



Knox County
Board of Assessment Review

A meeting of the Knox County Board of Assessment Review took place on Friday, July 8, 2016 at 10:00 a.m. in the Knox County Commission Hearing Room.

Board members in attendance: Wesley Robinson, Marian Robinson, Tammy Brown, and Martin Cates.

Board members absent: Rodney Painter, Jim Murphy, and Lauren Hall Kenniston.

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

Others in attendance: Deborah Childers, Taxpayer; Douglas J. Payne, Attorney for the Taxpayer; David B. Martucci, Assessors' Agent for the Town of Thomaston.

AGENDA

Friday – July 8, 2016 – 10:00 a.m.

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| I. | 10:00 | Meeting Called To Order |
| II. | 10:01 | Opening Remarks by Board Chair |
| III. | | Board Deliberation & Vote |
| IV. | | Other Business |
| V. | | Adjourn |

I. Meeting called to order

Chair Marian Robinson called the meeting to order at 10:00 a.m.

II. Opening Remarks by Chair

Chair Robinson explained that the Board was meeting for the purpose of re-taking up the deliberation of the case of Deborah Childers vs. the Town of Thomaston. She apologized for the way the July 1st hearing had ended a little abruptly because of meeting running out of time. She said that the Board should have tabled the meeting and reconvened at a later date to more-fully develop the findings of fact. After the last meeting, when she reviewed the draft of the written decision of the Board, she realized how little the Findings of Fact actually said, and she felt that if the case were to be appealed to a higher level, anyone reading the written decision wouldn't understand why this Board arrived at the decision made at the July 1st hearing. She asked what the other Board members wanted to do. Did the Board want to reconsider the decision made at the July 1st hearing? Did the Board want not reconsider but to add more Findings of Fact to make the decision more understandable? She said that she was concerned that the Findings of Fact did not really apply to the decision. Other Board members felt that the Findings of Fact were relevant, but just "bare bones" in terms of not really getting to the heart of the matter behind the Board's decision. Chair Robinson agreed with that but felt that more substantial Findings of Fact needed to be developed because the current list doesn't really show the reasoning behind the decision that was made. Another issue in her opinion was Board member Jim Murphy's statement of the value of the property (*at the July 1 hearing*) was totally without basis or any evidence to back up the number he picked as the abatement amount.

Martin Cates said that he wanted to know, if the Board went off track procedurally, where did the Board go off track? What decisions made by the Board that might not be appropriate? Did the Board have the right to do what it did? Where does he find the process for making that decision? The email from Thomaston Assessors' Agent David Martucci cited references from the Maine Municipal Association

(MMA) Assessing Manual. Mr. Cates stated that he just wanted to make sure he understands what the process was *supposed* to be.

Tammy Brown explained that the manual does say in black and white that the taxpayer has to prove that the burden of proof is on the taxpayer to prove that the assessment is “manifestly wrong”, and that in the Findings of Fact from the last meeting the Board stated that “the taxpayer was not persuasive”. That leads to the question of can the Board actually give an abatement if the taxpayer has not met his/her burden of proof.

The Board members briefly reviewed some of the relevant language from the manual (*some portions of which were read aloud by Ms. Brown*):

Burden of Proof: The burden is on the taxpayer to prove that he or she is entitled to an abatement...The legal presumption is that the assessment as determined by the assessors is valid until the taxpayer proves that it is manifestly wrong...It is not enough for the taxpayer to merely show that the assessors have made an error in judgment, even though such a mistake may result in a lack of uniformity in the assessment of similar property. The taxpayer must show that his property was valued at more than its fair market value, not that other similar properties were undervalued. He/she must come forward with credible, affirmative evidence of just value (i.e., evidence of “arm’s length sale vs. value set as result of negotiations between owner and mayor’s office or seller’s asking price)...If, after a careful consideration and thorough analysis of the evidence of value submitted by the taxpayer, the appeals body determines that the taxpayer has submitted credible evidence of substantial overvaluation, the appeals body then has the responsibility to undertake an independent determination of value.

“Manifestly Wrong” Standard: Generally, a person seeking an abatement based on an error in valuation has the burden of proving that the assessed value is “manifestly wrong”. The taxpayer must be able to prove indisputably: (1) that the true value of his or her property was substantially overestimated; or (2) that there is evidence of a systematic scheme by the assessors to place a disproportionate share of the tax burden on one taxpayer or one group of taxpayers, such as by assessing certain properties of one class at one percentage of just value and others in the same class at a different percentage (“unjust discrimination”); or (3) that the assessment was fraudulent, dishonest or illegal...If the taxpayer meets the burden of proof that the assessed valuation is “manifestly wrong,” then the assessor(s), the local board of assessment review, the county commissioners, the county board of assessment review or the State Board of Property Tax Review “may make such reasonable abatement” as they consider proper, after undertaking their own determination of just value...As long as the appeals body bases its determination of just value on substantial evidence in the record, it may accept some of the evidence and reject other evidence...”Substantial evidence” is that on which a reasonable mind would rely to support a conclusion.

Chair Robinson noted that the Board didn’t find the Assessors’ Agent especially persuasive any more than the taxpayer. She referred to the Maine Supreme Judicial Court decision, *Terfloth v. Town of Scarborough*, 2014 ME 57. The assessor in that case did not show that the pricing schedules were based on anything, or show that any other properties in town were assessed by the same pricing schedules. The town does have some responsibility to show that there is some validity to the assessment. She said that when she asked Mr. Martucci where the pricing schedules came from and what else was assessed by them, the calculation chart was part of his evidence but doesn’t show what else was priced the same way.

Mr. Cates commented that there were two properties that Jim Murphy had brought up, one that had a higher valuation than the subject property, and one that had a lower valuation. Mr. Murphy was hitting

the middle point between the two when he came up with his abatement amount. The issue for the other Board members was the unease they felt with that method.

Mr. Robinson stated that he felt that the Board should add some additional Findings of Fact and address some of the questions being raised.

- Wes Robinson made a motion to poll the Board as to its desire to develop more Findings of Fact to make the decision more understandable. Tammy Brown seconded the motion. A vote was taken with all in favor.

III. Board Deliberation & Vote

The Board members all agreed that the Findings of Fact that were already established at the July 1, 2016 hearing are still agreed to and will not be changed. The Board began discussing possible Findings of Fact to add to the list.

Original 9 Findings of Fact from July 1, 2016 Hearing

1. The appellant has standing for this appeal by virtue of her ownership of this property.
2. The appeal was timely filed.
3. The Town of Thomaston's commitment date was September 29, 2015.
4. The Town's certified ratio was 100%, state ratio was 100%, and the quality rating was 18.
5. The written communication between the Town and Appellants was clear.
6. The Town of Thomaston has met its burden of equity by the demonstration of its ratio.
7. The appellant has not proven that the subject property was worth the requested abated value of \$49,000.
8. The Knox County Board of Assessment Review finds that the appellant's testimony was not persuasive.
9. The Board took no position on the boundary dispute.

New/Additional Findings of Fact

10. The multiple tax bills offered into evidence by the appellant do not prove what the market value of the subject property is on 4/1/2015.
11. The email of 11/20/2015 from Greg to Debbie does not prove what the market value of the subject property is on 4/1/2015.
12. The letter dated 3/24/2016 from attorney Douglas J. Payne to the town of Thomaston does not prove that the assessment of the subject property is manifestly wrong.
13. The current land pricing schedules used to value the subject property were provided to this Board.
14. The property cards for the neighboring properties were not provided to this Board, which would have allowed the Board to see if the pricing schedules were applied equitably.
15. This Board deals with appeals of assessments for property tax purposes. It does not deal with appeals of property taxes.
16. The portion of the 2014-2015 Thomaston Valuation Book provided by the appellant does not prove the market value of the subject property as of 4/1/2015.

17. The listings of land for sale do not prove what the market value of the subject property is on 4/1/2015.
18. The Town of Thomaston has demonstrated that the subject assessment is created from charts and sources used to determine assessments of other similar properties in Thomaston.
19. The Town of Thomaston has demonstrated that the subject assessment is reasonably similar to assessments of the comparables presented by the appellant.
20. The document "Comparison to Adjacent Properties" does not prove market value of the subject property as of 4/1/2015 because it was for a different commitment year.
21. The document "Comparison to Adjacent Properties" provided by the appellant for the 2014-2015 commitment year is not relevant to the appeal.
 - **A motion was made by Martin Cates to accept these as the Findings of Fact. The motion was seconded by Wes Robinson. A vote was taken with all in favor.**
 - **Tammy Brown motioned to remove the decision made by the Knox County Board of Assessment Review on July 1, 2016. The motion was seconded by Martin Cates. A vote was taken with all in favor.**
22. The appellant has not proven that the assessment is manifestly wrong and has not proven 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.
 - **A motion was made by Tammy Brown to accept this as a Finding of Fact. The motion was seconded by Martin Cates. A vote was taken with all in favor.**

Decision

The Board finds that the taxpayer's testimony was not persuasive as to the question of overvaluation or unjust discrimination. The applicant has failed to show proof that the assessment is irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results or that there was unjust discrimination. The Knox County Board of Assessment Review therefore finds in favor of the Town of Thomaston.

- **A motion was made by Martin Cates to find in favor of the Town of Thomaston. The motion was seconded by Tammy Brown. A vote was taken with all in favor.**

IV. Other Business

There was none.

V. Adjourn

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

Meeting adjourned 12:05 p.m.

Respectfully Submitted,

Candice Richards
Administrative Assistant
Board of Assessment Review Recording Secretary