

Board of Assessment Review Ordinance

Section 1. Establishment.

Pursuant to 30-A M.R.S.A. § 2526 (6), a Board of Assessment Review is hereby established for the Town of Belgrade, Maine.

Section 2. Composition; qualifications; terms; vacancies.

The Board shall consist of 3 (three) members and 2 (two) alternates who shall be appointed by the Municipal Officers and who shall be registered voters of the Town/City. No Municipal Officer or Assessor may be a member. Members shall serve for terms of 3 (three) years or until their successors are appointed, except that for transition purposes, initial terms shall be staggered so that as nearly an equal number of terms shall expire annually. Vacancies shall be filled within _____ days by appointment of the Municipal officers for the unexpired term.

Section 3. Officers; meetings; quorum; procedures.

The Board shall annually elect from its membership a Chairman and a Secretary. The Chairman shall call meetings as necessary, shall preside at all meetings, and shall designate alternates to service in place of members who are absent or disqualified. The Secretary shall maintain a record of all proceedings including all correspondence of the Board. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. § 401-410, except as otherwise authorized by law. A quorum necessary to conduct business shall consist of at least 2 (two) members. The Boards procedure shall be governed by 30-A M.R.S.A. § 2691 (3).

Section 4. Powers and duties.

The Board shall hear and decide all appeals properly taken from the refusal of the Municipal Officers or Assessors to make such property tax abatements as are asked for. The Board may take such evidence and testimony as it deems necessary and may grant such abatements as it thinks proper. If the Board fails to give written notice of its decision within 60 (sixty) days of the date the appeal is filed, unless the appellant agrees in writing to further delay, the appeal shall be deemed denied. The Boards decisions may be appealed in accordance with 36 M.R.S.A. § 843.

TOWN OF BELGRADE

BOARD OF ASSESSMENT REVIEW

1. DEFINITIONS

- A. **Assessing Authority.** The assessor(s) or municipal officer(s) who renders, or fails to render a decision as required by statute which decision or failure is appeal - able to this Board.
- B. **Board.** “Board” means the Board of Assessment Review as established under State law.
- C. **Party.** A “party” is any person participating in an appeal before the Board, as either an applicant or a respondent, as those terms are defined below:
 - i. **Applicant.** Any person who has filed an appeal with the Board.
 - ii. **Respondent.** The municipal tax assessor or municipal officers, as appropriate. In all tax abatement proceedings the Applicant shall be designated as Respondents both the appropriate assessing authority and the Town of Belgrade.
- D. **Person.** “Person” means any individual, partnership, corporation, governmental entity, association, or public or private organization of any character.
- E. **Secretary.** “Secretary” means the Secretary of the Board of Assessment Review.
- F. **Tax Abatement Appeal.** An appeal to the Board relating to a denial of an application for an abatement of taxes.

2. SCOPE AND CONSTRUCTION OF RULES

- A. **Procedure Governed.** These Rules shall govern all practice and procedure before the Board under applicable laws of the State of Maine, except as otherwise provided by statute or rule. When the circumstances of a particular proceeding requires more detailed procedures than those set forth in these rules, additional procedures may be specified by the Board by order applicable to that particular proceeding.
- B. **Liberal Construction.** These Rules shall be liberally construed to secure just, speedy, and economic determination of all appeals presented to the Board.

- C. **Deviation from Rules.** Unless otherwise prohibited by law, the Board may permit deviation from these Rules where compliance is impracticable, inexpedient, or unnecessary.

3. **GENERAL PROVISION**

- A. **Office.** The Office of the Board is located at the Belgrade Town Office and all written communications with the Board shall be sent to the Board in care of the Town Clerk.
- B. **Time Calculations.** Computation of any period of time prescribed or allowed by these Rules, by order of the Board, or by any applicable statute, shall be determined in accordance with state law.
- C. **Time Limits.** The Board for cause shown may at any time, in its discretions, modify any time limit imposed by these Rules.
- D. **Filings.** In filing papers with the Board as required or permitted by applicable statute, these Rules or an order of the Board, the papers shall be deemed to be officially filed or received only when received at the office of the Board during hours that it is open. All written communications or documents relating to a proceeding to be brought or pending before the Board shall be addressed to the Secretary of the Board except as provided in Section 4. Acceptance of a document for filing does not constitute a determination that the contents of the document are sufficient for the purpose for which it is filed.
- E. **Service.** Unless otherwise ordered, whenever a document is filed with the Board relating to a matter appealed to the Board, it shall at the same time be served on all parties in the matter.
- F. **Charges for Copies of Documents.** A certified copy of the decision in a proceeding will be furnished by the Secretary free of charge to each party of record and the counsel of each party represented by counsel. Additional copies of a decision, or copies of other materials, will be furnished at fees reflecting copying costs as may be established by the Secretary.

4. **APPEALS**

- A. **Tax Abatement Appeals.** If the appropriate assessing authority refuses to make an abatement asked for, the Applicant may apply in writing to the Board within sixty (60) days after receipt of the Assessors decision, or after the abatement application is deemed to have been denied.

- i. **Application.** All tax abatement appeals to the Board shall be initiated by the filing of a written application at the office of the Board. The application shall set forth the following:
 1. Name(s) and address(es) of Applicants.
 2. A general description of the property which is the subject of the appeal. If the property includes real estate, the description shall include the Assessor's Map and Lot Number.
 3. Year of disputed assessment.
 4. Assessed value for the property as originally determined by the assessing authority.
 5. Amount of any abatement(s) previously granted by the assessing authority for the assessment in question.
 6. The valuation Applicant alleges should have been placed on the property.
 7. A brief statement of all prior proceedings before the assessing authority concerning the disputed assessment.
 8. A brief statement of the factual basis for the Applicant's tax abatement appeal.
 9. A brief statement of the legal grounds for the Applicant's tax abatement appeal.

5. **HEARINGS**

- A. Upon receipt of an appeal by the Board, the Chairman of the Board, or a majority of the Board, shall call a meeting of the Board to hear the Appeal. The Chairman, with the assistance of the Secretary, shall take all necessary action to notify all parties of the time, place and date of the hearing.
 - i. **Quorum.** Two members of the Board shall constitute a quorum to hear and act on tax abatement appeals. No hearing or meeting shall be held or action taken in the absence of a quorum. All matters will be decided either by a show of hands, or by a polling of the members for a "yes" or "no" voice vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the members present (2 of 3).

- ii. **Order of Procedure.** The Presiding Officer will open the hearing and make a concise statement of its scope and purposes. Appearances then will be entered on the record. The Presiding Officer shall inform the parties of the manner in which an appeal of any decision resulting from the proceeding may be taken. Parties may then make opening statements.
- iii. **Party Rights.** Unless limited by stipulation or order of the Board, every party shall have the right to present oral or documentary evidence and arguments on all issues, and at any hearing to call and examine witnesses and to conduct any cross-examination that is required for a full and true disclosure of the facts.
- iv. **Continuances.** Changes in the time and place of the first session of the hearing in any proceeding may be requested in writing of the Presiding Officer reasonably in advance of the time set. The Presiding Officer may in his discretion grant or deny the request. The Presiding Officer may change the time and place of any previously scheduled hearing. Notice of continuance shall be forwarded to each party by the Secretary.
- v. **Withdrawal of Exhibits.** No exhibit received in evidence may be withdrawn except with the approval of the Presiding Officer at the hearing.
- vi. **Briefs.** The Presiding Officer may require that parties file briefs within such time as he may order. The parties shall indicate on the record at or before the close of testimony whether they desire to file briefs. Briefs which contain a statement of evidence or of facts claimed to be established by evidence shall include a reference to the specific portion of the record in which such evidence or facts may be found. When the transcript of the hearing is available, reference to oral testimony shall be by page number when possible. The Board may allow oral arguments in lieu of or in addition to briefs.
- vii. **Oral Argument.** Oral argument may be given before the Board at the conclusion of the evidence, or at a time and place to be fixed by the Presiding Officer.
- viii. **Rules of Evidence.** The Maine Rules of Evidence shall not be followed in hearings before the Board. The Board may receive any oral or documentary evidence but shall exclude irrelevant, immaterial or unduly repetitious evidence.

- ix. **Witnesses.** All witnesses shall swear that their testimony is wholly truthful or shall make a solemn affirmation to that effect in lieu thereof.
- x. **Written Evidence; Exception.** No sworn written evidence shall be admitted into evidence unless the author is available for cross-examination, except for good cause shown.
- xi. **Burden and Standards of Proof.** In all instances, the burden of proof is upon the Applicant. A tax assessment is presumed to have been made in good faith and in conformity to the requirements of law and, to overcome this presumption, the Applicant must show that the amount of the tax assessment is irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and injustice results, or that there is an unjust discrimination, or that the assessment is in some way fraudulent, dishonest or illegal. It shall be a sufficient defense of a tax assessment that it is accurate within reasonable limits of practicality, except when a proven deviation of 10% or more from the relevant assessment ratio of the Town of Belgrade exists.

6. **RECORD**

- A. **Record.** In any appeal of a decision of the Board, the Secretary shall compile and preserve, in the office of the Town Clerk, a record which shall consist of:
 - i. All applications, responsive pleadings, motions and rulings and orders;
 - ii. Transcript of testimony, if any;
 - iii. Exhibits and other documentary evidence received;
 - iv. The decision of the Board; and
 - v. All memoranda, including briefs, submitted to the members of the Board in connection with their consideration of the appeal.
- B. **Hearings Recorded.** The Board may record all hearings in a form susceptible to transcription.
- C. **Availability of Record.** The Secretary shall make a copy of the record available for inspection by any person at the office of the Town Clerk during normal business hours; and shall make copies of the record, including copies of recordings or transcriptions of recordings, available to

any person at actual cost. A deposit equal to the approximate cost of transcription shall be paid in advance by the requesting party. Notwithstanding the provisions of this subsection, the Board shall withhold, obliterate, or otherwise prevent the dissemination of any portions of the record which are made confidential by state or federal statute, but shall do so in the least restrictive manner feasible.

- D. **Decision Based on the Record.** All material including records, reports, and documents shall be considered in rendering a decision only if such information is in the record as evidence.
- E. **Documentary Evidence.** Documentary evidence may be incorporated in the record by reference when the materials so incorporated are made available for examination by the parties before being received in evidence.
- F. **Decision.** Every Board decision made at the conclusion of a hearing shall be in writing or stated in the record, and shall include findings of fact sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision shall be delivered or promptly mailed to each party of the proceeding or his representative of record prior to the sixty (60) day expiration period.
- G. **Reconsideration.** The Board may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided herein.

Proposed 10/26/04
Adopted 12/07/04