

The Petitioners testified that the eight acres in question are comprised of a strip of ledge along the shore varying in depth from 150 feet to 300 feet. The Petitioners have allowed the West Quoddy Biological Research Station to use the land for biological field research since 1979. Further, they permit students from the College of the Atlantic to camp on the shore and use the land for research.

The Petitioners are in the process of placing the land under a conservation easement and testified that any easement obtained will allow public access to the land. The rocky shoreline is scenic and unique and harbors sea birds, sea otters, cranberries, and other varieties of flora and fauna.

In its response to the Lookabaugh's petition, the Town asserts that the Lookabaugh's failed to sufficiently document their claims of public benefit. While the Lookabaugh's indicated the land contributes to the ecology and that rare species inhabit the land, the Town alleges no scientific proof was provided which supported those claims. Further, the Town argues that development of the land is unlikely, therefore, the land need not be protected from development by open space classification.

The Farm and Open Space Tax Law (36 M.R.S.A. §§1101-1121 (1990)) provides for the classification of land as open space if such a restriction on the use of the land would provide a public benefit. In order to ascertain whether a public benefit would be conferred, the statute itemizes 14 factors any one of which may be determinative of public benefit.

The Board finds that by permitting, indeed encouraging, the West Quoddy Biological Research Station and the College of the Atlantic to use the land for biological research, the Lookabaughs are conferring a benefit to the public (36 M.R.S.A. §1109 (3)(D)). What better use for an eight acre strip of rocky shore frontage than for use by the public for educational research.

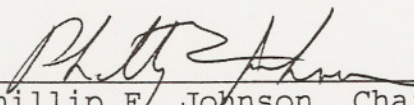
In addition, it cannot be overlooked by this Board that the clear intent of the Petitioners is to preserve this land as undeveloped space for use by the general public and to maintain the habitat for terrestrial and aquatic life. The representation by the Petitioners that they are in the process of placing the land under a conservation easement is evidence of that intent. Coupled with the fact that the land has been used for educational purposes since 1979, the Board unanimously concludes that the classification of the eight acres of shore frontage as open space land would confer a public benefit within the meaning of the Farm and Open Space Tax Law.

Therefore, the Board overturns the decision of the Town of Lubec denying the Petitioner's application for Classification and Valuation of Land as Open Space Land.

Inasmuch as the Petitioners do not seek an abatement of their 1991 taxes but rather ask only for reversal of the Town's denial of open space classification, the eight acres shall be valued by the Town as open space starting with the 1992-1993 tax year forward unless and until said land is withdrawn from open space classification.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within thirty (30) days of the date of receipt of this Decision pursuant to 5 M.R.S.A. §§11001-11008. If this Decision is not appealed, it shall become binding on the parties at the end of said 30-day period.

DATED: 12/1/92



Phillip E. Johnson, Chair, Panel A
State Board of Property Tax Review