

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 93-136

RONALD AND JANE EVERETT,)
 Petitioners,)
)
 v.)
)
TOWN OF WATERFORD,)
 Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter Board) on the timely appeal by Ronald and Jane Everett from the refusal by the Town of Waterford to abate a penalty assessed under the Maine Tree Growth Tax Law. See 36 M.R.S.A. §§ 571-584-A (1990). The property which is the subject of this appeal is located on Sodom Road and is designated as Map 19, Lot 1A on the Waterford tax maps. Pursuant to 36 M.R.S.A. § 583, appeal from the refusal to abate a tree growth penalty is directly to this Board.

A hearing was held on April 7, 1994 before a quorum of four members of the Board. Ronald Everett, one of the taxpayers, represented Petitioners. Charles Truman and Tim Sawyer, Selectmen for the Town of Waterford, represented Respondent.

Petitioners are seeking abatement of a penalty in the amount of \$1,746.25 levied by the Town as a result of the Town's withdrawal of the subject property from tree growth classification. Petitioners allege the Town Office failed to advise them how to maintain tree growth status for the subject property which was already classified as tree growth when they purchased it. Petitioners further assert that any failure to comply with the provisions of the Maine Tree Growth Tax Law is due to the Town's failure to adequately inform them. For this reason, Petitioners argue, the withdrawal penalty assessed by the Town should be abated.

According to the Town, Petitioners failed to comply with Section 574-B (3) of the Maine Tree Growth Tax Law by submitting to the Assessors a sworn statement of a management and harvest plan within one year of their acquisition of the subject property. The Town maintains its usual policy is to dispense to taxpayers copies of Property Tax Bulletin No. 19, which contains information on the Maine Tree Growth Tax Law, and to refer assessment questions, including tree growth, to the Assessors.

While sympathizing with Petitioners' position, the Board notes the Maine Tree Growth Tax Law is clear in its requirement that a new landowner file a forest management plan within one year of acquiring tree growth property. It is the taxpayer's responsibility to obtain information and do whatever is necessary if he desires to maintain his property in tree growth. The Petitioners failed to comply with 36 M.R.S.A. § 574-B (3) by neglecting to file a forest management plan. Accordingly, the penalty assessed cannot be abated. The Board finds, by a 4-0 vote, Petitioners failed to maintain their burden of proof and this appeal is hereby denied.

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: July 30, 1995

Lynwood Hand
Lynwood Hand, Chair Panel B,
State Board of Property Tax Review