

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

Subject of Appeal: Residential waterfront land and dwelling located at 21 Neff Drive and identified as Tax Map U13 Lot 034-C (AC#847). Subject owned by John R Neff.

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 MRSA 841 deadline.
- The elected assessors responded within the 36 MRSA 842 deadline.
- The tax payer was properly informed of denial of the request.
- The 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: Monday, March 31, 2008
Location of Site View: 21 Neff Drive, exterior view (only)
Site View Attending: (John R Neff, Appellant delayed at work and absent)
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR
Paul Mateosian, BAR
James Williams (Alternate), BAR

Date of Hearing: Monday, March 31, 2008
Location of Hearing: West Bath Town Hall Lower Level
Hearing Participants: John R Neff, Appellant
Ronald Beal, West Bath Assessing Agent
Robert Tozier, Vision Appraisal Technologies
(via audio teleconference)
Juanita Wilson-Hennessey, BAR Chair
Richard Totten, BAR Secretary
Paul Mateosian, BAR
James Williams, BAR Alternate
(Susan Look, BAR Recording Secretary)

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Exhibits:

Appellant Submittal:

Appeal Application received 02-11-08
MREIS MLS#829544; #825467; #825466 sold prints:
22-24 Shirley's Highway (land & dwelling)
"OZ" Great Heron Drive (land, only)
"OY" Great Heron Drive (land, only)
URAR dated 09-08-06 for First Portland Mortgage

Town Submittal:

Application for Abatement received 11-09-07
Excerpt Selectmen Special Meeting Minutes 12-07-07
Notice of Abatement Denial Decision dated 12-12-07
Correspondence dated 01-30-08 from Neff to BAR
Correspondence dated 02-05-08 from Town to Neff
Town Tax Maps: U-12; U-13; U-16 and R-3
Assessing Property Card for Subject M-U13 L- 034-C
Assessing Property Cards for sold Comparables:
Map U12 Lot 003-A (land, only)
Map U13 Lot 012 (land & dwelling)
Map U13 Lot 04-B-1 (land & dwelling)
Map U13 Lot 04-B-2 (land & dwelling – 2 cards)
Map U16 Lot 017 (land & dwelling)
Map R03 Lot 022-Z (land, only)
Oral teleconference data for comparable land sales:
Map R03 Lot 052 (water view land, only)
Map R04 Lot 013 (rural land, only)
Map U12 Lot 003-A (waterfront land, only)

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Summary of Findings of Fact:

- Appellant and Town mutually agreed that the aggregate value of the real estate as currently assessed is aggregate value of \$576,300.00.
- Appellant clarified abatement sought is to lower assessed value to \$311,000.00.
- Neither party (appellant and town) was represented by legal counsel.
- The town's Assessing Agent, prior to deferring to the Vision Appraisal project manager for further discussion, introduced property cards for six comparables:
 - M-U13 L-012: 73 Kings Point RD 0.6 acres sold 05-26-05 for \$440K
and assessed at \$634,1K;
 - M-U13 L-034-B: 28 Tides End RD 2.3 acres sold 05-03-04 for \$430K
and assessed at \$421.7K;
 - M-U13 L-034-B2: 41 Tides End RD 3.91 acres sold 11-01-02 for \$375K
and assessed at \$653.8K;
 - M-U16 L-017: 119 Rock Haven DR 0.53 acres sold 11-07-05 for \$600K
and assessed at \$541.5K;
 - M-U12 L-003-A: (I/o) Fosters Point RD 6.8 acres sold 05-14-04 for \$360K
and assessed at \$443.8K;
 - M-R03 L-022-Z: (I/o) Great Heron DR 4.6 acres sold 07-20-07 for \$285K
and assessed at \$319.1K.
- The revaluation firm project manager orally presented and discussed three undeveloped land sales:
 - M-R03 L-052 - 11.99 water view acres on Hill RD sold 01-27-06 for \$185K;
 - M-R04 L-013 - 5.0 rural acres at 248 Hill RD sold 12-05-05 for \$80K;
 - M-U12 L-003-A - 6.8 water acres abutting Subject sold 05-14-04 for \$360K.
- In response to a question from the BAR Chair, the revaluation project manager stated that he did not have any comparable residential dwelling waterfront sales selected to discuss in addition to the raw land sales orally introduced.
- The primary argument by the appellant centered on discussion of undeveloped land sales and how they compared to the subject land. He emphasized that his parcel's topography was irregular and that his lengthy private entrance road ended at his residence resulting in limited access across the salt marsh and bog separating his improved dwelling site from the dense tree stand at water's edge that largely obscures his water view in summer.
- In response to a question from the BAR Chair the appellant introduced a Uniform Residential Appraisal Report effective 09-08-2006. The fee appraisal was done by Damon Noyes, ME-LIC#AP1915 for First Portland Mortgage Corp. for the purpose of establishing equity for lending. At the time of the appraisal the subject property contained house on 3.3 waterfront acres, and the appellant was borrowing money to buy the 2.1 abutting non-waterfront acres now part of the currently assessed 5.4 acres. The appraised value of the then 3.3 acre residential waterfront property was \$445,000.00 and appellant testified that after the appraisal completion he paid \$49,000.00 for the additional 2.1 acres.
- The town's assessing agent cautioned the two Great Heron Drive raw land sales presented by the appellant had occurred in July and November of 2007 after the April 2007 commitment date under appeal. The appellant's comparable sale at 22-24 Shirley's Highway also closed post commitment in December 2007.

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Decision:

The Board of Assessment Review deliberated and concluded that the appellant met the burden of presenting compelling evidence that the assessment is so flawed that it should be deemed manifestly wrong, rather than merely imperfect. The Board of Assessment Review interprets known Maine Supreme Court decisions as implying a just value may be deemed manifestly wrong when the assessed value exceeds the subject's demonstrated fair market value by a greater than 10% discrepancy.

The appellant's Uniform Residential Appraisal Report was completed during the time period of the town-wide revaluation conducted by Vision Appraisal and seven months prior to the April 1, 2007 assessed value under appeal. The independent URAR noted the Income Approach as non-applicable for the subject residential property while fully developing both the Sales Comparison Approach and Cost Approach to Values. As of the URAR's 09-08-06 effective date the Subject's "as is" market value was concluded to be \$455,000.00. It was further understood by the BAR that the URAR was used to obtain financing that enabled the appellant to purchase abutting land at the cost of \$49,000.00. The BAR members agreed that a reasonable person would conclude that the appraised value of \$455,000.00 combined with the \$49,000.00 paid for additional land indicates a fair market value of \$505,000.00(+/-) in contrast to the assessed value of \$576,300.00. The difference between the indicated fair market value and the assessed value exceeded the BAR's 10% value range considered to be imperfect but reasonable.

The BAR discussed the variables that influenced the subject's value by utilizing the six land sales and six residential dwelling sales presented within the exhibits entered in to testimony by the town and by the appellant. It was agreed by the BAR members that the town's assessing methodology had been uniformly applied and a basis for possible abatement was linked strictly to the subject property's unique features of topography and limited buildable envelope that caused it to be inferior in desirability as compared to neighboring waterfront parcels. The BAR's preliminarily applied a 20% depreciation factor to the subject's land value that resulted in \$65,300.00 reduced value and an aggregate Subject value of \$511,000.00. The BAR concluded that the indicated aggregate value was reasonable when compared to the indicated fair market value.

Accordingly, it was the unanimous vote of the Board of Assessment Review to grant a partial abatement of \$65,300.00 in response to the appellant's requested abatement of \$265,300.00.

On this 4th day of April 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 upon motion for good cause shown.