



JANETT MILLS
GOVERNOR

STATE OF MAINE
STATE BOARD OF PROPERTY TAX REVIEW
49 STATE HOUSE STATION
19 ELKINS LANE, ELKINS BUILDING
AUGUSTA, MAINE 04333-0049
www.maine.gov/dafs/boardproptax

KIRSTEN LC FIGUEROA
COMMISSIONER

DEBRA STITSON
CHAIRPERSON

November 1, 2019

Senator Benjamin M. Chipman
Senate Chair
Committee on Taxation

Representative Ryan Tipping
House Chair
Committee on Taxation

Dear Mr. Chipman and Mr. Tipping:

Please find enclosed 20 copies of the Program Evaluation Report for the State Board of Property Tax Review in accordance with your request dated April 9, 2019.

Sincerely,

i

Lisa Stevens
Secretary
State Board of Property Tax Review

Cc: Julie Jones, Committee Clerk, Office of Fiscal and Program Review, 5 SHS, Augusta

STATE BOARD OF PROPERTY TAX REVIEW
PROGRAM EVALUATION REPORT
October 2019

Origin

The State Board of Property Tax Review was created by the Legislature in 1986 (P.L. 1985, c. 764) to consolidate the functions of the Municipal Valuations Appeals Board (1931 - titled Board of Equalization prior to 1969), the State Board of Assessment Review (1973), and the Land Classification Appeals Board (1977). At the time of its creation, the Board was also given jurisdiction over valuation appeals of non-residential properties assessed at over \$500,000. This jurisdictional threshold has since been raised to \$1,000,000.

Purpose

The State Board of Property Tax Review is an appellate body, established to hear appeals of cases involving property valuation, tax exempt status decisions, land classification decisions (Tree Growth, Farm and Open Space, and Working Waterfront), municipal valuations established by the Property Tax Division of Maine Revenue Services, and mine sight valuations. 36 M.R.S. § 271. If a property owner or a municipality believes that an inequitable assessment, valuation, abatement or exemption decision has occurred under any of the above stated provisions of law, the taxpayer may file an appeal with the State Board of Property Tax Review for a review of the original valuation. The Board conducts a de-novo hearing at which the assessment is presumed correct and the taxpayer has the burden to prove the assessment manifestly wrong. Decisions of the Board may be appealed to the Superior Court pursuant to the Maine Administrative Procedures Act, Title 5, c. 375.

The Declaratory Judgments Act (14 M.R.S. §5951, et seq.) also allows an aggrieved party to request a judgment from the Superior Court on whether laws governing property tax exemption decisions were properly applied by the assessing authority.

Composition

The State Board of Property Tax Review, when fully staffed, consists of 15 members, appointed by the Governor for staggered 3-year terms. Appointees must include an equal number of attorneys, real estate brokers, engineers, assessors, and public members (36 M.R.S. §271, sub-§1). Beginning August 1, 2018, at least one vacancy in the term of a public member or a position open as a result of an unexpired term of a public member must be filled by a member of the public with expertise in taxation, finance or property valuation matters. It has been some years since the Board has operated with a full complement of members. The Board elects its own chair annually. Cases are handled by the Board in an established manner according to principles and practices of administrative law.

Staffing and Expenditures

The expenditure information for the Board was generated from the Budget and Financial Management System (BFMS). An annual budget is drafted by the General Government Service Center with the assistance of a Budget Analyst. The expenditures consist of salaries and wages, computer services, contractual services and commodities. The budget also includes health insurance, dental insurance, retirement/retiree health, workers comp, basic life insurance, holiday, and sick/vacation hours for the Assistant Attorney General ("AAG"). The budget process for legal services dictates that clients are provided with the best approximation of the amount of legal services that may be required well in advance of those services being provided, and then allocate those levels of service to the key "AAG" providing the service. Also, included is the use of a computer, telephone, cell phone, risk management insurance, car rental, expert witnesses, court reporting, travel, training, photocopying, and supplies. Members of the Board receive \$75.00 per diem plus expenses for attendance at hearings and full Board meetings. Appropriated Funding for FY 2020-2021 is \$179,130.00.

An emerging issue in the coming years for the Board would be a lack of having a full panel of 15 members. **Attachment A.**

The Board follows the Department of Administrative and Financial Services web and privacy policies. Its website collects only the information needed to create an efficient electronic gateway for public information. Unless specifically protected under federal or state law, any information provided may be inspected by the public or disclosed. The Board has its own website which is managed by the

Secretary. All files and records are stored in a restricted access office of the Secretary.

The Board, being an independent adjudicatory body, does not coordinate its efforts with other state or federal agencies.

Operations

The Board operates on a docket. Appeals are assigned a docket number based on the calendar year. Upon receipt of an appeal, the chair, should mediation be unsuccessful, selects a 5-member panel from among the Board members to hear the appeal. The Board is divided into 3 such panels, with one member of each representational group on each panel. Three members of any 5-member panel constitute a quorum and may hear and decide appeals. Hearings of the panel are presided over by the attorney member. Actions of each panel carry the weight and authority of the entire Board. Legal Counsel and decision drafting assistance is provided to the Board by an "AAG", who attends all Board hearings, deliberations and meetings. Board decisions are circulated to all Board members and posted on the Board's website. This practice ensures consistency in the decisions of the three relatively independent panels.

A Petition to the Board for a property tax abatement must include a filing fee (36 M.R.S. § 271 sub-§ 10), and by Rule (94-391 C.M.R. ch. 1 § 4(A)(1)) the following information:

- The assessed value of the property, as originally determined by the assessing authority;
- Amount of any previously granted abatement;
- The valuation alleged proper by the Petitioner;
- A brief description of all prior proceedings before the assessing authority concerning the disputed assessment;
- A statement of the factual basis for the abatement appeal;
- A statement of the legal grounds for the appeal.

Respondents have 20 days to file a written response to a petition either affirming or denying the allegations, and a statement of the reasons for denial of the abatement. (94-391 CMR ch. I § 4(A)(2))

The parties must file an "Information Sheet." This form, developed by the Board, requires information relevant to determining whether the filing of the appeal is timely and thus subject to the Board's jurisdiction. The parties must also state the number of witnesses and days anticipated for hearing. The filing of this form reduces the necessity for a pre-hearing conference in most cases.

Attachment B.

If the Chairman of the Board determines that the Board lacks jurisdiction to hear an appeal, the Chairman issues an Order setting forth the reasons that the Board lacks jurisdiction and the right to appeal the Chairman's Order to a full Panel for a hearing on the issue. 36 MRS § 271(5). Alternatively, the Chairman may assign a Panel directly to conduct a hearing on jurisdiction, after which a Decision on jurisdiction is issued. The Decision may be appealed to the Superior Court should the Board determine that it lacks jurisdiction to conduct a hearing on the substance of the appeal.

Effective April 8, 2018, the Legislature enacted L.D. 1479, 36 **M.R.S.** 271(5-A), requiring mediation of appeals. Pursuant to section 271(5-A), if the Board has jurisdiction to hear an appeal, the parties are notified that they must retain the services of a mutually agreed upon mediator who is knowledgeable in taxation, valuation matters or conflict resolution. **Attachment C.** The parties also must notify the Board in writing whether further action of the Board is necessary after having engaged in mediation. Currently there are 8 cases in process of mediation, of which 6 are 2019 petitions and 2 are 2018 petitions.

Prior to a hearing by the Board, the Board may require parties, on a case-by-case basis, to submit prior to the hearing, any information determined by the Board to be necessary for a responsible decision on the substance of the appeal. To regularize this process and to eliminate undue delay during a hearing caused by documents not provided to the other party prior to the hearing, the Board has established a standing Order incorporated in its Notice of Hearing that requires the parties to exchange those documents that each intends to offer into evidence and to provide the Board in advance of the hearing a brief statement of the case, summaries of witness testimony, a list of exhibits to be entered into evidence, stipulations of fact, and copies of appraisals to be entered into evidence. **Attachment D.** This Notice and standing Order has reduced delay during hearings and has facilitated Board member preparation in advance of the hearing.

The Board has the power to subpoena witnesses and any records, files or documents relevant to the proceeding. Hearings take place in the Burton M. Cross

Office Building and are scheduled for 2 or more days depending on the nature of the appeal. Appeals that are scheduled for hearing usually involve new and/or complex issues. The parties will frequently file post-hearing briefs prior to public deliberations being conducted and the issuance of a written decision. Final decisions of the Board, as mentioned, are circulated to all Board members and posted on the Board website. Final decisions may be appealed to the Superior Court.

In those appeals involving a dispute between a municipality and Maine Revenue Services' determination of its equalized valuation or its failure to meet minimum assessing standards, the municipality may file a written appeal within 45 days of its receipt of the Maine Revenue Services' determination. The Board is required to conduct a hearing and issue a written Decision on these disputes on or before January 15th with right of appeal to the Superior Court. 36 M.R.S. § 272.

Decisions of the Board that have been appealed and resolved in the past 3 years have been affirmed by the Superior Court and/or the Law Court or have been dismissed by stipulation of the parties, and in one instance remanded to the Board for further proceedings for which the Board issued a decision on August 27, 2019.

As mentioned, the Board has established a website (www.maine.gov/dafs/boardproptax) on which it posts sequentially by year and docket number all Board Decisions and Orders, and Stipulations of Dismissal by the parties.

Board Docket

There are no pending Board appeals for the 2016 or 2017 calendar years.

Twenty-one appeals were filed in 2018. For that year there are currently 2 appeals in process of mediation, 3 appeals have been consolidated and scheduled for a jurisdictional hearing, and 3 appeals are pending a full hearing. All other appeals have been resolved.

Sixteen appeals have been filed to date in 2019 and more are expected. Of these there are currently 8 appeals that are in the process of mediation. One appeal is scheduled for a jurisdictional hearing, and 1 appeal is pending a full hearing that will likely be consolidated for hearing with a pending appeal filed in 2018. Of

these 16 appeals 4 have been recently received and are being reviewed for jurisdiction. All other appeals have been resolved.

In the next two calendar years the Board anticipates 40-45 appeals.

Within the past approximate one year, the Board has heard and/or conducted deliberations and issued written decisions in 4 complex appeals that have resulted in 5 stipulations of dismissal filed with the Board involving succeeding years of the same property, in whole or in part, for a total of 9 docket numbers being resolved and removed from the Board docket. In addition, 4 complex appeals were scheduled for hearing during this period that were settled prior to the scheduled hearing. These settled appeals resulted in stipulations of dismissal filed with the Board involving succeeding years for two of the three appeals for an additional 6 docket numbers being resolved and removed from the Board docket. Within the past approximate one year therefore, 15 docket numbers have been resolved and removed from the Board docket.

Thank you for the opportunity to submit this report to your Committee.

Respectfully,



Debra Stitson, Chairperson
State Board of Property Review
49 State House Station
Augusta, ME 04333-0049

Cc: Julie Jones, Senior Legislative Analyst, Committee on Taxation

ATTACHMENT A

State Board of Property Tax Review
www.maine.gov/dofs/boordproptox

<i>Attorneys</i>	Steven J. Silver (1)	John W. Youney (2)	(3)
<i>Engineers</i>	Albert E. Hodsdon, III (11)	John E. Hodgkins (14)	Michael MacPherson (15)
<i>Real Estate</i>	Fred A. Greenwood (4)	Lowell (Ted) Sherwood, Jr. (5)	(12)
<i>Assessors</i>	(6)	(7)	Debra Stitson (8)
<i>Public Members</i>	Denise L. Stevens (9)	Danielle Marquis (10)	Philip E. St. Onge (13)
<i>Board Counsel</i>	Michelle Robert, A.A.G. 626-8576 (Cross Off Bldg) michelle.robert@maine.gov		Secretary: Lisa Stevens 49 State House Station Augusta, ME 04333-0049 287-2864 Fax: 287-2865 Lisa.stevens@malne.gov

ATTACHMENT B

INFORMATION SHEET

Docket No:

This form must be completed and filed with the Board regardless of the mediation requirement set forth in 36 M.R.S. sec. 271(5-A).

Please make a copy for your file and return the completed original directly to the Board of Property Tax Review.

PETITIONER:

RESPONDENT:

1. State whether you agreed, orally or in writing, to delay the decision of the assessor or local board of assessment review. Yes No

If yes, indicate the date of said agreements in the space below. Describe in detail the circumstances of said agreement. (Attach additional sheets if necessary.)

2. State the specific date on which taxes were due for the year in which the assessment is being appealed; the date said taxes were paid, and the amount of interest paid (if any).

Date due _____ Date paid _____ Tax year _____ Interest paid\$ _____

3. State whether all outstanding taxes have been paid to date. Yes No

4. State the **commitment date** for taxes in the year in which the assessment is being appealed. _____

5. For cases involving non-residential properties, valued over \$1,000,000.00, the parties shall confer and indicate:

a) An estimate of time required for hearing, to the nearest 1/2 day- ---

b) Probability of settlement: Very High Very Low None

c) Whether a court reporter is to be present at hearing. * Yes No

d) Number of persons, including witnesses, expected to participate in the hearing: _____

Date

Name (please print)

Signature

• In accordance with Statute, it is the practice of the Board to record proceedings. If either party requires the presence of a court reporter, **arrangements must be made and cost borne by the requesting party.**

To accommodate adequate space requirements, the Board Secretary **must** be notified of any arrangement for the presence of a court reporter **prior to the hearing.**

ATTACHMENT C



JANETT. MILLS
GOVERNOR

STATE OF MAINE
STATE BOARD OF PROPERTY TAX REVIEW
49 STATE HOUSE STATION
19 ELKINS LANE, ELKINS BUILDING
AUGUSTA, MAINE 04333-0049
www.maine.gov/dafs/boardproptax

KIRSTEN LC FIGUEROA
COMMISSIONER

DEBRA STITSON
CHAIRPERSON

DATE

NOTICE

PETITIONER

RESPONDENT

Re: *Name v. Name*
Docket No.

Dear Counsel,

Effective April 8, 2018, the Legislature enacted L.D. 1479, 36 M.R.S. 271(5-A), applicable to this appeal.

Pursuant to 36 M.R.S. sec. 271(5-A), I have determined that the State Board of Property Tax Review has jurisdiction of this appeal. Note that if the municipality claims that the Petitioner has failed to comply with a Section 706-A request for information about the subject property, the Board considers this a defense that does not relate to the jurisdiction of the Board.

In connection with the requirement for mediation set forth in Section 271(5-A) please note the following rules:

- Under sec. 271(5-A) the taxpayer, within 120 days after filing a petition for appeal, "shall retain the services of a mutually agreed-upon mediator knowledgeable in taxation, valuation matters or conflict resolution, unless otherwise excused by the Chair of the Board."
- "The cost of mediation must be shared equally between" the parties.
- "Unless the parties have been excused by the Chair of the Board from mediation, the Board may not schedule a hearing until after it is notified by the parties that mediation has been completed."
- "Upon the completion of mediation, the parties must notify the Board in writing stating whether further Board action is necessary."

Finally, if the Petitioner has not paid the amount of taxes due as required under section 843(4) or section 844(4) of Title 36, the Board will not schedule a hearing until those taxes have been paid AND the mediation requirement under 36 M.R.S. sec. 271(5-A) has been fulfilled.

Debra Stitson
Chairperson
State Board of Property Tax Review

Cc: Michelle Robert, Legal Counsel

ATTACHMENT D

State Board of Property Tax Review 49 State House Station Augusta, ME 04333-0049	NOTICE OF HEARING	Petitioner v. Respondent DOCKET NO.
<u>Petitioner Name</u>	Vs.	<u>Res:pondent Name</u>

Notice is hereby given that the above-entitled matter has been scheduled for a hearing on:
Day/Date/Time

The Board will convene at **9:00 a.m. in Room 300 of the **Burton Cross Office Building****, 111 Sewall Street, Augusta, Maine.

Requests for continuances must be in writing and received not less than 5 business days prior to the hearing date. **Requests for a continuance must indicate any objections from the opposing party. A continuance will not be granted absent this information.** Continuance requests may be denied, even if unopposed.

The parties shall exchange information in accordance to the pre-hearing schedule set forth below. This schedule does not apply to Jurisdictional Hearings.

- Not less than 21 days prior to hearing: Parties are to exchange simultaneously the exhibits each intends to offer into evidence, as well as lists of proposed witnesses, summaries of witness testimony, and proposed stipulations of fact.

- Not less than 14 days prior to hearing: Parties are to exchange simultaneously any additional exhibits which was prompted by the initial exchange, **and:**

Parties shall submit to the Board of Property Tax Review:

- ▶ A brief statement of its case.
- ▶ Summaries of witness testimony.
- ▶ A list of marked exhibits to be entered into evidence at hearing. (Please do not send the actual exhibits.)
- ▶ Stipulations of fact.
- ▶ Copies of appraisals, if available.
- ▶ Originals of these items must be filed with the Secretary of the Board of Property Tax Review. Copies of these items must be mailed directly to each Board Panel Member at the addresses enclosed with this notice. (Please refrain from binding original exhibits submitted to the Board. The use of clips, file folders, pocket portfolios or expandable file pockets is preferred. Pages of all exhibits consisting of more than one page should be numbered. Your cooperation is appreciated.)
- ▶ **FedEx/UPS Delivery Address to the Board:** 108 Sewall Street, Augusta, ME 04330.

- Not less than 3 days prior to hearing: The parties shall exchange simultaneously any large graphical exhibits intended to be offered into evidence.

Six copies of any documents offered as evidence must be available at hearing.

The Board bears no cost for the services of a Court Reporter requested by either party, nor the cost of the preparation of a transcript of the proceedings.

Panel Members

Michelle M. Robert, A.A.G.
Office of the Attorney General
6 State House Station
Augusta, ME 04333-0006

FedEx/UPS Delivery Address: Cross Office Building, 111 Sewall Street, 6th Floor, Augusta, ME 04330

Dated this 29th day of October, 2019
Lisa Stevens, Secretary of the Board
Lisa.stevens@maine.gov