

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NOS. 92-43, 92-102, and 93-14

BATH IRON WORKS CORPORATION,)
Petitioner,)
)
v.)
)
CITY OF BATH,)
Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the Board) on the Petition to Reconsider Assessment of Costs brought by the City of Bath.

The matter in dispute is the costs assessed against the City by the Board, pursuant to 36 M.R.S.A. § 850, in its decision dated April 5, 1994. This action resulted from the failure of the Bath Board of Assessment Review (hereinafter BAR) to make a timely decision with regard to those appeals filed by Bath Iron Works Corporation (hereinafter BIW) and docketed by this Board as 92-43 and 92-102. The costs assessed include the official expenses of the individual Board members to attend each day of hearing, the invoiced charges of Brown Keene & Halteman in providing reporter services, and the cost of rental of a meeting room on February 9, 1994. Total costs were assessed in the amount of \$8,682.00. On or about June 2, 1995 the City paid the full amount under protest, pending action on the instant petition.

A hearing was held on October 27, 1995 before a quorum of four members of the Board: George Mayo, Dorcas Zeiner, Philip Hill, and James Born, Chair. Roger Therriault, Esq. appeared on behalf of the City.

There is no dispute that the BAR failed to act on the BIW appeals. However, the City asks the Board to reconsider its assessment of costs in consideration of alleged special circumstances attending the BIW appeals to the BAR. Those special circumstances include the sixty-day time frame within which the BAR was required to convene a hearing, BIW's refusal to grant an extension of that time, and the meagerness of the information supplied by BIW. The City argues that, given the complexity of the case, it was impossible for the BAR to conduct a hearing and make a determination in this case.

The Board's authority to assess costs is found in subchapter VIII of Title 36:

When an applicant appeals to the State Board of Property Tax Review because the local board of assessment review or the county commissioners fail to make a decision, the costs of the state board in deciding the appeal shall be charged to the municipality or county failing to make the decision.

36 M.R.S.A. § 850 (Supp. 1994).

The Board finds the statute to be straightforward and unequivocal in its requirement that costs be assessed when the local BAR fails to make a decision and this petition is hereby denied by unanimous vote.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within (30) days of the date of receipt of this Decision, pursuant to 5 M.R.S.A. §§ 11001-11008 (1990). If this Decision is not appealed, it shall become binding on the parties at the end of said 30-day period.

DATED: December 15, 1995 _____
James Born, Chair
State Board of Property Tax Review