

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 93-88

LAURENCE G. WESSON,)
Petitioner,)
v.)
TOWN OF BREMENT,)
Respondent.)

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the appeal by Laurence G. Wesson from the alleged denial by the Town of Bremen of the Petitioner's application for open space classification under the Farm and Open Space Tax Law, 36 M.R.S.A. §§ 1101 - 1121 (1990 and Supp. 1994) for the 1993 tax year. The subject of this appeal is a parcel of land, twenty-six or twenty-seven acres in size, on Oar Island in Muscongus Bay, a portion of the property designated as Map 4, Lot 1 on the Bremen tax maps.

A hearing was held on September 14, 1994 before a quorum of three members of the Board. Laurence G. Wesson, the taxpayer, appeared in his own behalf; the Town did not attend, choosing to rely on the documents in the record.

Dr. Wesson testified that on February 2, 1993 he applied for open space classification for the subject property. See Petitioner's Ex. No. 1. On March 18, 1993 Dr. Wesson was notified that his application would be reviewed by the Assessors on March 25, 1993. See Petitioner's Ex. No. 2. On June 1, 1993, having received no further communication from the Town, Dr. Wesson filed this appeal with the Board, assuming his application was deemed denied. Subsequently, on or about June 8, 1993, Dr. Wesson received a letter from the Town, dated May 27, 1993 and post marked June 5, 1993, informing him that the Town had granted his request for open space classification. See Petitioner's Ex. No. 4.

Dr. Wesson testified that the Town's 1993 assessment of \$26,000 (\$1,000 per acre) was consistent with the assessed values of the three other open space properties located in the Town¹. However, it is Dr. Wesson's position that the Town's letter (Petitioner's Ex. No. 4.), signed only by the Town Clerk, is not binding on the Town and that the Town must return to him his application form (Petitioner's Ex. No. 1.), with the certification section completed and signed by the Assessor.

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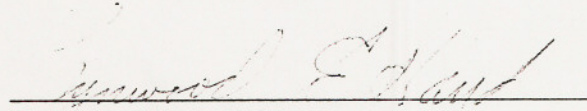
Although Dr. Wesson applied for open space classification for twenty-seven acres, the Town valued twenty-six acres at \$1,000 per acre. Nonetheless, the Town's letter granting open space does not limit it to twenty-six acres but, rather, grants Dr. Wesson's application.

The record before the Board shows that on October 5, 1993 the Town filed a Motion to Dismiss on the grounds that the Town had approved Petitioner's application and granted open space classification on May 27, 1993, as evidenced by its letter of that date (Petitioner's Ex. No. 1). The Board notes that the Farm and Open Space Tax Law requires the Town to notify the landowner whether his application has been accepted or denied but does not require the use of any prescribed form. See 36 M.R.S.A. § 1109 (4).

The Board finds the Town has granted Dr. Wesson's application and classified the subject property as open space by virtue of its May 27, 1993 letter and subsequent assessment of \$1,000 per acre. The Board finds further that the Town, having classified the property as open space, must value the property pursuant to the Farm and Open Space Tax Law, 36 M.R.S.A. §§ 1101 - 1121 (1990 and Supp. 1994) Based on these findings, the Board hereby dismisses this petition by unanimous vote.

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: April 24, 1995



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