

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

Subject of Appeal: Two tax accounts embraced under single appeal:
Residential waterfront land and dwelling located at
149 Rock Haven Drive and identified as town
Tax Map U16 Lot 011 (AC#848)
and adjacent land and seasonal cottage located at
153 Rock Haven Drive and identified as town
Tax Map U16 Lot 010 (AC#901);
both subjects owned by Steven Patrick Dutton

Jurisdiction of West Bath BAR to hear and decide appeal:

- The taxpayer filed a written application for abatement to the proper body within the 36 M.R.S.A. 841 deadline.
- The elected assessors responded within the 36 M.R.S.A. 842 deadline.
- The tax payer was properly informed of denial of the request.
- The taxpayer filed a timely appeal of denial under 36 M.R.S.A. 843.

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

Date of Site View: Saturday, January 19, 2008
Location of Site View: 149 and 153 Rock Haven Drive – exterior views, only
Site View Attending: (Steven “Pat” Dutton, Appellant – not available on site)
Ronald Beal, West Bath Assessing Agent
Juanita Wilson-Hennessey, BAR Chair
Paul Mateosian, BAR
Richard Totten, BAR
James Williams (Alternate), BAR

Date of Hearing: Thursday, February 21, 2008
Location of Hearing: West Bath Town Hall Lower Level
Hearing Participants: Steven Patrick “Pat” Dutton, Appellant
Ronald Beal, West Bath Assessing Agent
Robert Tozier, Vision Appraisal Technologies
through audio telephone conference
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR Secretary
Paul Mateosian, BAR
(Susan Look, BAR Recording Secretary)
Town Official Observing: David Bourget, West Bath Selectman / Assessor

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Continued re: Tax Map U16 Lot 011 (AC#848) and Tax Map U16 Lot 010 (AC#901)

Exhibits:

Appellant Submittal:

Appeal Application received 12-12-2007 (1 pg)
Outline of 3 comparable sales (submittal un-dated)
Excerpt from Tax Map U16 showing subjects' area
Town's synopsis of Vision revaluation definitions of
"Deep Water" and "Good Site"
Packet of color photos for each subject property

Town Submittal:

Application for Abatement received 09-29-07 for
149, 153 & 158 Rock Haven Drive
Excerpt from Minutes of Selectmen's Meeting 11-05-07
Notice of Decision of Abatement Denial dated 11-14-07
Correspondence dated 11-21-07 from Town to Dutton
Assessing Property Card 149 Rock Haven DR - subject
Assessing Property Card 153 Rock Haven DR - subject
(Assessing Property Card 158 Rock Haven DR - abated)
Deed recorded SCRD Book 360 Page 1025
Deed recorded SCRD Book 311 Page 541
Deed recorded SCRD Book 283 Page 599
Email dated 02-21-07 from Tozier to Town re: comps
Property Card for 119 Rock Haven DR – comp sale res
Property Card for 11 Cottage LN – comp sale cottage
Property Card for 42 Rosedale RD – comp sale cottage
Property Card for 174 Hill RD – comp sale cottage
Extract wall-mounted navigational chart of subject area

Summary of Findings of Fact:

- Neither party (appellant and town) was represented by counsel.
- Appellant and Town mutually agreed that the aggregate value of the real estate as currently assessed is as two separately taxed parcels described below:
 - 149 Rock Haven DR, year round waterfront residence at \$438,800.00;
 - 153 Rock Haven DR, seasonal waterfront cottage at \$328,700.00.It was clarified that the abutting parcels share a right-of-way easement; a septic system and a 68' dock that extends to low water mud flats.
- Appellant clarified that 158 Rock Haven Drive, previously abated by the town Assessors was not part of the appeal before the BAR. Appeal application states total value reduction sought in the amount of \$635,000.00, necessitating the appellant to further clarify his request for the separate values reductions as:
 - 149 Rock Haven DR by \$65,820.00 to \$372,980.00;
 - 153 Rock Haven DR by \$49,305.00 to \$279,395.00.
- The assessors' agent and the project manager for the revaluation firm presented four comparable sales in to evidence to establish the general basis for the two properties' assessed values. The sale of 119 Rock Haven DR on 11-07-2005 for \$600,000.00 was identified as a year round residence most comparable to 149 Rock Haven DR. The other three sales were identified as seasonal cottages most comparable to 153 Rock Haven DR: 11 Cottage Lane sold 11-30-2006 for \$339,000.00; 42 Rosedale Road sold 06-01-2006 for \$250,000.00 and 174 Hill Road sold 07-31-2006 for \$240,000.00.

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Summary of Findings of Fact *continued*:

- The appellant presented a written outline of three waterfront comparable sales that occurred in West Bath: CS#1 (address not stated) on Rock Haven Drive (M-U15/L-3) sold 03-02-2007 for \$210,000.00; CS#2 (address not stated) on Kings Point (M-U13/L-3) sold 08-28-2006 for \$220,000.00 and CS#3 (address not stated) on Kings Point RD (M-U13/L-22) sold 06-01-2006 for \$250,000.00.

An exchange of information resulted between appellant and assessing agent in a combined effort to fully identify and understand the comparable sales presented. The BAR was lead to understand that CS#3 is the same sale earlier identified by the town as 42 Rosedale Road. The BAR also understood that CS#1 had been eliminated by the town as a non-arms length transaction based on lack of public marketing and possible distressed terms influencing the sale conditions.
- The appellant demonstrated by photographs that neither property supported the capability at mean low tide to launch a boat 24 hours per day from the end of the shared 64' long dock and stated that both properties should have been valued as "Tidal/Mudflat" rather than "Deep Water". The appellant further stated that his research of the Vision revaluation manual indicated that a 5% value difference exists between the two waterfront classifications.
- The revaluation project manager reaffirmed that typical of ad valorem methods a gray area exists in water depth as interpreted from navigational charts. The assessing agent confirmed that he had independently visited the subject site at a mean low tide and remained confident that the land value index used was as intended by assessing. The assessing agent in support of the applied ad valorem method inserted in to evidence an excerpt from the town hall wall-mounted navigational chart that indicates a 2' depth in subject area.

Decision:

The Board of Assessment Review concluded that the appellant failed to meet the burden of presenting compelling evidence that either assessment is so flawed that it should be deemed manifestly wrong. Accordingly, it was the unanimous vote of the Board of Assessment Review to deny the appeal of each of the properties embraced under the single application.

On this 29th day of February 2008

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 only upon motion for good cause shown.