

**WEST BATH BOARD OF ASSESSMENT REVIEW (BAR)  
FAQs GUIDELINES TO COMPLETING APPLICATION FOR APPEAL OF DENIAL**

Maine assessing law is something that people deal with infrequently. As a result, questions occur after abatement denial. The guidelines below are an informal tool offered by the West Bath BAR to simplify completing the mandatory appeal application form. The guidelines respond to frequently asked questions from prior Appellants.

Please remember that the hearing before the Board of Assessment Review is the first step in a quasi-judicial process leading to a possible court appeal by either the town or the taxpayer after the BAR decision is issued. Tax appeal is complicated and involves Maine constitutional law, statute, and case law. FAQs guidelines designed to explain a form do not address the Maine tax appeal process in depth. The best source of formal answers to questions involving Maine assessment law is your real estate attorney.

1] Assessing Agent / Elected Assessors: Maine towns elect Selectmen to serve the three roles of Selectmen, Assessors, and Overseers of the Poor. The elected assessors meet periodically each month to decide issues related to daily town governance. Most small towns rely on individuals who are qualified as a Certified Maine Assessor (CMA) to deal with the daily assessing duties. West Bath employs a CMA as the Assessors' Agent.

Typically, taxpayers contact the Assessors' Agent to discuss concerns about property value. The CMA processes the request for abatement and the Elected Assessors sign-off on the final decision to grant, or to deny the abatement since the decision to abate involves releasing the Tax Collector from the obligation to collect the tax.

2] Board of Assessment Review: The West Bath Selectmen (in their role of Selectmen, not in their role as Assessors) appoint five residents to serve on the BAR. The people receive training from Maine Municipal Association and often have property valuation backgrounds. The BAR's appeal decision is independent from the Selectmen, and either the Town or the Taxpayer can further appeal the BAR's decision to the Maine Courts.

During the local appeal hearing, those testifying are under oath. The hearing tape is available to either party for transcript purposes for later court appeal. The BAR appeal packet usually contains the same written documentation Appellant intends to potentially present in court since submitted exhibits are the basis for possible civil appeal. Once the BAR decision is made, a written decision is issued to both Town and Appellant.

3] Types of Abatement Requests and common documents submitted on appeal:

3a) Overvaluation is the most common type of request for abatement of property taxes. Unlike an independent fee appraisal that offers a specific opinion of value for a specific property, an assessed value is broader in scope and the calculated value falls within the reasonable limits of practicality. Assessed value may be imperfect so the overvaluation must be substantial for injustice to result, and the taxpayer carries full burden of proof. Documents offered in proof of overvaluation contain evidence of completed real estate sales within West Bath. Certified appraisals and real estate agent opinions of values are common. Appraisal done for the purpose of abatement is suggested but not mandatory. The professional responsible for the value opinion offered in the document is typically the Expert Witness on hand to support the taxpayer's appeal, along with the taxpayer.

3b) Unjust Discrimination may occur when different classes of property are valued using conflicting methods of assessment, or when treatment of an individual taxpayer varies from treatment of other taxpayers owning similar property resulting in lack of parity.

Unjust discrimination occurs only when the property as a whole (aggregate or total value) is valued differently than other comparable properties within town. One value component (either land or building) of the aggregate value may be low or high, as long as the overall assessed value is fair. A flawed assessment method that results in lack of uniformity is not a basis for abatement as long as the aggregate assessment is fair.

Documents offered in proof often contain evidence of properties similar to Subject in size, location, and improvements but that exhibit significantly less aggregate value.

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(continued)**

3c) Fraudulent, dishonest or illegal appeals rarely occur and few examples exist. This condition goes beyond an imperfect assessment and exists when the assessment lacks legal basis for tax collection. It may result from an improper municipal commitment process, in a case where the property assessed exists entirely outside the town's legal boundaries, or when the party assessed the tax denies legal ownership of the property.

4] Burden of Proof is on the taxpayer to prove entitlement to tax abatement. The legal presumption is the assessment is valid until the taxpayer proves that the assessment as determined by the Assessors is manifestly wrong. BAR lacks latitude to waive burden.

In cases of substantial overvaluation, the evidence presented must be credible and affirmative in indicating true just value. Evidence must contain sufficient documented market sold data to support the BAR's determination of specific just assessed value if the BAR determines overvaluation. Mere presentation of other properties assessed at less value may demonstrate undervaluation of a neighboring property but is unlikely to meet the burden of proof by detailing substantial overvaluation of the Subject property.

In cases of unjust discrimination, presentation of other properties assessed at less value than your property may combine with further evidence to help meet the Burden of Proof.

5] Standard of Manifestly Wrong requires the taxpayer to prove indisputably that substantial overvaluation, unjust discrimination or fraud / illegality exist. As long as the BAR bases its determination of just value on substantial evidence presented within the hearing record the BAR may accept some of the evidence and reject other evidence. The BAR is limited to using the evidence placed in record at the appeal hearing but the BAR is not limited to methodologies suggested by persons testifying.

6] Site Visit supports the BAR in viewing the property as a whole. As required by law, public advertisement of the appeal hearing and site visit occurs in advance. The site visit typically takes 15 minutes since all substantial discussion must be on the record at the appeal hearing. Raw land parcels are viewed at road front setting.

7] Research is not possible at the hearing. Internet access and the town's assessing database will not be available. It is essential that you obtain all the information you require before submitting your appeal packet. BAR is not an information source.

8] Do not electronically alter the format of the West Bath Board of Assessment Review Application for Appeal of Abatement Denial. Indicate "see attached" for additional information that does not fit the form. The form is formatted to equally support the Appellant; the Town and the BAR in the event the BAR's Decision and Findings of Fact is appealed in civil court. Hand printed form responses are standard. The BAR reserves the right to deem the Application as incomplete and not filed in a timely manner if the format is electronically altered.

9] If necessary to meet the 60 day filing deadline the WB BAR's Application for Appeal of Abatement Denial may be printed; filled in and scanned for email submittal but the Town Clerk does not make the full set of required copies from the email since scanned copies are frequently less legible and it is possible for the spam filter to reject attachments. It remains the sole responsibility of Appellant at his/her expense to provide the mandatory original and six copies of the Application for Appeal along with all attachments and exhibits either by hand delivery or by mail to be received at the West Bath Town Hall at least 10 days prior to the Hearing. The Town of West Bath is not responsible for the labor and material cost of Appellant's claim and the Town Clerk functions only as a communication liaison between Appellant, Town and BAR.