

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 96-004

ANNIE P. HASKELL,)
Petitioner,)
)
v.)
)
TOWN OF PHIPPSBURG,)
Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the appeal by Annie P. Haskell of the Petitioner's property tax abatement application under the Farm and Open Space Tax Law (36 M.R.S.A. §§ 1101-1121 (1990)). The subject of this appeal is a parcel of land, approximately 11.99 acres in size, on West Point Road in the Town of Phippsburg (hereinafter, the "Town") designated as Map 27, Lot 26 on the Phippsburg tax maps. Appeals of open space valuations are directly to this Board. See 36 M.R.S.A. § 1118 (1990).

A hearing was held on January 24, 1996 before Board members Philip Hill, James Born, Malachi Anderson, and Caspar Cowan, Chair. Petitioner was represented by her son, Richard Nichols; Lee K. Bragg, Esq. represented the Town.

The following facts are not in dispute. At the annual town meeting in March of 1994 the Town voted to change its budget cycle from a calendar year to a fiscal year running from July through June. This change created a one-time six-month budget period from January 1, 1995 to June 30, 1995. See Petitioner's letter dated July 4, 1995.

On or about March 14, 1995 Petitioner applied to the Town for open space classification for the subject property. Petitioner's tax bill for the six-month tax period, issued on March 31, 1995, did not reflect open space classification. Petitioner then applied to the Town for an abatement which abatement was denied. See id. According to testimony, the subject property has been classified as open space for the 1995/1996 fiscal year, based upon Petitioner's timely application to the Town for open space classification submitted on or about March 14, 1995.

The Town asserts taxes for the six-month tax period were committed based on the status of property fixed upon the last preceding April first, 1994, at which time the subject property was not classified land.

Petitioner appears to assert that, because the mil rate was changed for the six-month tax

period, the Town should have voted on a date for determining property values for that period. However, according to Petitioner, since the Town did not vote on a date for determining property values for the six-month tax period, that date should be April 1, 1995. Therefore, Petitioner asserts, Petitioner's March 14, 1995 application for open space classification was filed prior to the date for determining property values for the six-month tax period, April 1, 1995.

At issue is the question of whether or not Petitioner's March 14, 1995 application to the Town was filed in time to qualify for open space classification for the six-month tax period from January 1, 1995 to June 30, 1995.

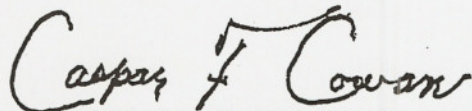
The Board notes the Farm and Open Space Tax Law specifies that "[t]he owner ... of land who believe[s] that land falls within the definition of open space land... shall submit a signed schedule ... on or before April 1st of the year in which that land first becomes subject to taxation under [the Farm and Open Space Tax Law]." 36 M.R.S.A. § 1109 (3) (Supp. 1994).

The Board notes, therefore, that in order for the subject property to achieve open space status for the six-month tax period, *inter alia* Petitioner must have filed an application with the Town prior to the April first on which property values were determined for that six-month period. "All real estate within the state...is subject to taxation on the first day of each April as provided; and the status of all taxpayers and of such taxable property shall be fixed as of that date." 36 M.R.S.A. § 502 (1990).

The Board finds the Town properly committed taxes on March 22, 1995 for the six-month period from January 1, 1995 to June 30, 1995 based upon the last preceding April 1, 1994. Therefore, by unanimous vote, the Board finds Petitioner's application for open space classification, filed on or about March 14, 1995, was untimely 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: March 5, 1996



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