

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 95-115

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

DECISION

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the appeal by Laurence G. Wesson of Petitioner's property tax assessment for the 1994 tax year. The property which is the subject of this appeal is a portion of the lot designated as Map 4, Lot 1 on the Town's tax maps.

A hearing was held on September 27, 1995 to consider the Town's Motion to Dismiss for lack of jurisdiction. Board members Stephen Morgan, Harry Hodson, and Lynwood Hand, Chair were present. Petitioner appeared on his own behalf; Jonathan C. Hull, Esq. represented Respondent.

The subject property is a portion of Oar Island designated the "Protected Parcel" which is subject to a forever wild conservation easement and classified as open space by the Town. See Appeal of Open Space Assessment, dated Nov. 3, 1994. The record shows the Town assessed the property using the alternative valuation method described in the Farm and Open Space Tax Law. See Respondent's Ex. No. 5. Petitioner did not make any written application for abatement to the Assessor prior to filing the instant appeal.

The Board's authority to hear and decide property tax disputes under the Farm and Open Space Tax Law is set forth as follows:

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under 841 or a recommended current use value established under section 1106-A must be to the State Board of Property Tax Review.

36 M.R.S.A. § 1118 (Supp. 1994).

Thus, pursuant to the procedure laid out in section 841¹, the abatement process properly begins with a written application to the Assessor:

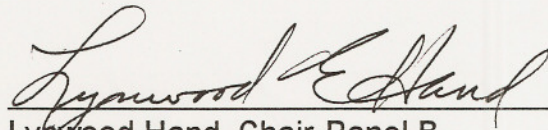
The assessors, ... upon written application filed within 185 days from commitment stating the grounds for abatement..., may make such reasonable abatement as they consider proper.

36 M.R.S.A. § 841 (Supp. 1994).

The Board finds the Town assessed the subject property using the alternative valuation method. The Board finds further that the proper avenue for this appeal is through an application to the Assessor. No evidence of an application to the Assessor for an abatement having been presented, the Board by unanimous vote hereby grants the Town's Motion to Dismiss, on the ground that it has no jurisdiction to hear and decide this appeal.

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: 11-22-95


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

¹ The Town pointed out that, had the Assessor employed the recommended current use methodology under section 1106-A, perhaps an argument could have been made for petitioning the Board without first applying to the Assessor. However, since the Town did not employ the recommended current use method, the Board did not address this issue.