

## Property Tax Exemptions for Land Trusts in Massachusetts

### Resources

*Note: This background information is intended to assist attorneys in locating cases that cover some of the major legal issues surrounding this topic. Some cases do not particularly address land protection groups.*

#### Relevant Statutes / DOR Rulings

The General Laws of Massachusetts “Persons and Property Exempt from Taxation”  
Mass General Laws Chapter 59, Section 5 (cl.3)  
<http://www.mass.gov/legis/laws/mgl/59-5.htm>

#### *Example of DOR approach in 1994*

Mass. Dept. of Revenue (Letter File #94-699) on the Westford Conservation Trust (WCT) 1994:

1. WCT’s purpose was examined and found appropriate:  
“[T]o acquire and preserve natural resources to include land, water, wetland, woodland and open spaces, and the plant and animal life within...including without limiting...the acquisition and development of land for the purpose of establishing trails, to preserve and protect historic sites, to educate the public about the wise use of natural resources”
2. WCT’s “occupancy” of the land for its charitable purpose was found appropriate:  
**“Where a property is owned by a corporation whose charitable purposes include the preservation of natural resources, we think the simple act of maintaining that property in its natural condition would satisfy the occupancy requisite.”—DOR**
3. The Assessor presumably also questioned the permanence of the preservation intent, asking DOR to comment on the (standard) clause in the WCT charter that gives WCT the power to “sell, convey...all or any of its property...” DOR was not troubled by that fact:  
“The corporation’s tax status depends on whether it satisfies the Clause Third [occupancy of land in natural condition] requisites on the qualification date .”

#### *Example of DOR approach more recently*

2006 - Mass. Dept. of Revenue (Letter File #2005-406) examines property tax exemption for the New England Mountain Bike Association (NEMBA.) (excerpts below)

1. “Non-profit status alone does not make an organization charitable. Thus, the question here is whether the dominant purposes and actual activities of NEMBA are for the public good and benefit a relatively large class or indefinite group from among the public as opposed to providing specific benefits for a limited group...Mass. courts have focused mostly on public access in determining whether a charitable organization benefits the general public...”
2. “Simply preserving property in its natural state is not enough to satisfy the requirement of “occupying” the property within the meaning of the statute...NEMBA must show that it is actively using its property to promote recreation, conservation and education.”

#### Relevant Property Tax Case Law from Appellate Tax Board, Mass Appellate Court and Supreme Judicial Court

Mass Supreme Judicial Court in Assessors of Quincy v. Cunningham Foundation, 305 Mass 411, 418: “The ground of the exemption is that the use of the exempted property alleviates some burden of government by conferring benefits which would advance the public interest.”

- (1) Animal Rescue League of Boston v. Assessors of Pembroke, 2000 Mass. ATB Adv. Sh. 96, Aff’d, 54 Mass. App. Ct. Rep. 1113

- (2) Board of Assessors v. The Vincent Club, 351 Mass. 10 (1966)
- (3) Forges Farm, Inc. v. Board of Assessors of the Town of Plymouth,
- (4) Jacob's Pillow Dance Festival v. Assessors of Becket, 320 Mass. 311
- (5) Marshfield Rod and Gun Club v. Assessors of Marshfield, ATB 1998-1130
- (6) Nature Preserve, Inc. v. Board of Assessors of the Town of Pembroke, 26 Mass. App. Tax Bd. Rep. 200, Aff'd, 55 Mass. App. Ct. 1106(2002)
- (7) New Habitat, Inc. v. Tax Collector of Cambridge, 451 Mass. 729 (2008)
- (8) Straight Ahead Ministries, Inc. v. Hubbardston Assessors, ATB 2009
- (9) The Skating Club of Boston v. Board of Assessors of the City of Boston, ATB 2007-193
- (10) Trustees of Reservations v. Board of Assessors of Windsor, ATB 1991-225
- (11) Wing's Neck Conservation Foundation, Inc. v. Board of Assessors of the Town of Bourne, 28 Mass. App. Tax Bd. Rep. 215, Aff'd, 61 Mass App. Ct. 1112 (2004)

#### Other Online Information

##### *Property Tax Exemption for Land Owned for Protection Purposes*

by Attorney Advisory Panel of the Mass Land Trust Coalition, May, 2006

On [www.massland.org](http://www.massland.org), Information for Conservation Practitioners, Legal Issues, Attorney Advisory Panel Reports section

<http://www.massland.org/?q=category/legal-issues/attorney-advisory-panel-reports>

##### *Property Tax Issues for Non-Profits*

by ATB Personnel, March 2009

On [www.massland.org](http://www.massland.org), Information for Conservation Practitioners, Land Trust Operations, Tax Topics section

<http://www.massland.org/?q=category/land-trust-operations/tax-topics-operations>