STATE OF MAINE KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW DOCKET NO. 91-5

RONALD POMBRIANT,)
Petitioner) DECISION
v.)
TOWN OF OLD ORCHARD BEACH,)
Respondent))

This matter came before the State Board of Property Tax Review (hereinafter, "the Board"), on the appeal of Ronald Pombriant of the denial of his request for abatement of his property taxes for tax year 1991 by the Assessor for the Town of Old Orchard Beach (hereinafter, "the Town"). The particular property for which an abatement is sought is a two bedroom townhouse designated as Map 104, Block 2, Lot 10-5 on the Town of Old Orchard Beach tax maps. Mr. Pombriant timely appealed the denial by the Town directly to this Board since the Town is a primary assessing area for which any appeal is taken to this Board.

A hearing was convened March 28, 1991. Board members Jerome Matus, John MacGregor, Anna McPherson, and Norman Ledew participated. Diane Doyen, Assistant Attorney General, represented the Board. Ronald Pombriant appeared on his own behalf. Norman Marquis and Michelle Boisjoly represented the Town of Old Orchard Beach.

Mr. Pombriant requests this Board to abate his 1990 property taxes which are based on the Town's assessed valuation of his property at \$63,000. In his Petition for

Assessment Review, Mr. Pombriant argues that the Town overvalued his property, based on its failure to consider 1990 sales of two units in the same complex which indicate Petitioner's townhouse is valued above fair market value, and the absence of standard amenities in Petitioner's property as compared to other townhouses in the same complex.

In its January 31, 1991, response to the Petition, the Town alleged that the assessing procedures were consistent in regard to all properties in the complex, and that Petitioner's unit was assessed no higher than was appropriate. In fact, the Town noted that Petitioner's townhouse was assessed lower than all others in the complex.

A tax assessment is presumed to be valid and it is incumbent upon the taxpayer to prove the assessed valuation "manifestly wrong." Delta Chemical, Inc., v. Inhabitants of the Town of Searsport, 438 A2d 483, 484 (Me. 1991). To overcome that presumption, the taxpayer has the burden of proving the assessor's judgment was "so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results, or that there is unjust discrimination, or that the assessment was in some way fraudulent, dishonest, or illegal." See Shawmut Inn v. Inhabitants of the Town of Kennebunkport, 428 A.2d 384, 393 (Me. 1981) and Town of Vienna v. Kokernak, 612 A.2d 870, 872 (Me. 1992).

For its 1990 municipal revaluation, the Town used sales figures from 1988 and 1989. The revaluation was complete by December 31, 1989 but did not apply until April 1, 1990. All properties were valued at so much per square foot of net

living area exclusive of porches and decks. Location of the units (i.e. end units versus units in the middle of the building) also was not considered by the Town for assessment purposes.

Mr. Pombriant argues that the Town did not, but should have, reduce his assessment to account for the lack of many of the standard amenities available in the other units. The Town responds that while they deducted \$400.00 for the lack of an half bath, the existence or non-existence of amenities in the units did not affect, positively or negatively, the sale to second and third buyers, and, therefore, was not considered for assessment purposes.

The Board finds that Petitioner has failed to sustain his burden of proving that the assessor's findings were "manifestly wrong." While the Board believes the sale occurring in January of 1990 referred to by the Petitioner should have been considered in the revaluation, the fact that the valuation figures in existence as of January 1, 1990 were applied in April 1, 1990 does not seriously impact the fair market value of the units. Further, the valuation was applied consistently throughout the Town.

Therefore, by a vote of 4-0, the Board hereby denies Petitioner's application for a property tax abatement and finds that the revaluation, effective April 1, 1990, valued all property in the complex according to accepted consistent appraisal procedures.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within 30 days of receipt of this Decision pursuant to 5. M.R.S.A. §§11001-11008. If this Decision is not appealed, it shall become binding on the parties at the end of the said 30 day period.

DATED: Aug 3, 1994

AMES O. BORN

Chair, State Board of Property Tax Review