

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 95-016

MATTHEW & AUDREY SERVADIO,)
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 Matthew and Audrey Servadio from the denial by the Town of Old Orchard Beach of the Petitioners' property tax abatement application for the 1994 tax year. The property which is the subject of this appeal is located at 5 Wavelet Street and is designated as Lot 301-01-03 on the Town's tax maps. Since Old Orchard Beach is a primary assessing jurisdiction, 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 July 25, 1995 before Panel B. The following Board members were present: Robert Libby, Stephen Morgan, Harry Hodson, and Lynwood Hand, Chair. Audrey Servadio, taxpayer, represented Petitioners; Norman Marquis, Chief Assessor, represented the Town.

The subject property is a three unit residential building located approximately one block from the beach, assessed at \$212,800. Petitioners are seeking an abatement of \$93,800 based upon a bank appraisal prepared by Gerry Filliger, appraiser, which is dated April 29, 1994 and offers a final estimate of value of \$119,000. See Petitioners' Ex. No. 1.

The Town presented evidence of comparable sales and comparable assessments. See Respondent's Ex. Nos. 1 and 2. The Town challenged Petitioners' use of a bank appraisal as evidence of fair market value for assessment purposes.

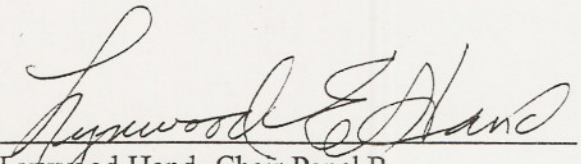
In these proceedings, Petitioners have the burden of proving that the judgement of the Town was "so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results; or there was unjust discrimination; or the assessment is fraudulent, dishonest or illegal."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

The Board was unwilling to give substantial weight to Petitioners' appraisal in the absence of the appraiser who was not present to defend his opinion of value. On the other hand, the Board noted the Town's evidence showed the subject property to have an assessed value consistent with other similar properties in the Town.

Therefore, by unanimous vote, the Board finds Petitioners have failed to meet their burden of proving substantial 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: Dec 29, 1995


Lynwood E. Hand
Lynwood Hand, Chair Panel B
State Board of Property Tax Review