

TOWN OF WEST BATH
Board of Assessment Review (BAR)
Appeal Hearing Decision

Subject of Appeal: Personal Property located at Witch Spring Hill and identified as AC#137 (with reference to AC#17). Subject owned by USA Mobility Wireless, Inc under Authorized Tax Representation by Thomson Reuters.

Jurisdiction of West Bath BAR to hear and decide appeal:

- West Bath date of True Commitment 08-08-11.
- Taxpayer Application for Abatement dated 09-16-11.
- The taxpayer filed a written application for abatement to the proper body within the 36 MRSA §841 deadline.
- Elected Assessors' denied abatement request 10-11-11.
- Notice of Decision dated 10-18-11.
- The elected assessors responded within the 36 MRSA §842 deadline.
- The tax payer was properly informed of denial of the request.
- The tax payer application for appeal of denial received by town 11-10-11.
- The taxpayer filed a timely appeal of denial under 36 MRSA §843.

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

It is noted that testimony during the 01-05-12 hearing segment revealed that in addition to the personal property taxed under the 08-08-11 commitment warrant the Appellant had also intended to appeal property taxed under a supplemental warrant dated on or about 10-17-11. Once the BAR recognized that the appeal as submitted included property that had not yet been subject to prior abatement review and denial the matter was tabled pending appeal application revision necessary to appropriately limit the BAR deliberations to only items clearly within the BAR authority to consider based on the above stated statutory parameters. The BAR reconvened 03-29-12 and concluded the hearing.

Date of Site View: No site view due to nature of personal property

Date of Hearing Opening: Thursday, January 5, 2012 called to order at 5:35 PM conducted through telephone conference call until motion made, seconded and unanimously agreed to table deliberations pending Appellant revision to appeal application to remove property taxed under separate supplemental warrant; BAR adjourned at 6:23 PM.

Date of Hearing Conclusion: Thursday, March 29, 2012 called to order at 5:32 PM conducted through telephone conference call.

Location of Hearing: West Bath Town Hall Lower Level
Hearing Participants: Angie Hui, Appellant Tax Representative (in TX)
Viviane Ellamaa, Appellant Tax Representative (in TX)
Ronald Beal, West Bath Assessing Agent
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR Secretary
James Williams, BAR Regular Member
Peter Oceretko, BAR Alternate
(Rob Morris, BAR Recording Secretary)

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Exhibits:

Appellant Submittal: Appeal Application received by Town 11-10-11 including:
Cover summary page;
Notice of Abatement Denial received 10-25-11
Exhibit A – F-706 Declaration dated 03-27-2009 (4 pgs)
Exhibit B – F-706 Declaration dated 04-08-2010 (9 pgs)
Exhibit C – Tax Bill for APR-10 re: AC#PP-137 (1 pg)
Exhibit D – Abatement dated 09-01-11 re: AC#PP-17 (1 pg)
Exhibit E – F-706 Declaration dated 04-11-2011 (3 pgs) and
Tax Bills AC#PP-137 & 17/ Supplemental Bill AC#137
Appeal Application amended as of 03-01-12 to limit subject

Town Submittal: (NOTE – all items submitted lack Exhibit #s)
Abatement Application dated 09-16-11 re: AC#PP-137
USA Mobility Authorization re: Thomson Reuters as Tax Rep
West Bath 2011 Tax Bill for AC#PP-137
VISION active property card AC#PP-137 marked "NEW"
VISION inactive property card AC#PP-137 marked "OLD"
TY-2009 F-706 submittal by former Tax Rep (3 pgs)
Notice dated 10-03-11 to USA Mobility of Abatement review
Memo dated 10-05-11 Assessing Agent re: AC#PP-137
Notice of Abatement Denial dated 10-18-11 re: AC#PP-137
Memo dated 11-28-11 Assessing Agent to BAR
Memo dated 03-12-12 Assessing Agent to BAR
VISION active property Card AC#PP-17 for TY-2011

Summary of Findings of Fact:

- Appellant and Town mutually agreed that the aggregate value of the personal property as currently assessed is \$15,350.00 (see amended filing dated 03-01-12).
- Appellant confirmed abatement sought is to lower assessed value as of April 1, 2011 to \$0.00 (Appellant claims all declared active assets assessed under AC#PP-17 are duplicated by AC#PP-137).
- Neither party (appellant and town) represented at hearing by legal counsel.
- During the 01-05 portion of the hearing the historical paper trail of the current assessment data was discussed in detail. It was accepted that USA Mobility's prior property tax service (PTS) agent, based on the City of Bath and Town of West Bath shared zip code had permitted a computerized sort to route all F-706 declarations to Bath's assessing department resulting in a lack of clarity regarding when, if at all West Bath assessing ultimately received prior year notification.

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- During the 01-05 portion of the hearing it was also clearly established that Vision Appraisal had chosen to assign two personal property accounts to USA Mobility, thereby segregating the pagers from the transmitting equipment. It is unusual for a town to assign multiple accounts to one vendor and it created reporting confusion for both West Bath assessing and for Thomson Reuters when they were appointed as PTS agent (effective as of the town's April 1, 2010 tax commitment). Unless a town sends a detailed list of personal property as an attachment to the request for annual declaration a recently appointed PTS could reasonably be unaware of items disposed during the preceding tax year and it appeared this may have occurred in this instance.
- At this stage of the 01-05 deliberation it became evident that the reference to a Supplemental Warrant within the Application for Appeal of Abatement Denial was intended to add the additional property to the subject appeal rather than simply being another adjunct reference within the appeal. Since the Supplemental Warrant had not been reviewed under the Abatement process and subsequently denied by the Elected Assessors it was not within the jurisdiction of the Board of Assessment Review to consider the items. Therefore, the motion was made and seconded to table the Appeal under deliberation until the application could be amended to limit the BAR deliberation to only the property already denied abatement and the vote was unanimous to adjourn pending paperwork revision to limit the items to those properly under the BAR's jurisdiction to deliberate.
- Upon reconvening on 03-29 the Application for Appeal of Abatement Denial amended 03-01-12 to limit subject items to those committed as of 04-01-11 was entered as an exhibit, as was an additional Memo dated 03-12-12 from town assessing to BAR and the active TY-2011 property card for AC#PP-17 that Appellant claimed to duplicate the subject DISH and transmitter assessed under AC#PP-137.
- In deference to the historic explanations previously considered on 01-05 the BAR directed the focus to the specifics relevant to the April 2011 tax commitment under consideration. The documents selected for primary review and discussion were USA Mobility Exhibit E: F-706 Declaration dated 04-11-11 (3) pages and the Town's unlabeled documents VISION active property card AC#PP-137 marked "NEW" and VISION inactive property card AC#PP-137 marked "OLD".
- It was noted that the Thomson Reuters declaration contained multiple identification points for each item (including Asset ID; Date Acquired and Original Cost) that meet the criteria typical for communication between personal property vendors and Certified Maine Assessors. It was also noted that the asset declaration pages were clearly marked as "Taxable" (implying active within the town) and "Not Taxable - DISPOSED" (implying removed from town).
- It was noted that the town property card had line notes available for adding the USA Mobility identifiers but that step had been omitted. It was acknowledged by the BAR members that the link between items as declared and items as assessed was ambiguous. Ultimately the BAR relied on the aggregate value shown on the town's tax bill as a method of cross checking the accuracy of the understanding of the items under BAR deliberation.

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Summary of Decision:

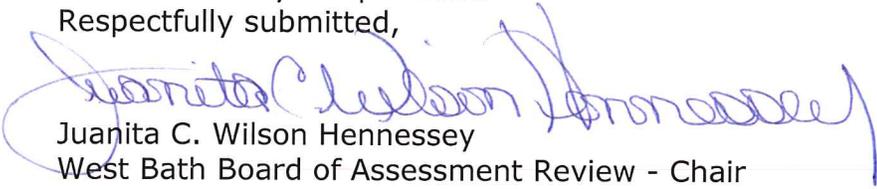
The Board of Assessment Review deliberated and concluded that the appellant did meet the necessary burden of presenting compelling evidence that the assessment is so flawed that it should be deemed manifestly wrong, rather than merely imperfect.

It was agreed that the responsibility of assigning tax account numbers to specific items remains within the province of the town assessing agent and it was further agreed that the BAR assumes no responsibility to choose how the account is identified as part of the BAR decision process. In the opinion of the BAR it remains the responsibility of the town and the appellant to verify that the dollar amount of the tax abated for TY-2011 is calculated under the appropriate tax account and in the appropriate amount based on the BAR vote specifying two items demonstrated to have been subject to duplicate taxation.

Accordingly, after being moved and seconded it was the unanimous vote of the Board of Assessment Review that the Town of West Bath had assessed the same items under both AC#PP-137 and AC#PP-17 and that the Appeal of Denial to Abate should be granted for the following (2) items:

Asset ID#335003 DISH	Date Acquired 3-01-2008	Original Cost \$492;
Asset ID#327070 Transmitter	Date Acquired 6-01-2002	Original Cost \$10,852.

On this 2nd day of April 2012
Respectfully submitted,


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

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 30 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.