



Knox County
Board of Assessment Review

A meeting of the Knox County Board of Assessment Review took place on Friday, November 6, 2015 at 10:00 a.m. in the Knox County Commission Hearing Room.

Board members in attendance: Wesley Robinson, Marian Robinson, Rodney Painter, Jim Murphy, Lauren Hall Kenniston, and Martin Cates.

Board members absent: Tammy Brown (*in attendance but representing the Town of North Haven*).

County Administrative staff present: Administrative Assistant Candice Richards serving as recording secretary.

Others in attendance: Karen Hendrixson, Taxpayer; James N. Katsiaficas, Attorney for the Taxpayers; Certified Residential Appraiser Terri Mackenzie of Pine Tree Appraisal, witness for the Taxpayers; Christiane Hallowell, Chair of the North Haven Board of Assessors; Tammy Brown, Assessors' Agent for the Town of North Haven; Paul Gibbons, Esq., Attorney for the Town of North Haven; and Maine Certified General Appraiser Fred W. Bucklin of Bucklin Appraisal, LLC.

AGENDA

Friday – November 6, 2015 – 10:00 a.m.

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| I. | 10:00 | Meeting Called To Order |
| II. | 10:01 | Opening Remarks by Board Chair |
| III. | 10:10 | Hearing
1. The appeal of Karen Hendrixson and Sarah Chapman from the decision of the Town of North Haven in the matter of the assessment of their property at 506 Main Street, Map 10 Lot 2. |
| IV. | 11:00 | Board Deliberation & Vote |
| V. | | Approve Minutes
1. October 17, 2014 – Ware v. Owls Head
2. May 15, 2015 – Kraner v. St. George |
| VI. | | Other Business |
| VII. | | Adjourn |

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

Address: 506 Main Street in North Haven, MAP/LOT: 10/2

Appellant's Evidence

The taxpayers requested an abatement based on the following information for the April 1, 2014 tax year:

Current Assessed Valuation	Land	\$1,596,800
	Buildings	\$250,200
	Total	\$1,847,000

Owner's Opinion of Current Valuation	Land	* 1
	Buildings	*1
	Total	\$1,045,000 *2

Abatement Requested	\$802,000 *2
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**1 Appellants did not break down their opinion of valuation into land and buildings.*

**2 Appellants application listed the total property owner's opinion of value at \$1,125,000 with an abatement requested amount of \$722,000. A letter from the taxpayers' attorney dated 8/7/15 revised these two figures to \$1,045,000 and \$802,000.*

Ms. Robinson noted that the total assessed value as committed is \$1,847,000, which is 176.4% of the requested assessed value (of \$1,045,000), which is more than 10%.

- Jim Murphy motioned that the appellant has standing for this appeal and all materials were timely filed. Martin Cates seconded. A vote was taken with all in favor.

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

- Exhibit A: Letter to the Board of Assessment Review from James Katsiaficas, Attorney for the taxpayers, dated 4/30/15
- Exhibit B: Application for Abatement to the Board of Assessment Review dated 4/23/15
- Exhibit C: Letter to the Board of Assessment Review from James Katsiaficas, Attorney for the taxpayers, relating two changes the taxpayers wanted made to their original application for abatement received back on 5/1/15
- Exhibit D: Letter to the taxpayers from North Haven Board of Assessors Chair Christiane B. Howell dated 3/5/15
- Exhibit E: Application for Abatement to Town of North Haven dated 1/16/15
- Exhibit F: Letter to the Town of North Haven submitted with original application to the Town, along with exhibits (n.d.):
 1. Summarized Email from Davidson Realty Showing MLS Sales on North Haven
 2. Untitled (chart of properties, asking prices, sales prices, assessed values, and annual taxes)
 3. Schedule of Assessed Values and Tax Maps
- Exhibit G: Copy of the Maine Supreme Judicial Court decision in Terfloth v. the Town of Scarborough
- Exhibit H: Appraisal of Real Property located at 506 Main St, North Haven, ME 04856 Book 2191 Page 344 by Terri S. Mackenzie, Pine Tree Appraisal, as of April 1, 2014.
- Exhibit I: Letter dated 10/23/15 responding to the Bucklin Appraisal LLC report dated 9/11/15.

2. In support of the taxpayers' position, they offered the testimony from the following witnesses:

One of the taxpayers, Karen Hendrixson, was present to testify for their party. Their attorney, James N. Katsiaficas testified on their behalf, and called Certified Residential Appraiser Terri Mackenzie from Pine Tree Appraisal as a witness.

3. Overvaluation:

In this appeal, one of the taxpayers' concerns and arguments focused on their belief that the property was substantially overvalued. The evidence of overvaluation the taxpayers presented was

primarily based on the taxpayers' view that the subject property has not sold even though the asking price is at about half of the current valuation, and an opinion of value given to the taxpayers by Davidson Realty estimated the value of the property somewhere between \$1,000,000 to \$1,275,000. The belief that the Town's assessment is "manifestly wrong" is based primarily on the Town's valuation of the subject property being 186.5% of its current asking price of \$990,000, which is more than the 10% deviation allowed by law. The taxpayers also believe that the Maine Supreme Judicial Court decision, *Terfloth v. Town of Scarborough*, 2014 ME 57, shows that the Town's legal reasoning is wrong.

4. Unjust Discrimination:

In this appeal, one of the taxpayers' concerns and arguments focused on their belief that the property was the subject of unjust discrimination. The evidence of unjust discrimination the taxpayers presented was primarily based on the taxpayers' view that not only is the Town's valuation manifestly wrong in terms of fair market value, but that the subject property is out of line with the comparable properties in the immediate vicinity.

Ms. Hendrixson explained that the property was originally purchased by her grandmother in the fall of 1964. Ms. Hendrixson became an owner in 1995 when her mother died. The property is about 12 acres and for many years it was a saltwater farm. The owners decided to sell it in 2012. The listing price at the time was \$1,995,000. Jaret & Cohn arrived at that figure by taking the town's assessed value and bulked it up to create negotiating room in anticipation of the selling price ending up lower than what the owners were asking for. The assessed value of the property was around \$1,870,000. There was no interest in the property and it didn't sell. By 2014, the owners feared the asking price was too high. They changed realtors and lowered the asking price to \$1,250,000, but there were still no offers made. In March of 2015, they decided to lower the price to \$999,000, but there still has been no interest in the property. The owners applied for a tax abatement from North Haven in January of 2015 and was denied. They hired Pine Tree Appraisal after that.

Real Estate Appraiser Terri Mackenzie from Pine Tree Appraisal explained that she had spoken to the assessor, looked at any available records including sales, has performed physical inspections of all of the properties in the past, and for the purpose of this report she did an updated exterior inspection by driving by the property to see if anything had changed. Her estimated value of the property as of April 1, 2014 was \$1,045,000.00. She arrived at that figure by looking at comparable sales 2011 – 2014, and crosschecked with historical data including earlier sales. Comparable number 5 abuts the subject property is fairly similar and that sold in 2004 for \$1,000,000. She did not believe that the subject property received enough of a discount for the low-usage tidal frontage. Ms. Mackenzie said that the town discounted by 5% for shorefront decrease in the market but that she had thought that Assessors' Agent Tammy Brown had told her 10%. Either way, she didn't feel that the discount given was sufficient to fully reflect the land value. She said that she didn't know that comparable 3 had been deemed a "distress" sale. It wasn't bought from a family member – it was bought by a friend of the family, but she decided to use it as a comp anyway. She also used other distress sales as well as an arms-length after careful consideration. When asked if the property had a dock, Ms. Mackenzie answered yes, but Ms. Hendrixson corrected her and stated that the property did not have a dock.

Chair Robinson noted that in the taxpayer's application for abatement, the taxpayer had checked off two reasons as grounds for requesting an abatement: 1) that the judgment of the assessor was irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results, and 2) there was unjust discrimination. She noted that she had not heard anything in the testimony thus far that related to either of those, but that is the taxpayer's burden.

Mr. Katsiaticas stated that the grounds for their appeal are that the methodology of the Town is incorrect because it failed to account for the mudflats, which should have been reduced 50%, and there is credible evidence of value. He said that the taxpayer has shown that there's a pattern of inaccuracy in the methodology of assessing for properties in that area.

Town Attorney Paul Gibbons asked Ms. Mackenzie about the sale she mentioned from 2004 that she had used as a comparable in her appraisal. He asked if it was a sale between a husband and a wife. Ms. Mackenzie responded that she didn't know that. Mr. Gibbons also asked if the neighboring property has a dock. Ms. Mackenzie answered yes.

Town's Evidence

1. The Assessors submitted as evidence the following documents:

- Exhibit A: Document entitled "BRIEF" prepared by Attorney Paul Gibbons
- Exhibit B: A bound set of 12 exhibits as prepared by Attorney Paul Gibbons
- Exhibit C: Letter dated 8/14/15 requesting a hearing continuance
- Exhibit D: Letter dated 10/19/15 with a report from Bucklin Appraisal LLC attached

2. The Assessors offered the testimony from the following witnesses:

North Haven Assessors' Agent Tammy Brown and North Haven Attorney Paul Gibbons were present to testify on behalf of the Town. Maine Certified General Appraiser Fred W. Bucklin of Bucklin Appraisal, LLC also testified. The Town offered no other witnesses. North Haven Board of Assessors Chair Christiane Hallowell was present but did not testify.

3. The town's certified ratio for the assessment year being appealed:

Assessors' Agent Tammy Brown testified that the State ratio for 2014 was 85% and the certified ratio for 2014 was 89%.

Assessors' Agent Tammy Brown stated that there is no overvaluation going on, as evidenced by the town's combined 85% ratio. The properties are still below market value. In 2014, the Town gave a 10% discount to shore values and tidal properties received a 25% discount. Severely flat properties received a 40% discount. The subject property received the 25% discount, which the Town believes is fair considering the neighboring property has a dock and is able to use it because the water comes in far enough for that property. Ms. Brown said that she used the same coastal chart that Ms. Mackenzie did. The North Haven Board of Assessors does not discriminate between properties.

Fred Bucklin of Bucklin Appraisal, LLC was introduced as a certified general appraiser in Maine and an MAI and SRA in Massachusetts. He explained that he was asked to look at seven sales that were used in the appellants' appraisal and to determine if those properties were comparable to the subject property. At least one property had deep water. Some of them were arms-length sales. Some sales were not comparable, such as 6 Benson Road, which is sale #3. This was not a sale – it was taken off the market and donated to two trusts. Sales 6 and 7 sold in 2015 but the effective date of the appraisal was 4/1/2014 and would not use these sales as a comparison to the subject property. Sales 1 and 2 were comparable but that is not enough to support the value. The other 5 are not comparable. Mr. Bucklin explained that he did not do an appraisal or a review of an appraisal; he was merely asked to look at the seven sales and figure out whether this was a viable thing or not and submitted my report

Wes Robinson asked Mr. Bucklin if his report was written as an appraiser or as an individual. Mr. Bucklin responded that he was hired for his opinion of the sales as a 3rd party because of his 40-something years of experience. He said that if he were asked what he thought the value of the property is today, he does not know the answer to that. He was not asked to do an appraisal, or to do a review an appraisal. If he had been asked to do a review, he would have checked to see if the appraisal met the standards it's supposed to. The standard he held the sales to was his own point of view.

Mr. Katsiaticas asked Mr. Bucklin if he viewed the subject property and the comparables. Mr. Bucklin answered yes. Mr. Katsiaticas noted that Mr. Bucklin had not done an appraisal, had not done a review

of an appraisal, and did not hold the appraisal against the standards that he would have if he were going to do an appraisal review. Mr. Bucklin responded that Mr. Katsiaficas was correct.

Mr. Gibbons stated that it's the Town's opinion the Town followed standard practices and did not discriminate. The valuations were consistent throughout the town. The sales data did not justify changing that value. It is the Town's opinion that the appraisal report submitted by the appellant is faulty because it used sales that are not comparable. The appellants don't have enough data to support their conclusions – instead they have speculation.

Ms. Mackenzie stated that she needed to correct one answer that she had given earlier. She said that the sale of the abutter (comparable 5) did go from husband to wife but that she was referring to the sale prior to the 2004 sale.

Mr. Katsiaficas asked if he could make a closing statement and promised to be brief. He cited the *Terfloth v. Town of Scarborough* case as being relevant to the case being decided today. It is the taxpayer's burden to either impeach the assessor's methodology or have credible evidence of value. In this case, the taxpayer does have credible evidence of value. He stated that one sale *is* enough to show value. The subject property been on the market for four years and hasn't even been sold at half of the assessed value. He added that even Mr. Buckland admitted that at least two of the sales presented by the appellant are comparables.

Mr. Gibbons stated that the whole basis of the taxpayer's position is the appraisal, which was done at the last minute and does not have enough comparable sales. There was only one time an abatement was allowed based on a single sale, and that does not apply to this case. The opinion that the flats should have a greater discount is just that - an opinion. There are no comparable sales to support that opinion.

Ms. Brown commented that as of April 1, 2014, the taxpayers did believe that the property was worth \$1,995,000.

Hearing closed at 10:54 a.m.

IV. Board Deliberation & Vote

Mr. Murphy disclosed the fact that he had helped the Town of North Haven create the pricing schedules (the values), that he had worked for the Town of North Haven, and has worked with both Terri Mackenzie and Paul Gibbons in the past.

Findings of Fact

1. The appellants have standing for this appeal by virtue of their ownership of this property.
2. The appeal was timely filed.
3. The Town's certified ratio was 89%.
4. The Town of North Haven has met its burden of equity by the demonstration of its ratio.
5. The written communication between the Town and Appellants was clear.
 - **A motion was made by Lauren Kenniston to accept the first 5 Findings of Fact. The motion was seconded by Martin Cates. A vote was taken with all in favor.**
6. No quantifiable evidence was submitted by the appellants to substantiate the argument that the North Haven Board of Assessors' value was manifestly wrong.

7. The Knox County Board of Assessment Review finds that the appellant's testimony was not persuasive as to the question of burden of proof for overvaluation and unjust discrimination.
8. The Davidson Realty opinion of value does not give credible evidence for value in this case.
9. The Bucklin report is a non-factor in the decision of this Board.
10. Reliance upon the opinion of value in the appraisal does not prove that the assessment is manifestly wrong.
11. The McKenzie (Pine Tree Appraisal) appraisal of the subject property is accepted as credible.
12. The McKenzie appraisal used as evidence by the appellants does not prove that the assessment was manifestly wrong as of April 1, 2014.
13. The reliance of the appellants upon one opinion of value, other than the assessment, does not prove that the assessment is irrational, unreasonable, or manifestly wrong.
14. The Town of North Haven has established that the subject property and similar properties to it were assessed by the same land and building schedules in a similar fashion.
15. The *Terfloth v. Town of Scarborough* case is not pertinent to the case before this Board because the North Haven's Assessors' Agent testified to the evidence referenced in Finding #14, and so there is no need to substitute the appellants' opinion of value for the existing assessment of the subject property.
16. There was no credible evidence given to show that North Haven's waterfront adjustments were wrong.
17. The listing prices of the subject property are not proof of property value.
18. There was no evidence submitted that showed comparisons between assessed values and sales prices.
19. The appellants have not proven that the subject property was treated differently from any other properties in North Haven resulting in an unjust discrimination of value.
20. The appellants have not proven that the assessment is manifestly wrong.
 - **A motion was made by Lauren Kenniston to accept these also as the Findings of Fact. The motion was seconded by Martin Cates. A vote was taken with all in favor.**

Decision

- **Lauren Kenniston motioned that the appellant has failed to show proof of comparable properties and that the assessment is irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results, there was unjust discrimination, or the assessment is fraudulent, dishonest, or illegal. Martin Cates seconded the motion. A vote was taken with all in favor.**

The Knox County Board of Assessment Review therefore finds in favor of the Town of North Haven.

V. Approve Minutes

1. October 17, 2014
2. May 15, 2015

- **A motion was made by Martin Cates to approve the minutes. The motion was seconded by Lauren Kenniston. A vote was taken with all in favor.**

VI. Other Business

There was none.

VII. Adjourn

- A motion was made by Martin Cates to adjourn. The motion was seconded by Wes Robinson. A vote was taken with all in favor.

Meeting adjourned 11:52 a.m.

Respectfully Submitted,

Candice Richards
Administrative Assistant
Board of Assessment Review Recording Secretary