

STATE OF MAINE
, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NOS: 96-036

Madison and Anson Water District)
Petitioner)
)
v.)
)
)
Town of Embden)
Respondent)

DECISION

This matter is before the State Board of Property Tax Review (hereinafter the "Board") on Respondent's Motion to Reconsider the Board's decision dated February 12, 1997 granting the Petitioner an abatement of its property tax related to property located in the Town of Embden.

A hearing on Respondent's motion was held before a quorum of three members of the Board. Present were Caspar F. Cowan, Esq., Chairman; James O. Born, and Malachi Anderson. Peter Beckerman, Esq. represented the Respondent and Neal Corson, Esq. represented the Petitioner.

The Board's rules do not specifically address Motions to Reconsider. The Board historically has used its discretion to consider such motions. The Board thereby allowed argument on the Motion.

The Board considered arguments of both counsel and brief submitted by Respondent. The Board noted that Justice Saufley's recent decision in the matter of Portland Water District v. William Kirk and the Town of Standish involving an action for declaratory and injunctive relief against the assessor and the Town of Standish is not applicable here in the matter of Madison and Anson Water District.

Specifically the Superior Court decision noted that unlike an appeal for a tax abatement, any asserted requirement relative to payment of taxes prior to entering an action for declaratory and injunctive relief is not applicable. Thus Justice Saufley's discussion relative to timely payment of taxes does not apply to the Petitioner's appeal for a tax abatement. The Board therefore finds that its decision relative to timely payment of taxes was not in error.

Further the Board noted that its decision essentially recognized that the corporate limits of a water district are equivalent to its territorial limits as defined by its charter and that its service limits extend beyond the corporate limits to include service to Embden. Such an interpretation of the territorial limits of a municipal corporate water district coincides with

Justice Sauffley's decision in the matter of Portland Water District. The Board therefore finds that its decision was not in error.

By vote of 3-0 the Board rules that its decision dated February 12, 1997 shall not be altered.

Dated: 13 May 1997

Caspar F. Cowan
Caspar F. Cowan, Esq. Chairman
Panel C, State Board of Property Tax Review