

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 96-009

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 1 Seabreeze Avenue and is designated as Map 302, Block 4, Lot 1 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.

The subject property is a one-story summer cottage with twenty-five feet of ocean frontage. Petitioner is seeking an abatement from the assessed value of \$196,900 to a proposed value of \$136,000.

Petitioner asserts that the Town's recent revaluation resulted in an over assessment of the subject property due to a higher per square foot value being placed on small lots as compared to larger lots. See Petitioner's Ex. No. 3. This allegedly unfair assessment methodology resulted in a 36.5% increase in the assessment on the subject property as compared to a 2% to 7% increase for neighboring properties. See Petitioner's Ex. No. 1. An appraisal of the subject property dated May 20, 1993, prepared for Fleet Bank valued the property at \$136,000. See Petitioner's Ex. No. 4.

The Town asserts that sales studies in which building values were extracted to arrive at land values reveal higher land values in the market for smaller lots. With regard to the Fleet Bank appraisal, which was prepared for equity valuation, the Town points out that none of the

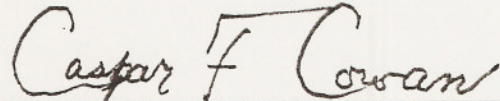
comparables used by the appraiser are located in the Town.

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 that the higher per square foot assessments assigned to smaller shorefront lots are justified by sales. The Board finds further that the Town's methodology is applied uniformly to all small shorefront lots and there is no evidence to show the subject property is overvalued with respect to other small shorefront properties. Therefore, by unanimous vote, the Board finds Petitioner has failed to meet his burden of proving overvaluation 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



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