

# **Lister and Assessor Handbook**

## **A Guide for Vermont Listers and Assessors**

**Published by the Division of Property Valuation and Review**

**Vermont Department of Taxes**

**Phone: 802-828-5860**

**Email: [tax.pvr@vermont.gov](mailto:tax.pvr@vermont.gov)**



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**DEPARTMENT OF TAXES**

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### Call Us

Main Phone .....	802-828-5860
District Advisors Hotline .....	802-828-6887
IT Helpdesk .....	802-828-0428
Homestead, Property Tax Adjustment, and Renter Rebate Issues .....	802-828-2865
Property Transfer Tax Return and Real Estate Tax Issues .....	802-828-5860

### Email Us

General Mailbox .....	tax.pvr@vermont.gov
Real Estate Transfer Tax Issues .....	tax.rett@vermont.gov
Lister Education Questions .....	tax.listered@vermont.gov
IT Helpdesk .....	tax.ithelpdesk@vermont.gov

# I. The Lister\*

## Introduction

Years ago, a lister's job was seasonal and part-time. Listers spent a few days, weeks or months out of the year collecting data on new and improved properties to produce and defend a grand list.

Since then, ongoing legislation and taxation complexities have brought about many changes in Vermont. The lister's job has grown markedly. Today's role of lister includes daily tasks, extensive knowledge and training, and many more hours than ever before.

One of the most important responsibilities of a lister is to become educated in listing practices and real estate knowledge. This requires annual training and attendance at as many classes as possible. Becoming certified as a [Vermont Property Assessor](#) through the Property Valuation and Review (PVR), Vermont Department of Taxes, is highly recommended to establish professionalism and commitment to the position.

## Job Description

The overarching responsibility of the lister (and frequently municipal assessors) is assessment equity on the grand list. Assessment equity is, generally, the degree to which assessments bear a consistent relationship to market value. In order to achieve this, listers must understand appraisal methods and property assessment administration in Vermont.

With inflation, development, and subdivision, the grand list may quickly become out of date. Between the years in which complete townwide reappraisals are completed, listers need to make corrections, additions, and adjustments to maintain equity among properties. This process requires analyzing and interpreting sales data.

To determine the value of property, listers must consider the governmental regulations affecting potential uses and value. This includes town plan and zoning regulations, the method for determining a house site and homestead value, the Use Value Appraisal Program, and Health Department subdivision regulations. Listers 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 also has [land use regulation](#) information.

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

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 many appeals because procedural details were overlooked. You must carefully read, understand, and follow the statutes. The [Vermont statutes](#) can be accessed online or be read in the town clerk's office.

We hope that listers will recognize and accept the responsibilities of the job and continue the necessary professional education. It is recommended that listers take advantage of training and resources available to them, such as education and information offered by the following:

- [Vermont Assessors and Listers Association](#) (VALA)
- [Vermont Department of Taxes](#)

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\*For the purpose of this publication, the term "lister" includes listers and assessors.

- [International Association of Assessing Officers](#) (IAAO)
- [Vermont League of Cities & Towns](#) (VLCT)
- [New England Municipal Resource Center](#) (NEMRC)—offers tutorials & seminars
- [UVM Extension Service](#)—sponsors annual conferences and seminars
- [PVR's Annual Report](#)—provides a wealth of information related to your job

### The Lister as a Public Official

As a lister, 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 under 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** in [1 V.S.A. Chapter 5](#) states that the public must be warned of all lister meetings, that meetings must be open to the public, and that listers 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 "[Guide to Open Meetings](#)" published by the Secretary of State is an excellent source on the topic. These requirements do not apply to the [daily work of a lister](#) (viewing properties, running cost valuation, etc.), as these activities are not considered "meetings."

The law gives guidelines for allowing the public to review or copy all of your records, with the exception of inventories and confidential rental information. The records should be available between 9:00 and 12:00 p.m. and between 1:00 and 4:00 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 that you have an arrangement with the town or city clerk so citizens can review a record in your absence. 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 or electronic file of certain records, you must provide them with the information, 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 [fee schedule for copying public records](#) is available on its website.

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. [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 (PVR) for an extension of time on their schedule. [32 V.S.A. § 4342](#).

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 community benefit from a good working relationship between the two boards.

Although many boards of listers divide the duties for efficiency, each lister is equally responsible for the work of the board. Cross-training is essential. The board chair typically acts as the primary contact person for the board.

Some public officials choose to be on more than one board, or spouses seek to be on the same board. Some boards are incompatible, and it is recommended that you check with the [Secretary of State's Office](#) to see if being on more than one board is advisable or allowed.

### **Career Development**

As a lister, you are in a position to become well-educated in your field and to add beneficial experience with each passing year. The lister position can lead to a career as a professional assessor. PVR and its affiliates offer a range of classes to enhance your training and education to this end.

PVR offers a [Vermont Property Appraiser Certification Program](#). There is a Program [Handbook](#) that details the process.

Listers may also check out the following resources:

- [Division of Property Valuation and Review](#), Vermont Department of Taxes PVR)  
PVR holds classes each year at various venues around the state, specifically for Vermont officials based on Vermont statutes and circumstances. [Vermont Assessors and Listers Association](#) (VALA)  
VALA provides education and information for listers and assessors.
- [International Association of Assessing Officers](#) (IAAO)  
IAAO serves professionals working in property valuation, property tax policy and related fields. They set the standards for mass appraisal and provide education and designations for assessors, appraisers and others in the industry.

- [New England Municipal Resource Center](#) (NEMRC)  
NEMRC offers classes and information regarding grand list and Computer Assisted Mass Appraisal (CAMA) procedures.



## II. Lister's Calendars

Your District Advisor will send you a newsletter at the beginning of each month that will include tasks and reminders. There will also be a calendar page for the current month, showing what you should be working on and watching for. The full annual [lister's calendar](#) will be on the Vermont Department of Taxes website for regular access. We suggest that you print out the calendar and refer to it often.

### Grand List Important Dates

	Population of <u>less than 5,000</u>	Population of <u>more than 5,000</u>
Assessment date	April 1	
<i>Homestead Declarations timely filed</i>	<i>April 15</i>	
<b>Latest</b> Abstract of Individual Lists can be lodged	June 4	June 24
<b>Latest</b> 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
<b>Results must be mailed within 7 days of close of hearings. Send certified mail, registered mail, or certificate of mailing to avoid any controversy.</b>		
<b>Latest</b> Grand List can be lodged	July 25	August 14
<b>Deadline</b> 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 any time after April 1 and prior to these dates.** Read [32 V.S.A. § 4111](#) and [§ 4341](#) together. The May 5 date in § 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 more. 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 (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** under [32 V.S.A. § 4342](#). If such extensions are granted, the letter from the director of Property Valuation and Review (PVR) granting the extension must be lodged in the grand list book.

### Annual Activities by Month

In most communities, listers maintain year-round office hours. Property transfer information, zoning permits, and other changes are reviewed throughout the year so that at the period between April 1 and the filing of the abstract and grand list is less hectic.

After the grand list has been finalized (Board of Civil Authority appeals heard and tax bills issued), it 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 an asterisk (\*), 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

PVR requests final submission of your electronic 411 and grand list for the prior year. This final submission is used for the reconciliation (true-up) done by the Agency of Education. Prior to sending in your 411, make sure your NEMRC program is current on updates.

### FEBRUARY

If, on the **first Tuesday in February**, there is no appeal or suit to recover taxes pending, you and the selectboard must 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 that the grand list cannot be challenged. [32 V.S.A. § 4155](#). The form was printed with your signature pages when you lodged your grand list to become part of your (final) grand list document. The [form](#) is also on the Department of Taxes website.

Homestead declaration files begin to be available for download and review by the listers. These files should be reviewed each week. See [download directions](#).

### MARCH

By March 15, PVR sends each town an electronic file of Current Use parcels that have received preliminary approval for the upcoming tax year. PVR asks you to consider such questions as the following:

- 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?

Corrections and comments are due no later than July 5. [32 V.S.A. § 3756\(b\)](#). Please do your best to turn these around and submit them to PVR within 30 days of receipt.

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

Homestead declaration files are available for download and review each week by the listers.

After town meeting, newly elected listers must take the required oath. [32 V.S.A. § 3431](#).

The lister 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. Check your email for new lister training announcements from PVR.

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](#).

### APRIL

Town Officer Education Conferences, sponsored by the [UVM Extension Service](#) and by the Vermont Department of Taxes, Division of Property Valuation and Review, are held in several locations within the State. Listers are encouraged to attend. [32 V.S.A. § 3434](#).

#### *April 1*

This is the assessment date. [32 V.S.A. § 3651](#), [§ 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 is used to inspect new construction, to check on 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 fill out a form to [request](#) an updated Common Level of Appraisal (CLA) to be used in determining the education tax rates in your municipality. [32 V.S.A. § 5406\(c\)](#).

Homestead declaration files are available for download and review each week by the listers.

#### *April 15*

This is the [deadline](#) for taxpayers to timely file homestead declarations with the Vermont Department of Taxes.

On or about **April 15**, PVR provides data on all parcels enrolled in the Use Value Appraisal Program (Current Use) available for download 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 PVR by July 5.

**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](#). This form is available in the NEMRC grand list program.

## MAY

### *May 1*

PVR furnishes copies of inventory forms filed by public utilities. [32 V.S.A. § 4452](#). Listers use this information to determine utility listed values. Homestead declaration files are available for download and review by listers each week.

### *On or about May 1*

PVR provides assessed values of state buildings and lands, as defined in [32 V.S.A. § 3701](#) to each municipality to which a payment-in-lieu-of-taxes (PILOT) is due. Municipalities have 30 days in which to appeal values.

## JUNE

### *June 1*

Listers return homestead declaration information to the Department of Taxes, noting corrections and comments. The Department makes corrections and returns the updated files June 15. *This exchange of information continues as new or corrected homestead information is received.* After the October filing deadline, property is to be classified as nonresidential. The owner then must pay the higher of the two rates, a penalty, and any additional [property tax and interest due](#).

Homestead declaration files and Current Use electronic files are available for download and review 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 that have value or allocation changes. [32 V.S.A. § 4111](#) and [§ 3756\(d\)](#).

### *About June 15*

PVR 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 be meeting with you (via phone or in person) to discuss this information. You may contact your District Advisor at any time after your review to set up a meeting, or if you have any questions about the process.

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 grievant(s) of your decision within 7 days of the close of the hearings. These notices must be sent by registered mail or certified mail. Include in your notice information about appealing to the Board of Civil Authority (BCA). [32 V.S.A. § 4224](#).

### *June 30*

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

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\*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. (If this is not possible, an extension is needed.)

**JULY**

Homestead declaration files and Current Use electronic files are available for download and review by listers.

***On or Before July 5***

This is the deadline for listers to electronically report the final Current Use numbers to PVR. 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 final version of the grand list and Form 411 must be lodged with the town clerk. [32 V.S.A. § 4151](#) and [§ 4181](#).

We recommend doing this immediately after last grievance notices have been sent.

Municipal tax rates are set by selectboard.

**AUGUST**

***On or before August 15***

An electronic copy of your grand list and form 411 (Grand List) must be sent to PVR ([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 PVR 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 closed 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 electronic files continue to be available for download and review by listers.

**SEPTEMBER**

***September 1***

New applications for the Use Appraisal Program (Current Use) are due at PVR. This may prompt questions from your landowners on eligibility and obtaining maps. If you or the property owner needs assistance, contact PVR at 802-828-5860 or [tax.pvr@vermont.gov](mailto:tax.pvr@vermont.gov).

Homestead declaration files and Current Use electronic files continue to be available for download and review by listers.

**OCTOBER/NOVEMBER**

PVR is completing the sales ratio (equalization) study and getting ready to send the equalized education grand lists, CLAs and CODs out.

Homestead declaration files and Current Use electronic files continue to be available for download and review by listers.

### *November 1*

State payments to towns for loss in municipal revenue as a result of use value (Current Use) appraisal are made. This is also known as the [Hold Harmless](#) payment. [32 V.S.A. § 3760](#).

State [payments-in-lieu-of-taxes](#) (PILOT) are sent to towns. 32 V.S.A. § 3706.

Both of these calculations use grand list data from the previous year. For example, the November 2017 payments will be based on April 1, 2016, grand lists.

Homestead declaration files and Current Use electronic files continue to be available for download and review by listers.

### DECEMBER

The Director of PVR will notify you of the municipality's equalized education grand list, CLA and COD ([32 V.S.A. §5406](#)). Petitions for redetermination (appeal) can be filed under [32 V.S.A. § 5408](#). Such petitions must be timely and be filed by your legislative body (selectboard in most towns). **A CLA of less than 80% and/or a COD higher than 20% will mean your town will be required to conduct a reappraisal.** [32 V.S.A. § 4041a](#).

### *December 30*

Last day for Errors and Omissions changes to the grand list are due by this date. [32 V.S.A § 4261](#).

## III. Appraisal at Fair Market Value

### Fair Market Value Defined

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

The estimated fair market value of a property is the price that 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 the effect of any State or local law or regulation affecting the use of land, including 10 V.S.A. chapter 151 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 for 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,” published by the International Association of Assessing Officers (IAAO). Other excellent texts are available from the Appraisal Institute.

#### IAAO

314 West Street  
Kansas City, MO 64105  
Ph. 816-701-8100  
[www.iaao.org](http://www.iaao.org)

#### Appraisal Institute

200 W. Madison, Suite 1500  
Chicago IL 60606  
Ph. 312-335-4100  
[www.appraisalinstitute.org](http://www.appraisalinstitute.org)

### Highest and Best Use

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. Chapter 23](#) concerning water pollution
- the laws governing public water supplies in [10 V.S.A. Chapter 56](#)
- town plans; and local bylaws, including local zoning regulations
- subdivision and solid waste regulations
- [10 V.S.A. Chapter 151](#) (Land Use and Development Plans, a.k.a. Act 250)

The Vermont Department of Environmental Conservation (DEC) has a [Permit Handbook](#). [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 the following three ways: 1) the amount of time that is involved in securing the necessary permits; 2) the risk that the permit may not be granted; and 3) the cost of the required systems necessary to meet standards. All such permits may affect 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 10 units. It is important, however, to review the [criteria](#).

In most cases, you will not be valuing property as though the highest and best use 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 10 lots with 10 acres per lot 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. Although the majority of Act 250 applications are approved, required permitting may delay development. The following development projects would come under Act 250 review:

- any construction of improvements for any purpose above the elevation of 2,500 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 10 or more housing units, or the construction or maintenance of mobile homes or trailer parks with 10 or more units, within a radius of 5 miles (see regulations);
- 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;
- within a town that does not have both permanent zoning and subdivision regulations, subdivision of land creating 6 or more lots of any size within a continuous period of five years
- the construction of improvements for a governmental purpose if the project 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 which will be a substantial change or addition to, or expansion of, a grandfathered (existing pre-1970) development of that type that would require a permit if built today
- the construction of a support structure which is primarily for communication or broadcast purposes and which extends 50 feet, or more, in height above ground level or 20 feet, or more, above the highest point of an attached existing structure
- the exploration of fissionable source materials beyond the reconnaissance phase or the extraction or processing of fissionable source material
- the drilling of an oil or gas well
- the sale, by public auction, of any interest in a tract or tracts of land, owned or controlled by a person, which have been partitioned or divided for the purpose of resale into five or more lots within a radius of 5 miles and within any period of 10 years
- any withdrawal of more than 340,000 gallons of groundwater per day from any well or spring on a single tract of land or at a place of business, independent of the acreage of the tract of land

**Appraisal Principles**

There are 12 economic principles that form the basis for the highest and best use analysis.

**1. 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.

**2. 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.

**3. 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.

**4. 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.

**5. 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.

**6. 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 development of single-family homes, 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.

**7. 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. Of course, one example doesn’t necessarily equate to an exact market value—it is better to find and compare as many examples as you can to substantiate your conclusion.

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

**8. Increasing and Decreasing Returns**

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.

### 9. 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 over-improvement.

### 10. 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.

### 11. 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 purchasers.

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 demand by making borrowing more attractive to buyers.

### 12. 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.

### 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 used 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 house sites, 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, 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.

An example of a data display appears on the next page.

Your data display might look something like this:

	<b>Subject</b>	<b>Sale 1</b>	<b>Sale 2</b>	<b>Sale 3</b>
Sale Price	-	\$96,300	\$82,400	\$83,400
Date of Sale	-	5/12/16	11/1/16	11/15/16
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 methodology. This will depend on the appraisal assignment and the preference of the lister/appraiser.

An example of multiplicative percentage adjustments appears on the next page.

Multiplicative percentage adjustments might look like this:

	Subject	Sale 1	Sale 2	Sale 3
Sale Price	-	\$96,300	\$82,400	\$83,400
Time Adjustment	-	1.12	1.09	1.09
Time Adjusted Sale Price		\$107,856	\$87,636	\$90,906
Age	10 years	0	1.04	.95
Condition	Good	1.05	0	1.05
Lot size	50' x 100'	.90	0	.95
Floor Area (square feet)	1,500	.90	.95	0
Garage	Attached	0	1.03	0
Quality	Good	0	0	1.05
Net Adjustment		.851	1.018	1.005
Adjusted Sale Price		\$91,800	\$89,200	\$91,400

**Adjustments**

- Time 0.5% per month
- Age 2.0% per year
- Condition 5% between average and good
- Lot size 5% between each rating
- Floor area 5% per 100 square feet
- Garage 3% less for detached
- Quality 5% between average and good.

**EXAMPLE ONLY**

You must determine proper adjustments based on your market data.

You now have a range of value estimates from \$89,200 to \$91,800. The fair market value of your subject lies within that range.

It is strongly suggested that sales be analyzed on an ongoing basis. A sales file can be developed and maintained for many uses—including the development of depreciation schedules, and for supporting values under appeal. Your District Advisor can assist you in setting up such a file either manually or on your computer.

Listers are urged to train in the use of this and the other approaches to value whenever training is available. Please check the Vermont Department of Taxes website for educational listings or inquire with your District Advisor. There are also textbooks on the subject.

**Income Approach to Value (Income Capitalization)**

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 the following:

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 a class on the subject, such as an IAAO course offered through the Vermont Department of Taxes. 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. NEMRC Grand List Software

All Vermont towns use [New England Municipal Resource Center](#) (NEMRC) grand list software. The NEMRC website has [information and tutorials](#) related to their software.

The ones you will most often refer to are [Grand List](#); [Computer Assisted Mass Appraisal](#) (CAMA), if you are using NEMRC's CAMA; and the Tutorial items. NEMRC's phone number is 1-800-387-1110.

You will have an opportunity to take NEMRC classes. For information on upcoming computer labs check the [Vermont Listers and Assessors Association](#) (VALA) and [NEMRC](#) websites.



## V. NEMRC MicroSolve

The Division of Property Valuation and Review is required to develop improved methods for standardizing property assessment procedures and to provide technical assistance and instruction to listers in a uniform appraisal system ([32 V.S.A. § 3411](#)). One way PVR has fulfilled this requirement is with the development of a Vermont computer assisted mass appraisal (CAMA) system. Vermont uses the MicroSolve CAMA system developed by the New England Municipal Resource Center (NEMRC).

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.

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. NEMRC Microsolve is one CAMA system out of many. Towns may choose which CAMA vendor they would like to use. NEMRC MicroSolve is currently state-supported and upgrades are state-funded.

Questions on CAMA 2000? Contact your [District Advisor](#) or Tax IT Helpdesk.

Need information on the grand list module and help with the transfer of homestead and Current Use information? Contact the Tax IT Helpdesk.

### **Tax IT Helpdesk Contact Information:**

- Phone: 802-828-0428
- Email: [tax.ithelpdesk@vermont.gov](mailto:tax.ithelpdesk@vermont.gov)

## VI. Annual Reporting and Maintenance

### 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 occur.

Municipalities are required to reappraise all property if their Common Level of Appraisal (CLA) falls below 80% or the Coefficient of Dispersion (COD), a measure of uniformity of appraisal, is above 20%. [32 V.S.A. § 4041a](#). An ongoing analysis of the market, and keeping abreast of changes in properties, can make reappraisals less frequent and costly.

You should review sales as an ongoing 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, 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 fairness in 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 town-wide 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 CLA), 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).

### 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 CLA and COD are determined annually by the Vermont Department of Taxes. If the CLA is less than 80% **or** the COD is greater than 20%, 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.

#### 32 V.S.A. § 4041a. Reappraisal

(a) A municipality shall be paid \$8.50 per grand list parcel per year, from the equalization and reappraisal account within the education fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list.

NEMRC Microsolve is a mass appraisal tool that uses [Marshall and Swift](#) national cost data as the basis for generating values for the cost approach. It also provides the capability to estimate values using a comparables sales analysis, or a value based on the income approach. Use of a computer assisted mass appraisal (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 that future reappraisals can be done more often and more cost effectively.

There are other CAMA vendors besides NEMRC MicroSolve. 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.

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 may be obtained from Property Valuation and Review (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. Involved listers will also obtain valuable education by learning about the reappraisal process and beyond.

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 and professionalism?

### **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.

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, (with a value and stated method of valuation (insurance or assessment) and summarized on the form 411 (abstract of the grand list). Towns and cities will receive the \$8.50 and \$1 per parcel payments on all real estate parcels that have been assessed, both taxable and exempt. [32 V.S.A. § 4041a](#) and [§ 5405](#).

Each listing must contain the following:

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 (Highest & Best Use) codes—R1, R2, etc. (see following pages on these codes)
11. listed value of real estate
12. listed value of taxable personal property, if applicable
13. use value data, if applicable
14. 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.
15. mobile home descriptions shall include, if available: manufacturer, model number, serial number and dimensions.
16. if the property is exempt, the listed value assuming no exemption must be shown and details should be provided as to the reason for the exemption. The method of valuation (insurance or assessment) should be chosen and the appropriate statute utilized should be selected.

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

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 the following: 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; and 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 the following: 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—Provide the 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 include the following: 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 other users. Consult with NEMRC or your District Advisor for help in running error reports.

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 then becomes the grand list of the town, and the town clerk certifies receipt of it.

Questions on the listing process should be addressed to your District Advisor.

### **Real Property Highest and Best Use Codes**

You must list property in the category of its “Highest and Best Use” (see page 11 for the full definition).

#### **DWELLING CODES:**

**Residential (R1 and R2)**—Include houses with four apartments or fewer 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 (such as an uninsulated camp, or a house without reasonable winter access or heating), it should be defined as a seasonal 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 V.S.A. § 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.

**Seasonal (S1 and S2)**—Include all properties with a highest and best use for seasonal occupancy. This may include summer homes with inadequate year-round heating/insulation, ski chalets, hunting camps, camps and cottages on lakes and ponds (such as with restricted zoning, poor insulation, heating and/or access), 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.

**S1—Seasonal property with under six acres of land.**

**S2—Seasonal property with six or more acres of land.**

#### **COMMERCIAL CODES:**

**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. The market is the controlling factor.

**CA—Commercial Apartments.** Apartment buildings with more than four apartments.

#### INDUSTRIAL CODES:

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.

**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, solar arrays, wind towers, substations, 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, cell towers, 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**. 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**. Please see the “Subjects” section for more on propane tanks.

#### FARMING CODES:

**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 seasonal 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 CODES:

**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 commercial lots, unimproved agricultural land, etc. Such parcels may have buildings of little or no value.

#### OTHER CODES:

**O—Other.** Contact PVR 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 S1 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 MHUs. If you choose to use the **Other** category, it must be designated for only one type of property.

Do not use this category for exempt properties. Do not use this category unless it has been specifically earmarked for one 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. or Jones Sisters, LLC are corporate-owned. The property does not have to be a large commercial or industrial property to warrant this type of ownership code. Many seasonal and residential properties are owned by business entities. Please code all such properties as such. State and federal government properties should be listed as owned by a corporation.

Please check all these codes yearly—especially on those properties that have transferred. Many times the ownership code changes when the property changes hands. Make sure anyone entering data knows 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 (including governmental). 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**.

### **Sales Reports from Department of Taxes**

As a lister, you will be tasked 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. 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 collected from the Property Transfer Tax Returns. The listers receive a list of their sales in their municipality (via the NEMRC program in late June). Listers should review the data for errors. 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 a significant amount of personal property conveyed that was not reflected separately in the sales breakdown on the property transfer return.
- 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.
- Sales where a significant improvement was made just prior to the sale.

PVR also audits this sales information and contacts many of the buyers and/or sellers of property to acquire details on sales. Towns should consider using some form of verification letter to gain information on the sales as the sales occur. Your District Advisor can help you with the sales verification process. For more information on the role of listers in the Equalization Study, see the [Equalization Study Instructions](#).

### 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 PVR per [32 V.S.A. § 4181](#). This is an abstract (summary) of the information contained in the grand list. It will show 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; or
- 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 may result in the withholding of state aid. [32 V.S.A. § 5404](#).

The above requirements are satisfied with the filing of the PVR form commonly called the “411.” The town must file an electronic version of both that form and the complete grand list book (via your NEMRC program: Reports / Print 411 / Send Electronically? “Yes.”). The grand list and 411 are included in the electronic transfer. This data is the basis for many of the reports required to be completed by PVR, as well as a key source for the compilation of the equalized education grand list. There is more information about the 411 form on [NEMRC’s website](#).

**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 Masons) 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 taxable 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 PVR 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 one of the following:

- fixing and maintaining the tax rate
- fixing and maintaining the listed value
- 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 following:

- 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<sup>1</sup>.* Please read the instructions on the form carefully. Contact PVR 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 with Property Valuation and Review. (As of 2016, it is no longer necessary to send a signed copy of the 411 to Property Valuation and Review.) [32 V.S.A. § 5404](#).

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<sup>1</sup>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).

### 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 very accurate, often the comparison of survey to deeded acreage will result in a variation of up to 25%. We recommend that you list acreage in the grand list according to the best information available to you. This section discusses some of the sources of information you may encounter and how to weigh them.

The Vermont orthophotos (digital and paper) are aerial photos which have been corrected so they are accurate for determining distance and acreage and they are available for every town in Vermont. Orthophotos can be viewed [online](#) using the Vermont Interactive Map Viewer or the [Vermont Agency of Natural Resources Atlas](#) and can be printed for municipalities for little or no charge by the [Regional Planning Commissions](#) (RPC). 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 basemap that landowners must use when enrolling in the use value appraisal programs.

When a parcel is sub-divided or sold, it is often surveyed. If the deed refers to a recent survey, the survey must be provided or referenced. [27 V.S.A. § 341\(b\)](#). It is important to be aware of the distinction between surveys prepared by licensed land surveyors and other maps that may show parcel boundaries, but are not prepared by licensed land surveyors and therefore should not be used to convey land or determine acreage.

Tax maps, although they do not carry as much weight as a registered survey, can be an excellent tool for determining acreage if they are high quality. These maps, prepared from land records and visual information from orthophotos, 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.**

Modern tax maps are made using computers and mapping software. Tax maps and the digital parcel boundary data used to make them (GIS data) are among the most important local government information assets a municipality creates and manages, as they are a fundamental base for many municipal activities. Municipal property mapping efforts should support the needs of all municipal agencies in an effort to combine cost sharing benefits. GIS parcel data is NOT the equivalent of legal property records or land surveys, but the data does assist municipal officials with functions such as accurate property tax assessment, conservation, planning and zoning.

#### Towns access their tax maps in a variety of ways:

**Paper map**—should be updated annually to reflect changes

**Online mapping application**—municipalities can link their maps to their grand lists and display ownership, valuation, and parcel type information. Officials can show taxpayers how proposed development or changes in municipal services and regulations will affect them and their neighbors.

**Desktop computer interface**—free mapping software offers the tech-savvy municipal official many options. In many municipalities, parcel data also helps to provide public notices, plan bus routes, and carry out other municipal services.

Contact your regional planning commission (RPC) or the [Vermont Center for Geographic Information](#) (VCGI) for information on how to start using your digital parcel data.

We recommend that you undertake tax mapping a year or two in advance of a reappraisal. After the tax mapping 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 the grievance section.) [32 V.S.A. § 4111 et seq.](#) Once the appeals on acreage changes have been resolved, you will have a solid basis for organizing and undertaking a reappraisal. We recommend that you update your tax maps and the underlying digital parcel data annually (and get a copy of the digital data, whether you plan to use it or not—you can pass it along to the RPC, as they can use it on your town plan maps).

VCGI has worked with municipal and regional partners as well as surveyors to develop the Vermont GIS Parcel Mapping Guideline, which provides information about the process and the products involved in tax mapping. The most recent version of the Guideline is posted at the VCGI website in the [“Standards and Guidelines”](#) section. The Guideline provides template documents such as request for proposals (RFP) and contracts, as well as recommended best practices. VCGI can provide a list of companies who provide tax mapping services. VCGI also manages the [Statewide Parcel Mapping Program](#), which supports towns with information about parcel mapping.

### **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.](#)

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.](#)

### **Determining the Owner**

Taxable real estate is to be listed to the last owner or possessor on April 1 ([32 V.S.A. § 3651](#)). There is some discrepancy in opinion as to whether this should be the closing date or the date of recording. The choice is yours but you need to be consistent in your practices. PVR uses the closing date relating to Equalization Study sales. Current Use uses the recording date.

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 being recorded in the town office conveying the house to the child, the listers should treat the house as a part of the parcel on which it is situated. Another situation that often occurs is that you may receive information telling you an owner 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](#).

### **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\(a\)\(3\)](#).

[Current Use](#) program rules state:

Parcel means all contiguous land in the same ownership regardless of the number of deeds. The parcel may be bisected by a highway, right-of-way, town line, river or power/pipeline. It may contain a building, dwelling, or building lot that is excluded from UVA, but it is held by the same owner(s) who have the rights to make decisions about and manage the vegetation on that property.

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. They govern how to list properties in your grand list book. **They do 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 V.S.A. § 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 four-acre parcel that was acquired by two deeds. For example, 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 four-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 two-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 Mallery, 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 PVR with questions on specific properties.

See the “Subjects” section for more parcel information.

## VII. 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 town-wide 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 (Current Use) 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 that 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 or 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 14 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, and 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 Hearing Officer (decision by the selectboard—court cases will involve an attorney). [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 Hearing Officer 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 Hearing Officer 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.

## VIII. The Board of Tax Abatement

Listers are members of the Board of Tax Abatement (BTA). The BTA comprises 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 been 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;
6. the exemption amount available under [32 V.S.A. § 3802\(11\)](#) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;
7. taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, under [10 V.S.A. § 6237](#).

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 the decision.

A record of the taxes, interest and fees abated is recorded in the town clerk's office and a copy is 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 hardship<sup>2</sup> 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\(j\)](#)). The Secretary of State's Office has a booklet called "[About Abatement](#)" that is worthwhile reading.

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<sup>2</sup>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.

## IX. Errors and Liabilities

It is inevitable that errors will be made. The most common type of mistake is 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 list**, (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 on or 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<sup>3</sup>.

For mistakes involving misuse of office, such as accepting bribes or commissions, you can be punished under Vermont 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](#).

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<sup>3</sup>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.

## X. Special Properties

Property Valuation and Review (PVR) receives so many inquiries about the following types of property, we offer this compilation for reference.

### 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 V.S.A. § 4\(41\)](#) includes mobile homes not affixed to land. PVR [Rule 82-1 § \(32\)3802\(4\)](#).

In general, 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 the property upon 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, used for storage of materials, or used at construction sites. These 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 regarding 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.

### Construction Equipment (“Yellow Metal”)

Very little “yellow metal” is taxable.

Property tax law specifically exempts motor vehicles. The term “motor vehicle” is not defined in tax law, but per 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 that have not actually been registered but 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.

### **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.

### **Timesharing**

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](#).

### **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.

### **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](#), or if they are qualified farm buildings under the Current Use program.

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\(8\)](#) and [Rule 82-1 § \(32\)3802\(8\) 2](#).

### **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. **Utilities**

PVR 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 PVR 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 VSA, § 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 house drops 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](#). Cable companies have agreed to value all lines each year and depreciate to a maximum of 40% good (60% depreciation). Towns should review this information each year and accept or deny the value if they have information to the contrary.

**Cell towers:** PVR has developed a [decision tree](#) that will be useful in determining whether or not a cell tower is taxable. Please contact your District Advisor for information on valuing cell towers.

Special rules apply to utility property owned by municipal corporations. See Municipal Land, page 45. If the utility company is not a municipal corporation, all real property must be listed at fair market value.

The information that 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).

### **Railroad and Ferry Boat Companies**

Property of companies involved in operating railroad freight line and equipment 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](#) and the following.

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

**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 that 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 that 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 [10 V.S.A. Chapter 151](#) 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 [10 V.S.A. Chapter 155](#) of the Vermont Statutes Annotated. Such rights are exempt under [10 V.S.A. § 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 five-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.

If the property is in transition, however, a larger adjustment may be necessary. That is, if there is development pressure in the market 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 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. The Department of Taxes also has a fact sheet on valuing [Conservation Easements](#).

It takes some research to determine whether privately arranged restrictions affect the valuation. An owner of a gas station that 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.

### 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](#). Please be sure to read the statutes to gain a current understanding of the process. More information is available at the Vermont Department of Taxes website: [PILOT](#).

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 (PILOT) from the federal government. See [1 V.S.A. § 557](#).

**Quasi-Public Property**—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 the Exemptions Chapter for more information.)

### 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<sup>1</sup>.

“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 can be navigated by boat. [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 but are still taxable because they are privately owned, and some smaller ponds that are public, such as Elfin Lake in Wallingford.

### Personal Property

Personal estate is defined as including “all property other than real estate.” [1 V.S.A. § 129](#). Personal property means items that are movable (sometimes called chattel), not permanently affixed to the real estate. The International Association of Assessing Officers’ (IAAO) 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

<sup>1</sup>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).

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**

Description	Category	In Education GL	In Municipal GL
Electric utility lines/poles/fixtures	Real-UE	Yes	Yes
Cable TV lines and fixtures	PP-PP-CABLE	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

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.

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](#).

**Voted Exemptions on Personal Property**—A town may tax both machinery and inventory or, 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](#). If machinery and equipment are to be taxed, the town can appraise them under two depreciation methods.

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 & Review District Advisors.

### **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. [32 V.S.A. § 3481 \(1\)\(A\) – B\(iv\)](#).

#### **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 (VHFA);
- (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 & Review after consultation with the Vermont Housing Finance Agency;
- (E) Qualified rental unit parcels are entitled to an exemption of up to 10%, based upon the number of qualifying units. This must be certified by VHFA in the form of a certificate that states the percentage they are entitled to. Refer to the statute [32 V.S.A. § 5404a \(6\)](#).

There is a [spreadsheet/calculator](#) available on the Department of Taxes' website that can be used to facilitate appraisals of subsidized housing.

The instructions are on our website and are linked [here](#).

You may contact [VHFA](#) with questions about a property's qualification status.

The 10% exemption for qualified housing is entered in NEMRC as a Special Exemption. (Value/Exempt Tab/ Special Exemption Code **6-Qualified Housing**.) The (up to) 10% special exemption amount (box below special exemption code) should be filled in. Refer to the statute [32 V.S.A. § 5404a \(6\)](#) for calculation details. This exemption applies only to the education grand list, not the municipal. If you have questions or need assistance,

contact your PVR District Advisor.

Please see the “Subjects” section for more on subsidized housing.

### **Covenant Restricted Housing**

For owner-occupied housing that is subject to a housing subsidy covenant, as defined in [27 V.S.A. § 601](#), imposed by a governmental, quasi-governmental, or public purpose entity, that limits the price for which the property may be sold, the housing subsidy covenant shall be deemed to cause a material decrease in the value of the owner-occupied housing (refer to [32 V.S.A. § 3481\(1\)\(C\)](#) for more information). This property type is to be entered in the grand list at a value that represents 60%-70% of the fair market value of the property that is subject to the restriction. This should be entered as a reduction on the cost sheet or property record card, and the percentage that was applied should be recorded for data purposes on the “parcel maintenance screen” in NEMRC.

NEMRC has a document, [Covenant Housing Statute Requirement](#), for more information.

You may contact [VHFA](#) with questions about a property’s qualification status.

The Department of Taxes has a fact sheet for property owners regarding [Covenant Restricted Housing](#).

Contact your District Advisor if you need further information about Covenant Restricted Housing.

## XI. Exemptions

Several properties are exempt by state or federal law from property tax. In addition, locally voted exemptions or stabilization agreements (local agreements) can also exempt a property. The fair market value of property that is automatically exempted by federal or state statute (A - F) is not included in the education or municipal grand list.

All properties, including those exempt from taxation, must be included in the grand list. The listing must include the statutory authority for the exemption, [32 V.S.A. § 4152 \(4\), \(6\)](#), and the method of appraisal used (insurance or assessment). 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 the Division of Property Valuation and Review (PVR). For a "Guide to Exemptions," visit PVR's webpage at [www.tax.vermont.gov](http://www.tax.vermont.gov).

### **Appeals from decisions of the Board of Listers regarding exemptions**

The Vermont Supreme Court recently held that (1) the Board of Civil Authority (BCA) has authority to rule on questions of tax exempt status, and (2) the taxpayer must exhaust its administrative remedies by grieving to the listers and BCA prior to bringing a motion for declaratory judgment in superior court. Vermont College of Fine Arts v. City of Montpelier.

### **Public Property Exemptions**

#### **Charitable, Religious, or Public Organizations**

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).

### **Property Used for Education**

In Vermont, noncommercial school property sequestered prior to 1941 is exempt from taxation. Noncommercial school property sequestered after 1941 is taxed, but the assessed value is frozen at the value when acquired and adjusted when there is a town-wide reappraisal. Towns may vote to fully exempt school property sequestered after 1941.

The exemption has three specific requirements: 1) the property must be owned by the school; 2) the property must be used for an educational purpose; and 3) there can be no commercial use of the property. Burr & Burton Seminary v. Manchester, 172 Vt. 433, 439 (2001); Mountainview Community School v. City of Rutland, 2011 VT 65 ¶ 17.

The school must be the fee simple owner of the property to qualify for an exemption. The Vermont Supreme Court has clarified that ownership is a requirement of the public schools exemption even though the statute uses the term "leased by." Broughton v. Town of Charlotte, 134 Vt. 270, 274 (1976) (overruled in part by American Fly Fishing Museum v. Town of Manchester, 151 Vt. 103 (1989)).

### **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 craftsman. 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 campsite 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.

#### **Veterans and Immediate Families of Veterans**

The Department of Taxes has a fact sheet titled [“Veterans and Property Taxes: What You Should Know.”](#)

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 \(11\)](#).

Essentially, the exemption applies if a payment is received for:

- death compensation, or
- dependence and indemnity compensation, or
- a disability pension is paid through 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.

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 in White River Junction, Vermont, at 802-295-9363.

If the above letter is received, listers should forward it or have the taxpayer forward it to VOVA (Vermont Office of Veterans Affairs). Listers will receive a list of eligible veterans from VOVA each year. VOVA contact information:

Edward Burkart  
 Veteran Services Coordinator  
 Vermont Office of Veterans Affairs  
 118 State Street  
 Montpelier, VT 05620-4401

Ph: 802 828-1211 / 802 828-3379  
 Fax: 802 828-5932  
[ed.burkart@vermont.gov](mailto:ed.burkart@vermont.gov)

**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, if 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](#).

**NEMRC Coding for Non-taxable Exemptions**

**(NEMRC Parcel Tab/Tax Status (Non-tax or State)/Nontax Statute)**

1. [32 V.S.A. § 3802\(1\)](#) Federal/State/County – USE FOR FEDERAL ONLY
2. 32 V.S.A. § 3802(1) Property owned by State/County Government – USE FOR STATE/COUNTY ONLY
3. 32 V.S.A. § 3802(2) Veterans org. chartered of US Congress not leased or rent VFW/American Legion



4. 32 V.S.A. § 3802(2) Nonprofit org. chartered by US Congress. Little League, Boy/Girl Scouts, Red Cross, DAR
5. 32 V.S.A. § 3802(4) Hospitals (Charitable Uses)
6. 32 V.S.A. § 3802(4) Historical Societies
7. 32 V.S.A. § 3802(4): 3832(2) Public/Pious/Charitable Uses
8. 32 V.S.A. § 3802(4): 5401(10) (F) Municipally owned property in town used for public use. Includes schools.
9. 32 V.S.A. § 3802(4): 3832(2) Churches/Parsonages
10. 32 V.S.A. § 3802(1) Libraries/public-private circulating. Can include schools.
11. 32 V.S.A. § 3802(5) Sorority/Fraternity – Masons if legislative action
12. 32 V.S.A. § 3802(5) Property acquired prior to April 1, 1941 and used by any College or University.
13. 32 V.S.A. § 3802(6) YMCA/YWCA
14. 32 V.S.A. § 3802(7) 18 VSA §5317 Cemetery Private or Town owned cemeteries
15. 32 V.S.A. § 3802(9) Agricultural Societies annual fairs
16. 32 V.S.A. § 3802(12) Pollution abatement ONLY
17. 32 V.S.A. § 3802(15) Humane Societies
18. 32 V.S.A. § 3802(16) Federally Qualified Health Center FQHC
19. 32 V.S.A. § 3802(18) Public Access to Public Waters (Greensboro & West Fairlee) ONLY
20. [32 V.S.A. § 5401\(10\)\(G\)](#) Whey Processing
21. EMPTY
22. [32 V.S.A. § 3803\(1\)](#) Lands/Buildings of Railroad/Telephone Co/Transportation Co
23. [32 V.S.A. § 3832\(7\)\(A\)](#) Health, Recreation & Fitness Org (Beginning 2016 GL)
24. [32 V.S.A. § 3832\(7\)\(B\)](#); Act 73 session law Qualified Skating Rinks
25. [10 V.S.A. § 641](#) Vermont Housing Finance Authority VHFA
26. [16 V.S.A. § 2825](#) Vermont Student Assistant Corp VSAC
27. [8 V.S.A. § 4518](#); [8 VSA § 4590](#) Nonprofit medical service corp or hospital service corp (BC/BS ONLY)
28. [10 V.S.A. § 570](#) Approved Air Pollution Treatment Facilities
29. [24 V.S.A. § 3216](#) Municipally owned property held for Urban renewal

30. [24 V.S.A. § 3352](#) Consolidated water district in town with the district—Water District
31. [24 V.S.A. § 3683](#) Consolidated Sewer district in town with the district—Sewer District
32. [27 V.S.A. § 1-105;\(a\)2; § 1322](#) Common Lands
33. [16 V.S.A. § 3859](#) Vermont Educational and Health Bldgs Finance Agency
34. Other Session Law/Court Order (ONLY)
35. [10 V.S.A. § 236](#) Local Development Corporation (PILOT)
36. [32 V.S.A. § 3659](#) Improvements on prior acquisition of the land—Municipal Land
37. [16 V.S.A. § 1-15](#) Real and Personal Property now held or owned or hereafter acquired by the University of Vermont and State Agricultural Colleges

## XII. 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. A local agreement rate is levied to collect the foregone education tax revenue. The lister's 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](#).

### Volunteer Fire, Rescue and Ambulance Organizations

Towns and cities may vote to exempt property owned by and used for the purposes of nonprofit 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 is being borne by all Vermont taxpayers.

### 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 economic development agreements authorized by the [Vermont Economic Progress Council](#) (VEPC) or the [Agency of Commerce and Community Development](#) (ACCD), 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 under [32 V.S.A. § 3840](#). The exempted value is included in the equalized education grand list established by Division of Property Valuation and Review (DPVR) and in the education grand list reported to the Agency of Education, and the rest of the property owners in town fund the loss in revenue.

The following section "Local Agreements" lists the different types of tax agreements available and whether they must be locally funded. It also indicates those instances where towns may request the approval from the VEPC. There are also special provisions for properties relating to low-income housing. Approval may be requested from the ACCD 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, and whether approval has been granted.

If you have questions on how to list exempt properties, please contact your District Advisor.

### NEMRC Coding for Voted Exemptions

1. [32 V.S.A. § 3831](#) College/University/Fraternal Organizations acquired after 4/1/1941
2. [32 V.S.A. § 3832\(1\)](#) Municipal Trust
3. [32 V.S.A. § 3840](#) Charitable / Fraternal Organizations
4. [24 V.S.A. § 2741](#) Stabilization agreements
5. [32 V.S.A. § 5401\(i\)\(ii\)](#) Utility Cables, Poles, Fixtures, Gas Dist. Lines
6. [32 V.S.A. § 3832\(7\)\(B\)](#) Approved Skating Rinks

**XII. Local Agreements (Town-voted)**

7. [32 V.S.A. § 3848; 3849](#) Inventory / Bus Personal Property
8. [32 V.S.A. § 3839](#) Greensboro / Fairlee / West Fairlee Lake Access
9. [32 V.S.A. § 3840; 5404\(a\)\(4\)](#) Volunteer Fire / Rescue / Ambulance
10. (Exempt from Muni & Ed GL – special coding involved)
11. [32 V.S.A. § 5404A\(5\)](#) Municipal Owned Land in Another Town Voted Prior 1/1/1998
12. [32 V.S.A. § 3832\(6\)](#) Orphanage – Home or Hospital Treatment Center
13. [32 V.S.A. § 3832\(7\)\(A\)](#) Health, Recreation & Fitness Org

**Local Agreements (Voted exempt on Municipal GL only)**

Owner	Property Use	Statute Title/Section	Responsible for Foregone Taxes	Approved by State
College/University Fraternal Organization	Any real property acquired after 4/1/1941	<a href="#">32 V.S.A. § 3831</a>	Local Agreement Rate	No
Municipal Corp	Property held in trust for municipal corp.	<a href="#">32 V.S.A. § 3832(1)</a>	Local Agreement Rate	No
Charitable/Fraternal Organization	Meeting place	<a href="#">32 V.S.A. § 3840</a>	Local Agreement Rate	No
Person/Lessees/ Bailees/Operators	Commercial/industrial – <b>Stabilization Agreements</b>	<a href="#">24 V.S.A. § 2741</a>	Local Agreement Rate (or VEPC approved)	<b>No</b> —Yes if VEPC approved
Person/Lessees/ Bailees/Operators	Alternate energy source – <b>Stabilization Agreements</b> (wind/hydroelectric/solar/geothermal)	<a href="#">24 V.S.A. § 2741</a>	Local Agreement Rate	No
Person/Lessees/ Bailees/Operators	Farm/Agricultural/Forest/Open land – <b>Stabilization Agreements</b>	<a href="#">24 V.S.A. § 2741(a)</a>	Local Agreement Rate	No
Person	Renewable energy source personal use (1st 50 kW exempt)	<a href="#">32 V.S.A. § 3845</a>	Local Agreement Rate above 1st 50 kW	No
Organization	Health/Recreational (approved skating rinks)	<a href="#">32 V.S.A. § 3832(7)(B)</a>	Local Agreement Rate	No
Organization	Health/Recreational & Fitness (501(c)(3))	<a href="#">32 V.S.A. § 3832(7)(A)</a>	Local Agreement Rate	No
Muni owning land in another municipality	Lakeshore – 1) Thetford in Fairlee and West Fairlee and 2) Hardwick in Greensboro	<a href="#">32 V.S.A. § 3839</a>	Local Agreement Rate	No
Muni owning land in another municipality	Municipal forest, water supply, or for other noncommercial muni purposes	<a href="#">32 V.S.A. § 5404a(a)(5)</a>	Local Agreement Rate	No
Home/Hospital/ Orphanage	Property leased to another for profit	<a href="#">32 V.S.A. § 3832(6)</a>	Local Agreement Rate	No
In NEMRC, if “Bill Education Tax to Contract Holder” is not defined in voted article, then enter “No”				

Owner	Property Use	Statute Title/Section	Responsible for Foregone Taxes	Approved by State
Volunteer Fire/ Ambulance/Rescue	Station house	<a href="#">32 V.S.A. § 3840</a>	State provided town voted exempt	
In NEMRC, if "Bill Education Tax to Contract Holder" is not defined in voted article, then enter "No"				
Person	Farm (Barns/Silos/Farm Structures)	<a href="#">32 V.S.A. § 3607a</a>	Local Agreement Rate	No
In NEMRC, if "Bill Education Tax to Contract Holder" is not defined in voted article, then enter "No"				
Qualified Veteran	Home	<a href="#">32 V.S.A. § 3802(11)</a>	State –1st \$10,000 (Automatic) Local Agreement Rate up to \$30,000 provided town voted exempt	N/A
In NEMRC, on the [Value Exempt] tab enter full amount of exemption				
Business	Personal property	<a href="#">32 V.S.A. § 3848</a> & <a href="#">§ 3849</a>	Removed from municipal grand list	N/A
In NEMRC, on the parcel tab set to Personal/[Value Exempt] tab enter full amount of exemption				

**Special Exemptions (Does not affect Municipal GL)**

Owner	Property Use	Statute Title/Section	Responsible for Foregone Taxes	Special Exemption
Person	Ski Lifts/Snow Making	<a href="#">32 V.S.A. § 5401(10)(D)</a>	Town collects municipal taxes	3
Person	Whey Tanks	<a href="#">32 V.S.A. § 5400(a)</a>	Town collects municipal taxes	4
Vermont Yankee	Vermont Yankee	<a href="#">10 V.S.A. § 6505</a>	Town collects municipal taxes	5
Qualified Housing	Qualified Housing (subsidized) VHFA approved	<a href="#">32 V.S.A. § 3841</a>	Town collects municipal taxes	6
Person	Renewable energy–Solar	<a href="#">32 V.S.A. § 3845</a> & <a href="#">§ 8701</a>	Town collects municipal taxes	7
Person	Renewable energy–Wind	<a href="#">32 V.S.A. § 3845</a>	Town collects municipal taxes	8
Person	Special Circumstances	Court Ordered	Town collects municipal taxes	9
In NEMRC, enter information in Education column under <b>Special Exemptions</b>				

## XIII. Special Exemptions

Special exemptions are specific to the following items. This type of exemption is not added back to the Education Grand List. Check value and expiration date each year to make sure they are correct.

**Ski Lifts/Snow Making Equipment:** Fully taxed on the Municipal Grand List.

**Whey Tanks:** Fully Taxed on the Municipal Grand List. [32 V.S.A. § 5400\(a\)](#).

**Vermont Yankee:** Fully Taxed on the Municipal Grand List. [32 V.S.A. § 5400\(b\)](#)

**Qualified Housing:** Fully Taxed on the Municipal Grand List. Must be approved by VHFA by April 1. Please also see Subsidized Housing section in this manual. [32 V.S.A. § 5400\(c\)](#).

**Solar:** Solar photovoltaic plants in Vermont are potentially subject to a tax on plant capacity and municipal property tax. Depending on several factors, a plant can be subject to both taxes, one of the taxes, or be exempt from both taxes.

Vermont imposes a Solar Energy Capacity Tax on operating solar plants with a plant capacity of 50 kW or more. The tax is imposed at a rate of \$4.00 per kW of plant capacity. Plant capacity is determined by the rated nameplate capacity stated on the plant's Certificate of Public Good (CPG) unless a taxpayer can demonstrate that another method is more accurate.

Solar plants subject to the Solar Energy Capacity Tax are exempt from the education property tax. Solar plants with a plant capacity of less than 50 kW and are (1) on a net-metered system, or (2) off grid and only provide power to one property, are exempt from both municipal and education property taxes. Municipalities may also vote to exempt some solar plants from municipal property tax.

Solar plants that are not exempt from municipal property tax must be valued.

Please refer to the Vermont Department of Taxes website at [www.tax.vermont.gov](http://www.tax.vermont.gov) for information on solar valuation and specific instructions for solar valuation.

Use Property Valuations and Review's (PVR's) online [inventory form](#) to send to plant owners for information on their solar projects prior to performing a valuation. NOTE: Inventory sheets for Group Net Metered projects must be accompanied by a contract. [32 V.S.A. § 5400\(h\)](#).

**Wind:** Wind projects are taxed directly by the Tax Department and are therefore not taxed via the Education Grand List. [32 V.S.A. § 5400\(g\)](#).

**Court Ordered:** This category of special exemption is on a special case basis. Please ask your District Advisor if you have any questions about court ordered special exemptions.

### NEMRC Coding for Special Exemptions

- |                          |                      |                  |
|--------------------------|----------------------|------------------|
| 1. N/A                   | 4. Whey Tanks        | 7. Solar         |
| 2. N/A                   | 5. Vermont Yankee    | 8. Wind          |
| 3. Lifts and Snow Making | 6. Qualified Housing | 9. Court Ordered |

## XIV. 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 Claim ([Form 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.

Property owners whose dwellings meet the definition of a Vermont homestead must file a Homestead Declaration annually.

**Homestead:** A homestead is the principle dwelling owned/occupied by a Vermont resident as the individual’s domicile. It includes the entire parcel of land surrounding the dwelling, determined without regard to any road, river, or stream that intersects the land. It does not include buildings or improvements detached from the home and used for business purposes. It does not include that portion of a principle dwelling used for business purposes if the portion used for business purposes includes more than 25% of the floor space of the building. The value of outbuildings and other improvements not used for business purposes includes more than 25% 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 V.S.A. § 5401\(7\)](#) and [Reg. § 1.5401\(7\)](#) for details and examples.

There are no extensions available to file a Homestead Declaration and Property Tax Adjustment Claim.

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 April due date for filing income tax returns (usually April 15). 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 October 15, the grand list book will indicate that fact and the property tax bill will be adjusted to reflect the homestead rate, but the filer may be subject to a penalty by the town. Declaring a nonresidential property as a homestead will also subject the filer to a penalty.

**Housesite and Housesite Value:** Housesite value is not used in the tax classification system. It is used in the state’s income sensitivity programs. A housesite is that portion of a homestead that includes the principle dwelling and as much of the land surrounding the dwelling as is reasonably necessary for use of the dwelling as a home. However, a houseite cannot be more than 2 acres per dwelling unit. In the case of multiple dwelling units, no more than 2 acres is allowed per dwelling unit up to a maximum of 10 acres per parcel. See [32 VSA § 5401\(11\)](#).

It includes all improvements not used for business or rental purposes, e.g. sheds, garages, site improvements, tennis courts, swimming pools, etc. that are located on the first 2 acres.

**Housesite Equalization Value (HEV):** The HEV calculation is the value of the housesite on the grand list for April 1 of the taxable year, divided by the municipality’s common level of appraisal determined by equalization of the grand list for April 1 of the year preceding the taxable year.

### 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 annually. The amount of the benefit will be related to the property owner’s income and the value of their “housesite.” If an adjustment is given, the taxpayer’s property tax bill will reflect a credit for the adjustment, and a state payment will be made to the town for that amount.

Property owners need to file the following two forms to apply for a property tax adjustment claim. They submit the claim electronically when they file their Vermont Income Tax return.

1. [Form HS-122, Homestead Declaration and Property Tax Adjustment Claim](#)

*Section A:* Homestead Declaration

*Section B:* Property Tax Adjustment Claim

2. [Schedule HI-144, Household Income](#)

The Homestead Declaration Claim and Property Tax Adjustment Claim can be filed at separate times but must be received by the personal income tax April filing due date (not extended), to be considered timely filed.

### Homestead Declarations

#### What's the Homestead Declaration?

The Homestead Declaration ([Form 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 his or her property tax bill, including the property location and the school property account number (SPAN). The taxpayer will also be asked to provide the following:

- 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. The listers will use this information to classify properties in their grand list.

#### *Homestead Download directions:*

[Department of Taxes](#)

[New England Municipal Resource Center](#) (NEMRC)

#### 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 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 the following:



**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 Commissioner of Taxes makes the final determination on whether or not the property qualifies as a homestead. The listers should notify the 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 Homestead 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. Some examples are a “Mom and Pop” store where the owners live upstairs; a dairy farm; and a parcel where one or more of the outbuildings are used for commercial purposes.

If the taxpayer declares 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 on the parcel is classified as homestead.

Here are some example scenarios to inform listing of multi-use properties:

#### **What portion of a house is declared business use when there is a child care 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 is homestead property.

**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. For 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** on the parcel 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. Since only one house is included in the housesite value, John or Bill may request a [Housesite Certificate](#) for the second housesite.

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 improvements 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.) The house that John lives in would be included in the housesite. The second house would not be included.

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. Since only one house is included in the housesite, Joe and Alice's house and 2 acres should be included in the housesite.

**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 A7-A10 Special Situations code on the HS-122 form. Contact Taxpayer Services at 802-828-2865 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) at 27A V.S.A. 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 the University of Vermont 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 involvements 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 Department of Taxes?**

The Department makes every effort to ensure Vermont residents know about the need to file the declaration. As with any program, it's expected that some folks will not understand the requirements. The 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 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 upon receiving the [Housesite Certificate](#) request.

In any of the above situations, if you are not sure of the circumstances or believe a declaration is incorrect, you should code the property back to the Department with the question and let the Department investigate the issue.

### 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 SPANs. There’s a special situations box (homestead property crosses town boundaries) on the HS-122 Homestead Declaration Claim that 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 of 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 that 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, 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 Department).

**Homestead Download directions:**

From [Dept. of Taxes Website](#)

From [NEMRC](#)

If the listers have good reason to believe the property is not correctly classified, they should notify the Department of Taxes as part of the annual June 1 electronic report to the Department. The 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 regarding domicile issues. The listers’ input is only one tool the 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 Department list accordingly. Use your best judgment and leave it to the Department to follow up.

**Penalties—Late Filers and Non-filers**

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 Department (by April 15 and October 15—[check dates](#) each year for variance), 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.

Municipalities have discretion as to whether they will impose a penalty. [32 V.S.A. § 5410\(g\)](#) provides them when a municipality receives a late-filed notice of declaration “the municipality shall issue a corrected tax bill that may include a penalty.” Whether to impose a penalty and the amount of the penalty are determined by the municipal legislative body. The Department has a [guide](#) that explains education property tax guidelines (for treasurers and collectors).

**Don’t the listers have to go through the errors and omissions process to make a change to the [grand list book](#) after it is filed?**

Yes. But homestead declaration changes are a simpler process than 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:

**SAMPLE**

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

The board of listers of the Town of \_\_\_\_\_ is 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

If the declaration is filed with the Department after the October deadline, 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 Department on or before the October deadline.

The 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 because of a homestead declaration filed after the October deadline. 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 Department has determined the late filing was result of fraud).

**Taxpayer Appeals per [32 VSA § 5410\(j\)](#):**

A taxpayer may appeal a determination of domicile for purposes of a homestead declaration or an assessment of fraud penalty under this section to the Commissioner, in the same manner as an appeal under chapter 151 of this title. A taxpayer may appeal an assessment of any other penalty under this section to the listers within 14 days after the date of mailing of notice of the penalty, and from the listers to the Board of Civil Authority and thereafter to the courts, in the same manner as an appraisal appeal under chapter 131 of this title. The legislative body of a municipality shall have authority in cases of hardship to abate all or any portion of a penalty appealable to the listers under this section and any tax, penalty, and interest arising out of a corrected property classification under this section; and shall state in detail in writing the reasons for its grant or denial of the requested abatement. The legislative body may delegate this abatement authority to the Board of Civil Authority or the board of abatement for the municipality. Requests for abatement shall be made to the municipal treasurer or other person designated to collect current taxes, and that person shall forward all requests, with his or her recommendation, to the body authorized to grant or deny abatement.



## XV. Current Use Program (Use Value Appraisal)

### Introduction

Vermont's Current Use Program, which is also known as the 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.

### Allocating Value for Enrolled Parcels

The Department's website provides information on [Current Use](#).  
The Department has a fact sheet on [Current Use and Property Valuation](#).

### 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 the Division of Property Valuation and Review (PVR). Once the file has been received and certified, the data can be uploaded to your grand list data base. The transfer of data back and forth between listers and the Current Use Program will be ongoing. Please check for downloads regularly, process the information and send it back as soon as possible. The process can be very time consuming for the Current Use Program, so the sooner you provide information, the sooner the files can be completed and certified.

### Changes in Ownership or Use

The owner of enrolled property is required by [32 V.S.A. § 3757](#) to notify both the director of PVR and the local assessing officials of the following:

- 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 help in directing the property owners on what action to take and can also help by informing PVR of any unreported conveyances, development, or changes in use.

**Conveyance of Entire Parcel**—If the parcel is to continue in current use, 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 current use, 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 current use.

**Development**—If enrolled property is “developed,” it will be discontinued from current use, and 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 1) dwellings are built or, in the case of mobile homes, placed on enrolled land, or 2) when a part of an enrolled parcel is conveyed and one or more of the resulting parcels contains fewer than 25 acres of land. Cutting timber contrary to the approved forest management plan also constitutes development.

When the owner develops current use land, the owner must notify both the director of PVR and the local assessing officials when development takes place. After the land is removed from current use, it is appraised and listed at its full fair market value.

### Appeals

Appeals relating to the Current Use 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 owner must first appeal to the director. The 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 Current Use Program may be grieved to the listers the same as other parcels in town.

Owners whose land has been removed from current use due to cutting contrary to a management plan must appeal to the Commissioner of Forests, Parks and Recreation.

## XVI. How To Sign In to Tools Required by PVR

### Sign Up for Listserv

The Listserv is an email distribution list provided by the Division of Property Valuation and Review (PVR). There is no cost to sign up, nor are there any “fees” or costs of any kind to the town. All that is required is access to the internet and the creation of an account, unique to each community, based upon the email address on file at PVR for each town.

Although it is “managed” by the PVR IT team, it is not monitored, censored or controlled by PVR in any way. The Listserv is increasingly used by PVR as a communication channel to distribute important information. We encourage you to check it regularly for announcements on upcoming educational conferences and classes, changes to processes, procedures or statutes, improvements to the Department’s website, and myriad other pieces of information that are important for the assessment community to know.

### *How to be added to the Listserv*

To be added to the Comp 60 Listserv, submit a request to the Department’s IT Helpdesk by phone at 802-828-0428 or by email [Tax.ITHelpdesk@vermont.gov](mailto:Tax.ITHelpdesk@vermont.gov).

### Sign Up for myVTax

*What is myVTax?* [MyVTax](#) is the Department’s online tax software program used by available to municipal officials, buyers, sellers and their attorneys. Listers must set up their own myVTax account to have timely access to Property Transfer Tax Return information that will be useful in reviewing sales and gathering information. As of November 2017, listers will be required to enter Land Use Change Tax valuation. In 2018, the lister verification process for the Equalization Study will also occur in myVTax. Find reference guides, video links, and a complete set of instructions on the Department’s [website](#).

### Get Started with eCUSE

*What is eCuse?* Online Current Use, also known as [eCuse](#), is designed to employ the efficiencies and speed of electronic processing for Current Use applications. This new system allows property owners to submit online applications to the Current Use Program.

As listers, you will need to look up the status of Current Use applications in your town. This important feature will help you to understand where specific applications are in the overall process and will assist you with property owner inquiries. You will be able to see application details necessary to your work and print applications. Town clerks use the system to process applications and insert recording information.

Set up your [eCuse account](#).

Learn how navigate and use eCuse by reading the [Municipal Service User Guide](#).

**TIP:** We strongly recommend using your municipal email address when carrying out official business. Avoid using your personal email address whenever possible. This provides better security and public record compliance. It also reduces your personal liability in accessing confidential information.

## Subjects Section

This section goes into more depth about certain topics than the main section of the Lister Manual and/or contains Questions & Answers. Topics are in alphabetical order by title and topic.

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### A

Abatement  
Acreage/Parcel Size  
Appeals

### B

Backing Up Files  
Bank Appraisals  
Barns and Other Farm Structures  
Board of Civil Authority (BCA)  
Building Permits (Lack of)

### C

Cable  
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### G

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### I

Improvements to Property  
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### R

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### Solar Power

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### Y

Yurts

## ABATEMENT

The Office of the Vermont Secretary of State offers a booklet called "[About Abatement](#)" that contains useful information. Abatement means essentially forgiving a tax liability with no penalty.

"About Abatement" describes what abatement is and how the process works. Included are case studies and abatement law. Please read and share this booklet with those who have questions about the abatement process. If there are further questions after reading this booklet, contact your District Advisor or town attorney.

Abatement of past (or current) year taxes is a voluntary process and is largely governed by state statutes:

The Board of Civil Authority is required to consider requests, but is not mandated to act upon a request. Each town looks at a request for abatement differently with respect to the shared responsibility of the taxpayer in the process. The town has a responsibility to list property for taxation, in accordance with statute, and at the same time the taxpayer is expected to be aware of what they have for property as well as the characteristics of the property. The taxpayer has an opportunity annually to "correct" the record at the town level and/or make town officials aware of any discrepancies. It is up to the board to weigh the shared responsibilities and make their determination. Some other states use the term "abatement" to mean "grievance," so you may have some out-of-state owners who are understandably confused by the difference in terminology.

It is important to know that abatement deals with taxes only and does not change the grand list.

## ACREAGE/PARCEL SIZE

### Q: What is the most accurate choice for determining parcel size?

A: When you have discrepancies in various documents relating to parcel size, it is best to rely on the following documents:

- A recorded survey by a qualified surveyor is almost always the most accurate and reliable evidence
- Up-to-date property tax maps
- Deed

Use the best information available.

## APPEALS

The Vermont Secretary of State's Office has a handbook for property owners called "[Are You Appealing?](#)" It is a good resource that explains the process, and one that you should read and refer property owners to when they request information about appealing.

A handbook on [Property Tax Assessment Appeals](#) is also available on the Secretary of State's web site.

### Q: Can a new owner appeal the value of a property purchased after April 1?

A: Because values are established as of April 1 and the tax bills are issued to the owner of record as of April 1, only the seller can appeal. However, the seller can designate the new owner as agent to the seller. As agent, the buyer can participate in the grievance by acting on behalf of the owner of record. The seller can submit a signed letter to the Board of Listers stating that he or she wishes to designate the buyer as his or her agent in the grievance process.

### Q: How do we process a value change from a tax appeal loss?

A: A copy of the decision goes into the listers' file. Attach a copy to the back of the appeal year's grand list. Change your GL value for the current year and going forward. The decision will stand for the appeal year and the next two years UNLESS you do a reappraisal. If they make improvements, you can add the improvements but it would be wise to leave the other aspects of the valuation in line with the court or hearing officer's decision. Accounting tip: calculate the amount of overpayment (plus interest if applicable) and then issue that as a credit against the next tax bill. [32 V.S.A. § 4469](#)

**Q: Is the entire property considered upon appeal?**

A: Yes: [32 V.S.A. § 4467](#) Valuation of the Entire Property

The Board of Appraisers (State Appraiser effective Jan. 1, 1996) shall review the listed valuation of an entire contiguous parcel of land together with all buildings and fixtures thereon. The erroneous valuation of a portion of the property by the board of civil authority or listers shall not be disturbed where the listed value of the property as a whole is correct.

**BACKING UP FILES**

It is essential that you back up your data on a regular basis! Computer failure is not uncommon and can create major headaches and extra work if your data has not been protected. Make sure to back up all databases to more than one location (on-site and off-site). It is a good idea to keep a back-up log stating what was backed up and when. Below is a link to instructions from NEMRC:

[http://www.nemrc.com/support/general/Backing\\_up\\_NEMRC\\_Data/](http://www.nemrc.com/support/general/Backing_up_NEMRC_Data/)

**BANK APPRAISALS**

**Q: What is the best way to handle bank appraisals when they are presented as evidence of value ?**

A: It is a good idea to look at the appraisal to gauge its validity for use in the grievance process. Here are some suggestions for determining whether the appraisal contains helpful information:

- Read the entire appraisal report and make note of items of interest.
- Run through the math to see if the adjustments are legitimate and correctly applied.
- Review the comparable sales used. Are they the best ones or are there better ones? Look for items about the property that you may not have been aware of.
- Remember: a bank appraisal (also called fee appraisal) was not written or intended for tax valuation purposes. There may be wording in the appraisal that would invalidate its appropriateness for grievance purposes (such as extenuating circumstances, conditions, assumptions, and past or future valuation dates).

The property owner may not have obtained permission from the appraiser to use the appraisal in a grievance situation. Fee appraisals can be good tools as a piece of the valuation puzzle, but you will need to confirm that the data and methods are correct. They should neither be automatically discounted nor automatically accepted.

**BARN AND OTHER FARM STRUCTURES**

[32 V.S.A. § 3607a](#). Barns, silos, and other farm structures: Barns, silos, sugarhouses, and bunkers used for silage storage shall be entered in the grand list at fair market value as defined in subdivision [32 V.S.A. § 3481\(1\)](#) of this title, except that by a majority vote of those present and voting at an annual or special meeting warned for the purpose, a municipality may elect to exempt, or to appraise at less than fair market value, barns, silos, sugarhouses, and bunkers used for silage storage located within the municipality which are owned or

leased by a farmer as defined in subdivision [32 V.S.A. § 3752\(7\)](#) of this title and used by the farmer as part of a farming operation. An election to exempt or to reduce appraisals made under this section shall remain in effect for future tax years until amended or repealed by a similar vote of the municipality.

**Q: Are barns Homestead property?**

A homestead does not include buildings or improvements detached from the home and used for business purposes. Conversely, a detached building or improvement, such as a shed, garage, or swimming pool, that is located on the parcel and not leased or used commercially is homestead property. Whether an improvement qualifies as part of a homestead depends upon how the improvement is used as opposed to what the improvement is. A barn that is used to park the dwelling owner's car may be homestead property, whereas a barn that is used as a gift shop is not.

Example: Johnson operates a dairy farm on 100 acres. There are 4 structures on the land – a barn, a shed for storing farm equipment, Johnson's dwelling and a dwelling Johnson provides to his farmhand. Johnson's dwelling and the 100 acres are homestead property. The barn, shed and farmhand dwelling are nonresidential property since they are used for the business purpose of operating a farm.

**BOARD OF CIVIL AUTHORITY (BCA)**

**Q: How can listers help to educate the BCA?**

A: It is not the listers' job to teach the Board of Civil Authority to get up-to-speed on the valuation process but it is sometimes advisable and/or necessary for towns to provide resources for the BCA. The Vermont League of Cities and Towns (VLCT) is a good place to start. Some towns have utilized the League's attorneys in presenting BCA members with a seminar to explain the valuation and grievance process in order to help ensure fairness and equity.

**Q: Can property owners submit new evidence at BCA hearings?**

A: Yes, they don't have to use any of the evidence submitted during lister level grievance if they don't want to. Each level of appeal is considered to be de novo (new).

**Q: Is the BCA required to drive by and inspect comparable properties?**

A: The BCA is required to visit the subject property only. A drive by or inspection of the comparables is recommended but not required.

**Q: A taxpayer has demanded that we hold a hearing on a Saturday. Do we have to adhere to this request?**

A: As a quasi-judicial hearing board, you control your schedule and are under no obligation to hold a hearing on a Saturday. However, it would be good to accommodate the appellant's request if the board members can do so without it creating a burden.

**BUILDING PERMITS**

**Q: Without building permits, how do I find out about who is working on their home?**

A: Knowing when to inspect a property for improvements can be a challenge when the town doesn't require building permits. Interior changes are the most challenging, as most towns don't require permits for interior improvements that don't affect the square footage or footprint of the building. Here are a few suggestions on finding out about work being done:

- Be observant as you drive around town. Look for clues such as construction dumpsters and construction vehicles.
- Listen for discussions about construction projects around town.

- Real estate ads will often list recent improvements.
- At least annually, drive all of your roads to observe new projects: decks, outbuildings, additions, pools, etc.

## **CABLE**

### **Q: What is the lowest amount cable can be depreciated?**

A: Cable companies are only allowed to depreciate their inventory down to 40%.

### **Q: Why do we update cable company property every year?**

A: Cable property tends to have changes every year – extending lines, improvements, etc. Bring their values up to depreciated cost each year. You will receive inventory documents from the state annually in May. Contact your District Advisor if you need help.

## **CAMA**

### **Q: How does Computer Assisted Mass Appraisal work in valuing a property?**

A: The state supported CAMA software was developed by Microsolve, a company that was chosen through a competitive bid process in 1998 to be the standard appraisal software in the state. The software was made available to towns to use at their discretion based on a contractual agreement between the State and NEMRC. NEMRC later purchased the CAMA software from Microsolve and incorporated the program into their grand list platform. The basis for the CAMA program is cost data purchased from a company called Marshall & Swift, a nationally recognized leader in cost models for mass appraisal programs throughout the country and is used widely for virtually all mass appraisal purposes. The data is periodically updated by M&S and represents cost data that is adjusted locally for time & location for a town's most recent reappraisal.

When applying a mass appraisal model to a universe of properties in a reappraisal setting it is important to use consistent data, not only in the year the reappraisal is completed but also going forward so that all properties are reviewed through the same lens; the idea is that by using consistent data from one timeframe, future valuations will remain in line with the standards established at the time of the reappraisal. For example, a house built new in 2011 and assessed as a part of a 2013 reappraisal would have the same cost factors as those that would be applied to a hypothetical new house constructed in 2015. The assessment should be similar, assuming similar homes. The overarching goal in any mass appraisal model is consistency and equity; relying on a mass appraisal model from the same time period should accomplish this goal.

All markets are local and each town examines their market and adjusts their tables accordingly to account for the cost to build and the Fair Market Value in their town. The state facilitates the use of the grand list & CAMA software through a partnership with NEMRC but does not influence local decisions about value. The cost model and adjustments that lead to fair market value are local decisions and are based on the dynamics of the local market.

The town should have in their possession the Marshall & Swift manuals from the time period in question and should be able to show where the data comes from. The manuals closely follow the computer models, though some adjustments to the base numbers for local costs can be expected and are represented on your cost sheet or property record card by what is known as time & location factors (which are developed based on property sales) to adjust the national tables for local conditions.

## **CAMPERS/CAMPGROUNDS**

### **Q: The owner of a campground refuses to give us a list of the camper owners. Can we tax the campground owner instead, since she owns the land?**

A: There is no statute stating you can list the campers to the campground owner. However, there is a statute that states you will list all improvements thereon;



[Title 32 : Taxation And Finance](#)[Chapter 129 : Grand Tax Lists](#)[Subchapter 4 : Grand List Of Town](#)[§ 4152. Contents](#)

(a) When completed, the grand list of a town shall be in such form as the Director prescribes and shall contain such information as the Director prescribes, including:

- (1) In alphabetical order, the name of each real property owner and each owner of taxable personal property;
- (2) The last known mailing address of all such owners;
- (3) A brief description of each parcel of taxable real estate in the town. "Parcel" means all contiguous land in the same ownership, together with all improvements thereon.

**COMPARABLE SALES****Q: How can I find comparable sales?**

A: Here are some suggestions:

- Listers will be able to access sales statewide using the Vermont Department of Taxes [VTax system](#).
- Ask local real estate agents and check out real estate web sites, some have sold properties lists.
- Ask other listers, especially when looking for unique properties such as gravel pits.
- Check out the Northern New England Real Estate Network (MLS) at <https://www.neren.com/>. To begin a search on properties, click "Search" at the top of the homepage.
- Stay up-to-date on real estate ads and publications. Become familiar with what is for sale in your market area. That way when sales occur, you may already be familiar with the property.
- Property transfer web sites. This site contains information from some towns: [www.cotthosting.com/vtportal](http://www.cotthosting.com/vtportal).
- There are commercial sites that offer PTTR information subscriptions (search for Vermont Property Transfers).
- Try doing a web search. There are a number of real estate websites that provide useful information.
- Appraisers probably frequent your office—ask them for suggestions, as they usually have a good amount of comparable sales data.
- Some towns have assessment information and property record cards online. Look at town websites in your market area for on-line information. This can be a quick way to check out property aspects to see if specific sold properties have similar features to your subject property.

**Q: Do comparable sales have to be from this town?**

A: When looking for potential comparable sales for grievance and reappraisal purposes, you may not find suitable recent sales within your town. It is okay to use sales from nearby towns as long as that town's real

estate market is similar to yours. Look for sales from nearby neighborhoods that are similar in appeal and value to your subject property. The more unique the property, the farther you will likely have to search to find suitable comparables.

## **CONTACT INFORMATION/LISTER RESOURCES**

### **District Advisors**

Your District Advisor (DA) will strive to answer your questions. In most cases, contact your DA first with questions and concerns.

District Advisor List/Contact Information: <http://tax.vermont.gov/content/district-advisor-list>

Email: [tax.pvr@vermont.gov](mailto:tax.pvr@vermont.gov)

District Advisor Help Desk: 802-828-6887

District Advisors are assigned specific days to answer the Help Desk phone. If your DA is unavailable, call the Help Desk with immediate questions: 802-828-5860 from 7:45 a.m. to 4:30 p.m. Monday through Friday

### **PVR's IT HelpDesk in Montpelier**

Phone: 802-828-0428

Email: [TAX.ITHelpDesk@vermont.gov](mailto:TAX.ITHelpDesk@vermont.gov)

The IT Help Desk staff can help you with passwords, downloads, electronic 411 submissions, signing up for and troubleshooting eCuse, myVTax, and computer questions.

### **Property Valuation and Review**

Website: <http://tax.vermont.gov/municipal-officials>

Phone: 802-828-5860

Email: [tax.pvr@vermont.gov](mailto:tax.pvr@vermont.gov)

### **Mailing Address:**

Vermont Department of Taxes  
Property Valuation and Review  
133 State Street  
Montpelier, VT 05633-1401

### **Current Use Program**

Website: <http://tax.vermont.gov/property-owners/current-use>

Phone: 802-828-5860, option 1 (Current Use)

Towns A-G: 802-828-6633

Towns H-Q: 802-828-6637

Towns R-W: 802-828-6636

Discontinuance/Appeals: 802-828-6634

Email: [tax.currentuse@vermont.gov](mailto:tax.currentuse@vermont.gov)

### **NEMRC (New England Municipal Resource Center)**

NEMRC offers training and seminars to support their software (NEMRC & MicroSolve CAMA).

They have tutorials and instructions on their website: <http://www.nemrc.com>. Click "Support (FAQ)."

Technical and use support is available to towns with service contracts: 800-387-1110.

**Vermont League of Cities & Towns**Website: [www.vlct.org](http://www.vlct.org)

Phone: 802-229-9111

- Public records law
- Weekly legislative reports
- Resources: municipal law; index to municipal law; municipal handbooks

**Vermont Secretary of State's Office**Website: [www.sec.state.vt.us](http://www.sec.state.vt.us)

The Municipal Center includes guides, records, directories, and municipal law.

**CONTIGUOUS PROPERTY****Q: What constitutes contiguous property?**

A: Contiguous property is any land under the same ownership that has a connection point (also see the main section of this handbook). For example, if someone owns land on two sides of the road and the property would have a connection point if the road were not there, it is contiguous. This applies to land with railways, interstate roads, streams, rivers, etc., running through it. Even if the land would only touch at a narrow point, it is contiguous. If there is a lake in between two parcels it would depend upon the size of the lake, but the land would likely not be considered contiguous.

**COST SHEETS****Q: What is a cost sheet?**

A: It is an assessment breakdown of the value of a property. Data is entered via a mass appraisal model costing system.

**CURRENT USE****Q: Do we need to send notices for annual Advisory Board Use Value changes?**

A: No. Current Use property owners are advised of annual Advisory Board use value changes via a letter from the director of Property Valuation & Review.

**Statutory language:**

[32 V.S.A. § 4111](#) Abstracts of individual lists

(e) No notice shall be required for a change solely to reflect a new use value set by the Current Use Advisory Board or the adjustment of that value by the common level of appraisal.

**EDUCATION—LISTERS/ASSESSORS****Q: If a town votes to eliminate listers, can they still get education grant money from the state?**

A: In 2016, towns no longer get lister education funds, but the legislature changed the funding to provide training to listers and assessors at no charge.

**EXEMPTIONS****Q: Do properties leased by a nonprofit corporation or town qualify for a tax exemption?**

A: No. Privately held property needs to be owned by a nonprofit entity in order to pass qualification for exemption, even if a lease limits the property to public use.

**FEDERAL PROPERTY**

**Q: Do state and federal properties require a Change of Appraisal Notice when values change?**

A: No. Federally owned property is tax exempt and does not require a Change of Appraisal Notice.

**FIBER OPTICS**

**Q: Are fiber optics taxable?**

A: Yes, fiber optics are taxable and would be listed on the utility's inventory form.

**FORECLOSURES**

**Q: Which foreclosure transfers require Property Transfer Tax Returns?**

A: A Property Transfer Tax Return (PTTR) is required when there is a "transfer by deed of title to property." See [32 V.S.A. § 9602](#). The timing of the transfer of title depends upon the type of foreclosure action:

1. **Strict Foreclosure**—Generally, in a strict foreclosure, title transfers with the judgment order, and a PTTR must be filed when the foreclosure judgment is filed. A court may order a sale in a strict foreclosure proceeding. [12 V.S.A. § 4941](#).
2. **Court-Ordered "Judicial" Sale**—If the mortgage includes a power-of-sale clause, either party may request that the court order the sale of the property. [12 V.S.A. 4945\(b\)](#). In this type of foreclosure, transfer of title occurs when the confirmation order is filed in the land records and a PTTR is required at that time.
3. **Non-judicial Foreclosure Sale**—Under [12 V.S.A. § 4961](#), a mortgagee may "upon breach of mortgage condition, foreclose upon the property without first commencing a foreclosure action or obtaining a foreclosure decree. . . . No sale under and by virtue of a non-judicial power of sale shall be valid and effectual to foreclose the mortgage unless the conditions of this subchapter are complied with."

**FUEL STORAGE TANKS**

**Q: Are fuel storage tanks real or personal/trade fixture property?**

A: It depends. Trade fixtures are classified as the personal property of the owner installing them; they retain their chattel (an object of movable quality) character regardless of annexation. Elements for a trade fixture are:

- Annexed to realty by the tenant
- Enables the tenant to carry on the trade or enterprise addressed by the tenancy contract
- Can be removed without material or permanent injury to the freehold (see Powell's Treatise on Property, Section 57.06).
- There exists an intention that the annexation was not meant to be permanent.
- [32 V.S.A. § 3618](#). Business personal property

(1) "Business personal property" means tangible personal property of a depreciable nature used or held for use in any trade, business, professional practice, transaction, activity, or occupation conducted for profit including all furniture and fixtures, apparatus, tools, implements, books, machines, boats, construction devices, and all personal property used or intended to be used for the production, processing, fabrication, assembling, handling, or transportation of anything of value, or for the production, transmission, control, or disposition of power, energy, heat, light, water, or waste. "Business personal property" does not include inventory, or goods and chattels so affixed to real property as to have become part thereof, and which are therefore not severable or

removable without material injury to the real property, nor does it include poles, lines, and fixtures which are taxable under sections [32 V.S.A. § 3620](#) and [32 V.S.A. § 3659](#) of this title.

So if a fuel storage tank is owned by the owner of the real estate and is affixed in a permanent manner to the real estate, it is real property.

If it is owned by a lessor to the owner of the real estate, it could be either real or personal property, depending upon the intention to make it permanent. (If the lease says the lessor has the right to remove the tank, then the tank keeps its chattel nature and is not real estate, unless you have just cause to believe the lease was written in such a manner strictly to avoid taxation and that there is no intention of removing the tank in the future.) If the lessor has a history of removing tanks from lessees' properties under certain circumstances, you should treat the tank as personal property.

## GREENHOUSES

### Q. How should we treat greenhouse valuation?

A. The Department has a technical bulletin regarding greenhouses. See <http://tax.vermont.gov/sites/tax/files/documents/TB21.pdf>. Depending on the whether or not the greenhouse can be removed from the property, it is either business personal property or included in the real property assessment.

## GRIEVANCE

### Q: What is the process for a new buyer to become an agent for the seller of a property in the grievance process?

A: A signed letter detailing permission and submitted to the listers would be sufficient.

### Q: Can we make house visits the night of grievance hearings?

A: Yes, as long as it doesn't mean that you are not in the office during the times you posted for grievance.

### Q: If someone walks into our office on grievance day without previous notice, do we have to hear them?

A: Yes, provided that they give you a written and signed piece of paper stating that they want to grieve. You will be obligated to schedule a time to hear them.

### Q: How do I change the lister names on the Result of Grievance Notice?

A: Go to NEMRC's main menu. Choose: I – Installation/Listers Tab. Make the changes and they will automatically transfer to the notice.

### Q: If a lister wants to grieve their own assessment can they still sit in on other grievances?

A: Listers can grieve their own assessment. There is no tax law provision to prohibit them from sitting in on other grievances. However, as a general rule, they should **not** (it can be easily construed as a conflict of interest). If a lister is unhappy with his/her own assessment, our "Best Practice" advice to towns is to have the other two listers look at the property ahead of time. If they concur that adjustments are justified, then they can make agreed-upon changes and perhaps avoid an official grievance.

## HS-122/HOMESTEADS

The Department has a fact sheet on homestead declarations at <http://tax.vermont.gov/sites/tax/files/documents/HomesteadDeclarationFS.pdf>

Fact sheet on property tax adjustments: <http://tax.vermont.gov/sites/tax/files/documents/PropertyTaxAdjustmentFS.pdf>

**Q: Can the property owner appeal a homestead penalty to the listers?**

A: The town's selectboard determines whether or not to assess the homestead penalty in general. They can vote to decide whether to apply a penalty or not. For selective or hardship cases when the penalty has not been voted out, the Listers should pass the issue on to the Board of Civil Authority. It is not the lister's responsibility to determine who is responsible for paying the homestead penalty.

**Q: Do Homestead declaration changes need to go through Errors & Omissions after the grand list has been filed?**

A: No. [See 32 V.S.A § 4261](#). On correcting omissions from grand list, listers may make corrections resulting from the filing or rescission of a homestead declaration without the approval of the selectboard. (Amended 2005, No. 38, § 14, eff. June 2, 2005.) Listers should record these changes in the grand list using the appropriate [certificate](#).

**Q: Do the 183 days minimum occupation to meet the Homestead definition need to be consecutive? Do they need to be living in the home on April 1 each year?**

A: No and No.

[32 V.S.A. § 5401](#). Definitions

(A) "Homestead" means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual's domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year, or for purposes of the renter property tax adjustment under subsection [6066\(b\)](#) of this title, rented and occupied by a resident individual as the individual's domicile.

**HUD PROPERTIES**

HUD owned properties are non-taxable. Housing & Urban Development is a branch of the U.S. Government. <http://legislature.vermont.gov/statutes/section/32/125/03802>  
<https://portal.hud.gov/hudportal/HUD>

**IMPROVEMENTS TO PROPERTY****Q. Are extensive fencing and landscaping valuable improvements? How about tennis courts and in-ground swimming pools?**

A: You will need to look at your town's real estate market to answer these questions. The answer can be established with your hired reappraisal firm at the time of a reappraisal.

Fencing may add little value in certain circumstances, but be desirable in Horsetown. A tennis court or in-ground swimming pool may have limited to no appeal in Ruraltown, but could have enhanced market value in Resorttown. In some cases, buyers may pay less for a property with a swimming pool if they don't want the pool and they would have to pay to remove it. It also may depend upon the type of property. Higher-end home buyers may expect fencing and a pool, whereas modest home buyers would not want to pay more for these features. Get to know your market area. Paired sales analysis and inquiring with knowledgeable, local real estate sales people are two ways of learning what specific improvements are worth in your market area.

**INCOMPATIBLE OFFICES****Q: Can spouses be listers on the same board?**

A: In Vermont, spouses can work together as listers on the same board. However, if either grieves, the third lister and/or a paid consultant should be responsible for addressing and determining the grievance outcome, not either spouse.

**Q: Can listers also be on the selectboard?**

A: No. See [17 V.S.A. § 2647](#). Incompatible offices. See the Vermont League of Cities and Towns chart of incompatible offices on the next page.

Can a person hold both of these offices?	Auditor	Select person	School Director	Town Manager	Town Treas.	Election Official & Candidate (Australian Ballot)	Election Official & Candidate (Not Australian Ballot)	School District Employee <sup>1</sup>	Spouse
Auditor	--	N	N	N	N	No, if opposed	N	Y	<sup>3</sup>
Selectperson	N	--	Y	N	N	N	N	Y	--
School Director	N	Y	--	N	N	No, if opposed	N	N	--
Town Manager	N	N	N	--	N	N	N	Y	--
Town Treasurer	N	N	N	N	--	No, if opposed	N	Y	--
Town Clerk	N	Y	Y	N	Y	Y	N	Y	--
Asst. Town Clerk	N	Y	Y	N	Depends <sup>2</sup>	N/A	N/A	Y	--
Town Agent	Y	N	N	N	Y	No, if opposed	N	Y	--
First Constable	N	N	N	N	Y	Y	N	Y	--
Road Commissioner	N	Y	Y	N	Y	No, if opposed	N	Y	--
Cemetery Commissioner	Y	Y	Y	N	N	No, if opposed	N	Y	--
Trustee of Public Funds	N	Y	Y	N	Y	No, if opposed	N	Y	--
Lister	Y	N	Y	N	Y	No, if opposed	Y	Y	--
Assessor	Y	N	Y	N	Y	Y	Y	Y	--
Tax Collector, Current	N	N	N	Y	Y	No, if opposed	N	Y	--
Tax Collector, Delinquent	N	N	N	Y	Y	No, if opposed	N	Y	--
Trustee of Public Funds	N	Y	Y	N	Y	No, if opposed	N	Y	--
Grand Juror	Y	Y	Y	N	Y	N	N	Y	--
Inspector of Elections	Y	Y	Y	N	Y	Y	N	Y	--
Justice of the Peace	Y	Y	Y	N	Y	Y	N	Y	--

<sup>1</sup>Within same supervisory union.

<sup>2</sup>See [24 V.S.A. § 1622](#).

<sup>3</sup>A spouse of a town clerk, town treasurer, selectperson, trustee of public funds, town manager, water commissioner, sewer system commissioner, sewer disposal commissioner, first constable, road commissioner, collector of current or delinquent taxes, or town district school director, or any person who assists any of these officers may not be an auditor. [17 V.S.A. § 2647](#).

## INSPECTING PROPERTY

### Q: Do listers need to obtain consent prior to inspecting real estate?

A: Listers absolutely need to obtain permission if: 1) they have been put on notice by the owner (in person or via a communication) and 2) the property is legally posted with “No Trespassing” signage.

Although [32 V.S.A. § 4041](#) may appear to grant you authority to inspect a property, the prudent thing to do is to obtain permission from the property owner before attempting to enter upon and inspect real estate. Do not inspect the interior of a dwelling (or any other building that would commonly or reasonably be locked – whether or not it is locked) without appropriate permission.

## INTEREST

### Q: Is a town obligated to pay interest on tax credit from an appeal?

A: When the appraised value of a property on appeal has been reduced, a taxpayer is entitled to a credit against the tax for the next ensuing tax year and for succeeding years if necessary to use up the amount of the credit. If the town has voted to collect interest on overdue taxes, a taxpayer will also become entitled to interest at that same rate on his/her overpayment.

## INVENTORY FORMS

### Q: Are inventory forms public records?

A: No. Inventory forms, both utility and personal property, are not for public viewing.

## LAND SCHEDULES

The term “Land Schedule” refers to a list of land values identified by size typically used by assessors as a basis of land values. The values are derived from sales data in the town’s real estate market area at the time of ad valorem reappraisal. The tables are developed to allow for uniform valuation of all property on an equal basis. This information is embedded in the computer’s CAMA cost system and is used as a basis for land values when costing property. The schedule is often modified by significant characteristics such as location, topography, accessibility, and availability of utilities to establish individual lot values for assessment purposes.

## LAWS AND LEGISLATION

The Vermont League of Cities & Towns has information called “Finding the Law—Basic Legal Research for Vermont Municipal Officials” here: [http://www.vlct.org/assets/Resource/Miscellaneous/finding\\_the\\_law\\_03-18-15.pdf](http://www.vlct.org/assets/Resource/Miscellaneous/finding_the_law_03-18-15.pdf). Also see [www.legislature.vermont.gov](http://www.legislature.vermont.gov).

## LIFE ESTATES

### Q: How should life estates be listed in the Grand List?

A: It is up to the listers. The Division of Property Valuation & Review recommends listing to the owner of the life estate. This makes homestead declarations easier when the life estate owner lives on the property.

## LISTERS (LACK OF)

### Q: Can fewer than three listers sign the grand list?

A: Vermont law requires a town to have three listers (unless additional listers are elected or the town has voted to eliminate the office of lister pursuant to [17 V.S.A. § 2651\(c\)](#). [17 V.S.A. § 2649\(a\)\(1\)\(B\)](#)). Vermont law requires each lister to sign the grand list and swear that it is a true statement of all real estate and taxable personal estate. [32 V.S.A. § 4151](#).

If only one lister signs the grand list, the town faces the risk that a taxpayer will argue that the grand list is



invalid. [32 V.S.A. § 4262](#) allows listers to legalize a defective or invalid grand list (including when they fail to subscribe and attach the oath required in section 4151) on or before February 15 of the following year.

If there are fewer than three listers, the selectboard shall fill the vacancy/vacancies until the next election. [24 V.S.A. § 963](#). If the board of listers falls below a majority and the selectboard is unable to find a person or persons to appoint as lister(s), it can appoint an assessor to perform the listers' duties until the next annual meeting. [17 V.S.A. § 2651c\(a\)](#).

Be aware that a town could alter these requirements in its charter, so the town's charter should be consulted as well.

Another scenario: if there have been changes made to the values of any parcels in town and those changes have been made without the knowledge and support of the other listers, to the point where the listers have reservations about signing the grand list, then it is incumbent upon the listers to resolve this. If necessary, they may need to change the values back to their original levels. Refusing to sign a grand list because of changes made by another lister does not relieve a lister of his or her responsibility for the grand list product, nor from the responsibility for upholding the oath of office that was sworn to when elected.

### **MARSHALL & SWIFT COST SYSTEM**

#### **Q: When should I update my Marshall & Swift books?**

A: You should update when a reappraisal is completed. At the time of reappraisal, the Marshall & Swift cost information will be updated in your computer assisted mass appraisal (CAMA) files. The Marshall & Swift books (residential and commercial) should reflect those new cost tables in your computer. Do not upgrade your books in between reappraisals. If you do and you use updated figures (for new construction, for example), you will be applying values inequitably

#### **Q: How do we order our Marshall & Swift books at the time of reappraisal?**

A: It is up to the town to order and get billed for the books. You will want to discuss the book version/cost tables needed with your reappraisal contractor prior to ordering. Contact NEMRC directly to order the books.

### **METHANE DIGESTERS**

#### **Q: Do methane digesters qualify as building under Current Use?**

A: The Department has a technical bulletin addressing this question at <http://tax.vermont.gov/sites/tax/files/documents/TB65.pdf>

### **MOBILE HOMES**

#### **Q: Is there a place to get mobile home values?**

A: NADA books work for travel trailers. Mobile homes should go through your CAMA system.

### **MORTGAGE COMPANIES**

#### **Q: If a mortgage company overpays the taxes, who is entitled to the refund – the property owner or the mortgage company?**

A: The taxpayer is the person legally responsible for paying the taxes regardless of who actually does pay. The mortgage company is paying the taxes on behalf of the owner. The homeowner is ultimately liable for the tax owed – therefore, the homeowner is the taxpayer and any refund should be paid to the homeowner.

### **OPEN MEETING LAW**

The Vermont League of Cities and Towns (VLCT) has general information about the open meeting law: <http://www.vlct.org/vermont-local-government/vermont-open-meeting-law/>

VLCT has Frequently Asked Questions on Open Meeting Law:

<https://vlct.org/resource/open-meeting-law-faqs>

The Vermont Secretary of State's Office has information on open meetings and government transparency:

[https://www.sec.state.vt.us/media/716442/Got-Transparency\\_2015.pdf](https://www.sec.state.vt.us/media/716442/Got-Transparency_2015.pdf)

## **ORCHARD LANDS**

### **[32 V.S.A. § 3607](#). Orchard lands**

When the owner of land, cultivated or uncultivated, has planted the same to fruit trees, such land shall continue to be set in the list at the same valuation as similar land not so planted, but which is used for general agricultural purposes. Increase in the valuation of such land for taxation shall not be made for 15 years on account of trees growing thereon.

## **OUTDOOR FURNACES**

### **Q: How would I enter an outdoor wood heating furnace in CAMA?**

A: Enter it by name and rate, although be aware that it may not warrant additional consideration beyond a heating system, which is part of the base calculations. What does your market show?

## **PILOT (STATE) BUILDING VALUES**

### **Q: Should state-owned buildings be listed as assessment or insurance value?**

A: Insurance values are the basis for PILOT payment, as determined by the state. Towns can list the properties at insurance or assessed values.

## **PROPERTY TRANSFERS**

### **Q: Can two or more non-contiguous parcels (separate parcel IDs) be conveyed with one Property Transfer Tax Return (PTTR)?**

A: Yes, if they are on one deed then there is one transfer return. Use the value and category from the larger parcel when filling out your portion of the PTTR.

## **PUBLIC POSTING**

### **Q: What constitutes a public place for posting the "Notice to Taxpayers" document?**

A: This notice needs to be posted in 5 public places (the Town Clerk's office plus 4 others). The public places do not all have to be in your town, they can include neighboring areas that residents of your town frequent. The following examples are considered to be public places:

- Town Clerk's Office (always post there)
- Outdoor public bulletin boards
- Grocery store bulletin board
- Library
- Post office
- Gas station
- Town website

## PUBLIC RECORD

### Q: Are things like draft cost sheets and listers' notes considered to be public record?

A: The only things in listers' files not considered public record are personal property information, income and expense information, and inventory forms. Temporary CAMA information (such as in a reappraisal, when a Property Record Card is still subject to change) is subject to the public records law.

If you provide someone with information that is subject to change, you should note that it is subject to change on their copy of the documents. (To cover your bases you may want to photocopy what you give to people so you have proof that you wrote "Subject to Change" on their copy.)

## QUALIFIED HOUSING

### Q: Does a qualified housing building automatically retain its exemption after a transfer to a new owner?

A: No. See tax stabilization agreements; tax increment financing districts [32 VSA §5404a](#).

### Q: What should we do if qualified housing owners do not file?

A: Qualified Housing owners are obligated to file each year. If they do not, the value should be changed appropriately with a Change of Appraisal Notice being sent.

### Q: Should subsidized rental housing (Qualified Housing) values be adjusted annually?

A: The subsidized housing valuation process was crafted to allow the value, once determined, to remain the same until and unless the town reappraised all properties. However, there is nothing to prohibit a taxpayer from requesting a new appraisal of the property. Further, the property can and likely should be revalued if there is a substantial change, such as additional units, accelerated depreciation, etc.

### Q: What should we do if we have reason to suspect an owner of Qualified Housing is including capital expenses in their annual expenses total?

A: You can request a breakdown of the expenses. If they refuse and it goes to grievance, you can request the information again in the grievance process. The Tax Department has a technical bulletin that may be of help: [http://tax.vermont.gov/sites/tax/files/documents/TB32\\_0.pdf](http://tax.vermont.gov/sites/tax/files/documents/TB32_0.pdf)

## RAILROAD PROPERTY

### Q: How should we account for railroad property?

A: Railroad property is non-taxable (Code 22). [32 VSA §3803\(1\)](#). Railroad corporations pay a separate tax based on track mileage.

## SALE DATE

### Q: Is the "Sale Date" the recording date or the closing date?

A: PVR recommends using the recording date, although towns should determine which they will use and remain consistent with that method. One disadvantage of using the recorded date is that a sale could have closed years ago and has only recently been recorded. Calling that the sale date would be misleading, and the market could have changes significantly between the closing and recording dates.

## SHEDS

### Q: Are sheds on skids (or other movable buildings) taxable or personal property?

A: There are a few things to consider when making this determination:

- Intent—is it the intent of the owner to leave it and utilize it for the property's benefit indefinitely?

- Is it annexed to the real estate (foundation or other attachment)?
- Is it adapted to the realty by site work and/or landscaping?

If the answer is “yes” to any of the above, the shed is likely real property for taxation purposes unless:

- There is compelling evidence (more than verbal assertion) that the owner is merely storing the shed there temporarily.
- The property owner is a business, in which case it may be a trade fixture and, therefore, personal property. (Even when the owner is a business, there is a good likelihood that the shed may be real property, based on the intent and utilization.)
- If the listers have agreed **not** to list sheds of a certain size and this one fits those parameters.

### **SOLAR POWER**

**Q: Can the town assess the land underneath solar projects more than it is/was currently charging it as a farm field?**

A: The short answer is yes, they can. The key question is “Should they?” If the assessing officials determine that the highest and best use of that particular site is no longer farming but instead an ideal site for a solar project—and they have data to support an increased valuation—then they would be within their duties to adjust the land value for a different use.

The fairness question is another issue. Have they also done increases on other solar sites within the town or is a certain project being singled out for “special” treatment? What is the data that supports an increased valuation? Many questions come into play on this subject and research is an important aspect in determining the answer.

### **STATE HEARING OFFICERS**

**Q: Can property owners submit new evidence at state-level hearings?**

A: Yes, they don’t have to use any of the evidence submitted during lister level grievance if they don’t want to. Each level of appeal is considered to be “de-novo” (new).

### **STATE-OWNED PROPERTY**

**Q: Do state & federal properties require a Change of Appraisal Notice when values change?**

A: No. See Determination of assessed values; appeal at [32 V.S.A. § 3704](#).

### **SUBDIVIDED LAND**

**Q: We are doing a reappraisal. How should we value parcels that have permitted subdivisions or contiguous parcels that are legally subdivided?**

A: A reappraisal is an appropriate time to set up standards for placing value on all properties, especially the type mentioned. It is important to keep in mind all new values should be at—but not above— market value. This is true for undeveloped, yet permitted lots in developments or adjoining lots owned in common. Here are some guidelines we apply and try to follow during a reappraisal:

- Stick with the land schedule developed and used for other properties in town. We generally use one non-waterfront residential land schedule and adjust for location (neighborhood multiplier) and then each parcel is further adjusted for the specific characteristics (grade) as a site and residual (bulk) land. When applied correctly, this system is flexible (technically elastic in economic terms) enough to address nearly all variations in parcels of land (whether improved or not) in a town from the same land schedule.

- Each town must determine at what point Highest and Best Use is realized in their market and apply site values in accordance with that research and determination.

## **SUGARHOUSES**

### **Q: Are sugarhouses tax exempt?**

A: There is no statute exempting sugarhouses. However, they can be enrolled and exempted in the Current Use Program as qualifying farm buildings for qualified farmers.

## **TAX CREDIT**

### **Q: Upon winning a tax appeal, should the taxpayer receive credit for the prior year's taxes?**

A: No. An appeal by a taxpayer of the listed valuation is a challenge of the current year's tax bill, assuming they appealed this year.

## **TAXING THE WRONG PERSON**

### **Q: Our town has erroneously been collecting taxes on a parcel that transferred to a different owner over a year ago. The transfer was confusing and the parcel didn't get processed correctly. What should we do?**

A: First, it should be noted that it is the taxpayer's responsibility to keep track of their holdings and assessments annually; there is a shared responsibility on the part of the listers and taxpayers to review an assessment. Assuming the grand list books have been closed out each year with a Certificate of No Appeals or Suits Pending form (Form 4155), there is no recourse for the taxpayer to go back in time to recoup payments.

Similarly, the time for Errors and Omissions would have passed on December 30. The only possibly recourse for the taxpayer is to request a Board of Abatement hearing. They could argue that a mistake was made and ask for compensation for taxes paid in error. Many Boards of Abatement are reluctant to go back further than one year, as anything more than that could create a potential opening for any number of claims.

## **TREEHOUSES**

### **Q: Are treehouses taxable?**

A: It depends. Would the average buyer pay more for that property because of the tree house? How big is it? Is it of substantial quality—enough to be of value? What can it be used for? Look at all of the factors about this particular structure and make a determination. Treehouses vary greatly in substance, so consider the previous questions when making a determination.

It might help to do some research online to get an idea of how much companies are charging to build similar treehouses. If a structure is homemade using low-cost materials and is open and small, it likely has no market value. If, however, it is a finished, fully-functioning structure that can be rented for income, you will want to place a value on it.

## **TOWN-OWNED PROPERTY**

### **Q: If a town purchases property after April 1, how do they handle taxes?**

A: The property is taxable as of April 1 and needs to stay listed as such for that grand list year. The town should base their tax rate on not owning the property. The town can abate the taxes on the property if they choose.

## **TRUSTS/TRUSTEES**

### **Q: When there is a new trustee of a trust, what paperwork is required?**

A: The trustee, and not the trust, is technically the owner of the property. For current use purposes, we

require a new application to the Current Use Program when a new trustee is added. See question #7 on the “Applying for the Current Use Program: FAQs for Trusts and Trustees” at <http://tax.vermont.gov/sites/tax/files/documents/CurrentUseTrustsInfoFS.pdf>. The new trustee should probably also file a notice of change in trustee in the land records to document the new trustee. If or when the property is ever conveyed, a Notice of Change in Trustee or Certificate of Trust is usually filed in the land records to document the new trustee’s authority to convey the property.

## **TWO TOWNS**

**Q: Who determines the allocation of a property/building is in more than one town?**

A: Discuss this with the listers in the other town(s) to determine percentages.

## **UNLANDED BUILDING**

**Q: Person A built a camp (or house) on Person B’s land. Person B just told us he is giving the camp to Person C. Does this transaction need a property transfer return filed?**

A: Yes, a Property Transfer Tax Return needs to be filed, along with a bill of sale or a deed to evidence the transfer of the structure (whether it be a camp, dwelling or mobile home, etc.). If it is affixed to the underlying land (attached to utilities, not likely to be moved) it becomes part of the land and is considered real property, even though the land is not owned by the same party.

## **USE VALUE CHANGE**

**Q: Is a change to the use value a grievable item?**

A: If you change nothing on your use value records and the only thing that is different in a new year is the Common Level of Appraisal and the current use value, you are not obligated to send a Change of Allocation Notice. Some listers send notices to all property owners in the Current Use Program for the use value change because it shows an updated taxability, and then the property owners can’t come back to the listers and say they weren’t notified. Property owners receive use value change notices from the Current Use Program. Allocation can be grieved, and the property owner needs to receive a notice when you change allocation amounts.

## **UTILITIES**

**Q: Why do we update electric utilities every year?**

A: Utilities tend to have changes every year—extending lines, improvements, etc. Bring their values up to fair market value and apply the Common Level of Appraisal each year. You will receive inventory documents from the state annually in May. Contact your District Advisor if you need help.

## **VETERANS EXEMPTIONS**

The Department has a fact sheet, “Veterans and Property Taxes: What You Should Know,” at <http://tax.vermont.gov/sites/tax/files/documents/VeteransProptaxFS.pdf>

**Q: A property is owned by a veteran on April 1 sells on April 12. Can the veteran’s exemption be removed since it is prior to the May 1 deadline?**

A: If a veteran owns property and resided there on April 1, the exemption stays and can be dealt with at closing if the parties choose. If a veteran sells after April 1, they cannot get the exemption on a different property that year—the exemption is for the property they owned and resided in on April 1.

**Q: A veteran just had a rental house built on his property. How does this affect his exemption amount?**

A: It should not affect his exemption amount. Example: If your town does a \$40,000 exemption and a veteran’s

land and trailer was worth \$38,000—the new house value will not be taken into account to go beyond the \$38,000 exemption. The exemption would remain at the cap of \$38,000.

#### **VERMONT HOUSING FINANCE AGENCY (VHFA)**

**Q: I recently got a letter in the mail from the Vermont Housing Finance Agency. It states that a house it now owns is exempt from real estate taxes for the upcoming tax year. Is this a valid statement?**

A: Yes. See the relevant statute, Title 10: Conservation And Development, Chapter 25: Vermont Housing Finance Agency ([10 V.S.A. § 641](#)).

#### **YURTS**

**Q: How should we value yurts?**

A: This topic was discussed among listers and assessors on the listserv. Here are some ideas from the emails:

- Look online at different yurt websites (there are a lot in the western part of the U.S.). One example is Pacific Yurts at <http://www.yurts.com>.
- Look at Marshall & Swift for a guideline. See the “Useful Information” section in the residential handbook.
- Some yurts come in close to camp prices, and one recommendation is to use cabin rates for interior finish.
- Factors having a large impact on value: Cover material, roofing, finish-extent and quality, platform.
- Remember to consider construction costs when considering kit pricing.
- These structures will likely depreciate faster than a home.
- Yurt sales are uncommon but try asking for comparable sales information on the listserv.