

TOWN OF OGUNQUIT
Board of Assessment Review
Regulations, Procedures, Standards
2017

Board Procedures for Hearings and Meetings.

1. The Chair will call the meeting to order and will supervise meetings and Hearings. Meetings are public proceedings and are electronically recorded. Three (3) members of the Board shall constitute a quorum for purposes of conducting Hearings and voting.
2. The Chair asks for a roll call of members.
3. The Chair requests Board complete any old business, approval of minutes, etc.
4. The Chair asks the Board members to introduce themselves, the parties to introduce themselves, and states the reason for the Hearing.
5. The Chair reviews standards, procedures, and summarizes the legal standards under which the Board operates (see below).
6. If the Applicant is to be represented by legal counsel in proceedings before the Board, the Board may also seek legal representation.
7. The Chair explains to the parties the order of presentation on the Hearing.
 - a. The Assessor will explain the assessment, valuation methods he/she relied on, background, etc. and then may call his/her, witnesses. The Applicant or Applicant's representative may question and cross-examine witnesses. The Board members may question the Assessor or the Assessor's witnesses as needed. The Applicant or Applicant's representative will be allowed to cross-examine the Assessor.
 - b. The Applicant or Applicant's representative presents his/her claim and calls witnesses, if needed. The Assessor may question and cross-examine the Applicant and the Applicant's witnesses. The Board members may question the Applicant, Applicant's representative or witnesses, as needed.
 - c. The Board, if it deems it helpful, may schedule a formal inspection of the property. Such inspections shall be completed in accordance with the Board's standards.
 - d. The Assessor will then summarize his/her position.
 - e. The Applicant or his/her representative will then summarize the Applicant's position.
 - f. The Board members may then pursue any follow-up questions to the Assessor, the Applicant, or any witnesses.
8. After the Assessor and Applicant have finished their presentations, the Chair will close the public/evidence gathering portion of the Hearing and the Board shall commence deliberations.

Deliberations shall be conducted in public and no further testimony or evidence is to be offered or admitted unless the public/evidence gathering portion of the Hearing is reopened. The Board's charge in the deliberative process is to review the evidence under the applicable legal standards:

Standards of Review and Burdens of Proof for Property Tax Appeals.

1. The Maine Constitution requires that all property (unless tax-exempt) is to be assessed at its "just value" and that taxpayers are to equally bear their proportionate share of the tax burden; i.e. similar properties should have similar assessments. Maine Courts have determined that "just value" is the same as market value. Market value is generally defined as the price a willing buyer should reasonably pay to a willing seller in an open-market transaction, free from unusual conditions or circumstances (bankruptcy, foreclosure, sales to a relative, etc.) and where the property has had reasonable exposure to the marketplace and prospective buyers.
2. Assessors have considerable discretion and leeway in the choice of methods or combination of methods they choose to rely on to arrive at an estimate of a property's just value. In the valuation process however the Assessor must at least consider the appropriate professionally accepted assessment and appraisal methodologies to arrive at his/her estimate of a property's fair market value. The three generally accepted methodologies are: the cost approach, the comparative sales or market approach, and the income approach. The income approach is appropriate for valuing business and commercial, i.e. where the property is used as part of the related business's production of an income stream. As a result the income approach is not considered an appropriate valuation method to use for valuation of individual residential properties; such properties are generally not held for use as income producing properties. **Assessments and the Assessor's judgment are presumed valid. To overcome these presumptions a taxpayer must prove the assessment is "manifestly wrong". To prove manifest error the taxpayer has the burden of proof to demonstrate one, or more, of the following:**
 - a. **That the judgment of the Assessor was so irrational or so unreasonable in light of the circumstances that the property was substantially overvalued and an injustice resulted; or**
 - b. **That there was unjust discrimination; or**
 - c. **That the assessment was fraudulent, dishonest, or illegal.**

The first statement concerns disputes where the taxpayer and the Assessor have differing opinions related to the fair market value of a property.

The second statement concerns disputes about the assessment method or how the Assessor applies the method. The concern here is that the Maine Constitution requires equal apportionment of the tax burden, i.e. similar properties should have similar assessments.

The third statement addresses improprieties in the assessing process. Illegality in this context means that there is a legal defect in the authority of the Assessor or in the assessing or taxation process. Differences of opinion related to a property's valuation do not make an assessment "illegal".

3. **To meet the legal threshold of what is required to prove “manifest error” in a property appeal (the taxpayer’s burden or proof), taxpayers must:**
 - a. **Present evidence that the Board accepts as credible that impeaches the validity of the assessment.**

and

 - b. **Present evidence and proof of the actual fair market value of the applicant’s property that the Board also deems credible.**

Only if the taxpayer satisfies both of these burdens is the Board authorized to engage in an independent determination of the fair market value of the property for purpose of granting an abatement.

4. **Maine Law recognizes that mass valuation is not an exact science and that tax assessments and valuations may be valid though not entirely precise. By statute (36 M.R.S.A, Section 848-A) assessors are therefore afforded a “margin of error” in their valuations. Thus, assessments are valid if they are “accurate within reasonable limits of practicality”. The margin of error allowed assessors is 10% of the Town’s assessment ratio or, if contested, the ratio that is otherwise proven.**

An example of the analysis to review the application of Section 848-A follows:

A property has been assessed for \$150,000, and the Town’s assessment ratio for the tax year in question is determined to be 70%. Factoring the 70% ratio to the \$150,000 assessment to arrive at the 100% or equalized valuation results in a valuation of \$214, 285 for the property.

In the appeal process, the taxpayer convinces the Board that the fair market value for her property as of April 1 for the tax year in question is \$200,000, or approximately \$14,000 less than the 100% or equalized assessment.

The range of deviation afforded to the Assessor under Section 848-A is a 10% deviation from the ratio of 70%. As applied, this would allow as defensible assessments any assessments falling within the range from 63% to 77% of the property’s fair market value. The range of acceptable assessments for the taxpayer’s property is from \$126,000 to \$154,000 (equalized to \$180,000 to \$220,000).

In this appeal, even though the taxpayer has proven a value indicating that she has been overassessed, under Section 848-A she would not be entitled to an abatement because the assessed value is within the range of deviation allowed by the statute.