

MAINE STATE LEGISLATURE

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MAINE REVENUE SERVICES

**BIENNIAL REPORT
ON**

**THE CURRENT USE VALUATION OF
CERTAIN WORKING WATERFRONT LAND**

2012 REPORT

**A REPORT PREPARED FOR THE
JOINT STANDING COMMITTEE ON TAXATION**

January, 2012

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NARRATIVE

A. Introduction

This report sets forth the status of Maine's current use valuation of certain working waterfront land program (the "Program") as required to be reported to the Legislature on January 15th of each even-numbered year beginning January 15, 2008.

The specific information required by 36 MRSA §1140-B(2) is summarized as follows:

- Identify "the total value of each sale of working waterfront land and the value of each sale that is reasonably related to working waterfront land, that compares the sale price of the working waterfront land with the just value of the same land and that categorizes the sales data by region, type of commercial use or commercial fishing use and any other relevant categories";
- Include any other data or analysis that the State Tax Assessor "finds relevant and any recommendations the assessor develops to assist municipal assessors in calculating the current use value of enrolled working waterfront land that is used for or supports commercial fishing activities"; and
- Make recommendations to amend the Program "for the purposes of improving or ensuring the accuracy of current use assessment of working waterfront land."

B. Background

In response to public support of referendum Question 7 on Maine's November 8, 2005 ballot, "An Act to Preserve Maine's Working Waterfront" (LD 1972) was enacted by the 122nd Legislature. Question 7 was approved by 72% of Maine's voters and authorized the Legislature to amend Maine's Constitution to allow for current use valuation of land used for commercial fishing activities. The legal framework for the implementation and administration of the Program is found in Title 36 of the Maine Revised Statutes, sections 1131 through 1140-B.

A 2007 study by the Island Institute determined that of Maine's 5,300 miles of coastline, only 20 miles remain for working waterfront and support of commercial fishing activities. Of those 20 miles, 67% is privately owned and vulnerable to conversion to uses inconsistent with commercial fishing

activities. As coastal land values increase due to demands for second home ownership, more and more fisherman are succumbing to the financial pressure of increased taxation and are being forced to move inland. Additionally, as traditional points of access to the water are lost, use of remaining access areas is stretched to capacity.

C. Research and Outreach

April 1, 2007, marked the beginning of the first property tax year for which property owners could classify their property as “Working Waterfront Land,” defined to be “a parcel of land, or a portion thereof, abutting water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities,” and receive the benefit of reduced property taxation based on current use values. In order to increase awareness of the new Program, various interested parties began a collaborative outreach campaign that included press releases, targeted mailings, local media, and industry networking. In addition, workshops were held in Machias, Ellsworth, Rockport, Brunswick and Saco in an effort to inform and educate assessors, municipal officials, landowners, potential applicants and anyone else interested in the preservation of Working Waterfront Land. Although the focus was on the new Program, a toolbox approach was employed to showcase the diverse range of options available to landowners wishing to preserve and enhance coastal properties.

A number of educational outreach programs have been conducted since the inaugural report including *Accessing the Maine Coast*, a series of regional workshops sponsored by Maine Sea Grant, designed to bring people with diverse coastal access interests together in order to provide Program updates, share new information and tools, clarify current needs and propose next steps. The workshops were held at the University of Maine at Machias, the Darling Marine Center in Walpole and the Wells National Estuarine Research Reserve. Two excellent websites were also developed as part of this project: <http://accessingthemecoast.blogspot.com/>, a blog highlighting the three meetings, and <http://www.accessingthemaineoast.com/>, an informative, user-friendly resource covering a broad range of issues relating to Maine’s coast. In addition, on February 25, 2009, Maine Revenue Services and the Bremen Conservation Commission organized a tour of Working Waterfront Land in Bremen followed by a public informational meeting discussing the Program.

D. Program Status

In 2007, the first year of the Program, 15 municipalities in six counties reported that 40 parcels, consisting of almost 41.5 total acres, were enrolled in the Program. Currently, 33 municipalities in seven counties report that 77 parcels, consisting of almost 96 acres, are enrolled in the Program. These municipalities reported a total just value of enrolled land before classification of \$20,993,851. The reported current use value of this land under the Program is \$15,416,249 representing a reduction in value of \$5,606,672, approximately 27% of the original just value. (Attachment A)

Since the Program's inception, there have been no identified sales of Working Waterfront Land that could be used as comparable sale comparisons for purposes of providing additional guidance in the determination of current use value. This result is not surprising given the limited number of potential properties that meet the definition of Working Waterfront Land as defined by the Program. Additionally, potential candidates for the Program would be unlikely to enroll if they had plans to sell the property. MRS will continue to survey municipalities annually in an effort to identify relevant sales data that could support any adjustments to the current assessment methodologies that are provided for in the statute.

E. Observations and Comments

The constitutional language as approved by the voters of Maine provides for the current use valuation of waterfront land used for or in support of commercial fishing activities. Such land has been perceived as rapidly disappearing from the Maine coast and, consequently, in need of preservation before it disappears completely. Reduced property taxes alone are not enough of an incentive to preserve such land; however, the Program is now considered a valuable tool in the toolbox of available programs and incentives that are needed to achieve this goal. The consensus among most people is that this new form of current use taxation is accomplishing its stated purpose by helping to preserve commercial fishing resources and providing tax benefits to targeted property owners. The number of parcels enrolled is significant considering that this program is only five years old and the number of potentially eligible parcels is very limited. Administratively modeled after existing current use programs, the Program benefitted from past experience with those other programs thereby avoiding many of the historically problematic areas of concern found in other current use programs. As a result, the Program has proven to have sufficient clarity of scope and purpose to be able to be administered at the local level.

Enactment of the Program initially elicited some negative reaction, particularly with regard to the narrow scope of the legislation dictated by the specificity of the referendum question, the principals of current use taxation and the Maine Constitution. The concerns came largely from non-commercial fishing waterfront businesses including: retail and mixed use facilities, recreational boatyards, residential property owners and other ineligible parties.

Concerns regarding the withdrawal penalty can generally be dismissed as these penalties are inherent in all current use taxation policy and are necessary to protect the municipality and its taxpayers. Property that remains classified under the terms of current use taxation is not affected by the imposition of penalties for withdrawal.

F. Recommendations

As the Program appears to be accomplishing its goals with very little controversy or negative feedback, MRS is not recommending changes to the Program at this time. The Program is well established and the level of participation has exceeded initial expectations. Ongoing outreach and education activities will continue through Maine Revenue Services, local assessors, the Working Waterfront Coalition and other groups and organizations with an interest in coastal preservation.

The Program is working efficiently and will evolve, if necessary, through routine municipal administration and any challenges to that administration that may arise. Public perception of other current use programs will continue to benefit from the stability in this Program. As statute dictates a review of the working waterfront tax law in each even-numbered year, it would be appropriate to revisit any suggested changes to the Program in 2014.

Attachment A
WORKING WATERFRONT LAND
Classified Land as of April 1, 2011

MUNICIPALITY	COUNTY	# of Parcels	Total Acres	Total Valuation	Original Value	W W Value	Difference
BRUNSWICK	CU	1	1	\$20,000	\$25,000	\$20,000	\$5,000
CHEBEAGUE ISLAND	CU	1	1.4	\$186,400	\$233,000	\$186,400	\$46,600
HARPSWELL	CU	1	0.03	\$91,900	\$114,900	\$91,900	\$23,000
LONG ISLAND	CU	1	0.5	\$265,703	\$332,128	\$265,703	\$66,425
PORTLAND	CU	1	0.09	\$270,500	\$338,200	\$270,500	\$67,700
SCARBOROUGH	CU	1	0.19	\$269,600	\$296,550	\$269,600	\$26,950
BROOKSVILLE	HAN	1	0.5	\$203,100	\$250,100	\$203,100	\$47,000
GOULDSBORO	HAN	3	0.53	\$229,800	\$262,100	\$229,800	\$32,300
PENOBSCOT	HAN	2	2.47	\$101,900	\$112,090	\$101,900	\$10,190
TREMONT	HAN	1	1.1	\$293,800	\$587,600	\$293,800	\$293,800
CUSHING	KNOX	1	1.25	\$15,690	\$18,828	\$15,690	\$3,138
FRIENDSHIP	KNOX	6	2.25	\$678,133	\$846,591	\$678,133	\$168,458
OWLS HEAD	KNOX	1	0.25	\$360,000	\$400,000	\$360,000	\$40,000
SAINT GEORGE	KNOX	13	12.48	\$3,254,198	\$4,604,193	\$3,254,198	\$1,349,995
SOUTH THOMASTON	KNOX	1	0.25	\$137,000	\$171,250	\$137,000	\$34,250
VINALHAVEN	KNOX	1	1.55	\$422,500	\$528,100	\$422,500	\$85,600
BOOTHBAY	LI	1	0.79	\$195,800	\$195,800	\$195,800	\$48,800
BOOTHBAY HARBOR	LI	3	1.21	\$733,000	\$800,100	\$733,000	\$67,100
BREMEN	LI	3	20.7	\$542,392	\$867,665	\$542,392	\$325,273
BRISTOL	LI	11	5.99	\$1,608,600	\$2,402,300	\$1,608,600	\$793,700
DAMARISCOTTA	LI	1	1.29	\$161,500	\$201,900	\$161,500	\$40,400
EDGECOMB	LI	1	4	\$276,800	\$346,000	\$276,800	\$69,200
SOUTHPORT	LI	4	2.8	\$1,822,388	\$2,992,830	\$1,822,388	\$1,170,442
WALDOBORO	LI	1	7.2	\$302,000	\$368,000	\$302,000	\$66,000
WESTPORT ISLAND	LI	1	3.8	\$343,208	\$434,000	\$343,208	\$90,792
GEORGETOWN	SAG	2	4.99	\$905,900	\$1,050,000	\$905,900	\$144,100
PHIPPSBURG	SAG	2	4.32	\$1,156,200	\$1,267,600	\$1,156,200	\$111,400
EASTPORT	WASH	2	1.56	\$84,800	\$117,000	\$84,800	\$32,200
JONESPORT	WASH	3	1.52	\$165,400	\$229,700	\$165,400	\$64,300
LUBEC	WASH	2	2.11	\$118,126	\$234,801	\$118,126	\$116,945
ROQUE BLUFFS	WASH	2	4.1	\$65,411	\$87,525	\$65,411	\$22,114
STEBEN	WASH	1	2.5	\$94,500	\$228,000	\$94,500	\$133,500
KENNEBUNKPORT	YORK	1	1.2	\$40,000	\$50,000	\$40,000	\$10,000
TOTALS		77	95.92	\$15,416,249	\$20,993,851	\$15,416,249	\$5,606,672