposes of homestead declaration and classification, "homestead" also means a residence which was the homestead of the decedent at the date of death, and from that date of death through the next April 1 is held by the estate and not rented.

What about a life estate. We have cases where a parent has conveyed the property to a child but retained a life estate interest. If the parent lives there, is it a homestead?

Yes. The owner of the life estate interest should file a homestead declaration.

What if a parent owns the property but the child lives there. Is this a homestead?

In most instances, no, because the property is not owned by the child.

There are exceptions on farm properties. If the property is owned by a farmer (a farmer is someone who makes at least 50% of his/her gross income from the business of farming) and occupied by the owner's parent, sibling, child or grandchild, it is a homestead. The declarant should mark the appropriate special situation code (Residing in a dwelling owned by a related farmer) on the homestead declaration.

There are some houses in our city on land leased from the community land trust. The land is listed separately in the grand list under the community land trust name. Can the land be classified as homestead?

Yes, if the land is owned by a community land trust with 501(c)(3) status, the homestead value is a pro rata share of the land upon which the dwelling sits. The community land trust determines the pro rata portion allocable to each homeowner. If the bill is in the land trust's name, the land trust will file a list of its properties with the Tax Department. The Tax Department will notify the towns of parcels that qualify as homesteads.

Can a condominium and its related common land be a homestead?

Yes. If the owner occupies the unit as his or her principal dwelling, it is a homestead. The owner's interest in the common elements, such as contiguous land, utility buildings, swimming pool, etc., is also homestead property.

We have a development that was organized under the Uniform Common Interest Ownership Act (UCIOA - 27A VSA Chapter 17). The land, tennis courts, and some other improvements are listed separately in the grand list under the Association. Is this homestead property?

No. Any unit and the common elements associated with that unit that are listed to the association, and any portion of the common property for which the association has reserved any development right is a separate parcel taxed to the association. Property listed to the association is to be assessed at the nonresidential tax rate.

We have a condo unit in the city that is owned jointly by a woman and her parents. The daughter is a full-time student at UVM and lives in the condo. Is this a homestead?

It depends. It is a homestead only if the daughter is a Vermont resident and the condo is her domicile—that is, she moved to the state intending to make it her home indefinitely, not merely her residence while she attends school in the state.

[Rule §1. 5811](#)(11)(A)(i) sets out criteria for determining domicile. The most important determinants are where the person's home is, where her family is, where items important to her are kept, where her business involvement are, where she spends time. There are a number of other factors that may be significant in the case of a student (location of domicile in previous years, voter registration, income tax return address and filing, etc.) In most cases, it is a move only for the duration of the student's time in school and does not constitute a change in domicile.

What do the listers do if there are properties that they know are homesteads that are not on the list received from the Tax Department?

The Tax Department makes every effort to ensure Vermont residents know about the need to file the declaration. As with any program, it's expected some folks will not understand the requirements. The Tax Department asks that the listers provide a listing of those parcels they believe are homesteads for which no HS-122 has been filed. (That's the NF code on the electronic file return.) The Tax Department will follow up.

A fellow built a house on a lot that was subdivided from a larger parcel. It doesn't have a SPAN number yet. He wants to file a homestead declaration. Can the listers give him one?

Yes. On request, the listers should provide the SPAN number for the parcel.

Define Parcel - Contiguous

A homestead includes the entire parcel of land surrounding the dwelling, determined without regard to any road, river or stream that intersects the land. 32 V.S.A. [§5401](#)(7). Parcel means "all contiguous land in the same ownership together with all improvements thereon. 32 V.S.A. [§4152](#)(3).

There's a town resident who owns an antique shop and a house. The antique shop is on 1.5 acres on one side of the road. The house is on 5 acres directly **across the road**. Although technically this is one parcel, we've been treating it like two parcels in our grand list. Can we leave it as two parcels?

No. It must be assigned one SPAN. The definition of parcel must be strictly adhered to. This is one parcel in your grand list. The house and all the land are classified as homestead and the value of the antique shop is classified as nonresidential.

The listers may determine that the highest and best use in the above example is as two separate properties. That is, the highest monetary return would most likely be realized by selling these properties separately as a residential property with 5 acres and as a commercial property with 1.5 acres. If that is the case, appraise this as two separate parcels and then combine the value in the grand list book.

The parcel definition is for tax purposes only. It is only determinative of how the property is to be listed for property tax purposes—not for how it is to be appraised.

We have some houses **that are right on the town line**. They own contiguous land in the next town. How does the land in the next town get classified as homestead?

A town line does not change the classification of contiguous property. The entire holding is homestead property. The property owner must file two homestead declarations, however—one for each town, since the towns will have assigned separate SPAN's. There's a special circumstances box (Homestead property crossing town boundaries) on the homestead declaration the declarant should mark to indicate the property crosses town lines. That's to help the listers in the town with no house on their listing to understand why a declaration is being made.

What if there are two deeds and the owners are the same people, but the names are written a little differently? I know of a couple contiguous lots owned by the same man. One of the deeds says John L. Little. The deed for the other lot says John Little. I know it's the same person. Should this be treated as one parcel?

Yes. If it's the same person, it's one parcel.

What if the property is separated by an interstate highway or other road? Is it still considered one parcel?

Yes. The homestead definition specifically says "without regard to any road that intersects the land."

While it is one parcel for grand list and tax classification purposes, the listers should be careful when appraising these parcels, however. Even though this meets the administrative definition of "parcel" you will need to consider the highest and best use of property and its access. You might have a farm parcel with 200 acres on one side of I-91 and 35 acres on the other side. If the farmer can't easily access that 35 acres, you would probably want to grade it very differently than the 200 acres. The grade might be lower because it can't be practically farmed. On the other hand, the grade may be higher if its highest and best use is for residential development rather than farming.

Domicile Issues

It is expected some people will file a homestead declaration even though they don't live in town, or fail to file a homestead declaration when they are residents, in order to get a lower tax rate. The Town or City will receive a listing of all properties for which a homestead declaration has been filed (annually beginning in February from the Tax Department). If the listers have good reason to believe the property is not correctly classified, they should notify the Tax Department as part of the annual June 1 electronic report to the Department. The Tax Department will initially allow the declaration as filed. Based on information from towns the Department follows-up on domicile issues by contacting the person who declared the homestead (or failed to do so) and requesting information pertinent to the person's domicile status. The listers' input is key to ensuring equitable taxation statewide.

The listers aren't expected to make decisions with regard to domicile issues. The listers' input is only one tool the Tax Department has to determine whether a person is domiciled in Vermont. If listers have good reason to believe it's not correctly classified, report back to the Tax Department list

accordingly. Use your best judgment and leave it to the Tax Department to follow up.

Penalties-Late Filers and Nonfilers

There are penalties imposed when homestead declarations are filed late, and when a person fails to make the proper declaration. If the declaration is untimely-filed with the Tax Department (in 2007 that after April 17 and before September 5), the declaration will be accepted and the Town notified. The grand list book must contain a field indicating the homestead declaration has been received and a notation if it was untimely-filed. The education tax bill generated from this grand list entry will be adjusted by the Town to reflect the classification as homestead. That bill will also include a penalty equal to 1% of the education tax if it was untimely-filed.

Don't the listers have to go through the errors and omissions section to make a change to the grand list book?

Yes. but it's a simpler process than with most changes. The approval of the selectboard is not required.

When real or personal estate is omitted from the grand list by mistake, or an obvious error is found, the listers, with the approval of the selectboard, before December 31, may supply such omissions or correct such errors and make a certificate thereon of the fact; provided, however, the listers may make a correction resulting from the filing or rescission of a homestead declaration without approval of the selectboard. 32 V.S.A. §4261.

The certificate to be attached to the grand list book need only be signed by the listers. A sample certificate appears on the following page.

SAMPLE

E&O Certificate – Classification Change Only – Selectboard approval not necessary

The board of listers of the Town of _____ are hereby supplying the following changes that are the result of the filing or rescission of a homestead declaration. Specifically:

Owner	SPAN	Change

Date: _____, Lister

_____, Lister

_____, Lister

I, _____, town clerk of _____ certify receipt of these changes. This certificate will be attached to or recorded in the grand list of _____ for tax year _____.

Date: _____, Town Clerk

When real or personal estate is omitted from the grand list by mistake, or an obvious error is found, the listers, with the approval of the selectboard, before December 31, may supply such omissions or correct such errors and make a certificate thereon of the fact; provided, however, the listers may make a correction resulting from the filing or rescission of a homestead declaration without approval of the selectboard. 32 V.S.A. §4261

If the declaration is filed with the Tax Department **after September 1** the declaration will be accepted and the Town notified. The Town cannot amend the grand list book, however. The grand list book will change only if the homestead declaration was received at the Tax Department on or before September 1.

The Tax Department will provide listers with updated information on declarations received on a regular basis. Corrected tax bills can then be issued on those properties. No reduction in taxes can be made as a result of a homestead declaration filed after September 1. If, however, the homestead tax rate in your town is higher than the nonresidential tax rate, the owner will be billed for the additional amount plus interest at the rate the town charges for delinquent taxes. Such bill will also include a penalty (1% of the education tax) for late filing (penalty is 100% if the Tax Department has determined the late filing was result of fraud).

Income Sensitivity - Housesites

Vermont has a program to lower the tax bill for low to moderate-income residents. Residents file for this property tax adjustment claim on the HS-122 form. The amount of the benefit will be related to the property owner's income and the value of their "housesite."

A housesite is that portion of a homestead that includes the principal dwelling and as much of the land surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit; and in the case of multiple dwelling units, no more than two acres per dwelling unit up to a maximum of 10 acres per parcel. See 32 VSA § [5401](#)(11).

It include all improvements not used for business or rental purposes, e.g. sheds, garages, site improvements, tennis courts, swimming pools, etc.

XIII. USE VALUE APPRAISAL PROGRAM

A. Introduction

Vermont's use value appraisal program is designed to “encourage and assist the maintenance of Vermont's productive agricultural and forest land; to encourage and assist in the conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety and welfare.” 32 VSA, [§3751](#).

Simply put, owners of eligible property may enroll it in the program. In return for keeping the property in agricultural, forest and conservation use, the owner is taxed on the value of that property for those uses, rather than the value of the property at its fair market value (highest and best use). If enrolled property ceases to be eligible, it reverts to fair market value assessment.

If enrolled land is “developed,” a land use change tax is due the State in the amount of 20 percent of the fair market value of the developed portion (10% if the property has been enrolled more than 10 years). “Development” is defined in 32 V.S.A. [§3752\(5\)](#). For the purposes of the land use change tax, the director determines the fair market value by applying the common level of appraisal to the listed value of the land involved.

B. Allocating Value for Enrolled Parcels

The listers must determine the correct listed value of a parcel that has land enrolled in the use value appraisal program. There may be several steps in this assessment—depending on the parcel, what portion is enrolled, and whether there are buildings involved. You may have to allocate value based on classification as homestead or nonresidential, too.

The method of appraisal of enrolled parcels must be the same as for other parcels in town.

Example 1: Non Residential Property – Entire parcel enrolled in use appraisal.

This one is simple. The value of the enrolled property is estimated using the same methodology as is used on other properties in town.

The exempt reduction (nonresidential property) is the full value of the enrolled land minus the use value of enrolled land.

The owner's listed value (nonresidential property) equals the use of enrolled land. The owner's listed value when added to the exempt reduction must equal the total listed value of the property.

Example 2: Non Residential Property - With Excluded Land

This one takes two steps. First you determine the value of the land using the same methodology used on other parcels. Say the total value is \$65,000.

Lets assume the parcel is 50 acres of agricultural with no houses or improvements. 40 acres is enrolled in use value—10 acres is excluded. You now must determine the contributory value of the 10 excluded acres. Look at the map of the parcel included with the current use to locate the 10 acres. Determine the value of that 10 acres using the same methodology as for other land in town. In most instances is finding the value of 10 acres on your residual (not site) land schedule and applying the appropriate grade adjustment. Assume the result is \$10,000.

The value of the enrolled land is therefore \$55,000. That's the difference between the value of the entire parcel (\$65,000) minus the value of the 10 acres (\$10,000).

The exempt reduction (nonresidential property) is the contributory value of the 40 enrolled acres (\$55,000) minus the use value of the 40 acres.

The owner's listed value (nonresidential property) is the value of the excluded land (\$10,000) plus the use value of enrolled land.

The owner's listed value plus the exempt reduction must equal the total listed value -- \$65,000 in this example.

Example 3: Homestead and Nonresidential Property – house, garage and 2 acres excluded

Lets assume the parcel has 120 forest acres enrolled and 200 acres of agricultural land enrolled. The house, garage and 2 acres are excluded. Two barns and several smaller outbuildings are enrolled. Using the same methodology as is employed with other properties in town, determine the total listed value of the land and of the improvements.

Next determine the contributory value of the 2 excluded acres. The majority of land schedules are designed to determine that 2-acre base value (sometimes called a site value). That becomes the contributory value of the excluded land. Because this parcel is a declared homestead, that 2-acre value is homestead value.

Next deduct the 2-acre value from the total land value. The result is the contributory value of the 320 enrolled acres. This value is also homestead value.

Assuming your town uses a cost-based mass appraisal system, you will have values for the improvements. This example includes buildings enrolled in use value and buildings excluded. They are:

House, garage and related site improvements (excluded) – Say \$400,000

Barn, various other outbuildings and related site improvements (enrolled) – Say \$500,000

The house and related improvements and the garage are homestead. The barns and various other outbuildings that are enrolled in use value are nonresidential. The result will look something like the figures below. The listers are responsible for the **bold** figures in *italics*.

		Homestead	NonResidential
<i>Dwellings and Non Farm Buildings</i>			
<i>Listed Value</i>		<i>400,000</i>	
<i>Farm Buildings Listed Value</i>			<i>500,000</i>
<i>Listed Value of</i>	<i>2 Acres Excluded</i>		
	<i>Land</i>	<i>25,000</i>	
<i>Listed Value of</i>	<i>320 Acres Enrolled</i>		
	<i>Land</i>	<i>192,000</i>	
Use Value of Enrolled Acres		36,840	
Owner's Grand List (Listed Value Taxed)		461,840	
Exempt Reduction (Listed Value Not Taxed to Owner)		155,160	500,000

C. Data Transfer

An electronic file containing data on current use parcels is made available to the listers by April 15 annually. The listers must provide the contributory values and make any necessary corrections to the data and return the electronic file to PVR. Once the file has been received and certified, the data can be uploaded to your grand list data base.

D. Changes in Ownership or Use

The owner of enrolled property is required by 32 V.S.A. § 3757 to notify both the Director of Property Valuation and Review and the local assessing officials of:

- the development of the land, as defined in § 3752 of this chapter;
- any change or discontinuance of use of the classified land so that it is no longer eligible for use value appraisal or is eligible for a different use value appraisal under this subchapter; and
- any transfer of ownership.

Different scenarios require different actions. The responsibility in most instances is that of the property owner. The listers and assessors can be a great help in directing the property owners on what action to take. Listers and assessors can also help by informing Property Valuation and Review Division of any

unreported conveyances, development or changes in use.

Conveyance of Entire Parcel - If the parcel is to continue in use value appraisal, the new owner must submit an application and, if requested, new maps and documentation relative to eligibility. New maps are needed in those cases where the previously filed maps do not meet the present mapping standards. The owner must contact the county forester in those cases where forestland subject to a forest management plan is involved. An updated management plan may be required. The new application is to ensure the parcel still meets eligibility requirements and to provide a clear and visible lien.

Failure by the new owner to file a new application and related documentation will result in the parcel being discontinued. The lien remains on the property until such time as the land use change tax is paid. No land use change tax is due, however, unless the property is “developed.”

Conveyance of Part of a Parcel - If the buyer wishes to continue enrollment in use value appraisal, he or she must submit an application, updated maps, and if requested, documentation relative to eligibility. The owner must contact the county forester in those cases where forestland subject to a forest management plan is involved. An updated management plan may be required. The seller must do the same if he or she wishes to continue the property retained in use value appraisal.

Failure by the buyer or seller to file new applications and related documentation will result in the respective parcel being discontinued. If the land is not eligible for use value appraisal at this time, it will also be discontinued. The lien remains on the property until such time as the land use change tax is paid. No land use change tax is due unless the property is “developed.”

Development - If enrolled property is “developed” it will be discontinued from use value appraisal and a land use change tax will be due the State of Vermont. “Development” is defined in 32 V.S.A. § 3752(5). It most often occurs when dwellings are built or, in the case of mobile homes, placed on enrolled land, or when a part of an enrolled parcel is conveyed and one or more of the resulting parcels contains less than 25 acres of land. Cutting timber contrary to the approved forest management plan also constitutes development.

The owner is required to notify both the Director of Property Valuation and Review and the local assessing officials when development takes place. The Director then determines the fair market value of the developed portion, and notifies the owner. The fair market value for purposes of determining the land use change tax is the listed value divided by the common level of appraisal.

The Tax Department issues a form to the owner with a description of the land developed, the fair market value of the land at the time of development or withdrawal from use value appraisal, and the amount of the land use change tax. The land use change tax is 20% of the fair market value of the developed land (10% for land that has been enrolled more than 10 years). The owner fills out the form, and signs it under the penalty of perjury. After receipt of payment, the Tax Department will furnish the owner with a copy and send a copy to the town or city clerk to serve as a release of lien. Thereafter, the land is appraised and listed at its full fair market value.

D. Withdrawal/Discontinuance

An owner may choose to voluntarily withdraw property from the program, or the Director may discontinue property.

An owner may voluntarily withdraw from the program at any time by filing a Notice of Discontinuance with the Director. The Director established the fair market value of the as of the time of withdrawal. The owner is notified. The owner is not required to pay the land use change tax unless and until the property is developed. The owner may pre-pay the land use change tax at any time, however, and the lien is then discharged.

The Director may determine that previously qualified property is no longer eligible for use value appraisal. If such a determination is made, the Director determines the fair market value of the enrolled property and issues a Notice of Discontinuance. The owner and the Town receive copies. The owner is not required to pay the land use change tax unless and until the property is developed. The owner may pre-pay the land use change tax at any time, however, and the lien is then discharged.

E. Appeals

Appeals relating to the use value appraisal program are governed by 32 V.S.A. § 3758. If an owner is aggrieved by the Director's determination that his or her property is to be discontinued, or by the Director's determination that development has occurred, the first step in the process is to appeal to the Director. Such appeal must be in writing and be received in the office of the director within 30 days of the date the determination being appealed was issued.

The fair market value of parcels enrolled in the use value appraisal program may be grieved to the listers the same as other parcels in town.

Appeals relating to removal due to cutting contrary to a management plan are to the Commissioner of Forests, Parks and Recreation.

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