



Knox County
Board of Assessment Review

A meeting of the Knox County Board of Assessment Review took place on Friday, February 17, 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: Milton & Betty Ripley, taxpayers; Don Burke, Selectman on the Board of Assessors for the Town of Appleton.

AGENDA

Friday – February 17, 2012 – 10:00 a.m.

- I. 10:00 Meeting Called To Order**
- II. 10:01 Opening Remarks by Board Chair**
- III. 10:10 Hearing**
 - 1. Appellant
 - 2. Town of Appleton
- IV. 11:00 Board Deliberation & Vote**
- V. 12:00 Approve Minutes**
 - 1. January 7, 2011 Gallant
 - 2. January 14, 2011 Webber
 - 3. April 22, 2011 Gamage
 - 4. May 13, 2011 S. Dorsey Smith
 - 5. May 13, 2011 Paul Smith
 - 6. June 3, 2011 Baron
 - 7. June 17, 2011 Thomaston Auction Properties
 - 8. February 3, 2012 Rosenblum
- VI. Other Business**
- VII. Adjourn**

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

Appellant's Evidence

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

Address: 41 Appleton Ridge Road in Appleton, MAP/LOT: 013/014.

Current Assessed Valuation	Land	\$98,350
	Building	\$172,530
	Total	\$270,880

Owner's Opinion of Current Valuation	Land	\$62,640
	Building	\$169,840
	Total	\$232,480

Abatement Requested	\$38,400
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Mr. Riley stated that he had a document that was an assessment done by Garnett Robinson for the Town of Appleton that should have been filed with the Town. He asked the Board to review it. He said that it had topographical maps relating to Appleton but it was not submitted to the website. When asked why the document was not submitted with his application for an abatement, he stated that he didn't send it to the Board sooner because he had to do additional research to find it.

Mr. Burke said that he didn't understand what documentation Mr. Riley had and was curious about the date on the document.

Martin Cates commented that the Board had a precedence of not accepting evidence at hearings when both sides have not had a chance to review it.

- Martin Cates motioned that this documentation was not admissible. Lauren Kenniston seconded the motion. A vote was taken with all in favor.

Mr. Burke said that the current assessed value in the appellant's documentation is wrong because they had already received a partial abatement. The Board corrected the information as follows:

Current Assessed Valuation	Land	\$98,350
	Building	\$169,840
	Total	\$268,190

Owner's Opinion of Current Valuation	Land	\$62,640
	Building	\$169,840
	Total	\$232,480

Abatement Requested	\$35,710
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Mr. Ripley's main reason for requesting the abatement is the land itself. He said that Mr. Garnett Robinson assessed it in 2006 and then in 2011 it went up \$38,400. Mrs. Ripley added that it's primarily ledge and that they cannot build anymore on the property.

Jim Murphy noted that the Ripley's already have one septic system on the property and the town is only assessing the property as having one base lot, which makes sense. A 1.35 factor was applied to properties on the Appleton Ridge Road. He added that he did not know the reason for the increases from one year to the next, but that doesn't matter to the Board since the Board can only look at 2011. He stated that he was not understanding what the appellants thought was illegal about their assessment. He asked what evidence they had that shows that the valuation is incorrect.

Mr. Ripley responded that the soil on the property is evidence.

Jim Murphy commented that if you can't get any more septic systems on any other location on the property than that's immaterial since you're not being assessed as if you could.

Mr. Ripley insisted that he was being assessed as though there was more than one lot.

Jim Murphy responded that the property card does not read that way. It's very clear there is only one base lot.

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

- Exhibit 1: Application for Abatement to BAR dated 1/9/12
- Exhibit 2: Map of the area with documentation by the appellant
- Exhibit 3: Subsurface Wastewater Disposal System Application dated 7/17/07
- Exhibit 4: Application for Abatement to Town of St. George dated 10/13/11
- Exhibit 5: Letter from the Appleton Board of Assessors to the taxpayer dated 12/12/11
- Exhibit 6: Brief statement by taxpayer dated 10/13/11
- Exhibit 7: Property Card labeled "Before" by the taxpayer (date printed 4/26/11)
- Exhibit 8: Property Card labeled "After Abatement" by the taxpayer (date printed 12/6/11)

2. In support of the taxpayer's position, he offered the testimony from the following witnesses:

The taxpayers, Milton and Betty Ripley, were the only persons present for their party. They 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 properly

4. Illegally Assessed Valuation:

In this appeal, one of the taxpayer's concerns and arguments focused on his belief that the assessed valuation of the subject property was illegal. The evidence of the supposed illegal nature of the assessment presented was primarily based on the taxpayer's belief that the "Location Adjustment" is unconstitutional and that the soil test shows that there is wetland on the property.

Town's Evidence

Mr. Burke said that Mr. Ripley keeps mentioning about the property being wetland, which is pretty typical for the whole town of Appleton. He said that he had presented 3 maps and there is no indication of the Ripley property being wetland, floodplain, or being shoreland zoning. The elevation for the property is at around 500 feet so Sennebec Pond is never going to rise that high. It's not a floodplain.

Mr. Burke explained that Appleton had a revaluation done in 2006. The land on Appleton Ridge sells for a higher amount than some other areas of Appleton like Burkettville. Garnett Robinson did the revaluation and came up with what he called the neighborhood or location adjustment. He had submitted a document called "Arms-length transactions in tax years 2003, 2004, and 2005 used to determine location adjustment in the 2006 revaluation for properties located on Appleton Ridge." Mr. Burke stated that the data on this document is statistically dead. The 2006 1.5 location valuation brought it almost to what the market value was at the time. This document had been submitted with the Town's evidence to the Board.

Mr. Burke stated that if Mr. Ripley didn't have to pay the assessment for Appleton Ridge then everyone else on Appleton Ridge, who were all assessed at the same location adjustment rate, would feel discriminated against.

When asked what the Town's certified ratio and quality rating is, Mr. Burke answered that he didn't know off the top of his head and didn't have the figures with him.

1. The Assessor(s) submitted as evidence the following documents:

- Exhibit 1: Cover Letter to Board of Assessment Review dated 2/3/12
- Exhibit 2: Property Cards for Map 013 Lot 014 (labeled "Exhibit #1" by the Town)
- Exhibit 3: Written statement by taxpayer (same as the taxpayer's Exhibit 6)
- Exhibit 4: Flood insurance rate map (labeled as Exhibit #3 by the Town)
- Exhibit 5: Portion of the Appleton Shoreland Zone map adopted 6/10/09
- Exhibit 6: Colored wetland map (labeled "Exhibit #5 by the Town)
- Exhibit 7: "Appleton Revaluation 2006" document (labeled "Exhibit #6 by the Town)
- Exhibit 8: "Arms-length transactions..." document (labeled "Exhibit #7 by the Town)

2. The Assessor(s) offered the testimony from the following witnesses:

Don Burke, Selectman on the Board of Assessors for the Town of Appleton represented the Town.

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

Mr. Burke presented no evidence of the town's ratio or quality rating.

Public hearing closed at 10:40 a.m.

IV. Board Deliberation & Vote

Jim Murphy commented that this case sounds very similar to *Yusem v the Town of Raymond*, 2001 ME 61; 769 A.2d 865. In that case the property owner contested the methodology of the

town's value including the way the town categorized the excess property beyond base lot. He read aloud the following portions from the *Yusem v the Town of Raymond* case:

[¶10]: “*Yusem presented no evidence of the property’s just value and no evidence that his property was overvalued....He presented no evidence of fraud or dishonesty. Nor did he present persuasive evidence that his property was assessed at a higher value than those properties in the area that were similar to his case. Instead, Yusem relied upon perceived errors in the assessor’s methods to make his case.*”

[¶13]: “*Yusem misapprehends his burden...Impeachment of the assessor’s methodology alone is insufficient to meet that burden.*”

Jim Murphy explained that he thought the Yusem case speaks very closely to this case. Like Yusem, Mr. Riley has no evidence that the value is wrong; he just has a problem with the way it’s put together.

Findings of fact

1. John Flood motioned that the appellant has standing for this appeal by virtue of his ownership of this property. Martin Cates seconded the motion. A vote was taken with all in favor.
2. Jim Murphy motioned that the applicant did not present any evidence of value for the property. Martin Cates seconded the motion. A vote was taken with all in favor.
3. Lauren Kenniston motioned that the Board finds that the appellant’s testimony was not persuasive as to the question of unjust discrimination. Jim Murphy seconded the motion. A vote was taken with all in favor.
4. John Flood motioned that the appeal was timely filed; however, the Board did not consider documentary evidence not submitted 14 days in advance of the hearing. Lauren Kenniston seconded the motion. A vote was taken with all in favor.
5. Lauren Kenniston motioned that no quantifiable evidence was submitted to substantiate the argument that the Town of Appleton’s Board of Assessors’ value was manifestly wrong. Jim Murphy seconded the motion. A vote was taken with all in favor.
6. Jim Murphy motioned that the Board found that the law court case of *Yusem v. Town of Raymond*, 2001 ME 61; 769 A.2d 865 provided clear guidance that “a taxpayer may not meet his burden solely by attacking the methodology of the assessor.” Martin Cates seconded the motion. A vote was taken with all in favor.

Decision

- **Martin Cates 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 no unjust discrimination, or the assessment is fraudulent, dishonest or**

illegal. Lauren Kenniston seconded the motion. A vote was taken with all in favor: 6 – 0.

- **Martin Cates motioned that the Knox County Board of Assessment Review finds in favor of the Town of Appleton and that the request for abatement is denied. Jim Murphy seconded the motion. A vote was taken with all in favor: 6 – 0.**

V. Approve Minutes

1. January 7, 2011 Gallant
2. January 14, 2011 Webber
3. April 22, 2011 Gamage
4. May 13, 2011 S. Dorsey Smith
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7. June 17, 2011 Thomaston Auction Properties
8. February 3, 2012 Rosenblum

- A motion was made by Martin Cates to approve the minutes as presented. The motion was seconded by John Flood. A vote was taken with all in favor.

VI. Other Business

VII. Adjourn

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

Meeting adjourned 11:03 a.m.

Respectfully Submitted,

Candice Richards
Administrative Assistant
Board of Assessment Review Recording Secretary