

If notice is given by mail and the taxpayer does not furnish the list, he is barred of his right to make application to the assessor... or any appeal therefrom for any abatement of his taxes.

36 M.R.S.A. § 706.

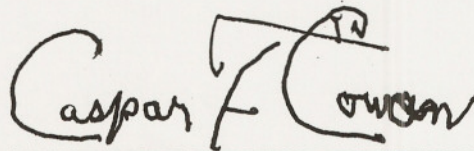
The record supports the following findings of fact:

1. It is the City's usual practice to mail to taxpayers in January of each year a request that they file a list of taxable property for the relevant year;
2. The City maintains a computer print out of the names and addresses of all taxpayers to whom the request was sent each year;
3. Petitioner's name and address appear on the City's list for the years 1994, 1995, and 1996;
4. The City's request in each year was sent via first class mail;
5. Petitioner returned a list of taxable property in response to the City's request for the 1994 and 1996 tax years;
6. The City did not receive a list of taxable property from Petitioner for the 1995 tax year;
7. The City maintains a record of all request forms which are returned by the post office undelivered;
8. The City's request form to Petitioner for the 1995 tax year was not returned to the City by the post office undelivered.

Based upon the foregoing, the Board specifically finds that the City made its request to Petitioner for a list of taxable property in conformance with the requirements of section 706. The Board finds further that Petitioner failed to furnish a true and perfect list in response to the City's request. Therefore, the Board votes unanimously that Petitioner is barred from his appeal for abatement of taxes for the 1995 tax year pursuant to 36 M.R.S.A. § 706. 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: 8 October 1996

A handwritten signature in black ink that reads "Caspar F. Cowan". The signature is written in a cursive style with a large, stylized "C" and "F".

Caspar Cowan, Chair
Panel C, State Board of Property Tax Review

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 95-158

FRIENDLY ICE CREAM CORPORATION,)
Petitioner,)
)
v.) DECISION
)
CITY OF LEWISTON,)
Respondent.)

This matter came before the State Board of Property Tax Review (hereinafter referred to as "Board") on the appeal by Friendly Ice Cream Corporation from the denial by the City of Lewiston (the "City") of the Petitioner's property tax abatement application for the 1995 tax year. The property which is the subject of this appeal is a restaurant located at 477 Commercial Street. Since the City is a primary assessing jurisdiction, appeals from denials by the Assessor are brought directly to this Board. See 36 M.R.S.A. § 843 (2) (1990).

A hearing on Respondent's Motion to Dismiss was held on January 23, 1996 with Board members James Born, Philip Hill, Malachi Anderson, and Caspar Cowan, Chair, participating. John G. Capezzuto of New-Mass Real Estate Co. represented Petitioner; Robert S. Hark, Esq. represented Respondent.

The following relevant dates are not in dispute:

January 19, 1995	Abatement application received by Assessor;
March 20, 1995	Application deemed denied;
May 20, 1995	Petition for Assessment Review sent to Board by certified mail.

The Board's authority for hearing and deciding property tax disputes in primary assessing areas is set forth at section 843 (2) of title 36 which reads, in part, as follows:

If the chief assessor, municipal officer or the State Tax Assessor refuses to make the abatement asked for, the applicant may apply in writing to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied.

36 M.R.S.A. § 843 (2).

Petitioner testified that another copy of the Petition for Assessment Review had been sent by regular mail to the Board on May 19, 1995 but the record contains no evidence to support this