

# Abatement Considerations

## Title 36 701-A

In the assessment of property, assessors in determining just value are to define this term in a manner which recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put.

### State Tax Bulletin #10

In determining whether or not an assessed valuation is reasonable, the ratio so certified by the assessor(s) must be taken into consideration.

A property valuation may be increased from that of the previous year, even though nothing has occurred to increase the worth of the property, if the assessor(s) finds that the previous valuation had been less than it should have been.

A taxpayer who believes his property tax is greater than it should be, should first determine whether, in his opinion, the valuation of his property is equitable in relation to similar property within the town.

Since variations are apt to be found in the valuation of properties in most towns, it is necessary to consider the **average treatment of other properties**, the fact that some properties may be found to be valued on a higher or lower basis is not significant if the **range of deviation is not excessive.**

Abatement is the process by which valuations that are found to be excessive, in error or illegal may be corrected.

Assessors shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon.

### **Title 36 841**

If no abatement action is initiated on an overvaluation within the 185 day or one year deadlines that value must stand for that tax year, even if everyone agrees later that it was too high.

#### **Depositors Trust v. City of Belfast**

An abatement based on overvaluation is the proper (and only) remedy if a person believes that the assessed value of his or her property is too high, or where questions exist regarding the just value of the property based on the amount of acreage assessed, the actual description and conditions of the property on April 1<sup>st</sup>, and **the assessment techniques used.**

#### **Farrelly v. Town of Deer Isle**

An abatement of the grounds of error, illegality or irregularity is justified where an assessment is based on an **unconstitutional assessment methodology** that does not value all property in the same class in a like manner.

#### **Goldstein v. Georgetown**

The burden is on the taxpayer to prove that he or she is entitled to an abatement.

#### **City of Biddeford v. Adams**

The legal presumption is that **the assessment as determined by the assessors is valid** until the taxpayer proves that it is manifestly wrong.

#### **Waterville v. Waterville Homes**

**It is not enough for the taxpayer merely to show that the assessors have made an error in judgement,** even though such a mistake may result in a lack of uniformity in the assessment of similar property. The taxpayer must show that his property was valued at more than its fair market value, **not that other similar properties were undervalued.** He or she must come forward with credible, affirmative evidence of just value (i.e. evidence of arms length sale)

### **Westbrook v. S.D. Warren**

The taxpayer must be able to prove indisputably

1. That the value of his or her property was **substantially overestimated.**
2. That there is evidence of a systematic scheme by the assessors to place a disproportionate share of the tax burden on one taxpayer or a group of taxpayers such as by assessing certain properties of one class at one percentage of just value and others in the same class at a different percentage.
3. **That the assessment was fraudulent, dishonest or illegal.**

### **Title 36 848A**

When an assessment is challenged it is sufficient defense of the assessment that it is accurate within reasonable limits if practicality, except when a proven **deviation of 10% or more** from the relevant assessment ratio of the municipality.

### **Penobscot Chemical Fibre v. Bradley**

The mere fact that a property tax is high is not grounds for seeking abatement. The fact that valuations in prior years were less is inadmissible as evidence of overvaluation and carries no weight.

### **Kittery Electric Light v. Kittery**

**Adjustments to property valuations may be made** by assessors whenever they are deemed necessary.

Sporadic differences in valuations do not necessarily constitute discrimination and **simple errors of judgement by assessors** in and of themselves do not provide grounds for relief.

### **Penobscot Chemical Fibre v. Bradley**

**The Assessor's valuation of other property in town and the valuation placed on the taxpayer's property in other years is inadmissible**, but the value of similarly situated property as shown by actual sales and opinions of properly qualified witnesses is admissible on the question of value.

### **Shawmut Manufacturing v. Benton**

If a taxpayer is taxed on the basis of just value while by some scheme of the assessors other similar property is assessed at less than its just value then the taxpayer is entitled to relief.

### **Spear v. Bath**

A taxpayer claiming to be overrated with reference to actual value, need not prove fraud or intentional overvaluation, but he must prove that the valuation is manifestly wrong, and he must establish **indisputably that he is aggrieved.**

### **Sweet v. Auburn**

Property value is measured by what it would bring at a fair public sale.

### **Shawmut Inn v. Kennebunkport**

There is a presumption of good faith and conformity to the requirements of law attached to assessors work, and to overcome such presumption a taxpayer must show that the judgement of the assessor as to the tax amount is irrational or so unreasonable in light of the circumstances that the property is **substantially overvalued** and **injustice results.**

### **Moser v. Phippsburg**

Assessors are not precluded from **making adjustments** designed to maintain equal distribution of the tax burden in the time period between townwide revaluations.