

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 96-008

MICHAEL DAVID KAPLAN,)
Petitioner,)
v.)
TOWN OF OLD ORCHARD BEACH,)
Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the timely appeal by Michael David Kaplan from the denial by the Town of Old Orchard Beach (hereinafter, the "Town") of the Petitioner's property tax abatement application for the 1995 tax year. The property which is the subject of this appeal is located at 5 Seabreeze Avenue and is designated as Map 302, Block 2, Lot 4 on the Town's tax maps. Since Old Orchard Beach is a primary assessing area, appeals from denials by the Assessor are brought directly to this Board. See 36 M.R.S.A. § 843 (2) (1990).

A hearing was held on January 23, 1996 with Board members James Born, Philip Hill, Malachi Anderson, and Caspar Cowan, Chair, attending. Petitioner appeared in his own behalf. Norman Marquis, Chief Assessor, represented the Town.

Petitioner testified that in May of 1995 he paid \$82,000 for the subject property, including \$3,000 worth of personal property. Based upon the purchase price, Petitioner asserts the value of the property to be \$79,000.

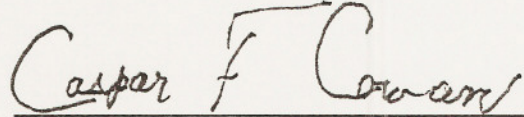
The Assessor asserts that the selling price of the subject property in May, 1995 is not relevant to the April 1, 1995 assessed value and, therefore, was not considered in the assessment process. Following Petitioner's request for abatement however, the Assessor granted a partial abatement from the original assessed value of \$94,900 to an abated value of \$89,100 to correct the building and lot size.

In these proceedings, Petitioner has the burden of proving that the judgement of the Town was "so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results; or there was unjust discrimination; or the assessment is fraudulent, dishonest or illegal." See Town of Vienna v. Kokernak, 612 A.2d 870 (Me. 1992).

The Board finds the Assessor's \$5,800 abatement fair and the assessment consistent with that of other similar properties. Therefore, by unanimous vote, the Board finds Petitioner has failed to meet his burden of proof and this petition 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: March 21, 1996

A handwritten signature in cursive script that reads "Caspar F. Cowan". The signature is written in black ink and is positioned above a horizontal line.

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