

petitioner asserts that a certified forester executed the applications and prepared a forest plan. Petitioner was not obligated nor did it offer the Town a copy of the forest plan. The forest plan indicates that certain acreage in each parcel, not growing trees at the time of the application, is designated under the MANAGEMENT SCHEDULE to be prepared and planted between 1995 and 2000. See Petition for Assessment Review Attachment. Petitioner asserts that the plan supports the position that the current use of the property is tree growth as Petitioner intends to plant trees within five years. Approximately seven acres were planted during the last planting season. This seven acres is only a fraction of the total of LAND NOT USED PRIMARILY FOR COMMERCIAL FOREST PRODUCTION as indicated in Petitioner's application.

The Town asserts that the applications for tree growth dictate what acreage of the property shall be classified as tree growth for purposes of a tax reduction. The Town further asserts that current use does not include intended use whether described on a forest plan or not. The Town asserts that its definition of current use coincides with a reasonable interpretation of the law. To find otherwise, the Town argues, would for all practical purposes preclude adequate administration of the law as the Town would essentially have to guess at what the tax payer intends to do with his property. Except for Part A, the application provides no clues to the taxpayer's intention to plant or not to plant and there is no requirement that the plan be filed.

Article IX, section 8, clause 2 of the Maine Constitution clearly provides that the Legislature shall have the power to provide for the assessment of timberlands and woodlands based on **current use** of the property. The Legislature, in 36 M.R.S.A. § 572, articulates the **purpose** of the Tree Growth Tax Law in accordance with the Constitution as follows:

[I]t is declared to be the public policy of this State that the public interest would best be served by encouraging forest landowners to **retain and improve** their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource (emphasis added).

Further 36 M.R.S.A. § 573 (3) defines forest land as land **used** primarily for the growth of trees to be harvested for commercial use. Finally, forest plan is defined in § 573 part 3-A to mean "a written document that outlines activities to regenerate, improve and harvest a **standing crop of timber**" (emphasis added).

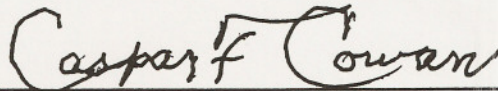
On its face, a reasonable interpretation of the above cited law would dictate that **current use** means property presently forested rather than property intended to be planted. Indeed,

the definition of forest itself would support such an obvious interpretation, the purpose of which is to preserve standing forest (a dense growth of trees and underbrush covering a large tract of land). Webster's Seventh New Collegiate Dictionary 327 (1969).

Due to the foregoing reasonable interpretation of the relevant law the Board finds Petitioner's three applications for tree growth classification to be accurate as interpreted by the assessors to reflect current use. Thus the Board finds that what Petitioner intends to use the property for is not relevant to **current use**, as that term is reasonably interpreted and applied in this matter. Should Petitioner develop its property into forest land at some future date it would not be precluded from reapplying and/or amending its applications to reflect such use thereby seeking reclassification. However as its property is currently used Petitioner has not carried its burden to prove the assessors manifestly wrong and therefore is not entitled to an abatement. Therefore, by a 3-1 vote, this petition is hereby denied.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within (30) days of the date of receipt of this Decision, pursuant to 5 M.R.S.A. §§ 11001-11008 (1990). If this Decision is not appealed, it shall become binding on the parties at the end of said 30-day period.

DATED: 28 February 1997



Caspar Cowan, Chair
Panel C, State Board of Property Tax Review