

**TOWN OF WEST BATH**  
**Board of Assessment Review (BAR)**  
**Appeal Hearing Finding of Facts and Decision**

Subject of Appeal: Residential land and dwelling located at  
557 Fosters Point RD and identified as  
Tax Map R05 Lot 001-A (AC#344).  
Subject owned by Robert P and Linda L Vail.

Jurisdiction of West Bath BAR to hear and decide appeal:

- West Bath date of True Commitment 08-11-14.
- Taxpayer Application for Abatement dated 10-28-14.
- The taxpayer filed a written application for abatement to the proper body within the 36 MRSA 841 deadline.
- Elected Assessors' denied the abatement 11-24-14.
- Notice of Decision was not written but was announced at public meeting.
- Elected assessors responded orally within the 36 MRSA 842 deadline.
- Taxpayer was aware of denial of the abatement request.
- Taxpayer Application for Appeal of Denial received by town 12-10-14.
- Taxpayer filed a timely appeal of denial under 36 MRSA 843.

Preliminary requirements for filing appeal were understood as having been met.

Date of Site View: Thursday, January 15, 2015 at 1:00 PM  
Location of Site View: 557 Fosters Point RD, interior view  
Site View Attending: Robert Vail, Appellant  
Juanita Wilson-Hennessey, BAR Chair  
Richard Totten, BAR Secretary  
Lisa Atkins, BAR Alternate acting as Regular Member  
Peter Oceretko, Elected Assessor

Date of Hearing: Thursday, January 15, 2015 called to order 1:30 PM  
Location of Hearing: West Bath Town Hall Lower Level  
Hearing Participants: Robert Vail, Appellant  
Ronald Beal, West Bath Assessing Agent  
Juanita Wilson-Hennessey, BAR Chair  
Richard Totten, BAR Secretary  
Lisa Atkins, BAR Alternate acting as Regular Member  
(Brandi Lohr, BAR Recording Secretary)

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*Continued re: Tax Map R05 Lot 001-A (AC#344)*

Exhibits:

Appellant Submittal:

Appeal Application received by Town 12-10-14;  
Maine Listing printouts of Sold properties (12);  
Oral Testimony by Robert Vail

Town Submittal:

Subject property tax card;  
Subject RETTD dated 12-10-12;  
Subject Tax Map R-5;  
Comparable property cards (6);  
Selectmen Meeting Minutes for 11-24-14 denial;  
Application for Abatement dated 10-28-14;  
MRS Report of Assessment Review Prelim 2015 SV;  
Oral testimony by Ron Beal, CMA as Assessors' Agent

Summary of Findings of Fact:

- Appellant and Town mutually agreed that the aggregate value of the real estate as currently assessed is \$598,700.00.
- Appellant and Town mutually agreed that no partial abatement was granted.
- Appellant confirmed abatement sought is to lower assessed value as of April 1, 2014 to \$398,700.00.
- Neither party (appellant and town) represented at hearing by legal counsel.
- Based on Appellant testimony supported by Town submitted copy of RETTD it was established that the Subject property was purchased on 12-10-12 for \$395,500. Appellant testified that he had been represented by a Buyers' Agent.
- Appellant's oral testimony stated he had researched the past ten years of mill rate distribution between municipal, county and education and observed steady increase in education. In response to a question from the BAR he noted the Subject value stayed stable post revaluation except for a \$10,000 adjustment observed by BAR to likely be the removal of prior Homestead Exemption value.
- Appellant stated that his discussion while placing ads for his General Contractor services with Anne Merry, Coastal Journal Media Representative lead to them comparing his property to property she owns on Campbell Pond Road and that triggered his decision to file an appeal of abatement denial. During cross examination and questions from the Board it became evident that the Merry property fronts on Winnegance Lake (a salt water tributary to the Kennebec River) enclosed by a dam while the Subject property has frontage on the fully navigable New Meadows River. Appellant stated that on closer examination the Merrys' property was largely irrelevant as a Comparable.
- Assessing Agent stated that the entire Town of West Bath is currently assessed above market value. Further discussion, supported by State Valuation Analysis determined that both waterfront and residential properties display a 113% sale ratio indicating imperfection distributed equally among both classes of property.
- Further review of the MRS Report of Assessment Review Preliminary 2015 SV demonstrated a total of 35 sales analyzed in a 2 year combined study. Further reasonable balance between classes of property was demonstrated by sales consisting of 40% waterfront and 60% residential. Eight of the twelve sales submitted by Appellant were analyzed in the ratio study while the remaining four occurred after April 1, 2014 and therefore were too recent for the analysis.

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Summary of Decision:

On the Application for Appeal Appellant claimed substantial overvaluation based on judgment so irrational or so unreasonable in light of the circumstances that an injustice resulted and also claimed unjust discrimination. A question mark placed after the condition of fraudulent, dishonest or illegal assessment was eliminated in the hearing after further deliberation by Appellant in response to a question from the BAR.

The BAR first addressed the appeal of (3) years assessment (Tax Years 2014; 2013 and 2012) as requested on Application. At 1:42 PM Richard Totten made the motion that the two prior years were outside the Board of Assessment Review's jurisdiction to hear and Lisa Atkins seconded the motion. No discussion followed and the vote was unanimous that Tax Years 2013 and 2012 could not be considered within the hearing.

Appellant relied exclusively on oral testimony and did not refer at any time to his set of previously submitted exhibits to draw definitive conclusions while testifying. The town's Assessing Agent followed suit relying on oral explanation of the assessed basis.

After testimony, cross examination by each party, questions from the Board and closing statements open discussion was closed and deliberations began. Further BAR discussion was brief and by consensus the Board of Assessment Review concluded that the appellant had not met the necessary burden of presenting credible and affirmative proof that the assessment is so flawed that it should be deemed manifestly wrong, rather than merely imperfect.

A motion was made at 2:47 PM by Juanita Wilson-Hennessey that the claim of unjust discrimination had not been addressed and supported by either paper or oral evidence and Lisa Atkins seconded the motion. No discussion followed and the vote was unanimous that unjust discrimination was not demonstrated by Appellant's evidence.

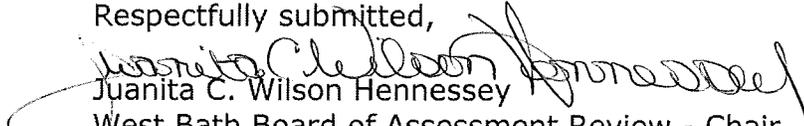
Another motion immediately followed made by Richard Totten and seconded by Lisa Atkins that insufficient credible evidence was presented to demonstrate substantial overvaluation as the result of irrational and unreasonable judgment. Brief discussion acknowledged the entire community's assessment is demonstrated to be 13% above market value while the evidence before the BAR showed the flaw to be equally disbursed among real property classifications. The lack of specific evidence relevant to the Subject property combined with demonstrated town wide uniformity prevented the BAR from concluding the Subject reflects substantial overvaluation. The resulting vote was unanimous that insufficient factual basis was evident to support a Board of Assessment Review determination of substantial overvaluation.

Accordingly, it was the unanimous decision of the Board of Assessment Review that the Town of West Bath's current assessed value of \$598,700.00 should stand as an imperfect but just value on April 1, 2014.

The West Bath Board of Assessment Review hearing adjourned at 3:00 PM.

On this 20th day of January 2015

Respectfully submitted,

  
Juanita C. Wilson Hennessey  
West Bath Board of Assessment Review - Chair

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***NOTE: Title 36 M.R.S.A. 843 states that the decision of a local Board of Assessment Review may be appealed by either party directly to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. Appeal must be filed within 45 days of the date of the vote on the original decision and this time period may be extended by the court upon motion for good cause shown.***