



**Knox County**  
**Board of Assessment Review**

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A meeting of the Knox County Board of Assessment Review took place on Friday, February 3, 2012 at 10:00 a.m. in the Knox County Commission Hearing Room.

Board members in attendance: Jim Murphy, Lauren Hall Kenniston, John Flood, Marian Robinson, Martin Cates, Rick Lavoie.

Board members absent: None

County Administrative office staff in attendance: Administrative Assistant Candice Richards serving as recording secretary.

Others in attendance: John Rosenblum, taxpayer; Robert Gingras, Assessors' Agent for the Town of St. George.

## **AGENDA**

**Friday – February 3, 2012 – 10:00 a.m.**

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|-------------|--------------|--|
| <b>I.</b>   | <b>11:00</b> | <b>Meeting Called To Order</b>   |
| <b>II.</b>  | <b>11:01</b> | <b>Opening Remarks by Board Chair</b>  |
| <b>III.</b> | <b>11:10</b> | <b>Approve Minutes</b> <ul style="list-style-type: none"><li>1. January 7, 2011 Gallant</li><li>2. January 14, 2011 Webber</li><li>3. April 22, 2011 Gamage</li><li>4. May 13, 2011 S. Dorsey Smith</li><li>5. May 13, 2011 Paul Smith</li><li>6. June 3, 2011 Baron</li><li>7. June 17, 2011 Thomaston Auction Properties</li></ul> |
| <b>IV.</b>  | <b>11:12</b> | <b>Hearing</b> <ul style="list-style-type: none"><li>1. Appellant</li><li>2. Town of St. George</li></ul>  |
| <b>V.</b>   | <b>12:00</b> | <b>Board Deliberation &amp; Vote</b>   |
| <b>VI.</b>  |              | <b>Other Business</b>  |
| <b>VII.</b> |              | <b>Adjourn</b>   |

- I. Meeting called to order**  
Chair Robinson called the meeting to order at 10:00 a.m.
- II. Opening Remarks by Chair**
- III. Approve Minutes**

- Marian Robinson motioned to table approving the minutes until a later date. Jim Murphy seconded the motion. A vote was taken with all in favor.

#### IV. Hearing

##### Appellant's Evidence

The taxpayer requested an abatement based on the following information for the 2011 tax year:

Current Assessed Valuation	Land	\$579,600
	Building	\$341,300
	<b>Total</b>	<b>\$920,900</b>

Owner's Opinion of Current Valuation	Land	\$329,600
	Building	\$341,300
	<b>Total</b>	<b>\$670,900</b>

<b>Abatement Requested</b>	<b>\$250,000</b>
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- Jim Murphy motioned that the appellant has standing for this appeal by virtue of his ownership of this property and that his appeal was timely filed. Martin Cates seconded the motion. A vote was taken with all in favor.

Mr. Rosenblum explained that during the St. George revaluation of 2010, with a number of categories established for land value, including waterfront land. On the St. George River there are two categories that are relevant to this case: St. George River 2 and St. George River 3. There are significant differences between the two categories in the value of assessed land. The difference is St. George River 2 is \$250,000 and St. George River 3 is \$500,000. Mr. Rosenblum stated this his property was kept in the St. George River 3 category while his neighbor's property, and the properties going up towards Fort Point, is in the St. George River 2 category. Mr. Rosenblum stated that in his opinion there is no distinguishable difference in terms of waterfront. He added that this was a case of unjust discrimination on one property versus another. He stated that he hoped the photographic evidence he had submitted to the Board would help show that the properties look the same from the water, and if you look at the low tide pictures, there is a substantial mudflat distance between the shore and the water.

1. In support of the taxpayer's position, he submitted the following documents:

- Exhibit 1: Application for Abatement to BAR dated 10/27/11
- Exhibit 2: Brief statement labeled "Exhibit A" by taxpayer
- Exhibit 3: Application for Abatement to Town of St. George dated 8/1/11
- Exhibit 4: Six color photographs of a dock at low tide
- Exhibit 5: Letter from the Town of St. George to the taxpayer dated 9/29/11 granting a partial abatement
- Exhibit 6: Brief statement labeled "Exhibit B" by taxpayer
- Exhibit 7: Survey map labeled "Attachment 1" by the taxpayer
- Exhibit 8: Revised Valuation Report for 43 Snows Point Road dated 9/9/11
- Exhibit 9: Valuation Report for 44 Woodchuck Lane dated 10/6/11
- Exhibit 10: Valuation Report for \_\_ Woodchuck Lane dated 10/6/11 (*no street #*)

- Exhibit 11: Valuation Report for 11 Woodchuck Lane dated 10/6/11
  - Exhibit 12: Simplified chart of the St. George River
  - Exhibit 13: Photograph of the Rosenblum's shoreline at low tide
2. In support of the taxpayer's position, he offered the testimony from the following witnesses:  
The taxpayer, John Rosenblum, was the only person present for his party. He did not offer any witnesses.
3. Unjust Discrimination:  
In this appeal, one of the taxpayer's concerns and arguments focused on his belief that the property was the subject of unjust discrimination. The evidence of unjust discrimination presented by the taxpayer was primarily based on the taxpayer's view that the property was not assessed the same as other properties.

### Town's Evidence

Mr. Robert Gingras, Assessors' Agent for the Town of St. George testified that Mr. Rosenblum's property has a pier and a dock and is significantly better than the properties that Mr. Rosenblum wants to be compared to. Mr. Gingras stated that the appellant has failed to provide evidence of what his property is by not having had an appraisal done by anybody. The town feels the property has been compared to like properties.

Martin Cates asked about the reduction from 120% to 110%. Mr. Gingras replied that for the topography, he gave the taxpayer an additional 10% off. Mr. Cates asked if having a pier and a dock is factored into the valuation of the property. Mr. Gingras responded that it is and he explained that a property owner may or may not have a dock in an area where one could have a dock. Below the subject property, there are no docks. Mr. Rosenblum just happens to be the last one to have one. For clarification, Mr. Cates asked if a property had deeper water levels at the waterfront but no pier, would that change the approach to the valuation. Mr. Gingras stated that that would be the highest price in town – bold waterfront property is \$750,000. Whether there's a dock or not did not factor into the valuation.

Rick Lavoie asked Mr. Gingras what the criteria was for why a line was drawn between the taxpayer's property and the property next door. Mr. Gingras responded that the frontage on the property looked worse to him and he felt that there's probably a reason why there's no dock there. That whole area is a mudflat zone. Mr. Rosenblum's frontage goes up the river and is a little better. He stated that there are cutting lines all over town and you have to actually take that into consideration. You have to actually use the sales in the area to determine where the cutting lines should be.

1. The Assessor(s) submitted as evidence the following documents:
- Exhibit 1: Cover Letter to Board of Assessment Review dated 1/19/12
  - Exhibit 2: Property Cards and Valuation Reports for Map 231 Lot 035 **taxpayer's property** and neighboring properties:
    - Map 231 Lot 031
    - Map 231 Lot 032
    - Map 231 Lot 033

- Exhibit 3: Comparable properties with similar tidal frontage using same land schedule as appellants (property cards and valuation reports):  
Map 105 Lot 008  
Map 206 Lot 032  
Map 219 Lot 076  
Map 219 Lot 080  
Map 221 Lot 012-001  
Map 229 Lot 010  
Map 299 Lot 033  
Map 230 Lot 065  
Map 234 Lot 023
  - Exhibit 4: Tax maps: 105, 206, 219, 221, 229, 230, 231, 234
  - Exhibit 5: Letter and information to the municipal officials of Maine from the Maine Revenue Services Property Tax Division re: Preliminary 2012 State Valuation dated June of 2011
2. The Assessor(s) offered the testimony from the following witnesses:  
There were no witnesses presented by the Town.
  3. The town certified ratio for the assessment year being appealed:  
100%.

Public hearing closed at 11:09 a.m.

#### **V. Board Deliberation & Vote**

It became clear that although it states in the Rules & Regulations that both sides are required to provide each other with their evidentiary materials, the Town of St. George had not sent a copy of their materials to the other party. Administrative Assistant Candice Richards gave a copy of the Town's materials to the taxpayer so he could at least see the materials Mr. Gingras was referring to.

The Board had a discussion about whether to proceed or not. The taxpayer had made a special trip to Maine to attend the hearing and the Board felt it would be a hardship to require him to come back up. At the same time, the Board felt the taxpayer had the right to see the Town's materials so that he could respond to them. The Board felt that the Town's materials submitted to the Board should not be accepted as evidence since the Town had not followed the Rules & Regulations, thereby putting the appellant at a disadvantage.

Mr. Rosenblum stated that he didn't know he needed to get an independent appraisal, which Mr. Gingras had stated earlier in the hearing as being something the taxpayer had failed to do. Board Chair Marian Robinson said that an appraisal is not required for an appeal.

When asked if the Town had sent a copy of its materials to the taxpayer, Mr. Gingras stated that he didn't know and that he didn't represent the Town. Members of the Board commented that he was representing the Town of St. George as their Assessors' Agent. Mr. Gingras stated that he was confident that the Town had sent the materials to the appellant.

Jim Murphy commented that Mr. Gingras' documentation did not address the issue of unjust discrimination, which was the appellant's complaint. He added that he did not see the

comparison sales as an issue so he felt that the Board should be able to proceed even with excluding the Town's evidence.

Lauren Kenniston commented that the Board could continue to take evidence today and if need be, the hearing could be continued later, or the Board's decision can be made later. She asked if all evidence had been submitted. Mr. Gingras stated that he had one more sale of unlike property that he could provide but it was not really relevant.

John Flood commented that if Mr. Rosenblum did not get the material prior to the hearing, the hearing should be delayed until he's had time to study it. He added that he was uncomfortable proceeding until Mr. Rosenblum feels ready.

Mr. Rosenblum responded that he was comfortable giving his piece but pointed out that there is no way to prove that the Town had ever sent a copy of their materials to him. The Board had sent mail to him via certified mail, so there was no doubt it had been sent and received. The Town had not done the same. He stated that he felt that it was inappropriate that the Town had violated the rules. He added that if he hadn't followed the rules, this hearing wouldn't have even been scheduled. The Town has created a breach of process. He also felt that his evidence contradicts what Mr. Gingras had presented orally.

- Jim Murphy motioned to move forward with the hearing cautiously, hearing the evidence, and to ask Mr. Rosenblum if he is comfortable with the Board making a decision. There was no second. Motion failed.

Lauren Kenniston asked if the Board should not accept the Town's evidence since it wasn't supplied to the appellant. Chair Marian Robinson commented that for it to be accepted as evidence, it has to have been given to everybody. Several Board members had questions about the Town's evidence. Ms. Kenniston noted that the appellant had stated on the record that he had not received anything from the Town.

- Jim Murphy motioned to exclude the Town's evidence as it was not provided to the appellant. Lauren Kenniston seconded the motion.

Rick Lavoie expressed some concern that this might cause a hardship for the appellant if it resulted in needing to have another hearing at a later date. Martin Cates commented that he just wanted to make sure that all parties understood the process so there was no confusion later.

- A vote was taken with five in favor and one opposed (Rick Lavoie).

Lauren Kenniston asked Mr. Gingras if there was any other evidence that he wanted to submit orally to make sure that it was on the record.

Mr. Gingras stated that he had already submitted the evidence and that it was already on the record. He said that the Board couldn't take anything off the record once it's on the record. He said that the Board had approved the information, that he had submitted the evidence at the start of the hearing, asked that it be accepted, and the Chair acknowledged that it was.

Lauren Kenniston stated that there was no vote taken by the Board at the start of the meeting to accept his evidence.

Mr. Gingras insisted that he would go with what he had submitted and what he believed had been “accepted” by the Board prior to the Board “rejection” of his evidence. He commented that it was his oral evidence that “started this whole fiasco”. He stated that he had never been at a de novo hearing where the appellant and town can’t give any evidence at the hearing. A de novo hearing is supposed to be your day in court, which is when you’re supposed to present the case; not before, not after.

Chair Marian Robinson responded that the Board’s Rules & Regulations do not word it that way.

Jim Murphy noted for the record that the hearing was not a “fiasco”. He also noted that it was inappropriate for the Assessors’ Agent for the Town of St. George to address the Board in an attempt to “dress us down”. He asked Mr. Gingras for the definition of St. George River 2 and what defines that valuation. Mr. Gingras responded that it would be any property, from his standpoint, that could have a pier.

Jim Murphy asked for the definition of St. George River 3. Mr. Gingras responded that it would be mudflats where you would never be able to have a dock.

Jim Murphy commented that the Town created a line that delineates St. George River 2 from St. George River 3. He asked what evidence the Town had that explained the location of the line. Mr. Gingras responded that the Board had that information. Mr. Murphy stated that regardless of whether he had the evidence or not, he was asking a question. Mr. Gingras responded that he had actual sales as evidence.

Jim Murphy asked Mr. Gingras if he had any sales to present. Mr. Gingras angrily responded that the Board already had the information and asked how the Board could exclude the information it had already been presented with. Mr. Murphy responded that he was giving the Town the opportunity, for the record, to submit the information orally. He stated that he was looking for evidence of sales that explains the delineation of the line separating St. George River 2 from St. George River 3. Mr. Gingras stated that lot 46 is an indication that there is a line in the river between a \$500,000 lot and a \$250,000 lot. Map 231 Lot 46 was a sale of \$385,000 in October of 2006 and was a developed lot.

Chair Marian Robinson asked Mr. Gingras to explain how the sale of lot 46 explains why the line is set between lot 35 and 38. Mr. Gingras responded that it was the ability to have a pier or not on the rest of the properties north. Ms. Robinson asked if that meant that lot 35 and all lots with lower numbers could have a pier. Mr. Gingras responded that everything south of lot 35 would support a pier. Anything below Mr. Rosenblum’s property does not have any piers, and he was not sure there ever could be any.

Mr. Rosenblum commented that at his hearing with the Town, the assessors’ agent stated that he saw no difference between the neighbor’s property and Mr. Rosenblum’s. He added that the chair of the Board of Assessors had personally inspected the property next to Mr. Rosenblum’s property and in the chair’s mind, it was mudflats. Mr. Rosenblum stated that the Town’s Board also agreed that it made no difference if a pier could be put in because it’s already in the appraised value. Mr. Rosenblum challenged Mr. Gingras’ assertion that the neighbors could not put a pier in. He said that a Real Estate agent had told him in a recent conversation that if the

property was sold, it would be important to note that a pier could be put in. The fact that the current owners didn't choose to put one in is not relevant.

Marian Robinson asked if piers are evaluated separately from the property like a building. Mr. Gingras said yes. Ms. Robinson then asked how the ability to put in a pier would affect the land value. Mr. Gingras responded that it was because the ability to put one in is dependent on the use of the land; however, although he said that putting one in doesn't change the value, he also stated that everything north of the subject property doesn't have a pier so they are valued less. Mr. Gingras stated that in his opinion, the taxpayer has more water than Lot 46 and many of the other properties. Mr. Rosenblum stated that he challenged that and added that Mr. Gingras had only visited the property once, and that was when it was high tide. Mr. Gingras responded that this was not true.

Rick Lavoie asked Mr. Gingras if he had the expertise or if he consulted with someone to determine if it was practical to have a pier on the subject property. Mr. Gingras responded no. Mr. Lavoie commented that this must just be Mr. Gingras' observation, then.

John Flood asked Mr. Gingras to explain what he meant when he said that the subject property is different than what is shown in the photos provided by the appellant. Mr. Gingras responded that as you go south, the water gets better, the land goes out, and there's more water as you go up the river. Mr. Flood asked if there were mudflats in that area. Mr. Gingras corrected himself by saying that it was down river, not up river. He said that everything south is at \$500,000.

Lauren Kenniston asked Mr. Gingras to clarify which lots had mud flats. She asked if lot 38, in his opinion, was all mudflats. Mr. Gingras answered yes. Ms. Kenniston asked if lot 35 was all mudflats. Mr. Gingras answered yes. Ms. Kenniston asked if lot 33 was all mudflats. Mr. Gingras asked which direction she was going. She responded that she was following the tax map south. She asked again if lot 38 was all mudflats. Mr. Gingras again responded yes. Ms. Kenniston asked if lot 35 was partial mudflats. Mr. Gingras answered yes. Ms. Kenniston asked about lot 33. Mr. Gingras replied that there were no mudflats in lot 33.

Mr. Rosenblum commented that his dock is as close to the line of lot 38 as possible. The water level does not get better going down river, contrary to what Mr. Gingras had indicated. Instead it's the same. Mr. Rosenblum said that he has not been told why his property has been treated differently.

Martin Cates asked about depth readings indicated on a chart with a blue line across it (*Appellant Exhibit 12*). He asked what tide level the blue line indicated. Mr. Gingras stated that the line indicated it was two-feet deep at low-tide.

Mr. Gingras commented that he believed Mr. Rosenblum would be satisfied if everything from his property to Fort Point were all the same, which would mean the Town would have to raise the values all the way to Fort Point. Below Fort Point would be the lowest price in town, with a few exceptions before Fort Point.

- Jim Murphy motioned to close the public hearing at 11:12 a.m. and for the Board to take a brief break. Martin Cates seconded. A vote was taken with all in favor.

(*Mr. Gingras left the room before the hearing reconvened and did not return.*)

Back in session at 11:18 a.m.

### **Findings of fact**

1. Lauren Kenniston motioned that the appellant has standing for this appeal by virtue of his ownership of this property and that his appeal was timely filed. John Flood seconded the motion. A vote was taken with all in favor.
2. Lauren Kenniston motioned that the appeal was timely filed and the appellant's materials were timely filed. The town submitted documentary evidence but it was not shared with the appellant prior to the hearing and was therefore not considered by the Board. Martin Cates seconded the motion. A vote was taken all in favor.
3. Jim Murphy motioned that the Town of St. George has not established that the subject property and similar properties to it were assessed by the same land schedule in a similar fashion. Lauren Kenniston seconded the motion. A vote was taken with all in favor
4. Jim Murphy motioned that the Town has met its burden of equity by the demonstration of its ratio. John Flood seconded the motion. A vote was taken with all in favor.
5. John Flood motioned that the Town did not provide Mr. Rosenblum with the same written documentation that was provided to the Board in a timely manner. Martin Cates seconded the motion. A vote was taken with all in favor.
6. Lauren Kenniston made a motion that quantifiable evidence was submitted to substantiate the argument that the St. George Board of Assessors' value was manifestly wrong. Jim Murphy seconded the motion. A vote was taken with all in favor.
7. Jim Murphy motioned that the Knox County Board of Assessment Review finds that the appellant's testimony was persuasive as to the question of unjust discrimination. Lauren Kenniston seconded the motion. A vote was taken with all in favor.
8. Jim Murphy motioned that the applicant demonstrated through the use of the provided photography that there's no substantial difference in nature between map 231 lot 35 and map 231 lot 38. John Flood seconded the motion. A vote was taken with all in favor.
9. Jim Murphy motioned that the Town of St. George testified that there was no substantial difference in nature between lot 35 and lot 38 concerning the mud flats. Martin Cates seconded the motion. A vote was taken with all in favor.
10. Lauren Kenniston motioned that the town testified that lot 33, which abuts the subject lot, has no mudflats but is treated the same as the subject property which does have mudflats. Martin Cates seconded the motion. A vote was taken with all in favor.
11. Jim Murphy motioned the appellant has successfully shown proof of comparable properties and that there was unjust discrimination. Lauren Kenniston seconded the motion. A vote was taken with all in favor.

### **Decision**

- **Jim Murphy motioned that the Knox County Board of Assessment Review finds in favor of the appellant, Mr. and Mrs. Rosenblum. Lauren Kenniston seconded the motion. A vote was taken with all in favor.**
- **Marian Robinson motioned that the Board finds that the land of the appellant should be valued on the basis of St. George River 3, and not St. George River 2. Jim Murphy seconded the motion. A vote was taken with all in favor.**
- **A motion was made by Jim Murphy to grant a tax abatement in the amount of \$275,000 on property map/lot 231-035 for the 2011 tax year. The abatement amount is arrived at by changing the assessed base lot value for the subject property to a value of \$275,000. This, added to a second acre of \$6,000 plus the 7.32 acres at \$2,000 per acre, plus 3 lot improvements at \$9,000, for a total of \$304,640, rounded to \$304,600. Subtracting \$304,600 from the original land assessment value of \$579,600 results in a \$275,000 tax abatement. Therefore, the total assessed value for the subject property becomes \$645,900 for April 1, 2011. The motion was seconded by Rick Lavoie. A vote was taken with all in favor: 6 – 0.**

**VI. Other Business**

**VII. Adjourn**

- A motion was made by Jim Murphy to adjourn. The motion was seconded by John Flood. A vote was taken with all in favor.

Meeting adjourned 12:15 p.m.

Respectfully Submitted,

Candice Richards  
Administrative Assistant  
Board of Assessment Review Recording Secretary