

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 95-153

FLS ASSOCIATES,)
Petitioner,)
)
v.)
)
CITY OF AUGUSTA,)
Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the timely appeal by FLS Associates from the denial by the City of Augusta (the "City") of Petitioner's property tax abatement application for the 1994 tax year. The property which is the subject of this appeal is located on Capitol Street and designated as Map 21, Lot 34 on the City's tax maps.

A hearing was held on December 4, 1995 with Board members Robert Libby, Harry Hodson, Stephen Morgan, and Lynwood Hand, Chair, participating. William Reagan, consultant represented Petitioner; Donald Cadwell, Assessor, represented the City. Brenda Parady of Coastal Management testified for Petitioner.

The subject property is a seventy-two unit apartment complex known as Capitol Street Apartments, built in 1989. See Petitioner's Ex. No. 1 at 9, 10. Petitioner is seeking abatement from an assessment of \$1,848,700 to a proposed value of \$1,500,000.

Petitioner alleges income and expenses do not support the assessment and therefore the subject property is overvalued. In support of this position is Mr. Reagan's appraisal dated April 1, 1994. Mr. Reagan employed the income approach as the most reliable guide to market value in this case, with the sales comparison approach to back it up. Mr. Reagan dismisses the cost approach as not valid for this property, as the cost of construction, according to Mr. Reagan, cannot be sustained by market rents. See id at 15, 16.

Following a revaluation in 1989, the City granted Petitioner an abatement in value from \$2,209,000 to \$1,933,400. A further abatement to \$1,848,700 was granted in 1995. The City asserts that there has been no significant change in the market which would reduce the value of the subject property below the current assessment. The City also asserts that Petitioner's

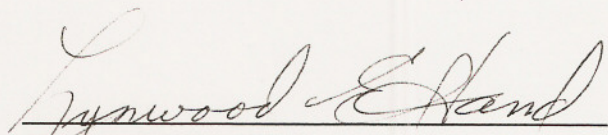
utilization of market rents derived from information obtained in newspaper advertisements without further review is flawed. In addition, the City challenges two of the comparables used in Petitioner's sales comparison study on the basis of age and other factors. The comparable to which Mr. Reagan gives the least weight in his study, 900 Civic Center Drive, is the most valid, according to the City, and supports the assessment on the subject property. See Respondent's Ex. No. 1 at 4. Further, the City relies upon ratio statistics which show a quality rating of 8 - 12 from 1989 through 1994. See id at 1.

In these proceedings, Petitioner has the burden of proving the assessed value to be in excess of just value and "carries that burden by proving that the assessed valuation in relation to just value is 'manifestly wrong.'" Delta Chemicals, Inc. v. Inhabitants of the Town of Searsport, 438 A. 2d 483, 484 (Me. 1981).

The Board is not persuaded based upon the evidence before it that Petitioner has proven the Assessor manifestly wrong. Therefore, by unanimous vote, the Board finds Petitioner has failed to carry his burden of proof and this Petition is hereby dismissed.

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: April 16, 1996


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