

BOARD OF PROPERTY TAX REVIEW

DIGEST OF LAW COURT DECISIONS

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Sevigny v. City of Biddeford, 344 A.2d 34 (Me. 1975)

Morrisette v. Connors, 350 A.2d 332 (Me. 1976)

Town of Acton v. McGary, 356 A.2d 700 (Me. 1976)

Edgerly v. Honeywell Information Systems, Inc., 377 A.2d 104 (Me. 1977)

Harrington v. Inhabitants of Town of Garland, 381 A.2d 639 (Me. 1978)
Fickett v. Hohlfeld, 390 A.2d 469 (Me. 1978)
Assessors, Town of Bristol v. Eldridge, 392 A.2d 37 (Me. 1978)
Tax Assessors of the Town of Sebago v. Drummond, 402 A.2d 469
 (Me. 1979)
*Inhabitants of the Town of Stonington v. Inhabitants of the Town of Deer
 Isle*, 403 A.2d 1181 (Me. 1979)
Farrelly v. Inhabitants of the Town of Deer Isle, 407 A.2d 302 (Me. 1979)

State v. Richard L. Hodges, Inc., 420 A.2d 247 (Me. 1980)
Shawmut Inn v. Inhabitants of the Town of Kennebunkport, 428 A.2d 384
 (Me. 1981)
Cummings v. Town of Oakland, 430 A.2d 825 (Me. 1981), *app. dismissed*,
 454 U.S. 1134 (1982)
Rice v. Amerling, 433 A.2d 388 (Me. 1981)
Freeport Minerals Co. v. Inhabitants of the Town of Bucksport, 437 A.2d
 642 (Me. 1981)
City of Augusta v. Allen, 438 A.2d 472 (Me. 1981)
Delta Chemicals, Inc. v. Inhabitants of the Town of Searsport, 438 A.2d
 483 (Me. 1981)
P. H. Chadbourne & Co. v. Town of Bethel, 452 A.2d 400 (Me. 1982)
 (forest land)
Blaney v. Inhabitants of Town of Shapleigh, 455 A.2d 1381 (Me. 1983)
Seaborne v. Look, 464 A.2d 221 (Me. 1983)
Magno v. Town of Freeport, 486 A.2d 137 (Me. 1985)
Harwood v. Town of Southwest Harbor, 489 A.2d 507 (Me. 1985)
Town of Orient v. Dwyer, 490 A.2d 660 (Me. 1985)
Johnson v. Town of Dedham, 490 A.2d 1187 (Me. 1985)
Eastler v. State Tax Assessor, 499 A.2d 921 (Me. 1985)
Drebelbis v. Town of Bristol, 520 A.2d 709 (Me. 1987)
Great Northern Nekoosa Corp. v. State Tax Assessor, 522 A.2d 1316
 (Me. 1987)
Cary v. Town of Harrington, 534 A.2d 355 (Me. 1987)
South Portland Associates v. City of South Portland, 550 A.2d 363
 (Me. 1988)
Moser v. Town of Phippsburg, 553 A.2d 1249 (Me. 1989)
Brackett v. Larrivee, 562 A.2d 138 (Me. 1989)
Aucella v. Town of Winslow, 564 A.2d 68 (Me. 1989)(*Aucella I*),

Eastabrook v. Town of Bowdoin, 568 A.2d 1098 (Me. 1990)
Nadeau v. Town of Oakfield, 572 A.2d 491 (Me. 1990)
Aucella v. Town of Winslow, 583 A.2d 215 (Me. 1990)(*Aucella II*)
Town of Steuben v. Lipski, 602 A.2d 1171 (Me. 1992)

Jordan-Milton Machinery, Inc. v. City of Brewer, 609 A.2d 1166 (Me. 1992)
Town of Vienna v. Kokernak, 612 A.2d 870 (Me. 1992)
Aucella v. Town of Winslow, 628 A.2d 120 (Me. 1989)(*Aucella III*)
Flower v. Town of Phippsburg, 644 A.2d 1031 (Me. 1984)
Hamm v. Town of Medway, 644 A.2d 1388 (Me. 1994)
Central Maine Power Co. v. Town of Moscow, 649 A.2d 320 (Me. 1994)
 (BPTR)
City of Waterville v. Waterville Homes, Inc., 655 A.2d 365 (Me. 1995)
 (BPTR)
Glenridge Development Co. v. City of Augusta, 662 A.2d 928 (Me. 1995)
 (BPTR)
Muirgen Properties, Inc. v. Town of Boothbay, 663 A.2d 55 (Me. 1995)
IBM Credit Corp. v. City of Bath, 665 A.2d 663 (Me. 1995)(BPTR)
Wesson v. Town of Bremen, 667 A.2d 596 (Me. 1995)
Champion Intl. Corp. v. Town of Bucksport, 667 A.2d 1376 (Me. 1995)
City of Lewiston v. Tri-State Rubbish, Inc., 671 A.2d 955 (Me. 1996)
Weekley v. Town of Scarborough, 676 A.2d 932 (Me. 1996)
Bangor Publishing Co. v. Town of Bucksport, 682 A.2d 227 (Me. 1996)
McCullough v. Town of Sanford, 687 A.2d 629 (Me. 1996)
Finance Authority of Maine v. City of Caribou, 1997 ME 95, 694 A.2d 913
Town of Sanford v. J & N Sanford Trust, 1997 ME 97, 694 A.2d 456 (BPTR)
McNaughton v. Kelsey, 1997 ME 182, 698 A.2d 1049
Interstate Food Processing Corp. v. Town of Ft. Fairfield, 1997 ME 193,
 698 A.2d 1074 (BPTR)
Quoddy Realty Corp. v. City of Eastport, 1998 ME 14, 704 A.2d 407
Mobile Imaging Consortium v. City of Portland, 1998 ME 15, 704 A.2d 415
 (BPTR)
Livonia v. Town of Rome, 1998 ME 39, 707 A.2d 83
S. D. Warren Co. v. Town of Standish, 1998 ME 66, 708 A.2d 1019
Nugent v. Town of Camden, 1998 ME 92, 710 A.2d 245
Ellen M. Leach Memorial Home v. City of Brewer, 1998 ME 118, 711 A.2d
 149 (BPTR)
Rackliffe v. Northport Village Corp., 1998 ME 114, 711 A.2d 1282
Delogu v. City of Portland, 1998 ME 246, 720 A.2d 1153 (*Delogu I*)
Goldstein v. Town of Georgetown, 1998 ME 261, 721 A.2d 180
Town of Freeport v. Ring, 1999 ME 48, 727 A.2d 901
City of Biddeford v. Adams, 1999 ME 49, 727 A.2d 346 (BPTR)
Fitzgerald v. City of Bangor, 1999 ME 50, 726 A.2d 1253
Town of Pownal v. Anderson, 1999 ME 70, 728 A.2d 1254
Capodilupo v. Town of Bristol, 1999 ME 96, 730 A.2d 1257
Pepperman v. Town of Rangeley, 1999 ME 157, 739 A.2d 851

See Stewart v. Town of Sedgwick, 2000 ME 157, 757 A.2d 773

Town of Southwest Harbor v. Harwood, Trustee, Cranberry Point Realty Trust, 2000 ME 213, 763 A.2d 115
Forbes v. Town of Southwest Harbor, 2001 ME 9, 763 A.2d 1183
Yusem v. Town of Raymond, 2001 ME 61, 769 A.2d 865
Ocwen Federal Bank, FSB v. Gile, 2001 ME 120, 777 A.2d 275
Northeast Empire Ltd. Partnership #2 v. Town of Ashland, 2003 ME 28, 818 A.2d 1021 (BPTR)
International Woolen Co. v. Town of Sanford, 2003 ME 80, 827 A.2d 840 (BPTR)
Ram's Head Partners, LLC v. Town of Cape Elizabeth, 2003 ME 131, 834 A.2d 916
Delogu v. City of Portland, 2004 ME 18, 843 A.2d 33 (*Delogu II*)
Opinion of the Justices, 2004 ME 54, 850 A.2d 1145
Roberts v. Town of Southwest Harbor, 2004 ME 132, 861 A.2d 617
Town of Waltham v. PPL Maine, LLC, 2006 ME 88, 901 A.2d 816
State v. Falcone & Jannetti, 2006 ME 90, 902 A.2d 141, *cert. denied*, 549 U.S. 1078 (2006)
UAH-Hydro Kennebec, LP v. Town of Winslow, 2007 ME 36, 921 A.2d 146 (BPTR)
Stevenson v. Town of Kennebunk, 2007 ME 55, 930 A.2d 1046, *motion for reconsideration denied*, 2007 ME 135, 930 A.2d 1051
Peaker v. City of Biddeford, 2007 ME 105, 927 A.2d 1169 (*Peaker I*)
Peaker v. City of Biddeford, 2008 ME 98, 950 A.2d 764 (*Peaker II*)
Town of Bristol Taxpayers' Ass'n v. Board of Selectmen/Assessors for the Town of Bristol, 2008 ME 159, 957 A.2d 977

Terfloth v. Town of Scarborough, 2014 ME 57, 90 A.3d 1131
Penkul v. Town of Lebanon, 2016 ME 16, 136 A.3d 88 (*per curiam*)
Petrin v. Town of Scarborough, 2016 ME 136, 147 A.3d 842
Angell Family 2012 Prouts Neck Trust v. Town of Scarborough & Bolton v. Town of Scarborough, 2016 ME 152, 149 A.3d 271
Roque Island Gardner Homestead Corp. v. Town of Jonesport, 2017 ME 152, 167 A.3d 564
Town of Eddington v. Emera Maine, 2017 ME 225, 174 A.3d 321 (BPTR)

II. Exemption From Taxation Cases

Revenue Producing Municipal Facilities (30 M.R.S. § 4262)

Town of East Millinocket v. Town of Medway, 486 A.2d 739 (Me. 1985)

Abandoned Railroads (36 M.R.S. § 561)

Maine Central R.R. Co. v. Town of Dexter, 588 A.2d 289 (Me. 1991)(BPTR)

Public Property (36 M.R.S. § 651)

Brewer Brick Co. v. Inhabitants of Brewer, 62 Me. 62 (1873)

State v. Maine Central R.R. Co., 66 Me. 488, *affd*, 96 U.S. 499 (1877)

City of Portland v. Portland Water Co., 67 Me. 135 (1877)

Inhabitants of Camden v. Camden Village Corp., 77 Me. 530, 1 A. 689 (1885)

City of Rockland v. Rockland Water Co., 82 Me. 188, 19 A. 163 (1889)
(also section 656)

City of Augusta v. Augusta Water Dist., 101 Me. 148, 63 A. 663 (1906)

Laughlin v. City of Portland, 111 Me. 486, 90 A. 318 (1914)

City of Belfast v. Hayford Block Co., 120 Me. 517, 115 A. 282 (1921)

Inhabitants of Whiting v. Inhabitants of Lubec, 121 Me. 121, 115 A. 896 (1922)

Inhabitants of Ashland v. Wright, 139 Me. 283, 29 A.2d 747 (1943)

Greaves v. Houlton Water Co., 140 Me. 158, 34 A.2d 693 (1944)
(*Greaves I*)

City of Bangor v. City of Brewer, 142 Me. 6, 45 A.2d 434 (1946)

Greaves v. Houlton Water Co., 143 Me. 207, 59 A.2d 217 (1948)
(*Greaves II*)

Inhabitants of Boothbay v. Inhabitants of Boothbay Harbor, 148 Me. 31, 88 A.2d 820 (1952)

Inhabitants of Owl's Head v. Dodge, 151 Me. 473, 121 A.2d 347 (1956)

Marshall v. Inhabitants of Town of Bar Harbor, 154 Me. 372, 148 A.2d 687 (1959)

Opinion of the Justices, 231 A.2d 431 (Me. 1967)

Howard D. Johnson Co. v. King, 351 A.2d 524 (Me. 1976)

Exxon Corp. v. Maine Turnpike Authority, 351 A.2d 534 (Me. 1976)

Town of East Millinocket v. Town of Medway, 486 A.2d 739 (Me. 1985)

Town of Madison v. Town of Norridgewock, 544 A.2d 317 (Me. 1988)

Passamaquoddy Water Dist. v. City of Eastport, 1998 ME 94, 710 A.2d 897

Town of Embden v. Madison Water Dist., 1998 ME 154, 713 A.2d 328
(BPTR)

Portland Water Dist. v. Town of Standish, 1999 ME 161, 740 A.2d 564

Institutions and Organizations (36 M.R.S. § 652)

Inhabitants of Baldwin v. Trustees of Ministerial Fund, 37 Me. 369 (1854)
(also section 655)

Maine Baptist Missionary Convention v. City of Portland, 65 Me. 92 (1876)

City of Bangor v. Rising Virtue Lodge, No. 10, Free and Accepted Masons,
73 Me. 428 (1882)

Inhabitants of Foxcroft v. Straw, 86 Me. 76, 29 A. 950 (1893)

Inhabitants of Foxcroft v. Piscataquis Valley Campmeeting Ass'n, 86 Me. 78,
29 A. 951 (1893)

City of Auburn v. Y.M.C.A. of Auburn, 86 Me. 244, 29 A. 992 (1894)

State v. Hamlin, 86 Me. 495, 30 A. 76 (1894)

Curtis v. Androscoggin Lodge, No. 24, Independent Order of Odd Fellows,
99 Me. 356, 59 A. 518 (1904)

Inhabitants of Orono v. Sigma Alpha Epsilon Society, 105 Me. 214, 74 A. 19
(1909)

Inhabitants of Orono v. Kappa Sigma Society, 108 Me. 320, 80 A. 831
(1911)

Inhabitants of Gorham v. Trustees of Ministerial Fund, 109 Me. 22,
82 A. 290 (1912)

Ferry Beach Park Ass'n of Universalists v. City of Saco, 127 Me. 136,
142 A. 65 (1928)(*Ferry Beach Park I*)

Camp Emoh Associates v. Inhabitants of Lyman, 132 Me. 67, 166 A. 59
(1933)

Ferry Beach Park Ass'n of Universalists v. City of Saco, 136 Me. 202,
7 A.2d 428 (1939)(*Ferry Beach Park II*)

City of Lewiston v. All Maine Fair Ass'n, 138 Me. 39, 21 A.2d 625 (1941)

Calais Hospital v. City of Calais, 138 Me. 234, 24 A.2d 489 (1942)

Osteopathic Hospital of Maine v. City of Portland, 139 Me. 24, 26 A.2d 641
(1942)

MacDonald v. Stubbs, 142 Me. 235, 49 A.2d 765 (1946)

- O'Connor v. Wassookeag School, Inc.*, 142 Me. 86, 46 A.2d 861 (1946)
- Green Acre Baha'i Institute v. Town of Eliot*, 150 Me. 350, 110 A.2d 581 (1954)(*Green Acre Baha'i I*)
- Green Acre Baha'i Institute v. Town of Eliot*, 159 Me. 395, 193 A.2d 564 (1963)(*Green Acre Baha'i II*)
- Holbrook Island Sanctuary v. Inhabitants of the Town of Brooksville*, 161 Me. 476, 214 A.2d 660 (1965)
- See Johnson v. South Blue Hill Cemetery Ass'n*, 221 A.2d 280 (Me. 1966)
- State Y.M.C.A. v. Town of Winthrop*, 295 A.2d 440 (1972)
- Maine Medical Center v. Lucci*, 317 A.2d 1 (Me. 1974)
- Hurricane Island Outward Bound v. Town of Vinalhaven*, 372 A.2d 1043 (1977)
- Nature Conservancy, Pine Tree State, Inc. v. Town of Bristol*, 385 A.2d 39 (1978)
- Pentecostal Assembly of Bangor v. Maidlow*, 414 A.2d 891 (Me. 1980)
- Silverman v. Town of Alton*, 451 A.2d 103 (Me. 1982)
- Alpha Rho Zeta v. Inhabitants of City of Waterville*, 477 A.2d 1131 (Me. 1984)
- Christian Schools, Inc. v. Town of Rockport*, 489 A.2d 513 (Me. 1985)
- See City of Waterville v. Colby College*, 512 A.2d 1039 (Me. 1986)
- Maine AFL-CIO Housing Development Corp. v. Town of Madawaska*, 523 A.2d 581 (Me. 1987)
- Advanced Medical Research Foundation v. Town of Cushing*, 555 A.2d 1040 (Me. 1989)
- Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 604 A.2d 908 (Me. 1992)(*Camps Newfound/Owatonna I*)
- American Martial Arts Foundation v. City of Portland*, 635 A.2d 962 (Me. 1993)
- Town of Poland v. Poland Spring Health Institute, Inc.*, 649 A.2d 1098 (Me. 1994)
- Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 655 A.2d 876 (Me. 1995)(*Camps Newfound/Owatonna II*), *rev'd*, 520 U.S. 564 (1997)
- Episcopal Camp Foundation, Inc. v. Town of Hope*, 666 A.2d 108 (Me. 1995)
- City of Lewiston v. Marcotte Congregate Housing, Inc.*, 673 A.2d 209 (Me. 1996)(BPTR)
- Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 1998 ME 20,

705 A.2d 1109 (*Camps Newfound/Owatonna III*)
The Salvation Army v. Town of Standish, 1998 ME 75, 709 A.2d 727
City of Lewistown v. The Salvation Army, 1998 ME 98, 710 A.2d 914
 (BPTR)

Christian Fellowship & Renewal Center v. Town of Limington, 2001 ME
 16, 769 A.2d 834 (*Christian Fellowship & Renewal Center I*)
Cushing Nature & Preservation Center v. Town of Cushing, 2001 ME
 149, 785 A.2d 342 (also farmland and open space)
Credit Counseling Centers, Inc. v. City of South Portland, 2003 ME 2, 814
 A.2d 458
Christian Fellowship & Renewal Center v. Town of Limington, 2006 ME 44,
 896 A.2d 287 (*Christian Fellowship & Renewal Center II*)

Humboldt Field Research Institute v. Town of Steuben, 2011 ME 130,
 36 A.3d 873
Hebron Academy, Inc. v. Town of Hebron, 2013 ME 15, 60 A.3d 774
Francis Small Heritage Trust, Inc. v. Town of Limington, 2014 ME 102,
 98 A.3d 1012 (BPTR)(also open space)

Estates of Veterans (36 M.R.S. § 653)

Inhabitants of Mechanic Falls v. Millett, 121 Me. 329, 117 A. 93 (1922)
Inhabitants of Athens v. Whittier, 122 Me. 86, 118 A. 897 (1922)

Inhabitants of the Town of Solon v. Holway, 130 Me. 415, 157 A. 236
 (1931)

Stockman v. City of South Portland, 147 Me. 376, 87 A.2d 679 (1952)

Dillon v. Johnson, 322 A.2d 332 (Me. 1974)

Lambert v. Wentworth, 423 A.2d 527 (Me. 1980)

Personal Property (36 M.R.S. § 655)

(not including cases considered by the Board of
 Environmental Protection pursuant to section 655(1)(N))

Gardiner Cotton & Woolen Factory Co. v. Inhabitants of Gardiner, 5 Me.
 133 (1827)

Inhabitants of Baldwin v. Trustees of Ministerial Fund, 37 Me. 369 (1854)
 (also section 652)

Farnsworth Co. v. Inhabitants of Lisbon, 62 Me. 451 (1872)(*Farnsworth Co. I*)
Donnell v. Inhabitants of Webster, 63 Me. 15 (1874)

See Opinion of the Justices, 102 Me. 527, 66 A. 726 (1907)

Inhabitants of Leeds v. Maine Crushed Rock & Gravel Co., 127 Me. 51,
 141 A. 73 (1928)

Inhabitants of Town of Milo v. Milo Water Co., 129 Me. 463, 152 A. 616
 (1930)(*Milo Water Co. I*)

Inhabitants of Town of Milo v. Milo Water Co., 131 Me. 372, 163 A. 163
 (1932)(*Milo Water Co. II*)

Milo Water Co. v. Inhabitants of Town of Milo, 133 Me. 4, 173 A. 152 (1934)
 (*Milo Water Co. III*)

Inhabitants of Town of Holden v. James, 136 Me. 115, 3 A.2d 431 (1939)

Opinion of the Justices, 141 Me. 442, 42 A.2d 47 (1945)

See Bridges Bros., Inc. v. Board of Assessors of the City of Calais,
 223 A.2d 71 (Me. 1966)

Depositors Trust Co. v. City of Belfast, 295 A.2d 28 (Me. 1972)

Inhabitants of Town of Farmington v. Hardy's Trailer Sales, Inc.,
 410 A.2d 221 (Me. 1980)

Roberta, Inc. v. Inhabitants of Town of Southwest Harbor, 449 A.2d 1138
 (Me. 1982)

Jordan-Milton Machinery, Inc. v. City of Brewer, 609 A.2d 1166 (Me. 1992)

Eagle Rental, Inc. v. City of Waterville, 632 A.2d 130 (Me. 1993)

Handyman Equipment Rental Co., Inc. v. City of Portland, 1999 ME 20,
 724 A.2d 605

Real Estate (36 M.R.S. § 656)

(not including cases considered by the Board of
 Environmental Protection pursuant to section 656(1)(E))

Portland, Saco & Portsmouth R.R. Co. v. City of Saco, 60 Me. 196 (1872)
Plaisted v. Inhabitants of Lincoln, 62 Me. 91 (1873)

City of Rockland v. Rockland Water Co., 82 Me. 188, 19 A. 163 (1889)
 (also section 651)

Town of Paris v. Norway Water Co., 85 Me. 330, 27 A. 143 (1893)

Inhabitants of Dover v. Maine Water Co., 90 Me. 180, 38 A. 101 (1897)

See *City of Portland v. New England Tel. & Tel. Co.*, 103 Me. 240, 68 A. 1040 (1907)

Portland Terminal Co. v. City of Portland, 129 Me. 264, 151 A. 460 (1930)

In re Maine Central R.R. Co., 134 Me. 217, 183 A. 844 (1936)

Portland Terminal Co. v. Hinds, 134 Me. 434, 187 A. 716 (1936)(*Hinds I*)

Portland Terminal Co. v. Hinds, 141 Me. 68, 39 A.2d 5 (1944)(*Hinds II*)

Connecticut Bank & Trust Co. v. City of Westbrook, 477 A.2d 269 (Me. 1984)

III. Classified Property Cases

See *Knox Lime Co. v. Maine State Highway Comm.*, 230 A.2d 814 (Me. 1967)
(condemnation case,, and not a mine site case, but discusses
valuing mineral resources)

See *Opinion of the Justices*, 335 A.2d 904 (Me. 1975)(tree growth)

Augusta Water Dist. v. Town of Readfield, 349 A.2d 768 (Me. 1976)
(open space)

Dubois v. City of Saco, 645 A.2d 1125 (Me. 1994)(tree growth)

McBreairty v. Comm'r of Administrative & Financial Services, 663 A.2d 50
(Me. 1995)(tree growth)

Chase v. Town of Machiasport, 1998 ME 260, 721 A.2d 636 (tree growth)

Cushing Nature & Preservation Center v. Town of Cushing, 2001 ME 149,
785 A.2d 342 (farm and open space; also section 652)

Francis Small Heritage Trust, Inc. v. Town of Limington, 2014 ME 102,
98 A.3d 1012 (BPTR)(farm and open space; also section 652)

IV. Equalized Municipal Valuation Cases

Town of Thomaston v. Bureau of Taxation, 490 A.2d 1180 (Me. 1985)

Bureau of Taxation v. Town of Washburn, 490 A.2d 1182 (Me. 1985)

Bureau of Taxation v. Town of Madison, 541 A.2d 939 (Me. 1988)(BPTR)

V. Poverty Cases
(not including ancient pauper cases)

Macaro v. Town of Windham, 468 A.2d 604 (Me. 1983)

Joyce v. Town of Lyman, 565 A.2d 90 (Me. 1989)

Dodge v. Town of Norridgewock, 577 A.2d 346 (Me. 1990)

Gilmore v. City of Belfast, 580 A.2d 698 (Me. 1990)

Mason v. Town of Readfield, 1998 ME 201, 715 A.2d 179

Sager v. Town of Bowdoinham, 2004 ME 40, 845 A.2d 567

Hustus v. Town of Medway, 2004 ME 41, 845 A.2d 563

See Penkul v. Town of Lebanon, 2016 ME 16, 136 A.3d 88 (*per curiam*)

IMPORTANT POINTS FROM THE DECISIONS

I. General Principles

Act of Separation by which Maine became a state

Trustees of Ministerial Fund, 109 Me. at 24-26, 82 A. at 291-92

Delogu II, 2004 ME 18, ¶ 17 n.4, 843 A.2d at 37 n.4

Hebron Academy, 2013 ME 15, ¶ 14 n.1, 60 A.3d at 779 n.1

Taxation is an inherent attribute of sovereignty essential to the existence of government and exercised for the public good

Littlefield, 50 Me. at 476 (“The payment of taxes is the price paid for the protection which government gives to person and to property”)

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 197

Maine Central R.R. Co., 66 Me. at 496

Camden Village Corp., 77 Me. at 536, 1 A. at 691

Inhabitants of Whiting, 121 Me. at 122, 115 A. at 897

Waldo Lumber Co., 128 Me. at 3, 4, 145 A. at 242

Milo Water Co. II, 131 Me. at 378, 163 A. at 166

Norwood, 138 Me. at 195, 24 A.2d at 236

MacDonald, 142 Me. at 239, 49 A.2d at 767

Dolloff, 148 Me. at 185, 187, 91 A.2d at 324, 325

Mandarelli, 320 A.2d at 27 (“Taxation is the life-maintaining process to government itself . . . Taxation is recognized as a sovereign right. As such it is an attribute of sovereignty. It is essential to the very existence of government”)

Alpha Rho Zeta, 477 A.2d at 1136

Maine Constitution, Art. IX, § 8; the basis for all this discussion; oft-cited

Paul I, 84 Me. at 216, 24 A. at 818 (“The purpose of the constitutional provision is to equalize public burdens and not to assume those of individuals”)

Sawyer, 109 Me. at 181-82, 83 A. at 679

Opinion of the Justices, 339 A.2d at 508-10 (excess

- apportionment law to reimburse school districts for school construction is unconstitutional because effectively higher in some districts than others)
- Eastler*, 499 A.2d at 927 (Forest Fire Suppression Act, 36 M.R.S. §§ 2711-2714, violates Art. IX, § 8 because it imposes a property tax not apportioned and assessed according to value of land)
- Delogu I*, 1998 ME 246, ¶ 17, 720 A.2d at 1156 (“all property taxes assessed must be assessed on an equal basis”)
- Delogu II*, 2004 ME 18, ¶ 12, 843 A.2d at 36 (“Article IX, Section 8 mandates equality” and “prohibits municipalities from engaging in unjust discrimination in the assessment of real estate taxes or the apportionment of real estate tax burdens”)
- Opinion of the Justices*, 2004 ME 54, ¶ 9, 850 A.2d at 1148-49 (initiated bill that would tax property on “full cash value” would violate Art. IX, § 8 by not taxing property at just value); ¶¶ 16-19, 850 A.2d at 1150-51 (initiated bill that would tax property differently according to date or purchase, depending on date of purchase—on either “full cash value” or “appraised value”—would violate Art. IX, § 8)
- UAH-Hydro Kennebec, LP*, 2007 ME 36, ¶ 11, 921 A.2d at 150 (Constitution requires uniformity in mode of assessment and rate of taxation to ensure that all property owners share property tax burden equitably)
- Terfloth*, 2014 ME 57, ¶ 11, 90 A.3d at 1135 (property must be assessed at fair market value and at a relatively uniform rate with comparable property in a district)
- Petrin*, 2016 ME 136, ¶ 15, 147 A.3d at 849 (a municipality must ensure that property is assessed at just value (market value) and that tax burden is apportioned and assessed equally in order to prevent unjust discrimination between or among taxpayers)

Historical changes to Art. IX, § 8

- Hamlin*, 86 Me. at 592, 30 A. at 79
- Delogu II*, 2004 ME 18, ¶ 16 & n.3, 843 A.2d at 37 & n.3

Art. IX, § 8 does not require that all property be taxed, but that whatever is taxed shall be assessed equally

Brewer Brick Co., 62 Me. at 74

Portland Water Co., 67 Me. at 136-37

Opinion of the Justices, 102 Me. at 528, 66 A. at 727

Opinion of the Justices, 141 Me. at 447, 42 A.2d at 49

Opinion of the Justices, 155 Me. at 47, 152 A.2d at 89 (but unlike property taxes, in cases of intangible personal property, Legislature may provide one mode of assessment as to one class and another mode as to another class)

Passamaquoddy Water Dist., 1998 ME 94, ¶ 11, 710 A.2d at 900

Northport Village Corp., 1998 ME 114, ¶ 8, 711 A.2d at 1284

Art. IX, § 8 establishes two requirements for a valid property tax: a valuation requirement and an apportionment requirement

Hamlin, 86 Me. at 502, 30 A. at 79 (“section 8 . . . provides for an equal apportionment and assessment according to value”)

Eastler, 499 A.2d at 924 (valuation requirement is to determine just or market value; apportionment requirement is to assess equally according to just value)

Chase, 1998 ME 260, ¶ 11, 721 A.2d at 640 (Art. IX, § 8 incorporates two concepts for assessing property: (1) fair market value and (2) equity—that is, relative uniformity with comparable properties)

Yusem, 2001 ME 61, ¶ 9 n.6, 769 A.2d at 870 n.6 (quoting *Chase*)

Opinion of the Justices, 2004 ME 54, ¶ 14, 850 A.2d at 1150 (quoting *Eastler*); ¶ 15, 850 A.2d at 1150 (“property taxes must be based on market value and must be apportioned equally according to that value”)

Terfloth, 2014 ME 57, ¶ 11, 90 A.3d at 1135 (an assessment must be supported by two factual findings: (1) the property must be assessed at fair market value; and (2) the assessed value must be equitable, that is, the property must be assessed at a relatively uniform rate comparable to property in the district)

Petrin, 2016 ME 136, ¶ 15, 147 A.3d at 849 (a municipality

must ensure that property is assessed at just value, which is equivalent to market value, and that the tax burden is apportioned and assessed equally so as to prevent unjust discrimination between or among taxpayers)

To assess property according to its just value is a fundamental requirement of law

Pejepscot Paper Co., 134 Me. at 243, 184 A. at 766 (“It is incumbent on the assessors not to tax on an assessment above a just and fair value”)
Kittery Electric Light Co. I, 219 A.2d at 734
Maine Consolidated Power Co., 219 A.2d at 749, 751
Shawmut Inn, 428 A.2d at 389

Assessment is to represent the owner’s equal portion or just proportion of the public burden of taxation

Patterson, 42 Me. at 377
Gower, 83 Me. at 146, 21 A. at 847
Paul I, 84 Me. at 216, 24 A. at 818
Camp Emoh Associates, 132 Me. at 68, 166 A. at 60
Maine Consolidated Power Co., 219 A.2d at 749
Eastler, 499 A.2d at 924
J & N Sanford Trust, 1997 ME 97, ¶ 13, 694 A.2d at 459
Adams, 1999 ME 49, ¶ 14, 727 A.2d at 349

The only permissible variation in the amount of tax is that resulting from the difference in value

Opinion of the Justices (In re State Taxation), 97 Me. at 597, 55 A. at 827
Maine Consolidated Power Co., 219 A.2d at 750
Passamaquoddy Water Dist., 1998 ME 94, ¶ 11, 710 A.2d at 901

To single out certain property and impose a tax upon it unequally in comparison to other property is unconstitutional

Opinion of the Justices, 123 Me. at 577, 121 A. at 904

Art. IX, § 7: The Maine Constitution requires decennial assessments, proportioned to entire estates with a taxed district to meet continuing and regularly recurring expenses

Hamlin, 86 Me. at 502, 30 A. at 79

Art. IX, §§ 7 and 8 are to be construed together; they do not require an absolute equality (given that the Legislature may exempt certain properties)

Hamlin, 86 Me. at 502, 503, 30 A. at 79

Property taxes, authorized by the Legislature and assessed locally, are among the oldest sources of revenue to maintain local governments

Norwood, 138 Me. at 195, 24 A.2d at 236

A state property tax that the Legislature has directed municipalities to collect cannot lawfully be held by the municipalities even if the law were to be declared unconstitutional

McGary, 356 A.2d at 707-08

Statutory implementation of constitutional provision

Kittery Electric Light Co. I, 219 A.2d at 733 (section 708)
Shawmut Inn, 428 A.2d at 389
Petrin, 2016 ME 136, ¶¶ 27-28, 147 A.3d at 852 (section 708)
Angell Family Trust & Bolton, 2016 ME 152, ¶ 19, 149 A.3d at 277 (section 708)

Taxation is legislative

Brewer Brick Co., 62 Me. at 73-74 (“The legislature may deter-

mine the amount of taxation and select the object")
Paul I, 84 Me. at 215, 24 A. at 818 (" . . . all taxes . . . must be
levied by the legislature. . . .")
Prime, 98 Me. at 52, 56 A. at 208 ("Taxes can be legally
assessed only by authority of the statute")
Livermore Falls Trust & Banking Co., 103 Me. at 424,
69 A. at 308-09 ("It is elementary that no tax can be
imposed without express statutory authority")
In re Maine Central R.R. Co., 134 Me. at 219, 183 A. at 845
Hinds II, 141 Me. at 72, 39 A.2d at 7
Greaves II, 143 Me. at 211, 59 A.2d at 219
Green Acre Baha'i II, 159 Me. at 399, 193 A.2d at 566
Depositors Trust Co., 295 A.2d at 30
Delogu II, 2004 ME 18, ¶ 25, 27, 843 A.2d at 39, 40

The Legislature is never presumed to have relinquished its power of
taxation

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 197-98

The Legislature cannot suspend its powers of taxation, Art. IX., § 9, or
bind itself never to repeal or change a tax law in the future

Paul I, 84 Me. at 215, 24 A. at 818
Waldo Lumber Co., 128 Me. at 5, 145 A. at 243
Greaves II, 143 Me. at 213, 59 A.2d at 220
Dolloff, 148 Me. at 185, 91 A.2d at 324
Opinion of the Justices, 155 Me. at 48, 152 A.2d at 90
Delogu II, 2004 ME 18, ¶ 28, 843 A.2d at 40

The Legislature has the same power to repeal a tax as to impose it

North, 57 Me. at 394
Berry, 322 A.2d at 328

The state can tax every person subject to its jurisdiction for all of his
property wherever situated

Kimball, 91 Me. at 607, 40 A. at 667

The state can tax persons outside its jurisdiction for all their property within its jurisdiction

Kimball, 91 Me. at 607, 40 A. at 667

The taxing power of the state stops at the state's boundary line

Kimball, 91 Me. at 607, 40 A. at 667

A municipality can tax real estate within its boundaries, whether of residents or nonresidents, but not real estate outside the municipality

Briggs, 29 Me. at 473

Church, 47 Me. at 172

Judkins, 48 Me. at 387

Hathaway, 48 Me. at 450

Hall, 69 Me. at 347

Blake, 74 Me. at 283-84

Proprietors of Portsmouth Bridge, 78 Me. at 97, 2 A. at 847

Rockland Water Co., 82 Me. at 193, 19 A. at 164

Norway Water Co., 85 Me. at 335, 27 A. at 145-46 (property is to be taxed where it is located)

Maine Water Co., 90 Me. at 182, 38 A. at 102 (same)

Maine has taxed its unorganized areas from its beginning as a state

Pejepscot Paper Co., 134 Me. at 242, 184 A. at 766

Essential elements of taxation are (1) jurisdiction over the property; (2) property subject to taxation; (3) duly elected and qualified assessors; (4) property belonging to the party; and (5) a written order of selectmen that suit be brought in the name of the municipality

Emery, 86 Me. at 366-67, 29 A. at 1097 (re 5)

Ulmer II, 87 Me. at 362, 32 A. at 974 (re 1, 2, 3, and 4)

Lawry, 89 Me. at 584, 36 A. at 1104 (re 5)

Butterfield, 98 Me. at 160, 56 A. at 583 (re 1, 2, and 3)

Whittier, 122 Me. at 90, 118 A. at 898 (re 3, 4, and 5)
Vigue, 138 Me. at 209, 24 A.2d at 242 (re 3)
Hinds II, 141 Me. at 72, 39 A.2d at 7 (re 4)
Hardy's Trailer Sales, 410 A.2d at 224 (re all 5)

Taxation involves two solely legislative steps: (1) determining the nature of the tax to be imposed; and (2) determining its effective imposition to insure collection and availability to the state for the purposes for which it is raised

Mandarelli, 320 A.2d at 27-28

Taxes may be imposed only for public purposes

Hooper, 14 Me. at 378-79
Allen, 60 Me. at 127-28
Brewer Brick Co., 62 Me. at 73
Laughlin, 111 Me. at 491, 90 A. at 320
Portland Pier Site Dist., 120 Me. at 22, 112 A. at 840
Bangor Recreation Center, 150 Me. at 35, 103 A.2d at 340
Eastler, 499 A.2d at 923, 927 n.9
Northport Village Corp., 1998 ME 114 ¶ 8, 711 A.2d at 1284
Delogu I, 1998 ME 246, ¶ 10, 720 A.2d at 1155

Public purpose is not dependent on voter approval, public ownership of the facilities at issue, or the economic need of the recipient of the aid

Delogu I, 1998 ME 246, ¶ 13, 720 A.2d at 1155

Courts give great deference to legislative findings of public purpose

Delogu I, 1998 ME 246, ¶ 11, 720 A.2d at 1155

What the Legislature calls a tax is entitled to deference, but the characterization is not controlling

Eastler, 499 A.2d at 925

Courts have a more limited role than the Legislature in providing means for citizens to obtain relief from abusive state action

Berry, 322 A.2d at 328

All taxes—state, county, and local—are levied and collected by public officers acting for and under the authority of the state

Thorndike, 82 Me. at 44, 19 A. at 96

Ulmer I, 84 Me. at 507, 24 A. at 950

Milo Water Co. II, 131 Me. at 378, 163 A. at 166

Waldo Lumber Co., 128 Me. at 4, 145 A. at 242

In re Maine Central R.R. Co., 134 Me. at 219-20, 183 A. at 845

Dolloff, 148 Me. at 185, 187, 91 A.2d at 324, 325

Under Art. IX, § 9, the Legislature cannot surrender, or wholly delegate to a municipality, the right of taxation (or the right to exempt property from taxation), such that when municipalities tax they do so for the state

Brewer Brick Co., 62 Me. at 74-76

Maine Central R.R. Co., 66 Me. at 496, 504, 506 (even to a legislatively created corporation, except by the most clear and explicit language)

Waldo Lumber Co., 128 Me. at 4, 145 A. at 242-43

Dolloff, 148 Me. at 185, 91 A.2d at 324

Delogu II, 2004 ME 18, ¶ 26, 843 A.2d at 39-40; *id.* ¶¶ 33-43
843 A.2d at 41-43 (concurring op.)

A municipality has no sovereignty, but is merely an agency of the state, with only those powers granted by the state

Waldo Lumber Co., 128 Me. at 4, 145 A. at 242-43

Dolloff, 148 Me. at 185, 91 A.2d at 324

Municipalities act as agents of the state in the assessment and collection of taxes

Hooper, 14 Me. at 378

Thorndike, 82 Me. at 44, 19 A. at 96
Ulmer I, 84 Me. at 505-06, 24 A. at 950
Lewis and Maxcey, 109 Me. at 478, 84 A. at 997
Waldo Lumber Co., 128 Me. at 4, 145 A. at 242
Dolloff, 148 Me. at 183-84, 185-86, 91 A.2d at 323, 324
Magno, 486 A.2d at 142

A municipality has no power of taxation absent state legislative authority

Paine, 5 Me. at 405
Hooper, 14 Me. at 378
Carlton, 77 Me. at 415, 1 A. at 198
Thorndike, 82 Me. at 43-44, 19 A. at 96
Waldo Lumber Co., 128 Me. at 4, 145 A. at 242
In re Maine Central R.R. Co., 134 Me. at 220, 183 A. at 845

Municipalities are treated very differently in regard to taxation, and do not have the same power as does the Legislature

Delogu II, 2004 ME 18, ¶ 15, 843 A.2d at 37 (they “are prohibited from taking unilateral actions to adopt exemptions, abatement or repayment schemes that result in unequal apportionment of property tax burdens with their boundaries”); *id.* ¶ 20, 843 A.2d at 38 (“legislative authorization is a prerequisite for a municipal property tax rebate or repayment program targeting selected properties”)

Powers of municipal corporations

Dover & Foxcroft Village Fire Co., 96 Me. at 548-52, 53 A. at 65-66
Laughlin, 111 Me. at 498, 90 A. at 323
Brunswick School Dist., 134 Me. at 422-23, 187 A. at 707
Greaves I, 140 Me. at 160-63, 165, 34 A.2d at 694-95, 696

A municipality’s authority to tax is delimited by its boundaries, which are fixed by the Legislature, and cannot be acquired or altered by prescription

Eden, 108 Me. at 77, 78 A. at 1128

Municipalities cannot treat nonresidents and residents differently for taxation purposes, absent legitimate reasons to do so

Aucella III, 628 A.2d at 124

Whether the Legislature may create special districts, or unorganized territories, and provide for taxation of them, and do so differently from other areas so long as there is a special benefit to the taxed district or territory, reasonably proportionate to the tax burden, and taxes are uniformly assessed within the district or territory

Inhabitants of School Dist. No. 1, in Greene, 12 Me. 254
(*passim*)(school district is a quasi-corporation with limited powers)

Farmington Village Corp., 70 Me. at 526 (police and fire protection corporation)

Dover & Foxcroft Village Fire Co., 96 Me. at 553-57, 53 A. at 66-68 (fire protection corporation)

Opinion of the Justices (In re State Taxation), 97 Me. at 597, 55 A. at 827

Augusta Water Dist., 101 Me. 148, 63 A. 663

Lewis and Maxcey, 109 Me. at 476-78, 84 A. at 996-97
(Maine Forestry District)

Portland Pier Site Dist., 120 Me. at 21-22, 112 A. at 839

Crabtree, 122 Me. at 21, 118 A. at 791 (bridge district)

Brunswick School Dist., 134 Me. at 419-20, 187 A. at 705-06
(irrelevant that taxing district and town it served had identical territory and inhabitants, so long as they had different taxation purposes)

Opinion of the Justices, 144 Me. at 419, 66 A.2d at 377
(same)

Waterville Sewerage Dist., 146 Me. at 216, 79 A.2d at 588
(same)

Bangor Recreation Center, 150 Me. at 36-37, 103 A.2d at 341

Inhabitants of the Town of Stonington, 403 A.2d 1181
(*passim*)

Eastler, 499 A.2d at 922, 927 (Maine Forestry District taxation scheme unconstitutional)

McBreairty, 663 A.2d at 54

Northport Village Corp., 1998 ME 114, ¶, 711 A.2d at 1284
 (village tax provided improvements for village residents;
 benefits to nonresidents were only incidental)
Delogu II, 2004 ME 18, ¶ 17, 843 A.2d at 37-38 (Legislature
 may deviate, on a state-wide basis, from equal
 apportionment and assessment mandates, as by
 exemptions); *id.* ¶¶ 29-30, 843 A.2d at 40 (Portland
 Tax Relief Program violates Art. IX, §§ 8, 9)

A municipality cannot assess taxpayers of a school district to pay for
 erection of school in excess of that authorized for its construction

Carlton, 77 Me. at 415-418, 1 A. at 198-99

A tax cannot be levied on only a portion of real estate of a municipality
 created as a part of the whole, or on only one piece of real estate but not
 another similarly situated

Brewer Brick Co., 62 Me. at 74-76
Farmington Village Corp., 70 Me. at 522, 526 528
Dover & Foxcroft Village Fire Co., 96 Me. at 554, 53 A. at 67

The Legislature may authorize a municipal corporation to buy, via taxation,
 an existing waterworks system even though the corporation will be
 compelled to carry out the obligations of the original water company for
 some outside the limits of the purchasing municipality

Dover & Foxcroft Village Fire Co., 96 Me. at 556-57, 53 A. at 68

Where a municipality is granted power to create a municipal debt, it has
 the right to levy taxes to pay the debt in the absence of any other means

Huse, 112 Me. at 450, 92 A. at 520

Municipalities rely on property taxes for revenue

Opinion of the Justices, 2004 ME 54, ¶ 4, 850 A.2d at 1148

The property tax is a tax on the ownership of property (while an excise tax is levied only on use of property, with funds often dedicated to a particular industry)

Eastler, 499 A.2d at 924 & nn. 6, 7, 927

To determine whether a tax is a property tax or an excise tax, look to the method of establishing the tax rate (which is significant but not conclusive) and to what was being taxed (the subject matter of the taxation), which is the central issue

Eastler, 499 A.2d at 924-25

A property tax may be so unreasonable or oppressive as to be confiscatory

Opinion of the Justices, 123 Me. at 580, 121 A. at 905

Double taxation on the same property is against public policy, and is to be avoided

Augusta Bank, 36 Me. at 259

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 199

Wheeler, 88 Me. at 180, 33 A. at 985 (tax on real property of corporation to corporation itself and tax on shares of corporation to shareholders)

Livermore Falls Trust & Banking Co., 103 Me. 418, 69 A. 306
(*passim*)(same)

Stevens, 115 Me. at 404, 99 A. at 95

Cf. Depositors Trust Co., 295 A.2d at 30 (no double taxation may be imposed unless applicable statutes clearly require it)

Emera Maine, 2017 ME 225, ¶ 18, 174 A.3d at 325

It is not incumbent upon assessors to tax when it is not practicable

Pejepscot Paper Co., 134 Me. at 243, 184 A. at 766 (as, for

example, when determination of existence of property would entail expense incommensurate with the profit of the tax to the state)

Property taxes are usually fixed by dividing the total sum to be raised by the total valuation of the property, the ratio yielding the tax rate

Eastler, 499 A.2d at 925

The Legislature is not required to distribute tax revenues or benefits equally; some private interests may benefit more than others, and the Constitution does not require commensurate contribution so long as there is a rational basis for the difference in treatment

Smyth, 31 Me. at 286

Paul I, 84 Me. at 215-17, 24 A. at 818

Bayville Village Corp., 110 Me. at 50-52, 85 A. at 302-03

Crabtree, 122 Me. at 21-23, 118 A. at 791-92 (to require taxation to be exactly proportionate to benefits would paralyze the taxing power)

Lambert, 423 A.2d at 531 (distinguishing between classes of veterans and their eligibility for veterans' exemption)

McBreairty, 663 A.2d at 54 (distinguishing between apportionment and assessment of taxes and the distribution of tax revenues)

Delogu I, 1998 ME 246, ¶ 18, 720 A.2d at 1156 (tax increment financing; distinguishing between assessment and spending of tax revenues)

Tax reimbursement programs

Delogu I, 1998 ME 246, ¶¶ 5, 6, 720 A.2d at 1154 (business and equipment tax reimbursement (BETR), 36 M.R.S. §§ 6651-6659; tax increment financing (TIF), 30-A M.R.S. §§ 5251-5261)

Delogu II, 2004 ME 18, ¶¶ 5-8, 843 A.2d at 35-36 (Portland Property Tax Relief Program); *id.* ¶ 13, 843 A.2d at 37 (under the program, property taxes are apportioned unequally)

Tax increment financing (TIF) districts, 30 M.R.S. § 5253

Delogu I, 1998 ME 246, ¶ 23, 720 A.2d at 1157

Explanation of tax increment financing

Delogu I, 1998 ME 246, ¶ 19, 720 A.2d at 1156

Constitutionality of tax increment financing

Delogu I, 1998 ME 246, ¶¶ 17-18, 720 A.2d at 1156

A tax is an assessment for a public purpose; assessments for local improvements are not taxes

Farmington Village Corp., 70 Me. at 522

Assessments compared to taxes

Farmington Village Corp., 70 Me. at 526-28

A tax is an impost levied by the authority of government, upon its citizens, for support of the state

North, 57 Me. at 394

Waldo Lumber Co., 128 Me. at 5, 145 A. at 243

A tax is not a debt (an amount due upon an agreement), or a demand

North, 57 Me. at 394

Maine Central R.R. Co., 66 Me. at 508

Waldo Lumber Co., 128 Me. at 5, 145 A. at 243

A tax is not a contract

North, 57 Me. at 394
Hall, 123 Me. at 81, 121 A. at 551
Waldo Lumber Co., 128 Me. at 5, 145 A. at 243

A municipality cannot accept a promissory note in lieu of payment of taxes: a note given for taxes does not discharge them; town treasurer cannot accept a note for payment of taxes, and assessors cannot ratify such acceptance and release one from liability to pay

Bunker, 86 Me. at 314, 29 A. at 1085-86
Waldo Lumber Co., 128 Me. at 4, 145 A. at 242-43

Each municipality can determine for itself when taxes and interest on unpaid taxes are due, 36 M.R.S. § 505

Rockland Water Co., 82 Me. at 195-96, 19 A. at 165

Where a municipality did not vote to fix date when taxes should be payable, or that interest should be collected, no interest is due, 36 M.R.S. § 504

Snow, 77 Me. at 431-32, 1 A. at 243-44
Whittier, 122 Me. at 90, 118 A. at 898
Swazey, 132 Me. at 38, 165 A. at 165
McKay Radio & Telegraph II, 132 Me. at 325-26, 170 A. at 61

A void tax is no tax, and one is under no obligation to pay it

Hathaway, 48 Me. at 450
Lord, 51 Me. at 600-01
Woodman, 76 Me. at 551
Bridge, 90 Me. at 493, 38 A. at 546
Morrill, 95 Me. at 170, 49 A. at 668
Talbot, 116 Me. at 210, 100 A. at 938

A tax on a dead person is void

Morrill, 95 Me. at 168, 49 A. at 667

Abatement proceedings are the appropriate means through which to correct impermissible assessments

Shawmut Mfg. Co., 123 Me. at 128, 122 A. at 52
(discrimination)
Capodilupo, 1999 ME 96, ¶ 4, 730 A.2d at 1258
(overvaluation)
Adams, 1999 ME 49, ¶¶ 24-25, 727 A.2d at 351
(discrimination)
Ram's Head Partners, 2003 ME 131, ¶ 15, 834 A.2d at
920-21 (discrimination)
Town of Bristol Taxpayer's Ass'n, 2008 ME 159, ¶ 6 n.5,
957 A.2d at 979 n.5 (discrimination)

Abatement procedures cannot be used to remedy a void assessment or where the taxing authority is challenged as invalid

Herriman, 43 Me. at 500
Hathaway, 48 Me. at 450
Talbot, 116 Me. at 210, 100 A. at 938
Berry, 322 A.2d at 324
Edgerly, 392 A.2d at 106
S. D. Warren, 1998 ME 66, ¶ 8, 708 A.2d at 1021

One cannot recover a tax paid on the ground it was illegal unless he paid it under protest or duress, which can exist only when a failure to pay produces irreparable injury: arrest or seizure of property

Smith, 27 Me. at 147
Rogers, 58 Me. at 393
Berry, 322 A.2d at 326-27 (and this rule is equally applicable
when the challenge is to the constitutionality of a tax)
Exxon Corp., 322 A.2d at 536
McGary, 356 A.2d at 705, 707 (taxpayer has no right to a
refund of a state tax, voluntarily paid, even if the tax is
later declared unconstitutional)

As a rule, all real estate is taxable (that is, unless subject to exemption),
36 M.R.S. § 502

Augusta Bank, 36 Me. at 259
Portland, Saco & Portsmouth R.R. Co., 60 Me. at 197, 198, 200
Camden Village Corp., 77 Me. at 532, 1 A. at 689
Sigma Alpha Epsilon Society, 105 Me. at 217, 74 A. at 21
Pejepscot Paper Co., 134 Me. at 242, 184 A. at 766
Alpha Rho Zeta, 477 A.2d at 1136
Hebron Academy, 2013 ME 15, ¶ 7, 60 A.3d at 778
Francis Small Heritage Trust, 2014 ME 102, ¶ 12, 98 A.3d
 at 1017

When land is taxed to a person, the primary obligation is upon the land

Hall, 123 Me. at 81, 121 A. at 551

What constitutes real estate, 36 M.R.S. § 551: all lands and all buildings and things erected on or affixed to land; this is a very broad definition

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 198 (all land
 and buildings affixed to land)
Hall, 69 Me. at 347 (boom across river)
Proprietors of Portsmouth Bridge, 78 Me. at 97, 2 A. at 847
 (bridge)
Rockland Water Co., 82 Me. at 194, 19 A. at 164 (aqueducts,
 conduits, etc.)
Norway Water Co., 85 Me. at 332, 27 A. at 144 (same)
Pejepscot Paper Co., 134 Me. at 242, 184 A. at 766 (all land
 and all tenements and hereditaments connected thereto)
Stevens, 115 Me. at 403-04, 405, 99 A. at 95, 95-96 (bridge,
 toll house, and land affixed thereto)
Dodge, 151 Me. at 481, 121 A.2d at 352 (airport and build-
 ings thereon)
Bangor-Hydro Electric Co., 226 A.2d at 374-79 (logs which
 become telephone poles are personal property subject to
 sales tax, not real property, even after being set into
 ground)
PPL Maine, 2006 ME 88, ¶ 6, 901 A.2d at 818 (land, structures
 affixed to land, and land with water power appertaining
 thereto)

What constitutes fixtures

Norway Water Co., 85 Me. at 332, 27 A. at 144 (aqueducts, conduits, etc. of water company not exempt)
John P. Squire & Co., 106 Me. at 237-41, 76 A. at 680-82 (lengthy discussion of fixtures; five-story refrigerated unit is a fixture not taxable as personal property)
Inhabitants of Whiting, 121 Me. at 126-27, 128, 115 A. at 899 (poles and transmission lines exempt)
Greaves I, 140 Me. at 165, 34 A.2d at 696 (same; not exempt outside jurisdiction of quasi-municipal corporation)

Commitment of taxes or warrant for collection, imposing liability, relates back to April 1st of the given year

Egerly, 56 Me. at 46

One's residence on April 1st of one year is immaterial on the question of residence in another year

Lucy Farnsworth II, 93 Me. at 184, 44 A. at 682

Change of ownership after April 1st is irrelevant until next April 1st

Woodman, 68 Me. 33
Finance Authority of Maine, 1997 ME 95, ¶ 5, 694 A.2d at 915

What constitutes residency or domicile, subjecting one to taxation, as of April 1st of tax year

Judkins, 48 Me. at 387 (one cannot be domiciled in two municipalities at once when he moves)
Rowell, 49 Me. at 369-70 (inhabitant means a resident in any place; everyone must have a domicile somewhere, but no more than one; residence depends on presence without present intent to depart)
Littlefield, 50 Me. at 476-78 (every inhabitant of the state is an inhabitant of some place and has an established residence, or dwelling, somewhere; where one is an inhabitant is where he has his domicile, which is a

residence or dwelling at a particular place; this is a question of intent to remain)

Parsons, 61 Me. at 460-61 (change of domicile requires both intent to, and fact of, move; one who leaves city on March 30th, moves out of state, and does not return is not taxable in that city although he wife remained there)

Staples, 66 Me. at 198-99 (ship's master deemed a resident of town in which he was domiciled and intended to live after his return from sea, not town in which he had previously resided)

Porterfield, 67 Me. at 557 (ship's master was not liable for tax in city where he had never lived, and in which his wife has resided temporarily while he was at sea; she could not change his domicile without intent on his part to change it)

Walker, 71 Me. at 182 (plaintiff who removed his goods from another town upon learning that town intended to tax him was taxable in town to which he took goods and where he had taken up residence although he was not present there on April 1st)

Lucy Farnsworth I, 89 Me. at 483-84, 36 A. at 989-90 (attorney's describing taxpayer as "of Rockland" in another case not binding as to her in present case)

Gilmartin, 131 Me. at 238-40, 160 A. at 875-76 (one may have more than one residence, that is, places equipped as dwellings, but can have only one domicile, which is a combination of intent to remain and acts; taxpayer has burden to establish both, and failed to do so here)

Reid, 132 Me. at 416, 171 Me. at 908 (one may defend an action to recover tax on real estate by showing he is not an inhabitant of taxing town)

Falcone and Jannetti, 2006 ME 90, ¶ 9, 902 A.2d at 143 (domicile has two components: residence and the intent to remain; 36 M.R.S. § 5102(5) is not unconstitutionally vague)

That one is an inhabitant of a municipality is a material fact to be pled and proved under statute requiring assessment of property of owners where they are inhabitants, and one who is not an inhabitant is not liable for payment of taxes

Mary Farnsworth, 83 Me. at 229, 22 A. at 103-04

Domicile may be difficult to determine, but assessors must decide

Nowell, 61 Me. at 430

How to treat a residence sitting *on* the line of two towns

Judkins, 48 Me. at 387 (tax situs is where the most necessary and indispensable part is located)

Discussion of taxation where the locus of property, as between two adjacent towns, was confused

Blaney, 455 A.2d 1381 (*passim*)

What constitutes tax liability, 36 M.R.S. § 553: ownership or possession

Varney, 22 Me. at 334 (owner of life estate was properly assessed taxes during his tenancy)

Hobbs, 32 Me. at 70 (assessors may (continue to) assess tenants unless, prior to last assessment, municipality is notified of change in ownership or occupancy)

Coombs, 34 Me. at 90-91, 92 (between mortgager and mortgagee, the latter is the owner, but the former is the owner as regards all others; mortgagee in possession may be taxed; but when ownership of premises is in the mortgager for taxation purposes, a tenant acquires no title by assessment and sale of them as property of the mortgagee)

Williams, 35 Me. at 554-55 (a mortgagee of property is the owner until possession is taken by the mortgagor, who then is responsible for paying taxes, 36 M.R.S. § 554)

Inhabitants of Baldwin, 37 Me. at 368-69 (legal interest is sufficient for tax liability)

Desmond, 48 Me. at 480 (lessor of wharf liable for tax)

Garland, 73 Me. at 98-99 (owner of life estate was properly assessed taxes during his tenancy)

Wheeler, 88 Me. at 180, 33 A. at 985 (“Real estate must be taxed to the owner or person in possession”; municipality must deduct from a shareholder’s preferred stock

- in a company his proportional share of the value of the company's real estate which is also taxed to the company)
- Kelley*, 110 Me. at 365, 86 A. at 254 (owner of life estate was properly assessed taxes during his tenancy)
- Murray*, 120 Me. at 474-75, 115 A. at 257-58 (tenant may be required to pay taxes on real estate)
- Inhabitants of Whiting*, 121 Me. at 127, 115 A. at 900 ("For purposes of taxation a person in possession may be considered as the owner")
- Livermore Falls Trust Co.*, 136 Me. at 106, 3 A.2d at 106 (holder of quitclaim deed may be taxed without further examination by assessors of record title)
- Snell*, 137 Me. at 68, 15 A.2d at 151 (land may be assessed to either owner or person in possession on April 1st, and assessors may continue to tax person to whom land was last assessed, although ownership or occupancy has changed, unless notified of change)
- Hinds II*, 141 Me. at 73, 39 A.2d at 7 (where one's interest in a building is merely contractual it is taxable to the lessor as owner of the entire property; where the interest of the building owner attains the status of a separable and distinct estate the building is taxable to the building owner); *id.* at 78, 39 A.2d at 9 (owner of building on leased land is owner for tax purposes; lessee of building on leased land is owner for tax purposes during lease)
- Dodge*, 151 Me. at 480-81, 121 A.2d at 352 ("A person in possession of real estate is liable for taxes thereon"; lessee liable for taxes if not otherwise exempt)
- Seaborne*, 464 A.2d at 222 ("real estate taxes may be assessed either to the owner or to a nonowner who is in possession")
- Alpha Rho Zeta*, 477 A.2d at 1136 (ownership may refer strictly to title owner or to one having possession and control)
- Mason*, 1998 ME 201, ¶¶ 6, 8, 715 A.2d at 181 (mortgagors are owners for property tax purposes, but not one buying the property under an installment contract)
- PPL Maine*, 2006 ME 88, ¶¶ 7-10, 12, 901 A.2d at 818-19 (owner of flowage rights holds an easement appurtenant, a non-possessory interest, in submerged land, and so cannot be taxed as one in possession of such)

A tax can be imposed only on the owner as listed in the tax rolls, not an individual, even though the land to be taxed was described in deeds as being owned by the individual, where the individual had agreed to pay such taxes as the grantors knew they had to pay, and there was none

Tozier I, 135 Me. at 52-53, 188 A. at 774

A joint tenant or tenant in common may be considered the sole owner unless he or she has notified the assessor of one's interests to the contrary, 36 M.R.S. §§ 555, 557

Blaney, 455 A.2d at 1386

See Brackett, 562 A.2d at 139-40

See Anderson, 1999 ME 70, ¶ 15, 728 A.2d at 1257

Assessment when the assessor has received notice of division of property by devise or names of devisees, 36 M.R.S. § 557

Swazey, 132 Me. at 38, 165 A. at 165

Where personal property is to be taxed; see 36 M.R.S. §§ 602, 603

Campbell, 33 Me. at 420 (logs located in one town were taxable there only if owner "occupied" a mill or wharf in that town)

Desmond, 48 Me. at 479-81 (logs and lathe taxable in town where wharf was located and taxpayer occupied wharf, although he lived elsewhere)

Look, 51 Me. at 376 (town cannot tax one who was not an inhabitant on April 1st)

Brown, 53 Me. at 523 (logs not yet driven by April 1st to sawmill were taxable in town where owner owns and occupies sawmill, as constructively present there)

Stockwell, 59 Me. at 288-89 (property of partnership, logs on wharf, were taxable in city where partnership did business; they did not "occupy" wharf in other town where partners lived, and were not taxable there)

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 200-01 (all personal property is taxed to the owner where he is an inhabitant; property of a corporation is taxed where the corporation has its place of business)

- Waite*, 66 Me. at 226 (store and stock of goods taxable by town where they were located)
- Martin*, 81 Me. at 296-97, 17 A. at 73 (resident of town not taxable in city where he maintained an office from which he conducted aspects of his business, but could not be said to have maintained a shop)
- Gower*, 83 Me. at 145-46, 21 A. at 847 (property employed in trade taxable where mill was located, not where owner resided; cords of cut and split firewood, ready for sale, taxable where situated)
- Creamer*, 91 Me. at 513, 40 A. at 557 (follows *Campbell*)
- Kimball*, 91 Me. at 607-11, 40 A. at 667-69 (interest on intangible property, annuities, held out of state by trustees for in-state annuitants not taxable in Maine); 91 Me. at 611, 40 A. at 669 (but annuitants in Maine may be taxed)
- Berlin Mills Co.*, 93 Me. at 337-39, 45 A. at 40 (follows *Brown* and *Gower*; finished logs ready for sale taxable where situated)
- Watson*, 98 Me. 379, 57 A. 79 (*passim*)(goods were not employed in trade and taxable where stored if merely held there for sale elsewhere)
- Penobscot Chemical Fibre Co. II*, 104 Me. at 279-80, 71 A. at 888-89 (wood in transit to mill was “employed . . . in the mechanic arts” in town where mill is located, and was not taxable in town where situated on April 1st; statute looked to real employment of property, not preparatory acts; follows *Brown* and *Berlin Mills*)
- Willis*, 105 Me. 54, 72 A. 733 (*passim*)(one must “occupy” a mill to be taxed where it is located)
- McCann*, 107 Me. at 398, 78 A. at 467 (follows *Watson*)
- Hanscome*, 108 Me. at 134, 79 A. at 381 (although lumber did not actually occupy landing place on April 1st, it was taxable in town where landing place was located; follows *Brown*)
- Estate of Charles Forster*, 109 Me. at 231, 83 A. at 672 (property not employed in trade or in the mechanic arts, and so were not taxable where stored during one step among many in transit to ultimate destination; follows *Creamer* and *Watson*)
- E. I. duPont de Nemours Powder Co.*, 109 Me. at 238, 83 A. at 664 (manufacture of lumber into shipping boxes is a mechanic art to be employed where manufacturing was

- to take place, and taxable there, not where it was situated on April 1st; follows *Berlin Mills, Penobscot Chemical Fibre Co. II, Hanscome, and McCann*)
- Morton*, 115 Me. at 72, 97 A. at 219 (potatoes not employed in trade were not taxable in town where stored)
- Machias Lumber Co.*, 122 Me. at 307, 119 A. at 807 (logs awaiting arrival in town in which company had its main business were taxable in that town, not where they were located on April 1st and where they were not to be sold, following *Watson, McCann, and Morton*)
- Desjardins*, 124 Me. at 117, 126 A. at 487 (portable mills are personal property, unlike permanent mills; all manufactured lumber, whether of permanent or portable mills, was taxable in town where it was situated on April 1st)
- Maine Crushed Rock & Gravel Co.*, 127 Me. at 55-56, 141 A. at 74-75 (machinery is not articles employed in trade, which refers to trade in town where they are prepared for market, and was not subject to tax where not employed in the manufacture of goods)
- Sears, Roebuck & Co.*, 144 Me. at 252-53, 262, 68 A.2d at 13-14, 18 (goods warehoused in South Portland for delivery to customers ordering goods in Portland, or sent to retail store in Portland for sale, were employed in trade, and taxable, in Portland (but statute passed immediately following decision changed result))
- Dead River Co.*, 149 Me. at 359-60, 103 A.2d at 128-29 (pulpwood, not a manufactured product, taxable in city of residence of owner; railroad ties, finished and ready for use, are manufactured product taxable where situated)
- N. J. Gendron Lumber Co.*, 151 Me. at 453, 120 A.2d at 561 (manufactured lumber, awaiting shipment for sale, is taxable at mill site, though employed in trade in the place to which it was to be sent for retail sale)
- Hardy's Trailer Sales*, 410 A.2d at 223-24 (house trailers were finished products and are taxable where kept for sale)
- Richard L. Hodges, Inc.*, 420 A.2d at 250 (state cannot tax personal property permanently located outside state)
- Jordan-Milton Machinery, Inc.*, 609 A.2d at 1167 (machinery of nonresident business taxable where property is situated on April 1st, not where owner does business in state)

Tri-State Rubbish, Inc., 671 A.2d at 956 (equipment that is not office equipment is taxable where taxpayer resides, that is, has its principal place of business)

Mobile Imaging Consortium, 1998 ME 15, ¶ 5, 704 A.2d at 416-17 (mobile MRI units were “professional apparatuses” and so not taxable in principal place of business of owner, but where they were situated on April 1st)

Assessment of property of estates, 36 M.R.S. §§ 559, 605

Spinney, 69 Me. at 32

Bridge, 90 Me. at 493, 38 A. at 546 (executor or administrator is liable for tax on personal property of decedent)

Prime, 98 Me. at 52, 56 A. at 208 (same)

Estate of Paradis, 134 Me. at 336 186 A. at 673 (heirs and devisees are responsible for taxes accruing upon real estate after death of decedent)

Kramer, 144 Me. at 240-41, 67 A.2d at 536-37

Gray, 150 Me. at 102, 104 A.2d at 426

II. Procedural Issues

Maine statutory procedures provide aggrieved taxpayers an adequate remedy at law

Camps Newfound/Owatonna III, 1998 ME 20, ¶¶ 4-5, 705 A.2d at 1111-12 (and fact that one may have to appeal does not defeat this conclusion)

Tax avoidance by law is not tax evasion

Cf. Boyd, 86 Me. at 318, 29 A. at 1062 (“A refusal to pay a tax is one thing. A failure to pay is another.”)
Alpha Rho Zeta, 477 A.2d at 1139
See Falcone & Jannetti, 2006 ME 90, ¶ 29 n.13, 902 A.2d at 151 n.13 (dissenting op.)

36 M.R.S. § 152 gives a property owner the option to pay under protest or not pay an assessed tax without forfeiting the right to apply for an abatement or seek review of the validity of tax

Town of East Millinocket, 486 A.2d at 742
Maine Central R.R. Co., 588 A.2d at 291 n.3

BPTR or board of assessment review must decide case based only on evidence in the record

Adams, 1999 ME 49, ¶ 10, 727 A.2d at 349 (BPTR)
Forbes, 2001 ME 9, ¶ 14, 763 A.2d at 1188 (BAR)

Board of assessment review can rely on evidence from another case, if it makes that evidence a part of the record in the case at issue

Forbes, 2001 ME 9, ¶¶ 15-17, 763 A.2d at 1188-89

Board of assessment review can ask parties to shorten their presentations when it has just reviewed similar cases

Harwood, 2000 ME 213, ¶ 12 n.5, 763 A.2d at 118 n.5

Improper for Board of Property Tax Review member to visit the property in litigation without notice to parties

Adams, 1999 ME 49, ¶¶ 7-12, 727 A.2d at 348-49

In the absence of a record of findings, a court will assume assessors considered problems complained of (*N. B.*: point not to be followed after *Christian Fellowship & Renewal Center I*)

Frank, 407 A.2d at 171

Shawmut Inn, 428 A.2d at 394

Lipski, 602 A.2d at 1172

Municipality must state sufficiently its reasons for denying taxpayer's claim, and may not be conclusory

Dodge, 577 A.2d at 347 (poverty abatement)

Christian Fellowship & Renewal Center I, 2001 ME 16, ¶ 14, 769 A.2d at 838 (exemption)

Yusem, 2001 ME 61, ¶ 17, 769 A.2d at 872 (assessment)

Credit Counseling Centers, 2003 ME 2, ¶ 13, 814 A.2d at 462 (exemption)

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶¶ 8, 17, 818 A.2d at 1024, 1026 (assessment; Board may not simply deem an expert's opinion "not credible," without more)

Ram's Head Partners, 2003 ME 131, ¶ 16, 834 A.2d at 921.

Peaker I, 2007 ME 105, ¶ 13 n.6, 927 A.2d at 1172 n.6 (quoting *Ram's Head Partners*)

Assessors cannot reject a party's evidence without support for doing so; unexplained mental conclusions are not sufficient; otherwise, one has used merely arbitrary guesswork and speculation

Kittery Electric Light Co. I, 219 A.2d at 738-39 (in context of substantial overvaluation)

Arbitrary assessment will be struck down in discrimination cases

- Farrelly*, 407 A.2d at 307 (conscious resort to arbitrary methods, treating like properties differently and imposing unequal burdens on properties with the same value, will invalidate assessment)
- Adams*, 1999 ME 49, ¶ 17, 727 A.2d at 350 (assessor acted on “gut feeling”)
- Ram’s Head Partners*, 2003 ME 131, ¶ 13, 834 A.2d at 920 (noting admission by assessor in cited case that his method of assessment was arbitrary)

Claim that administrative agency relied on incompetent evidence must be accompanied by a showing of prejudice

- Credit Counseling Centers*, 2003 ME 2, ¶ 11, 814 A.2d at 462

Fact that there is conflicting evidence in the record, allowing for the drawing of different conclusions, does not mean there is a lack of substantial evidence for the conclusion reached by the local board

- Kokernak*, 612 A.2d at 872
- Forbes*, 2001 ME 157, ¶ 6, 763 A.2d at 1186
- Terfloth*, 2014 ME 57, ¶ 10, 90 A.3d at 1134-35
- Petrin*, 2016 ME 136, ¶ 13, 147 A.3d at 849

Where the record of a hearing is incomplete or inadequate, a remand for a new hearing is required

- Inhabitants of Levant*, 67 Me. at 437
- Christian Fellowship & Renewal Center I*, 2001 ME 16, ¶ 17 n.6, 769 A.2d at 840 n.6
- Ram’s Head Partners*, 2003 ME 131, ¶¶ 18-19, 834 A.2d at 921-22

It is appellant’s responsibility to see that a proper record is preserved for appeal unless the decisionmaker has failed to provide minutes or a transcript of proceedings

Ram's Head Partners, 2003 ME 131, ¶ 18, 834 A.2d at 921
Penkul, 2016 ME 16, ¶ 16, 136 A.3d at 92 (quoting *Ram's Head Partners*)

Appellant appealing from municipal abatement decision must obtain and provide a verbatim transcript of proceedings, if recorded, or minutes if no recording was made

Penkul, 2016 ME 16, ¶ 16 & n.8, 136 A.3d at 92 & n.8

Law Court cannot review taxpayer's argument that county commissioners were compelled to authorize abatement where taxpayer failed to obtain and file complete and accurate record with trial court

Penkul, 2016 ME 16, ¶ 18, 136 A.3d at 93

An issue not raised to government agency cannot be raised for the first time on appeal

Penkul, 2016 ME 16, ¶ 18, 136 A.3d at 93

Protective orders governing Board prevent the disclosure of confidential documents

Bangor Publishing Co., 682 A.2d at 230-31

Board of Property Tax Review has only adjudicatory functions and no enforcement authority

Town of Washburn, 490 A.2d at 1185

Board of assessment review has no enforcement authority

Freeport Minerals Co., 437 A.2d at 642 n.1

Motions to dismiss, because a taxpayer is arguably barred from the right to pursue relief, may inevitably lead to consideration of the merits of the case

Holbrook Island Sanctuary, 161 Me. at 478, 214 A.2d at 662
Depositors Trust Co., 295 A.2d at 30
Howard D. Johnson Co., 351 A.2d at 526-27

Technical defenses are not favored in administrative proceedings

Kellar, 20 Me. at 202 (absence of signing of assessment)
Moan, 50 Me. at 353 (“the defence is technical in character, and though the defects in the proceedings of the town are numerous, they are not of such a character as will authorize the defendants to take refuge behind them”)
Reed, 78 Me. at 282, 4 A. at 691 (designation of defendants as administrators rather than executors does not void assessment)
Whitmore, 79 Me. at 188-89, 9 A. at 121 (list of assessments not signed by assessors)
Thorndike, 82 Me. at 47 (difference between “D. Knowlton & Co.” and “D. Knowlton Company” too slight to invalidate collection of taxes)
Ulmer I, 84 Me. at 507-08, 24 A. at 950-51 (grouping of three properties for single assessment; but see now 36 M.R.S. § 708)
Ulmer II, 87 Me. at 359-61, 361-62, 32 A. at 972-73, 973-74 (omissions or irregularities that have not occasioned taxpayer any loss or injustice will be disregarded; supplemental assessment did not increase tax liability)
Belfast Hotel Co. I, 89 Me. at 382-83, 36 A. 622 (tax collector joined in his declaration school district tax with state, county, and city taxes)
Lawry, 89 Me. at 583-84, 36 A. at 1104 (lists committed to tax collector need not contain exact description of real estate; “If the collector made no objection, it is difficult to see on what ground the defendant can base his complaint”)
Blair, 104 Me. at 445-46, 72 A. at 178 (election of assessors)
Sherwin-Burrill Soap Co., 108 Me. at 128, 79 A. at 378 (no

- possible harm could result to taxpayer over question whether there was a vacancy in the office of tax collector; “the tax is neither increased nor diminished”)
- Lewis and Maxcey*, 109 Me. at 474, 84 A. at 995-96 (election and qualification of assessors)
- Lucy Farnsworth III*, 111 Me. at 317-18, 89 A. at 66 (error in naming person to be assessed)
- Huse*, 112 Me. at 452-53, 92 A. at 521 (village corporation copying previous assessment of town rather than making an original and independent assessment)
- Whittier*, 122 Me. at 90, 118 A. at 898 (commitment of supplemental list of taxes not covered by original warrant, and signed in name of selectmen rather than assessors)
- U. S. Pegwood & Shank Co.*, 123 Me. at 380-81, 123 A. at 171 (lack of uniformity of names of town officials; sufficiency of return of warrant for town meeting; sufficiency of oaths administered to assessors, tax collector, and town treasurer; qualification of tax collector, and name of party taxed)
- Tozier I*, 135 Me. at 47-48, 188 A. at 772 (precise name of land or lake association when it was known as well by one name as the other)
- Dodge*, 151 Me. at 484-85, 121 A.2d at 354 (signing of supplemental assessment)
- South Portland Associates*, 550 A.2d at 364 (city’s reliance on typographical error regarding tax years at issue is “unworthy of modern, simplified administrative procedure”)

Lesser standards of due process apply to tax collections than to laws of general application

Norwood, 138 Me. at 197, 24 A.2d at 237

Flexibility is required in administrative proceedings

South Portland Associates, 550 A.2d at 364
Kokernak, 612 A.2d at 874
Wesson, 667 A.2d at 599 n.6

Comments by board of assessment review are not evidence of wrong legal standard

McCullough, 687 A.2d at 630-31

But courts may examine them to shed light on incomplete or ambiguous findings

Ram's Head Partners, 2003 ME 131, ¶ 14 n.1, 834 A.2d at 920 n.1

Administrative proceedings are (generally) not governed by the Maine Rules of Civil Procedure

South Portland Associates, 550 A.2d at 364-65

Application of now-M.R. Civ.P. 6(a)

Cressey I, 75 Me. at 394-95 (when act to be done by law falls on a Sunday, the act must be done by the next day)
Fenlason, 109 Me. at 327-28, 84 A. at 409-10 (time period specifying when legal action can be taken begins on day after precipitating event)

Administrative proceedings are (generally) not controlled by the Maine Rules of Evidence

Credit Counseling Centers, 2003 ME 2, ¶ 11, 814 A.2d at 462

Decision of the State Board of Assessment Review or BPTR is final agency action under APA, 5 M.R.S. § 11001

Rice, 433 A.2d at 389, 391 (State Board of Assessment Review)
Glenridge Development Co., 662 A.2d at 931 n.6 (BPTR)

Decisions of municipal and state administrative agencies are accorded finality of judicial decisions

Maine Central R.R. Co., 588 A.2d at 292
Hebron Academy, 2013 ME 15, ¶ 28, 60 A.3d at 783

Tax abatement appeals are judicial proceedings

Wheeler, 88 Me. at 182, 33 A. at 986
S. D. Warren Co., 138 Me. at 286, 25 A.2d at 648

To permit tax proceedings to be extended without just cause is against public interest, for municipalities depend upon prompt action by tax officials and prompt payment of taxes for their maintenance, and this is hampered by long, unjustified delays

Smyth, 31 Me. at 286-87
S. D. Warren Co., 138 Me. at 286-87, 25 A.2d at 649

Effect of wrong characterization or designation of person to be assessed

Farnsworth Co. II, 65 Me. at 22-23 (taxes may be collected from a corporation whose name is misstated in the assessment and tax list only through mistake of the assessors)
Spinney, 69 Me. at 31-32 (real estate cannot be taxed to heirs when it has been given to devisees)
Woodman, 76 Me. at 550-51 (taxes could not be assessed against an estate when there was an administratrix)
Reed, 78 Me. at 282, 4 A. at 691 (calling executors administrators of no consequence)
Thorndike, 82 Me. at 47 (difference between “D. Knowlton & Co.” and “D. Knowlton Company” too slight to invalidate collection of taxes)
Lucy Farnsworth III, 111 Me. at 317-18, 89 A. at 66 (calling an administratrix an executrix of no consequence)
U. S. Pegwood & Shank Co., 123 Me. at 381, 123 A. at 172 (assessment against “United States Pegwood . . .” rather than “U. S. Pegwood . . .” of no consequence)
Tozier I, 135 Me. at 47-48, 188 A. at 772 (difference between

“Unity Land & Lake Improvement Association” and
 “United Lake Land and Improvement Association” of no
 consequence)

Who may bring suit in the name of a municipality, see now 36 M.R.S. §
 1032

- Goodwin*, 67 Me. at 262 (suit to recover taxes may be brought in name of inhabitants of town)
- Boyd*, 86 Me. at 318-19, 29 A. at 1063 (town officers must exercise discretion in each case, and cannot simply give blanket authorization to tax collector)
- Emery*, 86 Me. at 365, 29 A. at 1096 (selectmen may direct tax collector in writing to bring action of debt)
- Small*, 89 Me. at 158, 36 A. at 108 (written direction to bring suit need not include time and place of direction)
- Milo Water Co. I*, 129 Me. at 465, 152 A. at 616-17 (tax collector had no right to bring suit to recover taxes for town without written directive from selectmen)
- Cleary*, 132 Me. at 118-19, 167 A. at 694-95 (mayor and treasurer, not order of board of alderman and common council with mayor’s approval)
- Jonah*, 134 Me. at 430, 187 A. at 472 (mayor and treasurer, not city manager whose role is only administrative)
- PPL Maine*, 2006 ME 88, ¶ 6, 901 A.2d at 818 (municipality may bring suit for collection of taxes)

Abatement appeals should not be captioned as against a municipal board of assessment review because such a board has no enforcement authority (although this rule has not been followed religiously by the Law Court)

Freeport Minerals Co., 437 A.2d at 642 n.1

Abatement proceedings against the tax collector and assessor are really suits against the municipality

Camps Newfound/Owatonna III, 1998 ME 20, ¶ 15, 705 A.2d at 1114

Unnecessary to caption cases as “Inhabitants of the Town of . . . ,” etc. (although this rule has not been followed religiously by the Law Court)

Town of Washburn, 490 A.2d at 1185

Tax warrants need not be captioned “In the name of the State of Maine,” etc.

Mussey, 3 Me. at 302

Scope of judicial review

Wheeler, 88 Me. at 182, 33 A. at 986 (courts have no right to review only the exercise of judgment of county commissioners in valuing property)

Penobscot Chemical Fibre Co. I, 99 Me. at 268, 59 A. at 86 (courts are not boards of equalization)

Alfred J. Sweet, 134 Me. at 33, 180 A. at 805 (courts do not sit to review or correct mere errors)

Gaston, 150 Me. at 294, 110 A.2d at 594 (same)

Kittery Electric Light Co. I, 219 A.2d at 739 (same)

Judicial review of administrative decision is limited: complete re law, but only as to reasonableness of conclusions

Frank, 329 A.2d at 170

Judicial deference to administrative agency’s interpretation of statute or procedure

Roberta, 449 A.2d at 1140

Town of Thomaston, 490 A.2d at 1182

South Portland Associates, 550 A.2d at 365

Delogu I, 1998 ME 246, ¶ 21, 720 A.2d at 1157

Commissioners/boards of assessment review are to give no deference to tax assessors, but are to review independently the assessment

South Portland Associates, 550 A.2d at 366
Dodge, 577 A.2d at 347
Kokernak, 612 A.2d at 873
Quoddy Realty Corp., 1998 ME 14, ¶¶ 4, 7, 704 A.2d at 408,
 409
Chase, 1998 ME 260, ¶ 13, 721 A.2d at 640
Harwood, 2000 ME 213, ¶ 8, 763 A.2d at 118
Yusem, 2001 ME 61, ¶ 8, 769 A.2d at 870

Courts likewise review commissioners/boards of assessment review and State Board of Property Tax Review directly

South Portland Associates, 550 A.2d at 366
Lipski, 602 A.2d at 1172
Camps Newfound/Owatonna I, 604 A.2d at 909
Kokernak, 612 A.2d at 873
Central Maine Power Co., 649 A.2d at 322
Waterville Homes, 655 A.2d at 366
Glenridge Development Co., 662 A.2d at 931
Muirgen Properties, 663 A.2d at 58
Marcotte Congregate Housing, 673 A.2d at 211
Weekley, 676 A.2d at 933
Wesson, 677 A.2d at 598
Finance Authority of Maine, 1997 ME 95, ¶ 4, 694 A.2d at 914
Interstate Food Processing, 1997 ME 193, ¶ 3, 698 A.2d at 1075
Nugent, 1998 ME. 92, ¶ 7, 710 A.2d at 247
Salvation Army, 1998 ME 98, ¶ 5, 710 A.2d at 915
Madison Water Dist., 1998 ME 154, ¶ 4, 713 A.2d at 329
Chase, 1998 ME 260, ¶ 14, 721 A.2d at 640
Goldstein, 1998 ME 261, ¶ 5, 721 A.2d at 181
Pepperman, 1999 ME 157, ¶ 3, 739 A.2d at 852
Harwood, 2000 ME 213, ¶ 6, 763 A.2d at 117
Christian Fellowship & Renewal Center I, 2001 ME 16, ¶ 4,
 769 A.2d at 836
Yusem, 2001 ME 61, ¶ 7, 769 A.2d at 869
Credit Counseling Centers, 2003 ME 2, ¶ 10, 814 A.2d at
 461-62
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 9,
 818 A.2d at 1024 (substantial evidence review of
 Board's findings are equated with clearly erroneous
 review of court findings)
UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 7, 921 A.2d at 149

Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 7, 957 A.2d at 979
Humboldt Field Research Institute, 2011 ME 130, ¶ 3, 36 A.3d at 874
Terfloth, 2014 ME 57, ¶ 10, 90 A.3d at 1134
Francis Small Heritage Trust, 2014 ME 102, ¶ 11, 98 A.3d at 1017
Penkul, 2016 ME 16, ¶ 14, 136 A.3d at 92
Petrin, 2016 ME 136, ¶ 13, 147 A.3d at 849
Angell Family Trust & Bolton, 2016 ME 152, ¶ 11, 149 A.3d at 276
Roque Island Gardner, 2017 ME 152, ¶ 11, 167 A.3d at 567
Emera Maine, 2017 ME 225, ¶ 14, 174 A.3d at 324 (review of administrative agency for substantial evidence equates with clear error review of court fact-finding)

All statutory requirements for perfecting an appeal are jurisdictional and require strict compliance

Rice, 433 A.2d at 391

Taxpayer must appeal in a timely manner to avoid finality of administrative decision

Maine Central R.R. Co., 588 A.2d at 292

Where appeal period of one case was tolled, but not that of other cases tried with it but not formally consolidated, appeals of them must be dismissed when usual appeal period ended before appeals were taken because timely filing of appeals are mandatory and jurisdictional

Kittery Electric Light Co. II, 219 A.2d at 746-47

Where the decision of local board of assessment review has not determined the amount of abatement, an appeal of that decision is interlocutory and must be dismissed, as the determination to be made is neither ministerial nor collateral

Peaker I, 2007 ME 105, ¶ 13, 927 A.2d at 1172

Appeal taken to Law Court directly from decision of local board of assessment review, rather than to Superior Court, must be dismissed because no final judgment exists

Peaker II, 2008 ME 98, ¶¶ 7, 8, 950 A.2d at 765

Supplementing record on appeal disapproved

Wesson, 667 A.2d at 599 n.7

Freedom of Access Act, 1 M.R.S. §§ 401-410

Bangor Publishing Co., 682 A.2d at 229-30

Chase, 1998 ME 260, ¶ 6-10, 721 A.2d at 638-40

Yusem, 2001 ME 61, ¶¶ 16-18, 769 A.2d at 872

Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 6 n.4, 957 A.2d at 978 n.4

Adequacy of notice of appeal under the Administrative Procedure Act

Town of Thomaston, 490 A.2d at 1181-82

State does not admit liability by waiving immunity from suit

Keyes, 121 Me. at 313, 117 A. at 171

“Aggrieved party”/Standing

In re Maine Central R.R. Co., 134 Me. at 220, 183 A. at 845

Mandarelli, 320 A.2d at 25

Morissette, 350 A.2d at 333-34 (individuals cannot seek abatement of tax levied against corporation)

Seaborne, 464 A.2d at 222

Town of Washburn, 490 A.2d at 1185-86 (under APA)

Passamaquoddy Water Dist., 1998 ME 94, ¶¶ 8-9, 710 A.2d at 900

Mason, 1998 ME 201, ¶¶ 4-6, 715 A.2d at 180-81
Delogu II, 2004 ME 18, ¶ 1 n.1, 843 A.2d at 34 n.1 (renters who do not pay taxes have no standing)
Petrin, 2016 ME 136, ¶¶ 19-21, 147 A.3d at 850-51 (taxpayer seeking remedial relief must show particularized injury; but not if one requests preventative relief (such as an injunction))
Angell Family Trust & Bolton, 2016 ME 152, ¶ 10, 149 A.3d at 275 (Court notes taxpayers' grounds to claim standing, which the Court proceeds to discuss); *id.* at ¶17, 149 A.3d at 277 (explaining why taxpayers had standing)

A taxpayer can seek a declaratory judgment to determine whether tax assessment is invalid or void, or can proceed administratively by seeking abatement to determine whether property is improperly assessed, discriminatorily excessive, or exempt from taxation, and can join both claims

Holbrook Island Sanctuary, 161 Me. at 477, 214 A.2d at 661 (exemption)
Berry, 322 A.2d at 324, 325-26 (illegal assessment)
Dillon, 322 A.2d at 333-34 (illegal assessment)
Lambert, 423 A.2d at 530 (exemption)
Alpha Rho Zeta, 477 A.2d at 1141 (exemption)
Christian Schools, 489 A.2d at 514 (exemption)
Maine AFL-CIO Housing Development, 523 A.2d at 583 (exemption)
Dodge, 577 A.2d at 347 & n.5 (poverty abatement)
Maine Central R.R. Co., 588 A.2d at 293 (exemption)
Episcopal Camp Foundation, 666 A.2d at 108 (exemption)
Camps Newfound/Owatonna III, 1998 ME 20, ¶ 4, 705 A.2d at 1112 (exemption)
S. D. Warren Co., 1998 ME 66, ¶¶ 7-8, 708 A.2d at 1021 (abatement; void tax)
Passamaquoddy Water Dist., 1998 ME 94, ¶ 3, 710 A.2d at 899 (exemption)
Handyman Equipment Rental Co., 1999 ME 20, ¶ 16, 724 A.2d at 608-09 (exemption)
Capodilupo, 1999 ME 96, ¶ 4, 730 A.2d at 1258 (revaluation)
Portland Water Dist., 1999 ME 161, ¶¶ 1, 5, 740 A.2d at 565, 566 (exemption)

Cushing Nature & Preservation Center, 2001 ME 149, ¶¶ 1, 19, 785 A.2d at 343, 347 (exemption)
Credit Counseling Centers, 2003 ME 2, ¶¶ 8 & n.2, 14-17, 814 A.2d at 461 & n.2, 462-63 (exemption)
Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 6 n.5, 957 A.2d at 979 n.5 (court properly rejected declaratory judgment in discrimination abatement case)
Hebron Academy, 2013 ME ¶ 15, ¶¶ 1, 6, 60 A.3d at 777 (exemption)

Declaratory judgment action can be used even if taxpayer has not fully complied with providing “true and perfect lists” of property under 36 M.R.S. § 706

Handyman Equipment Rental Co., 1999 ME 20, ¶ 16, 724 A.2d at 608-09

Declaratory judgment action cannot be used to avoid untimely appeal

Maine Central R.R. Co., 588 A.2d at 292

Jurisdiction: cognizance of class of cases to which the one being adjudged belongs; proper parties; point decided must be in substance and effect within the issue

Dillon, 322 A.2d at 335

Justicability

Berry, 322 A.2d at 325-26

Judicial notice

Mussey, 3 Me. at 302 (statute directs assessors to issue tax warrants to collectors)
Bayville Village Corp., 110 Me. at 51, 85 A. at 302-03 (contribution of summer resorts and game preserves are a matter of common knowledge and statistics)

Dead River Co., 149 Me. at 359, 103 A.2d at 129 (meaning of “pulpwood”)
Mandarelli, 320 A.2d at 26 (pleadings)
Dillon, 322 A.2d at 335 (jurisdictional issues)

Official notice by administrative board, 5 M.R.S. § 9058

Adams, 1999 ME 49, ¶ 9 n.1, 727 A.2d at 349 n.1

Class actions to challenge legality of a tax assessed on all taxpayers

Carlton, 77 Me. at 411-15, 1 A. at 195-97 (*semble*)

Taxpayers may join together to present abatement requests, 36 M.R.S. § 849, M.R. Civ.P. 20

Capodilupo, 1999 ME 96, ¶ 4, 730 A.2d at 1259
Town of Bristol Taxpayers’ Ass’n, 2008 ME 159, ¶ 5 n.3,
 957 A.2d at 978 n.3

Estoppel is a doctrine to be used sparingly

Passamaquoddy Water Dist., 1998 ME 94, ¶ 10 n.3, 710 A.2d at 900 n.3

There can be no estoppel asserted against the exercise by the state of its taxing power

Milo Water Co. II, 131 Me. at 379, 163 A. at 166
Dolloff, 148 Me. at 184, 186-88, 91 A.2d at 323-24, 325
Magno, 486 A.2d at 142
Flower, 644 A.2d at 1031
Ring, 1999 ME 48, ¶ 13, 727 A.2d at 906
Fitzgerald, 1999 ME 50, 726 A.2d 1253 (*passim*)

Waiver distinguished from estoppel

Dolloff, 148 Me. at 184, 91 A.2d at 323-24

Intervention

Bangor Publishing Co., 682 A.2d at 231

Mandamus

Smyth, 31 Me. at 280, 287

Knight, 93 Me. at 500-01, 45 A. at 500-01

Edwards Mfg. Co., 102 Me. at 142, 66 A. at 310-11

Young, 161 Me. 64, 207 A.2d 392 (*passim*)

Mootness

Berry, 322 A.2d at 327-28 (through repeal of statute)

Farrelly, 407 A.2d at 304 n.1 (agreement between parties to change name of defendant)

Res judicata (claim preclusion)/collateral estoppel (issue preclusion)

Maine Water Co., 90 Me. at 182, 38 A. at 102

Sevigny, 344 A.2d at 38-39

Camps Newfound/Owatonna III, 1998 ME 20, ¶¶ 8-18, 705 A.2d at 1112-15

Hebron Academy, 2013 ME 15, ¶¶ 28-30, 60 A.3d at 783

Effect of stipulations is to bind parties in another proceeding concerning the same case

Sevigny, 344 A.2d at 39

When parties enter into stipulations on appeal, they are to be approved first by county commissioners or board of assessment review that had the initial fact-finding role

Christian Fellowship & Renewal Center II, 2006 ME 44,

¶¶ 9 n.2, 40-41, 896 A.2d at 290 n.2, 298

Evidentiary presumptions

Eastabrook, 568 A.2d at 1100 (fact that town cannot find 30-year old lien certificate does not defeat the presumption that it was filed)

Vagueness

Falcone and Jannetti, 2006 ME 90, ¶ 6, 902 A.2d at 143
(domicile for tax purposes)

One who questions the constitutionality of a law or of administrative acts must show that he was injured by such

Livermore Falls Trust Co., 136 Me. at 107, 3 A.2d at 431
Norwood, 138 Me. at 194, 24 A.2d at 236
Mandarelli, 320 A.2d at 26
Falcone and Jannetti, 2006 ME 90, ¶ 5, 902 A.2d at 142

The Law Court has no authority to render advisory opinions

Dillon, 322 A.2d at 335

Statutory canons and rules of interpretation are helpful, necessary, time-tested, and revered, but are to be judiciously consulted and applied

Public Service Co. of New Hampshire, 158 Me. at 290, 183 A.2d at 208

Look to legislative purpose to determine severability, 1 M.R.S. § 71(8)

Opinion of the Justices, 2004 ME ¶¶ 25, 26, 850 A.2d at 1152

Specific statutory provisions take precedence over general provisions

Camps Newfound/Owatonna III, 1998 ME 20, ¶ 19, 705 A.2d at 1115
Francis Small Heritage Trust, 2014 ME 102, ¶ 27, 98 A.3d at 1023 (where statutes are in conflict)

Courts are not concerned with the wisdom of statutes, but only whether they comport with the Constitution

Crabtree, 122 Me. at 20, 118 A. at 791

Whether statutes are mandatory or directory

Mussey, 3 Me. at 296-97
Race, 68 Me. at 354
Lewis and Maxcey, 109 Me. at 476, 84 A. at 996
Hann, 305 A.2d at 549-50

Tax statutes are to be construed strictly and not extended by implication

Millett, 95 Me. at 415, 49 A. at 873 (and conversely, statutes that relieve citizens of tax forfeiture are to be construed liberally)
Livermore Falls Trust & Banking Co., 103 Me. at 424, 69 A. at 309
Hinds II, 141 Me. at 72, 39 A.2d at 7

Ambiguous tax statutes, imposing a burden on citizens, are to be construed in a light most favorable to the citizen

Millett, 95 Me. at 415, 49 A. at 873
McCarty, 158 Me. at 392-93, 185 A.2d at 129
Blaney, 455 A.2d at 1386

When construing a statute, look first to the plain meaning of the statutory language, seeking to give effect to legislative intent; and if the statute is clear on its face, do not look beyond the words themselves

Tri-State Rubbish, Inc., 671 A.2d at 956
Intertstate Food Processing Corp., 1997 ME 193, ¶ 4, 698 A.2d
 at 1075
Ellen M. Leach Memorial Home, 1998 ME 118, ¶ 5, 711 A.2d
 at 151

If a statute is ambiguous, look to its legislative history to discern legislative intention

Hebron Academy, 2013 ME 15, ¶¶ 9, 13, 60 A.3d at 778, 779

Statutes are to be interpreted to give effect to legislative intent and real purpose, not to nullify such

Hanscome, 108 Me. at 133, 79 A. at 380 (even if seemingly
 in conflict with the words of the statute)
Roberta, 449 A.2d at 1140
Eagle Rental, 632 A.2d at 131

To determine legislative intent of a specific provision of law, court should consider entire legislation of which word or section at issue is a part

Hanscome, 108 Me. at 133, 79 A. at 380
Freeport Minerals Co., 437 A.2d at 644
Town of East Millinocket, 486 A.2d at 741
Town of Madison, 544 A.2d at 319

A statutory tax scheme is to be considered as a whole in order to reach a harmonious result

Interstate Food Processing, 1997 ME 193, ¶ 4, 698 A.2d at 1076

Words and phrases in a statute are to be construed according to their common meaning

Pejepscot Paper Co., 134 Me. at 244, 184 A. at 767

Words are to be given meaning and are not to be treated as meaningless and superfluous or as surplusage

Handyman Equipment Rental Co., 1999 ME 20, ¶ 9, 724 A.2d at 607-08

Statutes are not always to be interpreted literally, but with intent of the Legislature in mind

Hanscome, 108 Me. at 133, 79 A. at 380

Court is to look to the purpose of a statute and avoid a construction that leads to a result clearly not within the Legislature's contemplation

Wright, 139 Me. at 285, 29 A.2d at 748
Greaves II, 143 Me. at 212, 59 A.2d at 219
Public Service Co. of New Hampshire, 158 Me. 289, 291, 183 A.2d at 207, 208 (statute that provided for appeal "not less than 30 days after" deemed denial must be read as "within 30 days after")

Courts are to avoid absurd results even if that means disregarding the strict letter of the law

Wright, 139 Me. at 285, 29 A.2d at 748
Greaves II, 143 Me. at 212, 59 A.2d at 219
Public Service Co. of New Hampshire, 158 Me. at 291, 183 A.2d at 208
Howard D. Johnson Co., 351 A.2d at 532-33

Strict construction of statutes will not be followed so closely as to make legislation unreasonable (where statute is a trifle indistinct but its meaning ascertainable)

Inhabitants of Whiting, 121 Me. at 125-26, 126, 115 A. at 899
Madison Water Dist., 1998 ME 154, ¶ 7, 713 A.2d at 330

A thing within the letter of statute is not within the statute if not within the intent of the statute

Hanscome, 108 Me. at 133, 79 A. at 380

Legislation must be considered in light of changed circumstances; times change; the wants and needs of people change

McCann, 107 Me. at 400, 78 A. at 467

Laughlin, 111 Me. at 491, 90 A. at 320

Madison Water Dist., 1998 ME 154, ¶¶ 7-8, 713 A.2d at 330

The meaning of a word in a statute depends on how the Legislature employed it

Dead River Co., 149 Me. at 358, 103 A.2d at 129

Courts may resort to dictionary definitions in construing statutes

McCann, 107 Me. at 399, 78 A. at 467

Definitions—

“Domicile” means residence and the intent to remain

Falcone and Jannetti, 2006 ME 90, ¶ 9, 902 A.2d at 143

“Doom” means “to assess” or “the assessment”

Race, 68 Me. at 354

Bridge, 90 Me. at 491, 492, 38 A. at 546

Sweetsir, 98 Me. at 151, 56 A. at 586

“Doom” day (April 1st)—ownership on that date fixes tax liability, see 36 M.R.S. §§ 502, 708

Donnell, 63 Me. at 16

Woodman, 68 Me. 33

Sweetsir, 98 Me. at 154, 56 A. at 587

Edgerly, 377 A.2d at 109
Freeport Minerals Co., 437 A.2d at 643
Connecticut Bank & Trust Co., 477 A.2d at 272
See Town of Thomaston, 490 A.2d at 1181
Finance Authority of Maine, 1997 ME 95, ¶ 5, 694 A.2d at 914

“Each” means every one of any number separately considered, and
 “all” means every one of the whole number

Maine Central R.R. Co., 66 Me. at 510

“Employed in trade” refers to things prepared for market

Maine Crushed Rock & Gravel Co., 127 Me. at 55, 141 A. at 74

“Give” means to deliver, transfer, put into one’s possession, make
 over to another

Williams, 35 Me. at 553

“Growth” of wild land refers to the enlargement and increase of trees
 valuable for timber and wood

Pejepscot Paper Co., 134 Me. at 244, 184 A. at 767

“Land” or “lands” means all real estate and all tenements and
 hereditaments connected therewith

Pejepscot Paper Co., 134 Me. at 242, 184 A. at 766

“Landing” or “landing place” means a place on navigable water for
 taking on passengers or a place for depositing and storing logs for
 transportation and shipment by water or rail

McCann, 107 Me. at 399, 78 A. at 467

Maine Crushed Rock & Gravel Co., 127 Me. at 55, 141 A. at
 74-75

To “manufacture” is to apply labor to make a new and different
 article with a distinctive name, character, and use; to make, create, or
 produce by hand or machinery

Maine Crushed Rock & Gravel Co., 127 Me. at 56, 141 A. at 75
(does not include quarrying of rock)

Buckley, 161 Me. at 332-33, 211 A.2d at 890-91 (mixing of aggregate with asphalt under controlled heat procedures to produce hot top is manufacturing)

“Manufactured lumber” includes all logs that have passed through a mill to be converted into boards, even if not fully finished

Desjardins, 124 Me. at 117, 126 A. at 487

“Mill” includes both the machine used for grinding and the building housing the machine

Willis, 105 Me. at 56, 72 A. at 734

“Nonresidential property” is defined by statute, 36 M.R.S. §§ 843(1-A), 844(2), as that which “is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use”

Ellen M. Leach Memorial Home, 1998 ME 118, ¶¶ 4 & n.1, 6, 711 A.2d at 151 & n.1

“Nonresident land” means “land of a nonresident”

Portland Terminal Co., 129 Me. at 268, 151 A. at 462

“Occupy” means having control of in whole or part; having a special right to use

Hanscome, 108 Me. at 133, 79 A. at 380

“Overrated”: overvaluation vis à vis just value, not other property

Penobscot Chemical Fibre Co. I, 99 Me. at 268, 59 A. at 85
Swazey, 132 Me. at 37, 165 A. at 164

“Persons” and “inhabitants”

Inhabitants of Baldwin, 37 Me. at 371-72 (“persons” include corporations)

Morrill, 95 Me. at 169, 49 A. at 667 (“person” is a living being;

“deceased person” is one who is dead, see 36 M.R.S. § 559)

Hustus, 2004 ME 41, ¶ 8, 845 A.2d at 565 (quoting 36 M.R.S. § 111(3); “person” includes people)

“Public” is the entire community—persons who pay taxes and those who do not

Knight, 93 Me. at 500, 45 A. at 501

“Pulp wood” is wood logs peeled or unpeeled, usually cut to four foot lengths suitable and intended for manufacture into wood pulp commonly used in making paper

Dead River Co., 149 Me. at 359, 103 A.2d at 129

“Real estate” includes land and all tenements and hereditaments connected therewith, and all rights thereto, and interests therein see 36 M.R.S. § 551

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 200

“Rebate” is a return of part of a payment, serving as a discount or reduction

Delogu II, 2004 ME 18, ¶ 41, 843 A.2d at 43 (concurring op.)

“Rossing” is the mechanical process for removing bark

Machias Lumber Co., 122 Me. at 305, 119 A. at 806

“Similar” has two meanings: “exactly corresponding” or “precisely alike,” and “nearly corresponding” or “resembling in many respects”

Stowell, 122 Me. at 372, 119 A. at 868

The terms “timber,” “logs,” “pulpwood,” and “railroad ties” have no fixed definition, though Court defines “pulpwood” and determines that “railroad ties” are manufactured where prepared for final use

Dear River Co, 149 Me. at 358, 359-60, 103 A.2d at 128, 129

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“Trade” embraces any sort of dealing by way of sale or exchange; commerce; traffic; it is applicable to a manufacturer of articles of trade as well as to a wholesale or retail dealer

Gower, 93 Me. at 145, 21 A. at 847
Berlin Mills Co., 93 Me. at 338, 339, 45 A. at 40
Emple Knitting Mills, 155 Me. at 273, 153 A.2d at 120

A “widow” is a woman whose husband has died and who has not remarried

Holway, 130 Me. at 416, 157 A. at 236

Maine’s valuable and unique forest resource

Lewis and Maxcey, 109 Me. at 476-77, 84 A. at 997
Opinion of the Justices, 335 A.2d at 912 n.1
Eastler, 499 A.2d at 922 (Legislature’s concern with funding forest fire protection services)

Shorefront property vs. nonshorefront property

Chase, 1998 ME 260, ¶ 19, 721 A.2d at 642
See Yusem, 2001 ME 61, ¶ 3, 769 A.2d at 868-69

“Water-influenced” property and “waterfront” property, 4 C.M.R. 18 125 201-1 § 1(AA)

Petrin, 2016 ME 136, ¶ 3 n.2, 147 A.3d at 847 n.2

Maine’s advantageous geographical position and natural features (supplemented by wharves and port facilities promise growth in maritime commerce, to the advantage of the entire state)

Portland Pier Site Dist., 120 Me. at 22, 112 A. at 839-40

Maine’s beautiful coastline property

Bayville Village Corp., 110 Me. at 51, 85 A. at 302 (“The natural advantages of the coast of Maine offer flattering inducements to non-residents, seeking recreation and rest, to establish permanent summer homes within the State”)

Gaston, 150 Me. at 293, 110 A.2d at 594

Cf. Harwood, 2000 ME 213, ¶ 2, 763 A.2d at 116

Conservation easements

Wesson, 667 A.2d at 596

Reliance of Aroostook County on potatoes

Sears, Roebuck & Co., 150 Me. at 190, 107 A.2d at 480

Colby, Bates, and Bowdoin Colleges are doing excellent educational work, but are no part of the state educational system

Sigma Alpha Epsilon Society, 105 Me. at 222, 74 A. at 23

Reliance on Property Tax Bulletin

Roberta, 449 A.2d at 1140-41 (#8: pleasure boats)

Reliance on Maine Assessment Manual, 36 M.R.S. § 331

Shawmut Inn, 428 A.2d at 390 n.4

Allen, 438 A.2d at 477 (1947 edition of *Guide for Use of Assessors* set forth recommended guidelines for separate assessment of parcels)

Maine Revenue Services = Bureau of Revenue Services

Petrin, 2016 ME 136, ¶ 39 n.10, 147 A.3d at 855 n.10

III. Assessment/Collection of Taxes

The entire process of collecting taxes, from valuing and assessing property to providing information regarding amounts due and accepting of funds for payment, is part of a unitary process intended to assure that government carries out paramount function of taxation by which it is enabled to exist and function

Fitzgerald, 1999 ME 50, ¶ 11, 726 A.2d at 1255

Powers of the State Tax Assessor, 36 M.R.S. §§ 201, 301 *et seq.*, 381 *et seq.*,

Pejepscot Paper Co., 134 Me. at 242-43, 184 A. at 766 (board of state assessors has authority to tax unorganized areas)

Young, 161 Me. at 72-73, 73-74, 207 A.2d at 396, 397

The State Tax Assessor has no authority over local assessors, except in his discretion to order assessors to place on the tax rolls property previously exempt

Young, 161 Me. at 72, 74, 207 A.2d at 396, 397
Dillon, 322 A.2d at 334

Role of county board of assessment review if one has been formed, or county commissioners

Penkul, 2016 ME 16, ¶¶ 13, 15, 136 A.3d at 91-92

Although assessors (and tax collectors) are chosen and employed by the municipalities they serve, they are public officers of the sovereign, not agents of municipalities

Thorndike, 82 Me. at 44, 19 A. at 96 (assessors and tax collectors)

Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682

Butterfield, 98 Me. at 157, 56 A. at 582

Penobscot Chemical Fibre Co. I, 99 Me. at 270, 59 A. at 86

Waldo Lumber Co., 128 Me. at 4, 145 A. at 242
McKay Radio & Telegraph Co. I, 131 Me. at 335, 162 A. at 784
Tozier I, 136 Me. 146, 188 A. at 771 (tax collector)
Stockman, 147 Me. at 384, 87 A.2d at 684
Dolloff, 148 Me. at 182-83, 91 A.2d at 323
Sears, Roebuck & Co., 150 Me. at 185, 107 A.2d at 477
Young, 161 Me. at 71, 207 A.2d at 396
Dillon, 322 A.2d at 335
Capitol Bank & Trust Co., 343 A.2d at 218-19
Sevigny, 344 A.2d at 41 (and holding office *de jure* entitles
 one to his salary)
Eldridge, 392 A.2d at 40
Flower, 644 A.2d at 1032

Assessors are public officers sworn to the faithful discharge of their duties, and individuals have the right to expect them to so act, such that an assessment is a public right

Knight, 93 Me. at 501, 45 A. at 501

Assessors are not subject to the direction and control of a municipality

Thorndike, 82 Me. at 44, 19 A. at 96
Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682
U. S. Pegwood & Shank Co., 123 Me. at 382, 123 A. at 172
McKay Radio & Telegraph Co. I, 131 Me. at 336, 162 A. at 784
Milo Water Co. II, 131 Me. at 377, 163 A. at 166
Young, 161 Me. at 71, 207 A.2d at 396
Dillon, 322 A.2d at 334-35

They are accountable to no one—only to their personal faithfulness and integrity—so long as they perform their duties in accordance with constitutional mandate and statutory direction

Trim, 41 Me. at 505
Herriman, 43 Me. at 499
Rowe, 90 Me. at 244, 38 A. at 95
Maine Consolidated Power Co., 219 A.2d at 751

As public officers, assessors are responsible for only their own acts, and not prior acts of the town

Clough, 8 Me. at 342

Their terms and duties are fixed by law, which cannot be altered by a municipality; see 36 M.R.S. § 313 for chief assessors

Thorndike, 82 Me. at 44, 19 A. at 96

Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682

Removal of an assessor, 36 M.R.S. § 314 (for chief assessors), must meet due process requirements

Sevigny, 344 A.2d at 40 (need for impartial hearing officer)

A tax warrant originally signed by “selectmen” may be corrected to show they acted as “assessors”

Whittier, 122 Me. at 88, 118 A. at 898

Assessors and selectmen may be the same or different individuals

McKay Radio & Telegraph Co. I, 131 Me. at 335, 162 A. at 784

If a town does not select assessors, the selectmen are the assessors, 36 M.R.S. § 703

Trafton, 15 Me. at 261 (“the inhabitants of towns are obliged by law to choose assessors or selectmen, who must be assessors, if others be not chosen”)

Gould, 61 Me. at 546

Goud, 75 Me. at 298-99

See Jordan, 85 Me. at 160, 27 A. at 91

But selectmen must be sworn as assessors, 36 M.R.S. § 703

Goud, 75 Me. at 299 (“No oath, no competency; no competency, there can be no legal assessment”)
Jordan, 85 Me. at 160-61, 27 A. at 92 (selectman who was chosen at town meeting at which no assessors were selected cannot act as an assessor)

Legality of calling or place or notice of city council or selectmen/assessors, village corporation, or school district meeting and effect on legality of taxes

Ford, 8 Me. at 343
Trafton, 15 Me. 258
Hathaway, 48 Me. at 444
Paul I, 84 Me. at 217-19, 24 A. at 818-19
Union Water Power Co. II, 90 Me. at 77-79, 37 A. at 336-37
Huse, 112 Me. at 451-52, 92 A. at 521
Perry II, 149 Me. at 176-77, 99 A.2d at 296

Challenge to legality of selection of assessors and/or tax collector, or to their having been sworn

Morrell, 1 Me. at 250 (failure of tax collector to give bond)
Mussey, 3 Me. at 298-300 (failure of assessor to take oath is nonacceptance of office)
Clough, 8 Me. at 343 (tax collector duly chosen at legal town meeting)
Kellar, 20 Me. at 204 (tax collector, having given bond, could not deny legality of his election)
Payson, 30 Me. at 325-26 (tax collector must be legally qualified to act as such for there to be a valid tax sale)
Blanchard, 32 Me. at 558 (tax collector presumed to have been legally chosen in absence of contrary evidence)
Hathaway, 48 Me. at 443-44 (record of town meeting need not show assessors were chosen by ballot)
Allen, 49 Me. at 351-52 (town officials not shown to be assessors have no authority to assess taxes)
Shaver, 50 Me. at 41 (question whether sureties consented to being on tax collector’s bond, to be accepted by town)
Moan, 50 Me. at 352-53 (even assuming “a medley of irregularities” in selecting tax collector, question is whether they are of such character to exonerate payment of taxes)

- Lord*, 51 Me. at 600-01 (where law required three assessors and one never was sworn after being elected, the other two were not a majority of the three, and their actions were void; failure to take oath is nonacceptance of office)
- Mason*, 55 Me. at 503 (question whether tax collector was duly sworn not resolved)
- Greene*, 58 Me. at 532 (evidence sufficient to show tax collector was duly sworn)
- Gould*, 61 Me. at 547-48 (failure of tax collector to take oath and give bond is nonacceptance of office)
- Carville*, 62 Me. at 461 (there need not have been a vacancy in office of tax collector to name new collector, where present collector had not fulfilled his duties)
- Small*, 77 Me. at 113 (same as *Lord*)
- Reed*, 78 Me. at 279-81, 4 A. at 689-91 (change in length of term of office of does not affect city charter providing that one serves as assessor until successor is elected)
- Palmer*, 79 Me. at 472-73, 10 A. at 451 (moderator of town meeting without authority to swear those elected as assessors)
- Parker*, 83 Me. at 534, 22 A. at 392-93 (village corporation clerk can swear assessors when no statute requires them to be sworn at all)
- Bowler*, 84 Me. at 378-79, 24 A. at 879-80 (after moderator was sworn by town clerk, use of ditto marks do not show assessors were duly sworn)
- Jordan*, 85 Me. at 161, 27 A. at 92 (selectman who was chosen at town meeting at which no assessors were selected cannot act as an assessor)
- Whiting*, 85 Me. at 303-04, 27 A. at 177 (city clerk may testify to administration of oath being given to tax collector)
- Belfast Hotel Co. II*, 89 Me. at 387 (abbreviated term used in municipal record for office of assessor)
- Union Water Power Co. II*, 90 Me. at 79, 37 A. at 337 (irregular method of electing assessor and tax collector of no consequence where assessor may be assumed to have held office from previous election)
- Randlette*, 98 Me. at 91, 56 A. at 200-01 (municipal officers were bound to approve bond if sum and sureties are satisfactory, thus tax collector lawfully claimed office)
- Butterfield*, 98 Me. at 156, 56 A. at 581-82 (same person

- cannot be both assessor and tax collector, and a tax collector elected assessor is at best an assessor *de facto*)
- Bridges*, 98 Me. at 492, 57 A. at 798 (taxpayer cannot challenge assessment, by bill of exceptions, based on claim of defective election of assessors)
- Baker*, 102 Me. at 418, 67 A. at 145-46 (no evidence showing election or qualification of tax collector)
- Blair*, 104 Me. at 445-46, 72 A. at 178 (even if not choosing tax collector by ballot is irregular, he is nonetheless a *de facto* officer to whom taxes must be paid)
- Sherwin-Burrill Soap Co.*, 108 Me. at 125-27, 79 A. at 377-78 (return of town warrant for election of aldermen, who elected assessors and tax collector, could be amended, thus legitimating election of assessors and tax collector and assessment and commitment of tax)
- Lewis and Maxcey*, 109 Me. at 474-75, 84 A. at 996 (record sufficiently showed assessors were duly sworn and qualified)
- Lucy Farnsworth III*, 111 Me. at 316-17, 321-22, 89 A. at 66, 68-69 (legality of assessment not affected by any irregularity in election of tax collector)
- U. S. Pegwood & Shank Co.*, 123 Me. at 380, 123 A. at 171 (town complied with statute requiring election of “three or more assessors” when it elected three)
- Norwood*, 138 Me. at 184-86, 24 A.2d at 231-32 (record sufficient to show town duly elected and qualified assessor)
- Vigue*, 138 Me. at 209-10, 24 A.2d at 242-43 (it is presumed that all actions relating to election of assessors are proper unless challenged)
- Wright*, 139 Me. at 285-86, 29 A.2d at 748 (town clerk was properly sworn, so as to be able to swear assessors)
- Hann*, 305 A.2d at 550 (verbal and informal appointment of tax collector rendered tax lien unenforceable)
- Stevenson*, 2007 ME 55, ¶ 8, 930 A.2d at 1048 (where town charter provided that board of assessment review must have three members and did not provide for alternates, board with only two members had no authority to act); ¶¶ 13-19, 930 A.2d at 1050-51 (concurring opinion would hold that 1-1 board vote on assessment request did not have the effect of affirming assessor’s decision, but board with quorum could act)

Assessors were duly sworn when they took oath to faithfully and impartially perform their duties

Patterson, 42 Me. at 376
Gould, 61 Me. at 547

A board of assessment review is not partial simply because its members are taxpayers of the town in which the abatement request is made

Paul II, 110 Me. at 197-99, 85 A. at 573-74

Whether assessors who are not properly sworn have *de facto* authority

Reed, 78 Me. at 279-81, 4 A. at 689-91 (assessor assumed to have been held over by previous election)
Union Water Power Co. II, 90 Me. at 79, 37 A. at 337 (same)
Butterfield, 98 Me. at 158, 56 A. at 582 (no)

A board of assessors that by law does not exist does not have jurisdiction over abatement dispute, and parties cannot give it jurisdiction

Stevenson, 2007 ME 55, ¶ 10 n.2, 930 A.2d at 1049 n.2

Powers of assessors

Thorndike, 82 Me. at 44-45, 19 A. at 96
Rowe, 90 Me. at 243-44, 38 A. at 95 (assessors' authority to assess and commit taxes need not await State Treasurer's warrant directing local assessments)
Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682
Butterfield, 98 Me. at 157, 56 A. at 582
Paul II, 110 Me. at 200-03, 85 A. at 574-76 (Board of Public Works, acting as assessors, could make assessments for sewer only in proportion to benefit provided, but statute did not expressly grant power of assessment)
Young, 161 Me. at 71-73, 207 A.2d at 396-97
Dillon, 322 A.2d at 334-35

Municipal officers may make a reasonable abatement to correct an illegality, error, or irregularity in assessment, but not to change valuation, between one and three years after commitment; changes in valuation must be sought from assessors via request within 185 days of commitment

Emera Maine, 2017 ME 225, ¶ 16, 174 A.3d at 324

Assessors have the authority to require all persons liable to be taxed to provide “true and perfect lists” of property under oath, now under 36 M.R.S. § 706, or else a taxpayer is not entitled to an abatement if he does not comply

Inhabitants of Winslow, 37 Me. at 562

Patterson, 42 Me. at 377

Lambard, 53 Me. at 507

Inhabitants of Freedom, 66 Me. at 176

Inhabitants of Fairfield, 66 Me. at 387

Inhabitants of Orland I, 76 Me. at 461

Inhabitants of Orland II, 76 Me. at 466-67

Edwards Mfg. Co., 102 Me. at 143, 66 A. at 311

Powell, 108 Me. at 533-34, 537, 81 A. at 1068

Portland Terminal Co., 129 Me. at 266-67, 151 A. at 461

Perry I, 145 Me. at 365-66, 75 A.2d at 853

Dead River Co., 149 Me. at 352, 103 A.2d at 125-26

Maine Lumber Co., 157 Me. at 350, 172 A.2d at 640

Rights of assessors to require a taxpayer, upon inquiry, to provide information under the fourth paragraph of now-36 M.R.S. § 706 as to “the nature, situation and value” of the property

Inhabitants of Freedom, 66 Me. at 176 (assessors have a reasonable time after April 1st to make inquiries)

Inhabitants of Levant, 67 Me. at 436-37 (taxpayer must answer all proper inquiries)

Cf. Inhabitants of Orland I, 76 Me. at 461 (under former law, municipality could not require that a “true and perfect list” include value of the property)

Powell, 108 Me. at 535-37, 81 A. at 1069-70 (inquiry need not be in writing; assessors may require answers to be in writing; statute does not place a time limit on the

inquiry, which although made after April 1st must be understood to have related to that date)

Champion Intl. Corp., 667 A.2d at 1377 (taxpayer cannot be deprived of right to appeal if assessors do not first demand a “true and perfect list” of property under the first paragraph of 36 M.R.S. § 706)

Under previous statutes, the failure of assessors to give notice to inhabitants of a town to bring their lists of taxable property before an assessment was made was not a condition precedent to a valid assessment

Mussey, 3 Me. at 300-01

Race, 68 Me. 351 (*passim*)

See *Perry I*, 145 Me. at 365, 75 A.2d at 852-53

Requirement of notice under present statute

Farrelly, 407 A.2d at 304-05

Nonresidents formerly had no obligation to provide “true and perfect lists” of property

John P. Squire & Co., 106 Me. at 236, 76 A. at 680

Cf. Edwards Mfg. Co., 108 Me. at 143, 66 A. at 311

Portland Terminal Co., 129 Me. at 267, 151 A. at 461

Farrelly, 407 A.2d at 304

But this changed by statutory amendment in 1944

Dead River Co., 149 Me. at 357, 103 A.2d at 128

One not liable to taxation at all is not required to file a 36 M.R.S. § 706 list

Holbrook Island Sanctuary, 161 Me. at 478, 214 A.2d at 662

Depositors Trust Co., 295 A.2d at 30

Howard D. Johnson Co., 351 A.2d at 526-27

Madison Water Dist., 1998 ME 154, ¶ 5, 713 A.2d at 330

Handyman Equipment Rental Co., 1999 ME 20, ¶ 9, 724

A.2d at 608

Inquiries that assessors are authorized to make under 36 M.R.S. § 706 should be concerned only with nonexempt property

Handyman Equipment Rental Co., 1999 ME 20, ¶ 10, 724
A.2d at 608

“Property liable to taxation” in the fourth paragraph of 36 M.R.S. § 706 refers to property that is not exempt; exempt property is not liable to taxation while nonexempt property is liable to taxation

Depositors Trust Co., 295 A.2d at 30
Handyman Equipment Rental Co., 1999 ME 20, ¶ 10, 724
A.2d at 608

One purpose of the law is to assist assessors in making correct and complete assessment

Perry I, 145 Me. at 365-66, 75 A.2d at 852-53

Another purpose is to prevent property liable to be taxed from escaping taxation

Brown, 53 Me. at 521
Dead River Co., 149 Me. at 357, 103 A.2d at 128

The list must be furnished before an assessment is made

Perry I, 145 Me. at 363, 365, 75 A.2d at 851, 852-53
Maine Lumber Co., 157 Me. at 349, 172 A.2d at 639

Once a taxpayer has listed property as his, he cannot claim he is not the owner, at least in the absence of fraud, accident, or mistake

Dead River Co., 149 Me. at 353-56, 103 A.2d at 126-27

Assessors are not bound by the list provided by a taxpayer, but may assess property not included in the list

Gilpatrick, 57 Me. at 278-79

Perry I, 145 Me. at 365, 75 A.2d at 852-53

The assessors' authority to demand that taxpayers provide a "true and perfect list" of their taxable property does not mean it must be delivered personally by a taxpayer

Perry I, 145 Me. at 366-69, 75 A.2d at 853-54 (*overruling Inhabitants of Winslow v. County Comm'rs of Kennebec County*, 37 Me. 561 (1854))

The only permissible reason for not filing a "true and perfect list" is that the taxpayer "was unable" to do so; the statute does not permit a "good cause" or "reasonable excuse" inquiry

Edwards Mfg. Co., 102 Me. at 143-44, 66 A. at 311

(taxpayer's misapprehension that it was not required to file list of no consequence)

Maine Lumber Co., 157 Me. at 350-51, 172 A.2d at 640 (same)

Assessors can assess an overlay of no more than 5%, 36 M.R.S. § 710

Mosher, 11 Me. at 138

Parker, 83 Me. at 533, 22 A. 392

Assessors have the duty to assess for delinquencies as much as to make an original assessment

Patterson, 42 Me. at 380

Assessors can make assessments only within their authority and jurisdiction, and beyond that may be sued for recovery of taxes assessed

Mosher, 11 Me. at 138

Powers, 39 Me. at 187 (town may be liable for illegal assessment)
Patterson, 42 Me. at 379
Herriman, 43 Me. at 499
Hathaway, 48 Me. at 445

Assessors' correction of assessment, as by interlineation, before commitment of taxes is permissible and is not an abatement

Lucy Farnsworth III, 111 Me. at 320, 89 A. at 68
Hayford Block Co., 120 Me. at 518-19, 115 A. at 283

Whether assessors must sign the assessment and commitment, 36 M.R.S. § 709

Colby, 3 Me. 227 (*passim*)(tax warrant is not valid unless signed by assessors)
Foxcroft, 4 Me. at 75-76 (same)
Johnson, 15 Me. at 31 (“the lists should bear upon them the official sanction of a majority of the assessors, evidenced by their signatures”)
Kellar, 20 Me. at 202 (requirement that assessment, preparatory to issuance of tax list and warrant, was not signed “savors somewhat of a technicality, to say the least of it”)
Lancey, 21 Me. at 473 (assessors' signing supplementary tax list and referring to original list satisfied requirements or commitment of taxes)
Lowe, 52 Me. at 589 (signed commitment referring to list of assessments complied with statute to allow tax collector to act)
Pearson II, 64 Me. at 190 (assessors must have signed commitment for municipal treasurer to act against tax collector for failing to have collected taxes)

A lawful tax list requires the signatures of at least a majority of a board of assessors

Cassidy, 134 Me. at 343, 344, 186 A. at 666, 667

Assessors of village corporation chartered within town can adopt previous assessments of town

Huse, 112 Me. at 452, 92 A. at 521

A municipality is not liable for assessors' failure to assess particular property

Emery, 92 Me. at 531, 43 A. at 118
Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682

Although their failure in previous years to tax property that by law should have been taxed does bind a municipality in a subsequent year

Lucy Farnsworth II, 93 Me. at 184, 44 A. at 682

One cannot be both a tax collector and an assessor at the same time

Butterfield, 98 Me. at 156, 56 A. at 581-82
Sherwin-Burrill Soap Co., 108 Me. at 127, 79 A. at 378
 (the duties of tax collector have no connection with valuation of property)

Assessors have nothing to do with the collection of taxes

Inhabitants of Milford, 77 Me. at 332

Tax collector is an indispensable party when taxpayer seeks recovery of money based on the claim that the tax is invalid; assessor does not have possession of collected taxes, and is not a proper party

Berry, 322 A.2d at 327

The Legislature has delegated the collection of taxes to municipalities

Waldo Lumber Co., 128 Me. at 5, 145 A. at 243

Dolloff, 148 Me. at 185, 91 A.2d at 324

Proceedings for tax collection are broadly construed, except when involving forfeitures

Cressy II, 76 Me. at 534

McKay Radio & Telegraph II, 132 Me. at 325, 170 A. at 61

Powers and duties of a tax collector

Gould, 15 Me. at 29 (tax collector, holding in his hands “the sinews of government,” is bound to collect all moneys assessed for given year for which he had sufficient warrant)

Johnson, 15 Me. at 32 (tax collector must pay over moneys collected based on tax list, though without proper tax warrant)

Deane, 17 Me. at 102 (tax collector’s return on warrant was *prima facie* evidence of payment of overage to taxpayer)

Kellar, 20 Me. at 202 (tax collector bound to obey tax warrant, in due form)

Brown, 25 Me. at 362 (tax collector must comply with procedural particularity to enforce tax sale)

Millett, 26 Me. at 81-93 (duties and relationship of tax collector to town described)

Blanchard, 32 Me. at 558 (tax collector exercising power of distraint, see now 36 M.R.S. §§ 991, 992, must immediately pay to taxpayer any overage collected from sale of chattels)

Williamson, 32 Me. at 559-60 (tax collector exercising power of distraint cannot sell more chattels than necessary to cover taxes due)

Clark, 33 Me. at 483 (tax collector bound to proceed under warrant from competent authority)

Phillips, 40 Me. at 161-62 (quoting *Brown*)

White, 41 Me. at 538-39 (tax collector cannot enforce collection on a defective tax warrant, and is not at fault for not collecting pursuant to such warrant)

Wedgewood, 44 Me. at 50 (defects in tax warrant may excuse executing warrant, but tax collector must account for taxes collected without objection)

- Stanley*, 47 Me. at 519 (taxes not collected as required cannot be used, if moneys are collected in subsequent years, to appropriate deficiency in balance in earlier year)
- Brackett*, 49 Me. at 357 (tax collector may not exercise power of distraint beyond terms of warrant)
- Bowker*, 49 Me. at 430 (tax collector may not arrest, see now 36 M.R.S. § 993, for failure to pay taxes, one not subject to taxation)
- Moan*, 50 Me. at 352 (to be liable on his bond for omitting an act, it must be shown that tax collector had legal warrant to enforce collection; bond adequate though “inartfully drawn”)
- Packard*, 50 Me. at 387 (tax collector cannot compel payment of taxes except as provided by statute)
- Parker*, 53 Me. at 254-55 (tax collector could proceed although without proper bond, when there was a valid warrant)
- Mason*, 55 Me. at 503 (tax collector armed with tax bills and warrant signed by assessors is protected against suit)
- Hall*, 57 Me. at 61-62 (tax collector must faithfully obey directions in tax warrant, and is chargeable for all taxes committed to him; and may distraint and sell goods and chattels of delinquent taxpayers, and commit them to jail)
- Carter*, 59 Me. at 298 (tax collector exercising power of distraint must immediately pay to taxpayer any overage collected from sale of chattels)
- Seekins*, 61 Me. at 404 (tax collector exercising power of distraint cannot sell more chattels than necessary to cover taxes due)
- Pearson II*, 64 Me. at 190 (tax collector has authority to act only with legal warrant and perfect list of taxes assessed and committed)
- Goodwin*, 67 Me. at 262 (tax collector is proper person to make demand for taxes; suit to recover taxes may also be brought in name of inhabitants of town)
- Giles*, 68 Me. at 161-62 (tax collector not obligated to execute a facially defective warrant, but taxpayers may waive defect by payment)
- Orr*, 69 Me. at 333-34 (failure of assessors to provide description of real estate excused tax collector, who since absconded, from collecting taxes thereon)
- Snow I*, 71 Me. at 581-82 (tax collector has cause of action,

- for noncollection of taxes, against town treasurer if he illegally issued warrant)
- Snow II*, 73 Me. at 179 (defect in warrant excuses tax collector from collecting, but not from not paying taxes collected thereon)
- Snow III*, 74 Me. at 410-12 (when treasurer legally issues tax warrant, tax collector is liable for noncollection of taxes)
- Thorndike*, 82 Me. at 45 (tax collector, once he has legal warrant, is chargeable with paying whole amount to treasurer)
- Miller*, 88 Me. 454, 34 A. 265 (tax collector need not make absolute demand for payment of taxes due; anything that plainly brings home to taxpayer that collector requires payment is sufficient)
- Maddocks*, 89 Me. at 337, 89 A. at 398 (tax collector is not authorized to determine validity of assessment)
- Belfast Hotel Co. II*, 89 Me. at 387, 36 A. at 623 (tax collector may use the records of assessment to collect taxes)
- Bennett*, 90 Me. at 104-06, 37 A. at 865-66 (denial of due process to require deposit of amount of tax, interest, and charges owed to challenge its forfeiture by tax sale); 90 Me. at 106, 37 A. at 866 (tax collector is mere ministerial officer)
- Fenlason*, 109 Me. at 329-30, 84 A. at 410 (tax collector may not arrest taxpayer for nonpayment of taxes until after 12th day following demand, see now 36 M.R.S. § 993)
- Clark*, 113 Me. 443, 94 A. 881 (*passim*)(demand by tax collector for payment of taxes due must be made in person)
- Milo Water Co. I*, 129 Me. at 465, 152 A. at 616-17 (tax collector had no right to bring suit to recover taxes for town without written directive from selectmen)
- Cleary*, 132 Me. at 118, 167 A. at 694 (tax collector liable for taxes committed to him but not collected)
- Hann*, 305 A.2d at 547 (tax collector's lien invalid unless all conditions precedent to foreclosure have been complied with)

Compensation of tax collector, 36 M.R.S. §§ 756, 759

Bragdon, 84 Me. at 433, 24 A. at 896 (town cannot impose

penalty on tax collected for late payment to town of taxes collected where it would work injustice)
Bennoch, 158 Me. at 399-400, 185 A.2d at 126-27 (village corporation within town must compensate tax collector for supplies as town voted to compensate her)

The giving of a bond by the tax collector, see now 36 M.R.S. § 755, being directory only, is not a condition precedent to his assuming his duties

Parker, 53 Me. at 256
Giles, 68 Me. at 161

Payment of taxes may be shown by receipt of tax collector, 36 M.R.S. § 757

Campbell, 122 Me. at 414, 120 A. at 532

A tax collector is responsible for only his own illegalities, but not those arising from the assessment

Clough, 8 Me. at 342 (tax warrant protects collector from all irregularities prior to commitment)
Caldwell, 40 Me. at 528 (tax collectors warrant is protection against any illegality but his own)
Judkins, 48 Me. 386 (same)
Parker, 53 Me. at 255 (same)
Nowell, 61 Me. at 428, 430-31 (tax warrant protects collector from all irregularities antecedent to commitment, including taxing of nondomiciliary)
Pearson I, 61 Me. at 556 (tax collector is excused from service under a warrant that is repugnant to prescribed form and not in accord with statutory provisions)
Carville, 62 Me. at 461 (lack of notice; improper description of land; admissibility of parol evidence to describe land)

Surety on tax collector's bond can be required to pay, where defalcations are found in collector's office, only that part of audit expense attributable to discovery and analysis of tax collector's shortages

Maine Bonding & Casualty Co., 274 A.2d at 442

The tax committed is the only basis for fixing the amount of taxes due

Pearson II, 64 Me. at 190

The abatement process, with appeal to the proper tribunal, is the method to correct overvaluation, -assessment, -taxation

Holton, 23 Me. at 268

Stickney, 30 Me. at 410-12

Hemingway, 33 Me. at 446

Herriman, 43 Me. at 500

Gilpatrick, 57 Me. at 280-81

Waite, 66 Me. at 226

Rockland Water Co., 82 Me. at 192, 194, 19 A. at 164

Paul I, 84 Me. at 219, 24 A. at 819

Portland Terminal Co., 129 Me. at 267, 151 A. at 461

(abatement is the only remedy if property is overvalued, not owned by the taxpayer, or exempt, or if one is assessed taxes on property laying in another municipality)

Reid, 132 Me. at 416, 171 Me. at 908 (overvaluation may exist in either assessing to a person property he does not own or estimating too highly that which he does own, but overvaluation is not a defense to an action to recover tax on real estate, unless one is not an inhabitant of taxing town)

Perry II, 149 Me. at 174, 99 A.2d at 295

Berry, 332 A.2d at 324 (“Abatement, which is always initially requested from the assessor, is restricted to the issue of over-taxation”)

Overvaluation can arise in assessing property which a person does not own or in too highly estimating its value

Whitmore, 79 Me. at 186, 9 A. at 120

The assessment in fact, not what assessors intended to do or thought they did, determines what was assessed

Sweetsir, 98 Me. At 152, 56 A. at 586
S. D. Warren, 1998 ME 66, ¶ 9, 708 A.2d at 1022

Whether a request for abatement need be in writing; see now 36 M.R.S. § 841(1)

Inhabitants of Levant, 67 Me. at 435-36
Inhabitants of Orland II, 76 Me. at 467

Assessors need not keep a written record of their handling of a request for abatement

Inhabitants of Levant, 67 Me. at 436

No abatement is available or need be sought if a tax imposed was void

Herriman, 43 Me. at 500
Hathaway, 48 Me. at 450
Talbot, 116 Me. at 210, 100 A. at 938
Berry, 322 A.2d at 324
Edgerly, 392 A.2d at 106
S. D. Warren, 1998 ME 66, ¶ 8, 708 A.2d at 1021

Whether a taxpayer can recover taxes assessed ostensibly for an illegal purpose or in a defective manner, 36 M.R.S. § 504

Rogers, 58 Me. at 391, 394 (general claim of illegality insufficient)
Gilman, 59 Me. at 493-94 (illegal purpose)
Hayford, 62 Me. at 65 (errors, mistakes, or omissions of assessors)
Carlton, 77 Me. at 410, 1 A. at 194 (Court suggests overvaluation is an illegality, by irregularity in assessment, for which one as the remedy of abatement)
Blondell, 82 Me at 156, 19 A. at 94-95 (errors, mistakes, or omissions of assessors do not void assessment)
Rowe, 90 Me. at 245, 38 A. at 95 (same)
Creamer, 91 Me. at 514-15, 40 A. at 557-58 (taxpayer cannot

recover taxes voluntarily paid even if illegally assessed, but nonresident can sue to recover taxes paid under protest)

Emery, 92 Me. at 530-31, 43 A. at 118 (same as *Rowe*)

U. S. Pegwood & Shank Co., 123 Me. at 382, 123 A. at 172 (same)

Goldstein, 1998 ME 261, ¶ 10, 721 A.2d at 182 (errors leading to overvaluation do not constitute an illegality)

Emera Maine, 2017 ME 225, ¶ 18, 174 A.3d at 325 (error that affects taxability of property or indicates impropriety in manner in which property was assessed is an illegality, error, or irregularity)

The abatement process need not be undertaken by taxpayer to obtain relief from over-taxation under 36 M.R.S. § 504 due to a municipality's clerical error

Eastport Water Co., 288 A.2d at 723-24

A municipality has no power to abate a tax assessed by the local assessors

Thorndike, 82 Me. at 43, 46-47, 19 A. at 96, 97

Lucy Farnsworth II, 93 Me. at 183, 44 A. at 682

U. S. Pegwood & Shank Co., 123 Me. at 382, 123 A. at 172

Cf. Waldo Lumber Co., 128 Me. at 5, 145 A. at 243

(municipality may abate taxes assessed, but only through assessors following rigid rules)

Dolloff, 148 Me. at 186, 91 A.2d at 324 (same)

Milo Water Co. II, 131 Me. at 377, 163 A. at 166

Young, 161 Me. at 71, 207 A.2d at 396

Assessors' failure to make a record of assessment or file certificate of assessment does not give a taxpayer ground to challenge the assessment if the commitment of taxes has been subscribed to by the assessors and is in the hands of the tax collector

Lowe, 52 Me. at 589

Walker, 71 Me. at 183

Whitmore, 79 Me. at 188-89, 9 A. at 121

Either the list in the hands of the assessors or the list in the hands of the tax collector may be relied upon

Howe, 87 Me. at 121-22, 32 A. at 781-82

Commitment of taxes means all things have been done by assessors to complete the assessment

Lewis and Maxcey, 109 Me. at 476, 84 A. at 996

Assessors can commit taxes anytime after April 1st, when assessment is made, and statute directing time of commitment to tax collector was directory only although written with “shall”

Lewis and Maxcey, 109 Me. at 476, 84 A. at 996

Informalities in a tax warrant do not defeat its authority

Parker, 83 Me. at 533, 22 A. 392

But a warrant must state a date by which taxes are due

Jacques, 96 Me. at 270, 52 A. at 763

Assessors may make supplemental assessments; see now 36 M.R.S. §§ 581-B, 713, 713-B, 1331

Gould, 61 Me. at 547

Dubois, 645 A.2d at 1127 (tree growth withdrawal penalty is supplemental assessment)

But only if there was a lawful tax list or assessment to supplement

Walker, 71 Me. at 183-84 (assessment)

Cassidy, 134 Me. at 348, 186 A. at 668 (tax list)

If a supplemental assessment is permissible, property still must be assessed as of April 1st as a part of the original assessment

Lancey, 21 Me. at 473
Prime, 98 Me. at 53-54, 56 A. at 208-09
Sweetsir, 98 Me. at 154, 56 A. at 587

A supplemental assessment is valid only if municipality asserts property was not assessed and was omitted by mistake from original assessment, but not if they simply made an error in judgment of the value of property

Bridge, 90 Me. at 492-93, 38 A. at 546
Purinton, 94 Me. 354, 47 A. 919 (*passim*)
Sweetsir, 98 A. at 152, 56 A. at 586
S. D. Warren Co., 1998 ME 66, ¶ 8, 708 A.2d at 1021

If a municipality contends its assessors did not assess certain property, and so can issue a supplemental assessment, the municipality bears the burden of sustaining the validity of the supplemental assessment

Sweetsir, 98 Me. at 152, 56 A. at 586
S. D. Warren, 1998 ME 66, ¶ 10, 708 A.2d at 1022

Refunds after tax abatements are paid by the taxing authority, not by assessors or tax collectors as individuals

Camps Newfound/Owatonna III, 1998 ME 20, ¶ 15, 705 A.2d at 1114

Interest on tax refunds, 36 M.R.S. §§ 111(5), 505, 506-A

Camps Newfound/Owatonna III, 1998 ME 20, ¶¶ 19-20, 705 A.2d at 1115

Proper assessment practice requires that property be described sufficiently to identify it with reasonable certainty, either by its own terms or by reference to a recorded document or other writing that contains a sufficient description, and more specifically for tax liens and tax sales

- Porter*, 1 Me. at 307-08 (tax sale; land formerly located in adjacent town)
- Brown*, 25 Me. at 364 (“It behooves collectors, in advertising lands to be sold for taxes, to give such a description as will enable owners to know, that the lands advertised are theirs”)
- Adams*, 46 Me. at 519 (tax sale; inadequate description)
- Larrabee*, 58 Me. at 414 (same)
- Griffin*, 60 Me. at 271 (same)
- French*, 61 Me. at 209 (assessment and tax sale; description must be reasonably certain, but not in minute detail)
- Veazie II*, 61 Me. at 433 (tax sale; inadequate description of land)
- Greene*, 63 Me. at 313 (tax sale; land must be described distinctly)
- Nason*, 63 Me. at 382-83 (tax sale; advertisement for sale must contain sufficient description of property)
- Whitmore*, 70 Me. at 279 (tax sale; inadequate description)
- Moulton*, 75 Me. at 486 (same)
- Inhabitants of Orland II*, 76 Me. at 467-68 (assessment; record produced with adequate description)
- Cressey II*, 76 Me. at 534
- Libby*, 80 Me. at 138, 13 A. at 275
- Parsons*, 86 Me. at 516, 30 A. at 111 (tax sale; inadequate description of land)
- Lawry*, 89 Me. at 583, 36 A. at 1103
- Alden*, 92 Me. at 183, 42 A. at 360
- Burgess*, 95 Me. at 124, 126, 49 A. at 607, 607-08
- Millett*, 95 Me. at 412, 49 A. at 872 (tax sale; inadequate description of land)
- Baker*, 102 Me. at 419, 67 A. at 146
- Kelley*, 110 Me. at 365, 86 A. at 255
- Foulkes*, 119 Me. 315, 111 A. 335 (*passim*)(tax sale in unincorporated township)
- Hunt*, 121 Me. at 304-05, 117 A. at 95 (tax deed need not refer specifically to buildings, as they pass with the land, and terms that describe the property’s use are sufficient)
- Keyes*, 121 Me at 312, 117 A. at 170
- Milo Water Co. II*, 131 Me. at 376, 163 A. at 165
- Norwood*, 138 Me. at 187, 24 A.2d at 233
- Oceanic Hotel Co.*, 143 Me. at 162, 57 A.2d at 144 (tax sale)

Perry II, 149 Me. at 178-79, 99 A.2d at 297 (tax lien)
Gray, 150 Me. at 103-04, 104 A.2d at 427 (lien certificate need not refer specifically to buildings, as they pass with the land, and terms that describe the property's use are sufficient)
McCarty, 158 Me. at 394, 185 A.2d at 130
Ouellette, 219 A.2d at 547 (tax lien, 36 M.R.S. §§ 942, 943)
Arsenault, 275 A.2d at 599-600 (tax lien, 36 M.R.S. § 552)
Davis, 281 A.2d at 139 (same)
Fickett, 390 A.2d at 471 (same)
Dwyer, 490 A.2d at 662 (same)
Aucella I, 564 A.2d at 69 (tax lien, 36 M.R.S. § 552)
Eastabrook, 568 A.2d at 1098-99 (tax lien, 36 M.R.S. §§ 552, 942)
Nadeau, 572 A.2d at 492
Hamm, 644 A.2d at 1389-90 (tax lien, 36 M.R.S. §§ 552, 942, 943; description of property subject to lien is sufficient if it describes the property by metes and bounds, or landmarks, or refers to a plan or map by name, or tells the location of the particular plan or map; need not be in minute detail)
Dubois, 645 A.2d at 1127
Anderson, 1999 ME 70, ¶ 8, 728 A.2d at 1256 (tax lien, 36 M.R.S. § 552)

Separate and distinct parcels of real estate are to be assessed and taxed separately, and land separately from buildings, see now 36 M.R.S. § 708

Wallingford, 24 Me. at 390
Shimmin, 26 Me. at 233
Nason, 63 Me. at 382
Gray, 150 Me. at 103, 104 A.2d at 427
McCarty, 158 Me. at 393, 185 A.2d at 130
Fickett, 390 A.2d at 471
Allen, 438 A.2d at 475, 476-77 (assessors have some discretion in determining where individual parcels exist)
Johnson, 490 A.2d at 1190-91 (tax liens for noncontiguous parcels are to be recorded separately)
Petrin, 2016 ME 136, ¶ 27, 147 A.3d at 852 (each parcel of real estate must be assessed separately according to just value)
Angell Family Trust & Bolton, 2016 ME 152, ¶ 19, 149 A.3d

at 277 (same as *Petrin*)

But the description of property taxed or separate valuations on each of several parcels is not required in a town's assessment

Blake, 74 Me. at 284

Cressy II, 76 Me. at 534 (noting difference between assessments and forfeitures by tax sales)

Ulmer I, 84 Me. at 507-08, 24 A. at 950-51 (same)

Piscataquis Valley Campmeeting Ass'n, 86 Me. at 80, 29 A. at 951

Lucy Farnsworth III, 111 Me. at 318-19, 89 A. at 67 (tax on personal estate)

Swazey, 132 Me. at 37, 165 A. at 164

Kramer, 144 Me. at 241, 67 A.2d at 537 (assessment on devisee under will made in gross, without showing assessment for individual lots, not improper when lien certificate provided liability of each lot)

Fickett, 390 A.2d at 471

Assessors have reasonable discretion to determine whether or not separate parcels exist

Fickett, 390 A.2d at 471

Allen, 438 A.2d at 476 (mere presence of road does not require finding that land is two parcels)

Petrin, 2016 ME 136, ¶ 27, 147 A.3d at 852

An assessor is authorized to combine contiguous lots for purposes of assessment only when three conditions of 36 M.R.S. § 701-A exist

Petrin, 2016 ME 136, ¶ 27 n.7, 147 A.3d at 852 n.7

Angell Family Trust & Bolton, 2016 ME 152, ¶ 19 n.5, 149 A.3d at 277 n.5 (same as *Petrin*)

Separate smaller abutting lots cannot be treated as if they were a single larger lot, which results in an assessment that does not reflect just value

Petrin, 2016 ME 136, ¶ 28, 147 A.3d at 853

There must be strict compliance with statutory requirements to divest property owners of property by lien and foreclosure

Keene, 19 Me. at 370
Shimmin, 26 Me. at 232-33
Greene, 58 Me. at 532
French, 61 Me. at 210
Tolman, 68 Me. at 317
Treat, 68 Me. at 395 (tax deed in name of tax collector, not the municipality, could not convey title)
Cressey II, 76 Me. at 534
United Copper Mining & Smelting Co., 85 Me. at 322, 27 A. at 185
Bowler, 84 Me. at 377, 24 A. at 879
Parsons, 86 Me. at 515, 30 A. at 111
Stafford, 97 Me. at 223, 54 A. at 397
Roberts, 106 Me. at 177, 76 A. at 284
Baker, 102 Me. at 419, 67 A. at 146
Kelley, 110 Me. at 365, 86 A. at 255
Stowell, 122 Me. at 370
Milo Water Co. II, 131 Me. at 376, 163 A. at 165
Robbins, 134 Me. at 288, 186 A. at 664 (purpose of tax sales is to facilitate the substantial right of redemption)
Van Woudenburg, 136 Me. at 210, 211-12, 7 A.2d at 624-25 (municipal clerk must record copy of collector's notices and his certificate)
Lowden, 136 Me. at 344-45, 9 A.2d at 660-61 (statutory requirements as to place of sale not complied with)
Norwood, 138 Me. at 183, 24 A.2d at 231
Scavone, 142 Me. at 46, 45 A.2d at 787
Dudley, 152 Me. at 167, 126 A.2d at 287
Blaney, 455 A.2d at 1387 (failure of notice voids tax lien certificate)
Cary, 534 A.2d at 356, 358 (tax lien certificate must contain name of owner of property; actual knowledge satisfies notice, but not recording, requirements)
Nadeau, 572 A.2d at 492 n.2 (same)
Hamm, 644 A.2d at 1389 n.2 (same)
Dubois, 645 A.2d at 1127

Cf. Livonia, 1998 ME 39, ¶¶ 7, 8, 707 A.2d at 86 (mailing of lien claim, return receipt requested, sufficient to meet due process requirements of notice although live-in companion with bipolar disorder signed for notice)
Anderson, 1999 ME 70, ¶ 16, 728 A.2d at 1257-58
 (where real estate is not assessed to the record owner, the record owner must be notified of tax lien before property may be divested, 36 M.R.S. § 942, unless record owner has actual notice, 36 M.R.S. § 943, provided that the municipality has named the record owner on the lien certificate)

Taxes legally assessed on an estate create a lien thereon, 36 M.R.S. § 552

Hobbs, 32 Me. at 70
Williams, 35 Me. at 554
Ring, 1999 ME 48, ¶ 6, 727 A.2d at 903-04

Real estate cannot be forfeited by lien to enforce the collection of a tax on personal property

Scavone, 142 Me. at 46, 45 A.2d at 787-88

There can be no valid tax lien without a prior valid assessment

Norwood, 138 Me. at 183, 24 A.2d at 231

Taxpayer can challenge validity of a tax in a lien proceeding

Exxon Corp., 351 A.2d at 536-37

Taxpayers have the duty to learn what is being done to enforce a lien of taxes against their property

Mandarelli, 320 A.2d at 30
Ring, 1999 ME 48, ¶ 14, 727 A.2d at 906

Municipality had no duty to inform taxpayer, purchasing other property from municipality, that it was not applying any of the money to discharge tax liens

Harrington, 381 A.2d at 641-42

Interest and fees on tax liens, 36 M.R.S. §§ 942, 942-A, 943

Aucella I, 564 A.2d at 69

Ring, 1999 ME 48, ¶ 6, 727 A.2d at 904

A municipality cannot discriminate against nonresidents in not permitting redemption, and reconveyance, of foreclosed property

But see Roberts, 106 Me. 174, 76 A. 283 (*passim*)(discussing different tax sale notice requirements for residents versus nonresidents)

Aucella II, 583 A.2d at 216-17 (discussing discriminatory intent as component of equal protection)

See Aucella III, 628 A.2d at 124 (“Nonresidence of a state, town, or locality is not a permissible basis for different treatment of property owners absent a legitimate reason for the distinction”)

Notice requirements for tax liens/foreclosures/sales

Porter, 1 Me. at 307-08 (notice should have stated that land, now in Brownfield, was formerly in town of Porter)

Lovejoy, 48 Me. 377 (*passim*)

Phillips, 61 Me. at 551 (tax collector must have complied with advertising and sale requirements)

Tolman, 68 Me. at 318 (uncertainty as to contents of advertising of property rendered notice inadequate)

Wiggin, 73 Me. at 381-82 (notice requirements that collector must comply with)

Ladd, 84 Me. at 194, 24 A. at 814 (same)

United Copper Mining & Smelting Co., 85 Me. at 323, 27 A. at 185-86 (discussion of publication)

Stafford, 97 Me. 222, 54 A. 397 (*passim*)(failure to record notice of foreclosure)

Roberts, 106 Me. 174, 76 A. 283 (*passim*)
Lowden, 136 Me. at 345, 9 A.2d at 661 (public not given
 notice of place of sale)
Mandarelli, 320 A.2d at 29
Cummings, 430 A.2d 825 (*passim*)
McNaughton, 1997 ME 182, ¶¶ 6-8, 698 A.2d at 1051-52
Ocwen Federal Bank, FSB, 2001 ME 120, ¶ 11-21, 777 A.2d
 at 279-82 (town that recorded tax lien must be joined
 as necessary party in foreclosure action)

Procedure for tax sales, see now 36 M.R.S. §§ 1071-1084

Brown, 25 Me. 359 (*passim*)
Hobbs, 32 Me. at 71-72
Phillips, 40 Me. at 161-62
Veazie I, 57 Me. at 517 (*passim*)
Roberts, 106 Me. 174, 76 A. 283 (*passim*)
Keyes, 121 Me at 315-28, 117 A. at 172-77
Robbins, 134 Me. at 289, 186 A. at 665
Norwood, 138 Me. 180, 24 A.2d 229 (*passim*)
Dolloff, 148 Me. at 181-82, 91 A.2d at 322

Tax collector cannot sell more property than is required to pay taxes due

Andrews, 32 Me. at 399
Lovejoy, 48 Me. at 378
Whitmore, 70 Me. at 279
Briggs, 71 Me. at 236
Wiggin, 73 Me. at 382
Ladd, 84 Me. at 194, 24 A. at 814
Milliken, 97 Me. at 448, 54 A. at 1075

A purchaser of land by a tax deed must obtain relief for consideration paid from the covenanter, not the state or municipality, if the deed proves defective, absent a waiver of immunity from suit

Arnold, 118 Me. at 400-02, 108 A. at 332-33
Keyes, 121 Me. at 314, 117 A. at 171

The rule of *caveat emptor* does not apply to the purchase of real estate at a sheriff's sale where there has been a complete failure of title

Martel, 311 A.2d at 547

Authority of local board of assessment review to reconsider a previous decision

Forbes, 2001 ME 157, ¶¶ 7-12, 763 A.2d at 1186-88
(discussion of 30-A M.R.S. § 2691(3)(F))

Appeal process described

International Woolen Co., 2003 ME 80, ¶ 11, 827 A.2d at 842-43

Appeals from abatement decisions are a matter of legislative privilege, not constitutional right

Paul II, 110 Me. at 197, 85 A. at 573

An enlargement of the period to appeal to the Superior Court is not permitted where there exists a statutorily-provided appeal period

Reed, 393 A.2d at 162

The Law Court formerly had held that a municipality was not a party to an appeal challenging the denial of a request for abatement and that assessors had to be served with notice of the litigation

McKay Radio & Telegraph Co. I, 131 Me. at 336, 162 A. at 784
Blake, 152 Me. at 325, 129 A.2d at 209

Now, however, in an abatement appeal, the municipality, not the assessors, is deemed the proper party adverse to the taxpayer, and so assessors have no right to appeal

Eldridge, 392 A.2d at 40 & n.2, *correcting S. D. Warren Co.*,

138 Me. at 286, 25 A.2d at 648
Drummond, 402 A.2d at 470
Shawmut Inn, 428 A.2d at 388
 See *Freeport Minerals Co.*, 437 A.2d at 642 n.1
Connecticut Bank & Trust Co., 477 A.2d at 271 n.5

Naming the State Tax Assessor or a municipality as a party does not make local assessors parties to a case

Dillon, 322 A.2d at 334, 335

Once a petitioner has appealed, he has taken the case out of the municipality's hands, and so the Superior Court would be giving merely an advisory opinion re whether assessors followed the law in this regard

Dodge, 577 A.2d at 347

Statutory requirement that an appeal from tax assessors must be taken to a board of assessment review, see now 36 M.R.S. §§ 843(1), or to the county commissioners, see now section 844(1)

Whitmore, 79 Me. at 187, 9 A. at 120
Kokernak, 612 A.2d at 873

Who may appeal when the ownership of property changes hands during the tax year under consideration

Freeport Minerals Co., 437 A.2d at 643-44 (record owner requested abatement, and subsequent owner could have done so, subsequent owner appealed to board of assessment review, and both appealed to court)

Formerly, a taxpayer must have paid taxes in order to appeal (*N. B.*: now modified by statute)

Dubois, 645 A.2d at 1128 (application of former statute)
Interstate Food Processing, 1997 ME 193, ¶ 5, 698 A.2d at 1076

The failure to pay taxes by due date when an appeal is taken after due date will result in suspension, not dismissal, of appeal

Interstate Food Processing, 1997 ME 193, ¶ 6, 698 A.2d at 1076

Whether an appeal to county commissioners or a board of assessment review was timely

Kokernak, 612 A.2d at 873-74 (county commissioners)
International Woolen Co., 2003 ME 80, ¶¶ 13-15, 827 A.2d at 843-44 (board of assessment review)

A deemed denial may be thought of as a pocket veto

Public Service Co. of New Hampshire, 158 Me. at 291, 183 A.2d at 208

An agreement to extend the period for a municipality to decide an appeal may be granted by a taxpayer implicitly

Kokernak, 612 A.2d at 874
International Woolen Co., 2003 ME 80, ¶ 12, 827 A.2d at 843

A municipality does not lose authority to consider an appeal after the expiration of the deemed denial period

International Woolen Co., 2003 ME 80, ¶¶ 13-15, 827 A.2d at 843-44

While an aggrieved party is entitled to a *de novo* hearing before Board, 36 M.R.S. § 273, 843(1-A), 844(2), this does not mean the party is entitled to a *de novo* determination of the assessment

Central Maine Power Co., 649 A.2d at 322-23

Remedy questions: (a) county commissioners, (b) board of assessment review, or (c) Board of Property Tax Review has the power only to grant abatements as they see fit, not to remand a case to assessors to recompute tax due

Muirgen Properties, 663 A.2d at 58, (a)
Adams, 1999 ME 49, ¶¶ 24, 26, 727 A.2d at 351, 352, (c)
See Harwood, 2000 ME 213, ¶ 7, 763 A.2d at 117, (b)

Remand for further findings by commissioners/board of review

Camps Newfound/Owatonna I, 604 A.2d at 910

Assessment in the first instance is not for the courts

Perry II, 149 Me. at 175, 99 A.2d at 295
Weekley, 676 A.2d at 934

A court does not decide which of opposing figures is better, nor does it substitute its own estimate of value; that is a function of a board of assessment review, upon consideration of all the evidence

South Portland Associates, 550 A.2d at 369
Muirgen Properties, 663 A.2d at 59
Weekley, 676 A.2d at 934
Quoddy Realty Corp., 1998 ME 14, ¶¶ 8, 11, 704 A.2d at 409,
 410

Due consideration requires at least fair and reasonable consideration, with an open mind, while judging the weight of the evidence, and a factor relied upon must be reflected in the finding of value

South Portland Associates, 550 A.2d at 369

IV. Valuation of Property

Fair market value = just value = correct, honest, true, real value

Spear, 125 Me. at 30, 130 A. at 508
Alfred J. Sweet, 134 Me. at 31, 180 A. at 804
Sears, Roebuck & Co., 150 Me. at 188, 107 A.2d at 479
Kittery Electric Light Co. I, 219 A.2d at 734
Frank, 329 A.2d at 173
Shawmut Inn, 428 A.2d at 389
Eastler, 499 A.2d at 924
Muirgen Properties, 663 A.2d at 58
Weekley, 676 A.2d at 934
McCullough, 687 A.2d at 631
J & N Sanford Trust, 1997 ME 97, ¶ 13, 694 A.2d at 459
Quoddy Realty Corp., 1998 ME 14, ¶ 9, 704 A.2d at 409
Harwood, 2000 ME 213, ¶ 19, 763 A.2d at 120
Opinion of the Justices, 2004 ME 54, ¶ 15, 850 A.2d at 1150
Terfloth, 2014 ME 57, ¶¶ 11 & n.5, 19, 90 A.3d at 1135 & n.5,
 1137
Petrin, 2016 ME 136, ¶¶ 15, 28, 29, 147 A.3d at 849, 852
 (real estate must be assessed at just value, and not
 discounted by common ownership with adjoining lots)
Angell Family Trust & Bolton, 2016 ME 152, ¶ 29, 149 A.3d
 at 279

Market value is measured by highest price a normal purchaser, under normal conditions, would pay for it; what the property will bring at a fair public sale, with a willing seller and willing buyer

Spear, 125 Me. at 30, 130 A. at 508
Alfred J. Sweet, 134 Me. at 32, 180 A. at 804
Frank, 329 A.2d at 173
Shawmut Inn, 428 A.2d at 394
Weekley, 676 A.2d at 934
J & N Sanford Trust, 1997 ME 97, ¶ 13, 694 A.2d at 459
Angell Family Trust & Bolton, 2016 ME 152, ¶ 29, 149 A.3d
 at 279

Emphasis on arm's length nature of transaction of comparable property in assessing value of property in question

Harwood, 2000 ME 213, ¶¶ 10, 11, 14, 19, 763 A.2d at 118, 119, 120

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶¶ 13, 16, 818 A.2d at 1025, 1025-26

Terfloth, 2014 ME 57, ¶¶ 16, 90 A.3d at 1136 (town erred in finding that taxpayer failed to prove he purchased property in an arm's length transaction, and so led town to disregard evidence of sales price); at ¶ 17, 90 A.3d at 1136-37 (town's finding that taxpayer did not purchase property at arm's length was unsupported); at ¶ 18, 90 A.3d at 1137 (that property was on the market for three years affirmatively supports the sales price as representative of market value); at ¶ 19, 90 A.3d at 1137 (arm's length sale price is best evidence of market value)

Fair means nondiscriminatory, and just means in line with the fair market value of the property

Yusem, 2001 ME 61, ¶ 13, 769 A.2d at 871

If property is assessed at its true market value, and the valuation is consistent with those of similar properties, a taxpayer has suffered no constitutional harm

Chase, 1998 ME 260, ¶ 11, 721 A.2d at 640

Roberts, 2004 ME 132, ¶ 4, 861 A.2d at 618

Size of parcel alone does not determine land value

McDougal, 146 Me. at 14, 76 A.2d at 860

Value must be distinguished from valuation

Penobscot Chemical Fibre Co. I, 99 Me. at 270, 59 A. at 86

Shawmut Mfg. Co., 123 Me. at 126, 122 A. at 51

But they may be intimately related

Shawmut Inn, 428 A.2d at 393 n.8

Value-in-use is not necessarily value

IBM Credit Corp., 665 A.2d at 665-66 (dissenting op.)

Art. IX, § 8 requires that real property be assessed at just value

Petrin, 2016 ME 136, ¶¶ 15, 28, 147 A.3d at 849, 852

If true value cannot be determined, uniformity and equality are preferred

Shawmut Mfg. Co., 123 Me. at 129-30, 122 A. at 53

Spear, 125 Me. at 29, 130 A. at 508

Kittery Electric Light Co. I, 219 A.2d at 734

Farrelly, 407 A.2d at 307

Town of Thomaston, 490 A.2d at 1182

J & N Sanford Trust, 1997 ME 97, ¶¶ 13, 17, 694 A.2d at 459, 461

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 13, 921 A.2d at 151
 (“Where uniformity conflicts with just or market value, treating like taxpayers equally must prevail”)

Determining the correct method of valuation of personal property

N. J. Gendron Lumber Co., 151 Me. at 454-55, 456, 120 A.2d at 562, 563 (manufactured lumber should have been valued under statutory annual average amount formula, not amount on hand as of April 1st)

Emple Knitting Mills, 155 Me. at 275, 153 A.2d at 121
 (materials that make up finished merchandise, as well as finished merchandise kept on hand for sale, should have been valued under statutory average amount formula)

In appraising real property, consider all uses to which it may be put by owner and all conditions which affect its value

Penobscot Chemical Fibre Co. I, 99 Me. at 272, 59 A. at 87
Alfred J. Sweet, 134 Me. at 32, 180 A. at 804

Consider all factors and surroundings in assessing value

Glenridge Development Co., 662 A.2d at 931
Quoddy Realty Corp., 1998 ME 14, ¶ 5, 704 A.2d at 408
Chase, 1998 ME 260, ¶ 18, 721 A.2d at 641
Pepperman, 1999 ME 157, ¶ 4, 739 A.2d at 853
Yusem, 2001 ME 61, ¶ 8, 769 A.2d at 870

Assessor must consider all relevant factors, 36 M.R.S. § 701-A

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶¶ 11, 16, 921 A.2d
 at 150, 151 (emphasizing that value arises from
 “presently possible” land use, its “current use,” and its
 “legally permissible” use)

But under 36 M.R.S. § 701-A, an assessor need not apply each listed factor but may determine which of them applies, and need not assign equal weight to them

Glenridge Development Co., 662 A.2d at 932
Pepperman, 1999 ME 157, ¶ 4, 739 A.2d at 853
Yusem, 2001 ME 61, ¶ 11, 769 A.2d at 871

Auction or foreclosure sale is not the measure of true market value; it is less

Spear, 125 Me. at 30, 130 A. at 508
McCullough, 687 A.2d at 631

A sale of stock of a close corporation may well not be equivalent to a public sale

Shawmut Inn, 428 A.2d at 395

Sale (purchase) price is the best (though not conclusive or dispositive) evidence of market value

Wesson, 667 A.2d at 599 n.5
Weekley, 676 A.2d at 934; 935-36 (dissenting op.)
McCullough, 687 A.2d at 631
Harwood, 2000 ME 213, ¶ 19, 763 A.2d at 120
Terfloth, 2014 ME 57, ¶ 19, 90 A.3d at 1137

Asking price, when not obtained, may be disregarded as evidence of value

Wesson, 667 A.2d at 599 n.5
Harwood, 2000 ME 213, ¶ 19, 763 A.2d at 120

Use of similar factors, such as how long property had been on the market, what other offers had been received, difficulties seller had in obtaining offers, etc.

Weekley, 676 A.2d at 934
Harwood, 2000 ME 213, ¶ 19, 763 A.2d at 120
Terfloth, 2014 ME 57, ¶ 18, 90 A.3d at 1137

Actual sales of *other* property may bear upon value of property in question

Penobscot Chemical Fibre Co. I, 99 Me. at 270, 59 A. at 86
Shawmut Inn, 428 A.2d at 395 (reliance on recent sale)
Weekley, 676 A.2d at 933-34
Adams, 1999 ME 49, ¶ 21, 727 A.2d at 350-51
Harwood, 2000 ME 213, ¶¶ 11-22, 763 A.2d at 118-21

Board of assessment review, in its discretion, can properly ignore sales of land after April 1st of the year in question

Harwood, 2000 ME 213, ¶ 18, 763 A.2d at 120

Valuation in another year is not admissible on value of property in year in question

Penobscot Chemical Fibre Co. I, 99 Me. at 270-71, 59 A. at 86

Use of sales ratio analysis

Weekley, 676 A.2d at 933; 935 n.1 (dissenting op.)
Terfloth, 2014 ME 57, ¶ 5 n.3, 90 A.3d at 1133 n.5
Petrin, 2016 ME 136, ¶¶ 39-42, 147 A.3d at 855-56

State Valuation Report analysis: Maine Revenue Services prepares annual lists (State Valuation Reports) of equalized and adjusted values of all taxable properties in all municipalities

Petrin, 2016 ME 136, ¶ 39 & nn.9, 11, 147 A.3d at 855
 & nn.9, 11

Assessors are to recognize the value of property over a measurably stable time, not the temporary and extraordinary, fleeting or speculative

Alfred J. Sweet, 134 Me. at 32, 180 A. at 804
Frank, 329 A.2d at 173
South Portland Associates, 550 A.2d at 368

Violent fluctuations in municipal revenues are not desirable; stability of revenue is important and should be considered

Alfred J. Sweet, 134 Me. at 32, 180 A. at 804
Frank, 329 A.2d at 175
South Portland Associates, 550 A.2d at 368

But cannot so control as to ignore constitutional requirement of just value

South Portland Associates, 550 A.2d at 368

Consider effect of federal regulations—effecting a mortgage subsidy (an intangible) to a low income housing project—governing property

Glenridge Development Co., 662 A.2d at 931

Consider value of purchase power agreement (an intangible) when inextricably intertwined with a tangible asset, a hydroelectric facility

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶¶ 19-20, 921 A.2d at 152-53

Mathematical precision or exactitude, perfection, or absolute equality in valuation is impossible; uniformity can be only approximated; some guesswork is involved

Augusta Bank, 36 Me. at 259

Penobscot Chemical Fibre Co. I, 99 Me. at 267-68, 59 A. at 85

Shawmut Mfg. Co., 123 Me. at 130, 122 A. at 53

Cumberland County Power & Light Co., 125 Me. at 139, 131 A. at 595

Alfred J. Sweet, 134 Me. at 33, 36, 180 A. at 805, 807

Sears, Roebuck & Co., 150 Me. at 188, 107 A.2d at 479

Kittery Electric Light Co. I, 219 A.2d at 734, 739

Frank, 329 A.2d at 173

Drebelbis, 520 A.2d at 710

South Portland Associates, 550 A.2d at 369

Experts are not usually in agreement; valuation is not so precise

Sears, Roebuck & Co., 150 Me. at 189, 107 A.2d at 479

Kittery Electric Light Co. I, 219 A.2d at 743

Frank, 329 A.2d at 171

All appraisal methods are imperfect and involve judgment

Penobscot Chemical Fibre Co. I, 99 Me. at 267, 59 A. at 85

South Portland Associates, 550 A.2d at 369

Assessment is a matter of judgment

Knight, 93 Me. at 500, 45 A. at 501

Thus, perfect relief should not be anticipated; practical justice should be attained; taxation must be practical and bring results

Cressey II, 76 Me. at 534
Sears, Roebuck & Co., 150 Me. at 184, 185, 107 A.2d at 477
Dodge, 151 Me. at 484, 121 A.2d at 354
Kittery Electric Light Co. I, 219 A.2d at 741

Property need not be assessed at full value, but if assessors use a percentage of true value (and it makes no difference what they use), then they must do so uniformly/with equality

Sears, Roebuck & Co., 150 Me. at 190, 107 A.2d at 480
Kittery Electric Light Co. I, 219 A.2d at 734, 739

Value is usually proved by the opinion of the owner, opinions of experts, and by price of sales of similar properties in the neighborhood

Sears, Roebuck & Co., 150 Me. at 189, 107 A.2d at 479

Value need not be presented only through expert testimony

Waterville Homes, 655 A.2d at 367 n.1

Assessors need not be bound by expert appraisals

Drebelbis, 520 A.2d at 710

Board of assessors can accept part of a witness' evidence of value and reject other parts of such evidence, and reject it all based on flaws in part of the testimony

Harwood, 2000 ME 213, ¶¶ 20-21, 763 A.2d at 120-21
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶¶ 15-16,
 818 A.2d at 1025-26

Assessors are not always people of special training or expertise; they may be semi-skilled, and after all exercise judgment differently and imperfectly

Penobscot Chemical Fibre Co. I, 99 Me. at 267, 59 A. at 85
Cumberland County Power & Light Co., 125 Me. at 139, 131 A. at 595
Sears, Roebuck & Co., 150 Me. at 184, 107 A.2d at 477
Dodge, 151 Me. at 484, 121 A.2d at 354
Frank, 329 A.2d at 171
Shawmut Inn, 428 A.2d at 390-91
Goldstein, 1998 ME 261, ¶ 7, 721 A.2d at 181-82

Assessors' practical methods are much more valuable than, and as likely to be correct as, theoretical contentions of experts

Sears, Roebuck & Co., 150 Me. at 185, 107 A.2d at 477

Things put in a colloquial or unstudied manner often state meaning more vividly and forcefully than literal statements. Plain common sense

Shawmut Mfg. Co., 123 Me. at 126-27, 122 A. at 52

Assessors are said to have special knowledge of local conditions, better judgment of values, and are in the best position to evaluate value and obsolescence (but still may fail)

Whitmore, 79 Me. at 187, 9 A. at 120
Penobscot Chemical Fibre Co. I, 99 Me. at 268, 59 A. at 85
Cumberland County Power & Light Co., 125 Me. at 139, 140, 131 A.2d at 595
Shawmut Inn, 428 A.2d at 394
See Roque Island Gardner, 2017 ME 152, ¶¶ 15-17, 167 A.3d at 568-69 (assessor explained differences in assessing in different parts of town)

Assessors properly relied on information from professional appraisers, State Tax Assessors Office, their own knowledge, and comparables

Camps Newfound/Owatonna I, 604 A.2d at 910

They may rely on others and delegate measuring and pricing, while retaining ultimate authority

Frank, 329 A.2d at 176
Shawmut Inn, 428 A.2d at 392

Assessors must keep themselves informed of the methods used by professionals they hire

Shawmut Inn, 428 A.2d at 393

State has undertaken to train assessors and eliminate nonexpert valuation, so as to alleviate assessment inequality, 36 M.R.S. § 301 *et seq.*

Shawmut Inn, 428 A.2d at 391 n.5

The Legislature has established minimum assessing standards, 36 M.R.S. §§ 326, 327, but has not set forth the methods local assessors may use

Shawmut Inn, 428 A.2d 389-90
IBM Credit Corp., 665 A.2d at 662-63
Wesson, 667 A.2d at 598
Petrin, 2016 ME 136, ¶ 39, 147 A.3d at 855

Local assessors have considerable leeway or flexibility in choosing the method or combinations of methods to achieve just valuations

Shawmut Inn, 428 A.2d at 390
South Portland Associates, 550 A.2d at 366
Central Maine Power Co., 649 A.2d at 324
Wesson, 667 A.2d at 598
J & N Sanford Trust, 1997 ME 97, ¶ 14, 694 A.2d at 459
Opinion of the Justices, 2004 ME 54, ¶ 16 & n.7, 850 A.2d at 1150 & n.7

Record supported methodology of board of assessment review

Harwood, 2000 ME 213, ¶¶ 4, 16, 17, 763 A.2d at 117, 119-20

Remedy for burden of too-heavy taxes lies not with courts; it is only when one bears a disproportionate share that he has a case in court; however, assessment substantially in excess of true value gives rise to a presumption of inequality

Cumberland County Power & Light Co., 125 Me. at 140, 131 A. at 595

Alfred J. Sweet, 134 Me. at 31, 180 A. at 804

Gaston, 150 Me. at 293-94, 110 A.2d at 594

Overvaluation means *vis à vis* true value only, not *vis à vis* other property by adjusting the valuation of those properties

Penobscot Chemical Fibre Co. I, 99 Me. at 268-69, 59 A. at 85-86

Shawmut Mfg. Co., 123 Me. at 125, 122 A. at 52

Swazey, 132 Me. at 37, 165 A. at 164

So evidence showing merely disproportionate valuation is not admissible

Penobscot Chemical Fibre Co. I, 99 Me. at 269, 59 A. at 86

If appraisal is uniformly too high on properties, taxpayers need not show overvaluation in relation to other like properties

Spear, 125 Me. at 28, 29, 130 A. at 508

And so if other properties are undervalued, petitioner, whose property is valued properly, still loses; otherwise there would be an undermining of every valuation in town

Penobscot Chemical Fibre Co. I, 99 Me. at 268, 59 A. at 85-86

If Board rejects petitioner’s evidence of value, and instead makes its *own* calculations, it remedies deficiencies in petitioner’s case and relieves petitioner of his burden to prove his case

Waterville Homes, 655 A.2d at 367
Harwood, 2000 ME 213, ¶ 10, 763 A.2d at 118

Burden of proof: Petitioner must establish a *prima facie* case

Shawmut Mfg. Co., 123 Me. at 125, 122 A. at 51
Alfred J. Sweet, 134 Me. at 31, 180 A. at 804

Taxpayer who pursues an administrative appeal of a municipal tax assessment has the burden of proof on appeal

Central Maine Power, 649 A.2d at 323
Penkul, 2016 ME 16, ¶ 14, 136 A.3d at 92

Burden of proof: Petitioner must “clearly” prove his case

Spear, 125 Me. at 29, 130 A. at 508

Burden of proof: Petitioner must prove his case “indisputably”

Shawmut Mfg. Co., 123 Me. at 131, 122 A. at 54

Burden of proof: Requiring petitioner to prove his case by a preponderance of the evidence misstates burden

Kittery Electric Light Co. I, 219 A.2d at 744

Burden of proof: Petitioner for abatement must show that the overvaluation was “manifestly wrong”

Shawmut Mfg. Co., 123 Me. at 131, 122 A. at 54
Spear, 125 Me. at 29, 30, 130 A. at 508, 509
Alfred J. Sweet, 134 Me. at 33, 180 A. at 805

Sears, Roebuck & Co., 150 Me. at 186, 191, 107 A.2d at 477, 480
Frank, 329 A.2d at 174
Delta Chemicals, 438 A.2d at 484
Great Northern Nekoosa Corp., 522 A.2d at 1317
Lipski, 602 A.2d at 1172
Camps Newfound/Owatonna I, 604 A.2d at 909
Central Maine Power Co., 649 A.2d at 323
Waterville Homes, 655 A.2d at 366-67
Glenridge Development Co., 662 A.2d at 931
Muirgen Properties, 663 A.2d at 58
IBM Credit Corp, 665 A.2d at 664
Wesson, 676 A.2d at 598
Weekley, 676 A.2d at 934
McCullough, 687 A.2d at 630
Chase, 1998 ME 260, ¶ 12, 13, 721 A.2d at 640
Adams, 1999 ME 49, ¶ 13, 727 A.2d at 349
Stewart, 2000 ME 157, ¶ 9, 757 A.2d at 776 (*dictum*)
Harwood, 2000 ME 213, ¶¶ 7, 8, 763 A.2d at 117
Yusem, 2001 ME 61, ¶¶ 8, 15, 769 A.2d at 870, 872
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 7, 818 A.2d at 1024
Ram's Head Partners, 2003 ME 131, ¶ 9, 834 A.2d at 919
UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 9, 921 A.2d at 149
Terfloth, 2014 ME 57, ¶ 12, 90 A.3d at 1135
Petrin, 2016 ME 136, ¶ 14, 147 A.3d at 849

It is not enough for a taxpayer, to meet its burden, to show flaws in the assessor's methodology; taxpayer must further demonstrate affirmatively how those flaws would have resulted in overvaluation or discrimination

Glenridge Development Co., 662 A.2d at 931-32
Yusem, 2001 ME 61, ¶¶ 11, 13-15, 769 A.2d at 871, 872
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 7, 818 A.2d at 1024

Impeachment of the assessment is not enough to show it was manifestly wrong; the petitioner also must affirmatively demonstrate, by credible evidence, the just value of the property; without such the Board has no basis to compare local assessment and petitioner's version of just value

Waterville Homes, 655 A.2d at 366-67
Glenridge Development Co., 662 A.2d at 931-32
Wesson, 667 A.2d at 599
Adams, 1999 ME 49, ¶ 22, 727 A.2d at 351
Harwood, 2000 ME 213, ¶ 9, 763 A.2d at 118
Yusem, 2001 ME 61, ¶¶ 8, 13-15, 769 A.2d at 870, 871-72
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 8,
 818 A.2d at 1024
Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 3 n.1,
 957 A.2d at 978 n.1

A taxpayer need not convince the Board of the ultimate accuracy of its proposed valuation, but its proposal must be sufficiently credible to convince the Board that the property is substantially overvalued, or else the Board need not undertake its own independent determination of value

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 8, 818
 A.2d at 1024

Excess valuation requires a *comparison* between the local assessment and the version of value that the petitioner for abatement contends is just

Delta Chemicals, 438 A.2d at 484
Waterville Homes, 655 A.2d at 367
Harwood, 2000 ME 213, ¶ 14, 763 A.2d at 119

Board must make an independent determination of value by an accepted method, and cannot categorically refuse to consider a party's analysis; otherwise, the Board's valuation is arbitrary and unreasonable

South Portland Associates, 550 A.2d at 366
Quoddy Realty Corp., 1998 ME 14, ¶ 5, 704 A.2d at 408-09
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶¶ 14-17,
 818 A.2d at 1025-26

A municipality's tax assessment is presumed to be valid

Penobscot Chemical Fibre Co. I, 99 Me. at 268, 59 A. at 85
Alfred J. Sweet, 134 Me. at 32-33, 180 A. at 805

Kittery Electric Light Co. I, 219 A.2d at 734-35, 744
Kittery Electric Light Co. II, 219 A.2d at 749
Frank, 329 A.2d at 171
Farrelly, 407 A.2d at 306
Shawmut Inn, 428 A.2d at 392, 393
Delta Chemicals, 438 A.2d at 484
Lipski, 602 A.2d at 1172
Camps Newfound/Owatonna I, 604 A.2d at 909
Waterville Homes, 655 A.2d at 366-67
Glenridge Development Co., 662 A.2d at 931
Muirgen Properties, 663 A.2d at 58
IBM Credit Corp., 665 A.2d at 664
Chase 1998 ME 260, ¶ 13, 721 A.2d at 640
Adams, 1999 ME 49, ¶13, 727 A.2d at 349
Stewart, 2000 ME 157, ¶ 9, 757 A.2d at 776 (*dictum*)
Harwood, 2000 ME 213, ¶ 7, 763 A.2d at 117
Yusem, 2001 ME 61, ¶ 8, 769 A.2d at 869-70
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 7, 818
 A.2d at 1023-24
Ram's Head Partners, 2003 ME 131, ¶ 9, 834 A.2d at 919
Petrin, 2016 ME 136, ¶ 14, 147 A.3d at 849
Angell Family Trust & Bolton, 2016 ME 152, ¶ 12, 149 A.3d
 at 276
Roque Island Gardner, 2017 ME 152, ¶ 12, 167 A.3d at 568

If the assessment is so unreasonable that (1) property is substantially overvalued, and an injustice results, or (2) there has been an unjust discrimination, or (3) some fraud, dishonesty, or illegality, courts will give relief; if not, assessors' judgment will not be overturned

Shawmut Mfg. Co., 123 Me. at 128, 129, 122 A. at 52 (stating first two possibilities as grounds for relief, but referring also to the third)
Sears, Roebuck & Co., 150 Me. at 189, 107 A.2d at 479
Kittery Electric Light Co. I, 219 A.2d at 734, 739, 740
Maine Consolidated Power Co., 219 A.2d at 751
Frank, 329 A.2d at 171-72
Shawmut Inn, 428 A.2d at 393
Delta Chemicals, 438 A.2d at 484
Moser, 553 A.2d 1249
Camps Newfound/Owatonna I, 604 A.2d at 909
Kokernak, 612 A.2d at 872

Central Maine Power, 649 A.2d at 323
Glenridge Development Co., 662 A.2d at 931
Muirgen Properties, 663 A.2d at 58
Wesson, 667 A.2d at 598
McCullough, 687 A.2d at 630
Chase, 1998 ME 260, ¶ 12, 721 A.2d at 640
Adams, 1999 ME 49, ¶ 13, 727 A.2d at 349
Harwood, 2000 ME 213, ¶ 8 n.3, 763 A.2d at 117 n.3
Yusem, 2001 ME 61, ¶ 9, 769 A.2d at 870
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 7, 818 A.2d at 1024
Ram's Head Partners, 2003 ME 131, ¶ 9, 834 A.2d at 919
 (taxpayer made only discrimination claim)
UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 9, 921 A.2d at 149
Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 8, 957 A.2d at 979
Terfloth, 2014 ME 57, ¶ 12, 90 A.3d at 1135
Petrin, 2016 ME 136, ¶ 14, 147 A.3d at 849 (noting taxpayers made only discrimination claims)
Angell Family Trust & Bolton, 2016 ME 152, ¶ 12 & n.4, 149 A.3d at 276 & n.4 (same)
Roque Island Gardner, 2017 ME 152, ¶ 12, 167 A.3d at 568

If the taxpayer has overcome the presumption of validity of an assessment and, so, that the assessment is manifestly wrong, the Board must reach its own determination of just value and grant such an abatement as it thinks proper, 36 M.R.S. §§ 843(1-A), 844(2)

Quoddy Realty Corp., 1998 ME 14, ¶ 11, 704 A.2d at 410
Adams, 1999 ME 49, ¶¶ 24-25, 727 A.2d at 351
Harwood, 2000 ME 213, ¶ 7, 763 A.2d at 117

Petitioner must show overvaluation was “manifestly unjust” or unreasonable in light of the circumstances

Glenridge Development Co., 662 A.2d at 929
Yusem, 2001 ME 61, ¶ 9, 769 A.2d at 870

Or that unjust discrimination exists

Shawmut Mfg. Co., 123 Me. at 131, 122 A. at 52
Sears, Roebuck & Co., 150 Me. at 186, 191, 107 A.2d at 477,
 480
Frank, 329 A.2d at 174
Farrelly, 407 A.2d at 306-07
Adams, 1999 ME 49, ¶ 22, 727 A.2d at 351
Yusem, 2001 ME 61, ¶ 9, 769 A.2d at 870
Ram's Head Partners, 2003 ME 131, ¶ 9, 834 A.2d at 919
Petrin, 2016 ME 136, ¶ 14, 147 A.3d at 849
Angell Family Trust & Bolton, 2016 ME 152, ¶ 12, 149 A.3d
 at 276

Unjust discrimination derives from the Maine Constitution, Art. IX, § 8, and the equal protection clause of the fourteenth amendment of the United States Constitution

Ram's Head Partners, 2003 ME 131, ¶ 9, 834 A.2d at 919
Petrin, 2016 ME 136, ¶¶ 15, 31, 147 A.3d at 849, 853
Angell Family Trust & Bolton, 2016 ME 152, ¶ 12, 149 A.3d
 at 276
Roque Island Gardner, 2017 ME 152, ¶ 13, 167 A.3d at 568

Unjust discrimination defined

Chase, 1998 ME 260, ¶ 11, 721 A.2d at 640 (“the assessed value must be equitable, that is, the property must be assessed at a relatively uniform rate with comparable property in the district”)

Ram's Head Partners, 2003 ME 131, ¶ 10, 834 A.2d at 919 (“the assessor’s system necessarily results in unequal apportionment”; “the constitutional requirement is the seasonable attainment of a rough equality in tax treatment of similarly situated property owners”); *id.* at ¶13, 834 A.2d at 920 (“Most property tax discrimination cases involve a defined methodology that results in unequal treatment”)

Delogu II, 2004 ME 18, ¶ 12, 843 A.2d at 35 (occurs “when a municipal assessment system ‘necessarily results in unequal apportionment’”; there is “underassessment or overassessment of one set of similarly situated properties”; or “when selected properties receive an

- assessment reduction that does not benefit similarly valued property”)
- Opinion of the Justices*, 2004 ME 54, ¶ 17, 850 A.2d at 1151 (“The under or over assessment of one set of similarly situated properties will support a finding of unjust discrimination”)
- Roberts*, 2004 ME 132, ¶ 4, 861 A.2d at 618 (if valuation is consistent with similar properties there is no constitutional harm)
- UAH-Hydro Kennebec, LP*, 2007 ME 36, ¶ 13, 921 A.2d at 151 (quoting *Ram’s Head Partners*)
- Town of Bristol Taxpayers’ Ass’n*, 2008 ME 159, ¶ 11, 957 A.2d at 979 (citing *Ram’s Head Partners* for proposition that “only similarly situated properties must receive approximately equivalent tax treatment”)
- Terfloth*, 2014 ME 57, ¶ 11, 90 A.3d at 1135 (quoting *Chase*)
- Petrin*, 2016 ME 136, ¶¶ 15, 16, 147 A.3d at 849 (quoting *Terfloth* and *Ram’s Head*); *id.* at ¶ 24, 147 A.3d at 851 (prohibition against discriminatory tax assessment is rooted in equal protection; it protects taxpayers from state action that selects them for discriminatory treatment by subjecting them to taxes not imposed on others of the same class; the taxing authority must achieve a “rough equality in tax treatment of similarly situated property owners,” thus treating property owners evenhandedly); *id.* at ¶ 30, 147 A.3d at 853 (look to whether assessing practice necessarily results in unequal tax treatment); *id.* at ¶ 31, 147 A.3d at 853 (quoting *Ram’s Head Partners*); *id.* at ¶ 45, 147 A.3d at 857 (“unequal apportionment” due to “methodology [that] necessarily deprives the Taxpayers ‘of a rough equality in tax treatment of similarly situated property owners’”)
- Angell Family Trust & Bolton*, 2016 ME 152, ¶¶ 12, 33, 36, 149 A.3d at 276, 280 (the taxing authority must “achieve a rough equality in treatment of similarly situated property owners”; *id.* ¶ 21, 149 A.3d at 277-78 (where program “necessarily results in an unequal apportionment of the tax burden”)
- Roque Island Gardner*, 2017 ME 152, ¶ 13, 167 A.3d at 568 (“assessors must apply a relatively uniform rate to all comparable properties in the district”; unjust discrimi-

nation “occurs where ‘similarly situated properties’ are taxed unequally, and is typically demonstrated through evidence of a practice that amounts to intentional ‘underassessment or overassessment of one set’ of like properties,” quoting *Delogu*)

Discrimination means a distinctly higher valuation, arrived at intentionally or with systematic purpose, which must be undone to place the complainant on a plane of equality with others in his class—that is, it violates the essential principle of practical uniformity

Shawmut Mfg Co., 123 Me. at 129, 130, 122 A. at 53
Cumberland County Power & Light Co., 125 Me. at 140, 141, 131 A. at 595
Gaston, 150 Me. at 294, 110 A.2d at 594
Kittery Electric Light Co. I, 219 A.2d at 739-40
Frank, 329 A.2d at 173
Shawmut Inn, 428 A.2d at 394
Ram’s Head Partners, 2003 ME 131, ¶ 11, 834 A.2d at 919

This has been considered a matter of due process

Shawmut Mfg. Co., 123 Me. at 127, 122 A. at 52

And equal protection

Shawmut Mfg. Co., 123 Me. at 129, 122 A. at 53
Ram’s Head Partners, 2003 ME 131, ¶ 10, 834 A.2d at 919
Petrin, 2016 ME 136, ¶¶ 15, 31, 147 A.3d at 849, 853
Angell Family Trust & Bolton, 2016 ME 152, ¶ 12, 149 A.3d at 276

Only similarly situated properties must receive approximately equivalent tax treatment

Town of Bristol Taxpayers’ Ass’n, 2008 ME 159, ¶ 11 & n.6, 957 A.2d at 979 & n.6
Roque Island Gardner, 2017 ME 152, ¶ 15, 167 A.3d at 568

Thus, separate neighborhoods or different areas of a town may be taxed at different rates

Angell Family Trust & Bolton, 2016 ME 152, ¶¶ 32-33,
149 A.3d at 280
Roque Island Gardner, 2017 ME 152, ¶ 15, 167 A.3d at 568

Taxpayers need not present evidence of actual value of property that receives favorable treatment

Ram's Head Partners, 2003 ME 131, ¶ 12, 834 A.3d at 920
Petrin, 2016 ME 136, ¶ 25, 147 A.3d at 851

Discrimination can be proved by showing similarly situated property is assessed at drastically lower valuation; there are no distinctions between the properties that justify the disparity; and the municipality's rationale for the lower valuation is unfounded or arbitrary

Ram's Head Partners, 2003 ME 131, ¶ 12, 834 A.2d at 920
Petrin, 2016 ME 136, ¶ 25, 147 A.3d at 851

A municipality may create different classes of property and impose different tax burdens; those burdens must be reasonable, based on the character of the properties or on policy

Petrin, 2016 ME 136, ¶ 24, 147 A.3d at 851

The Law Court has recognized the possibility that circumstances may arise in which the disparate tax treatment of different categories of property becomes so extreme that abatement could be justified even without showing they are similarly situated

Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 11 n.6,
957 A.2d at 979 n.6 (but no such showing was made here)

To establish a claim of discrimination, one must demonstrate that his property as a whole, not simply a component part, has been valued differently than comparable properties

Roberts, 2004 ME 132, ¶ 4, 861 A.2d at 618

So long as an assessment represents a fair and just determination of value for the parcel as a whole, no constitutional harm has occurred

Petrin, 2016 ME 136, ¶ 36, 147 A.3d at 854

Angell Family Trust & Bolton, 2016 ME 152, ¶ 23, 149 A.3d at 278

See Roque Island Gardner, 2017 ME 152, ¶ 16 n.5, 167 A.3d at 569 n.5

Petitioner must show *either* (1) the property was assessed at more than its just value *or* (2) the property was assessed at a higher rate than was the general mass of other taxable property

Shawmut Mfg. Co., 123 Me. at 128, 131, 122 A. at 52, 53-54

Kittery Electric Light Co. I, 219 A.2d at 744

Farrelly, 407 A.2d at 306

Shawmut Inn, 428 A.2d at 389

Chase, 1998 ME 260, ¶ 11, 15, 721 A.2d at 640

More recently the Court has rejected the requirement that any given property had to be treated similarly with the general mass of taxable property

Ram's Head Partners, 2003 ME 131, ¶ 10, 834 A.2d at 919

Town of Bristol Taxpayers' Ass'n, 2008 ME 159, ¶ 11, 957 A.2d at 979-80

Property asserted to have been assessed discriminatorily is not to be compared to the general mass of property, but to property similarly situated

Moser, 553 A.2d at 1250

Ram's Head Partners, 2003 ME 131, ¶¶ 10-11, 14, 834 A.2d at 919, 920

Where a hydroelectric facility is a qualifying facility under the Public Utilities Regulatory Policies Act of 1978, thus allowing it to have a purchase power agreement (PPA) with a utility and to be exempt from utility regulations, the Board correctly determined that the PPA was inextricably entwined with its physical plant so that the PPA was properly considered a part of its value, though the PPA itself was intangible property, which did not discriminate against the facility

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶¶ 14-16, 921 A.2d at 151-52

That is, unjust discrimination can exist in an unjustly discriminatory formula or methodology that results in unequal valuations

Adams, 1999 ME 49, ¶ 22, 727 A.2d at 351
Ram's Head Partners, 2003 ME 131, ¶ 13, 834 A.2d at 920

In alleging unjust discrimination, taxpayers need not show values of their individual properties but can rely on an appraiser's analysis of neighborhood properties or assessment by municipality

Adams, 1999 ME 49, ¶ 22, 727 A.2d at 351
Ram's Head Partners, 2003 ME 131, ¶ 12, 834 A.2d at 919-20

Remedy for unjust discrimination in valuation is abatement, not an upward revision of taxes for properties that received favorable treatment

Shawmut Mfg. Co., 123 Me. at 128, 122 A. at 52
Adams, 1999 ME 49, ¶¶ 24-25, 727 A.2d at 351-52
Ram's Head Partners, 2003 ME 131, ¶ 15, 834 A.2d at 920-21
Petrin, 2016 ME 136, ¶32, 147 A.3d at 853

Town's failure to assess certain properties of others cannot make assessment of property in question illegal; that is, undervaluation of other properties is not a defense to over-taxation of one's own property

Maine Water Co., 90 Me. at 181-82, 38 A. at 102
Blair, 104 Me. at 446-47, 72 A. at 178
Swazey, 132 Me. at 37, 165 A. at 164

Tozier II, 136 Me. at 366, 10 A.2d at 455

It has been said that in a discrimination case, the system used by the assessors must have a necessary potential for discrimination

Farrelly, 407 A.2d at 307

But since any approach has the *potential* for discrimination—that is, unjust apportionment—*Farrelly* is clarified to mean that the assessors' system *necessarily will* have such a result

Moser, 553 A.2d at 1250

Wesson, 667 A.2d at 598

Discrimination exists only where petitioners show that the assessors' system necessarily resulted in unequal apportionment

Adams, 1999 ME 49, ¶ 14, 727 A.2d at 349

Ram's Head Partners, 2003 ME 131, ¶ 10, 834 A.2d at 919

Petrin, 2016 ME 136, ¶ 16, 147 A.3d at 849

Mere errors of judgment by assessors do not prove discrimination

Gaston, 150 Me. at 294, 110 A.2d at 594

Kittery Electric Light Co. I, 219 A.2d at 740

Ram's Head Partners, 2003 ME 131, ¶ 11, 834 A.2d at 919

(quoting United States Supreme Court)

Discrimination does not exist in sporadic differences in valuations

Kittery Electric Light Co. I, 219 A.2d at 740

An aggrieved taxpayer must show more than some isolated, specific, or sporadic instances of lower valuation or spot disparity to others; such do not show invidious discrimination, but mere errors

Penobscot Chemical Fibre Co. I, 99 Me. at 266-67, 59 A. at 85

Kittery Electric Light Co. I, 219 A.2d at 740-41
Ram's Head Partners, 2003 ME 131, ¶ 11, 834 A.2d at 919
Angell Family Trust & Bolton, 2016 ME 152, ¶ 24, n.7,
 149 A.3d at 278 n.7

It is not sufficient to show merely an error; it is only when there is systematic purpose by the assessors to cast a disproportionate share on a taxpayer, or class of taxpayers, that courts will intervene

Penobscot Chemical Fibre Co. I, 99 Me. at 266-67, 59 A. at 85
Shawmut Mfg. Co., 123 Me. at 127, 130, 122 A. at 52, 53
Alfred J. Sweet, 134 Me. at 33, 180 A. at 805
Gaston, 150 Me. at 293-94, 110 A. at 504
Kittery Electric Light Co. I, 219 A.2d at 739

Another statement of this: If assessors have been honest with themselves, fair with the public, and true to their oaths, their judgment controls

Sears, Roebuck & Co., 150 Me. at 189, 190, 107 A.2d at 480
Kittery Electric Light Co. I, 219 A.2d at 734

Look for whether there has occurred a failure to exercise a fair and impartial judgment, or a conscious resort to arbitrary methods, different from those used to assess other like properties, thereby imposing an unequal burden

Farrelly, 407 A.2d at 307
Shawmut Inn, 428 A.2d at 393

A finding that an assessor did not use systematic or intentional methods to create a disparity in valuations may be taken to mean that the assessor's methodology was proper

Angell Family Trust & Bolton, 2016 ME 152, ¶ 23, n.6,
 149 A.3d at 278 n.6

Discrimination does not require actual fraud

Spear, 125 Me. at 29, 130 A. at 508
Kittery Electric Light Co. I, 219 A.2d at 740

But fraudulent action by assessors may be corrected by a court

Whitmore, 79 Me. at 186, 9 A. at 120
Shawmut Mfg. Co., 123 Me. at 128, 122 A. at 52

An illegal tax is one unauthorized by law; illegality involves a board's acting beyond its authority

Herriman, 43 Me. at 499 (assessors assessing one who is not an inhabitant of the town have committed an illegality)
Stockman, 147 Me. at 380, 87 A.2d at 683
Goldstein, 1998 ME 261, ¶ 7, 721 A.2d at 181 (misclassification of property that results in an assessment that is too high or too low is a classic error in valuation); ¶ 8, 621 A.2d at 182 (errors in calculating value are not illegalities because they do not affect the taxability of the property); ¶ 10 (mistakes in the application of the methods used to reach a valuation are not illegalities)
Yusem, 2001 ME 61, ¶ 14 n.12, 769 A.2d at 872 n.12
See UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 17, 921 A.2d at 152 (taxpayer claimed town "exceeded the bounds of its taxing authority"); ¶18 (illegality occurs "when there is an 'impropriety in the manner in which the property was assessed' . . . , but not when the assessor has made errors in value calculation")

Intangible property that is inextricably entwined with a tangible asset may be considered in determining just value of the tangible property

Glenridge Development Co., 662 A.2d at 931
UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 19, 921 A.2d at 152

Methods of appraising value:

- (1) sales comparison, or market data
- (2) income, or capitalization
- (3) cost, or reproduction, less depreciation

Alfred J. Sweet, 134 Me. at 32, 180 A. at 804
Kittery Electric Light Co. I, 219 A.2d at 737
Shawmut Inn, 428 A.2d at 390
South Portland Associates, 550 A.2d at 366-67
Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 6, 818
 A.2d at 1023
Opinion of the Justices, 2004 ME 54, ¶ 16 n.7, 850 A.2d at
 1150 n.7

These are only devices to determine fair value

Frank, 329 A.2d at 175-76

The objective of all is the same: to determine just or market value

Harwood, 489 A.2d at 508
South Portland Associates, 550 A.2d at 369
Quoddy Realty Corp., 1998 ME 14, ¶ 6, 704 A.2d at 409

And in the end it is a question of fact whether any formula or methodology determines just value

Great Northern Nekoosa Corp., 522 A.2d at 1317

Theoretically, all three methods may be employed, but often only one or two are useful in a given case

Shawmut Inn, 428 A.2d at 390

It is error for assessors to feel compelled to use only one method of appraisal

Quoddy Realty Corp., 1998 ME 14, ¶ 6, 704 A.2d at 409

An inherently discriminatory method cannot produce a just result, even if by chance the method arrives at a just result

Shawmut Inn, 428 A.2d at 393 n.8
J & N Sanford Trust, 1997 ME 97, ¶ 14, 694 A.2d at 460

A municipality is not required to use the identical appraisal method on all properties

South Portland Associates, 550 A.2d at 369
Quoddy Realty Corp., 1998 ME 14, ¶ 6, 704 A.2d at 409

The use of any single approach or combination of approaches that leads appraisers astray will not be accepted

Frank, 329 A.2d at 175
Shawmut Inn, 428 A.2d at 391
South Portland Associates, 550 A.2d at 367

Reasons for this: (1) may result in the highest valuation; (2) especially where assessors have relied on professionals, taxpayers can expect more, not less, sophisticated methods to be used; (3) as assessors become more highly skilled, through certification, courts may insist on higher standards

Shawmut Inn, 428 A.2d at 391

Appraisers are to “correlate” or “reconcile”—that is, calculate by two or more methods and then weigh the factors used in arriving at each value to determine which best reflect market value

Shawmut Inn, 428 A.2d at 391-92 & n.6
South Portland Associates, 550 A.2d at 367
Muirgen Properties, 665 A.2d at 57
Quoddy Realty Corp., 1998 ME 14, ¶ 10, 704 A.2d at 410

But this does not mean that appraisers can merely select any two methods and disregard a third that is demonstrably superior

South Portland Associates, 550 A.2d at 367

If assessors hire appraisers, assessors will be bound by their methods if assessors accept their conclusions *in toto*

Shawmut Inn, 428 A.2d at 392

Assessors must be familiar with appraisers' methods and use their own knowledge as a check

Shwamut Inn, 428 A.2d at 393

Highest and best use

Central Maine Power Co., 128 Me. at 494, 148 A. at 802 (owner cannot lessen tax by using it in a manner that produces little or no return, or fix value of land by the use to which he puts it; tax liability is not based on present use, but on its most profitable improvements and capacity)

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶¶ 11, 16, 921 A.2d at 150, 151 (citing 36 M.R.S. § 701-A)

Method utilized—

Cost less depreciation, or replacement (recommended for mass valuations):

Sears, Roebuck & Co., 150 Me. at 186, 107 A.2d at 477

Kittery Electric Light Co. I, 219 A.2d at 742

Maine Consolidated Power Co., 219 A.2d at 750 (not the only method to value a utility)

Frank, 329 A.2d at 174-76

Shawmut Inn, 428 A.2d at 389, 390 n.4, 392 (not *per se* unsuitable for valuing commercial property; best suited method for mass revaluations)

Great Northern Nekoosa Corp., 522 A.2d at 1317

South Portland Associates, 550 A.2d at 367 (cost method described; use rejected on facts here)

Central Maine Power Co., 649 A.2d at 325 (need not be the

same as “net book value” and may greatly exceed such, by a “residual value,” because the life of a facility may greatly exceed the time during which a utility can depreciate its property)

Glenridge Development Co., 662 A.2d at 930 n.4 (best suited method for mass revaluations); 932 (use of cost method, with mere substantiation with income and market approaches proper)

Muirgen Properties, 663 A.2d at 57

Quoddy Realty Corp., 1998 ME 14, ¶¶ 6, 10, 704 A.2d at 409, 410

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 6 n.2, 818 A.2d at 1023 n.2 (cost method described); ¶ 11, 818 A.2d at 1024-25 (Board rejected taxpayer’s expert’s opinion as inadequately explained and devised to match income approach analysis)

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 10, 921 A.2d at 150

Income, or capitalization:

Wheeler, 88 Me. at 181, 33 A. at 985 (stock of a corporation not meeting its operating expenses may nonetheless have substantial value because of the prospects for increased business and future earning capacity)

Frank, 329 A.2d at 174 (use rejected on facts here)

Great Northern Nekoosa Corp., 522 A.2d at 1317

(capitalization of cost savings approach need not have been adjusted by inclusion of income taxes; this is a question of methodology)

South Portland Associates, 550 A.2d at 368 (how to use explained at length)

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 12, 818 A.2d at 1025 (Board rejected taxpayer’s expert’s opinion as inadequately substantiated, and it was not clear how property taxes were not considered)

Sales comparison, or market data:

South Portland Associates, 550 A.2d at 367-68 (use rejected on facts here)

Harwood, 2000 ME 213, ¶¶ 11-15, 763 A.2d at 118-19 (use of one other sale was proper)

Northeast Empire Ltd. Partnership #2, 2003 ME 28, ¶ 13, 818

A.2d at 1025 (Board rejected taxpayer's expert's opinion as flawed by including site remediation expense when it appeared plant was going to continue to operate, and because quality of comparables was questionable and plant had not been offered on the open market)

Cost of the property when first acquired is not synonymous with reasonable value; sale price is not necessarily true value; it has been accorded varying evidentiary weight, depending on petitioner's ability to show that it was indicative of the price a willing buyer would pay in a free and open market

Spear, 125 Me. at 30, 130 A. at 508
Sears, Roebuck & Co., 150 Me. at 188-89, 107 A.2d at 479
Kittery Electric Light Co. I, 219 A.2d at 736
Shawmut Inn, 428 A.2d at 394, 395
Wesson, 667 A.2d at 599 n.5
Weekley, 676 A.2d at 934
McCullough, 687 A.2d at 631
Quoddy Realty Corp., 1998 ME 14, ¶ 9, 704 A.2d at 409

Lease fee value is determined by capitalizing the income produced by the actual leases on the property

J & N Sanford Trust, 1997 ME 97, ¶ 3, 694 A.2d at 457

Fee simple value is determined by capitalizing the income that would be produced by market rents

J & N Sanford Trust, 1997 ME 97, ¶ 3, 694 A.2d at 457-58

Use of lease fee value alone violates Maine's Constitution because it imposes an unequal tax on similarly situated taxpayers

J & N Sanford Trust, 1997 ME 97, ¶¶ 12, 16, 17, 694 A.2d at 459, 460, 461

When lease fee value and fee simple value differ, rely on the latter to determine abatement

J & N Sanford Trust, 1997 ME 97, ¶17, 694 A.2d at 461
(otherwise poor management is rewarded)

The principle of uniformity of taxation precludes the use of an appraisal method that will vary with managerial successes or failure

UAH-Hydro Kennebec, LP, 2007 ME 36, ¶ 13, 921 A.2d at 151

Running water (like air) is not property and is not taxable; so water power, as such, is not taxable; but once applied to a mill it becomes part of the value of the property (including the enhancing value of a “mill privilege”) subject to taxation, even if submerged

Union Water Power Co. I, 90 Me. at 64-65, 37 A. at 333
Saco Water Power Co., 98 Me. at 297-98, 56 A. at 914-15
Penobscot Chemical Fibre Co. I, 99 Me. at 272, 59 A. at 86
Inhabitants of Whiting, 121 Me. at 127, 115 A. at 900
Shawmut Mfg. Co., 123 Me. at 126, 122 A. at 51
Central Maine Co., 128 Me. at 488-95, 148 A. at 799-802

Economic obsolescence

Roque Island Gardner, 2017 ME 152, ¶ 5 & n.2, 167 A.3d at 566 & n.2 (an obsolescence factor generally refers to a reduction in value, here it had the effect of *increasing* the assessed value)

Functional obsolescence

J & N Sanford Trust, 1997 ME 97, ¶¶ 2, 694 A.2d at 457
Pepperman, 1999 ME 157, ¶¶ 3, 4 & nn.1, 2, 739 A.2d at 852-53 & nn.1, 2

There is no hard and fast rule by which to compute depreciation; it cannot be proved with mathematical certainty, and must remain in the realm of opinion, estimate, and judgment

Kittery Electric Light Co. I, 219 A.2d at 738
Shawmut Inn, 428 A.2d at 394

Because an aggrieved taxpayer must show more than some isolated instances of lower valuation, evidence of an overall prevailing ratio within a tax district is admissible, if subject to cross-examination

Kittery Electric Light Co. I, 219 A.2d at 741

Town-wide revaluations are perhaps the best method of maintaining equal apportionment of tax burden; but assessors are not precluded from reassessing in the time between town-wide revaluations; only “rough equality” is required

Moser, 553 A.2d at 1250
Petrin, 2016 ME 136, ¶ 38, 147 A.3d at 854-55
Angell Family Trust & Bolton, 2016 ME 152, ¶ 25, 149 A.3d at 278

Basis for valuation for rate-making purposes need not (but may) be the same as for tax purposes, and assessors would abdicate their duties to be bound by rate-making authorities

Kittery Electric Light Co. I, 219 A.2d at 735, 737
Maine Consolidated Power Co., 219 A.2d at 751
Central Maine Power Co., 649 A.2d at 324

Although in the long run these two different valuations should approximate each other

Kittery Electric Light Co. I, 219 A.2d at 735

Assessors do not have the same freedom to adjust value as do rate-makers

Kittery Electric Light Co. I, 219 A.2d at 736

The reasonably foreseeable prospects of rate-maker approval of a sale or rate increase should be considered in assessing fair market value

Kittery Electric Light Co. I, 219 A.2d at 736
Central Maine Power Co., 649 A.2d at 324-25

Public utilities are harder to value than houses, businesses, etc.

Kittery Electric Light Co. I, 219 A.2d at 736

The market value of a single purpose property, such as a public utility, must be determined by considering all factors that would influence an assumed buyer and seller in reaching a fair price in a fair market

Kittery Electric Light Co. I, 219 A.2d at 737

Utility's regulated status is a factor to be considered in assessing its property, but is not automatically determinative of a facility's value

Central Maine Power Co., 649 A.2d at 325

The reasonably foreseeable prospects of a rate-maker approving a sale or rate increase should be considered in assessing fair market value

Kittery Electric Light Co. I, 219 A.2d at 736
Central Maine Power Co., 649 A.2d at 324-25

Utility's regulated status is a factor to be considered in assessing its property, but is not automatically determinative of facility's value

Central Maine Power Co., 649 A.2d at 325

As regards the value of property of a regulated utility, the assessors' views remain relevant

Central Maine Power Co., 649 A.2d at 325

There could be a sale above net book cost, depending on the true value of the assets, as distinguished from valuation for rate-making purposes

Kittery Electric Light Co. I, 219 A.2d at 737

Forestry land cases (Chase Law, 36 M.R.S. §§ 563, 564): petitioner must show tax creates incentive to abandon the land

P. H. Chadbourne & Co., 452 A.2d at 401-02 & n.2

V. Exemptions From Taxation

There is no express constitutional provision for exemptions

Y.M.C.A of Auburn, 86 Me. at 247, 29 A. at 993

Exemptions are legislative

Brewer Brick Co., 62 Me. at 74 (Legislature “may exempt by general and uniform laws certain descriptions of property from taxation, and lay the burden of supporting government elsewhere”; “it is for the legislature to impose taxes and to exempt from taxation”)

Maine Central R.R. Co., 66 Me. at 494, 501

Hamlin, 86 Me. at 503, 30 A. at 79

Opinion of the Justices, 102 Me. at 528, 529, 66 A. at 727

Waldo Lumber Co., 128 Me. at 5, 145 A. at 243 (“The State may exempt classes of property”)

In re Maine Central R.R. Co., 134 Me. at 219, 183 A. at 845

Opinion of the Justices, 141 Me. at 446, 447, 42 A.2d at 49

MacDonald, 142 Me. at 241, 49 A.2d at 768

Greaves II, 143 Me. at 211, 59 A.2d at 219

Opinion of the Justices, 155 Me. at 47, 48, 152 A.2d at 89, 90

Green Acre Baha’i II, 159 Me. at 399, 193 A.2d at 566

Alpha Rho Zeta, 477 A.2d at 1137

Camps Newfound/Owatonna II, 655 A.2d at 878

Delogu II, 2004 ME 18, ¶ 25, 27, 843 A.2d at 39, 40

Wisdom of legislative scope of exemptions is not for courts to consider

Laughlin, 111 Me. at 497, 501, 90 A. at 322, 324

Inhabitants of Whiting, 121 Me. at 122, 115 A. at 897

Camp Emoh Associates, 132 Me. at 70, 166 A. at 60

Opinion of the Justices, 141 Me. at 446, 42 A.2d at 49

Greaves II, 143 Me. at 211, 59 A.2d at 219

Inhabitants of Boothbay, 148 Me. at 42, 88 A.2d at 825

Green Acre Baha’i II, 159 Me. at 404, 193 A.2d at 568

Lambert, 423 A.2d at 536

The authority of the Legislature to provide exemptions from taxation cannot be questioned

Opinion of the Justices, 102 Me. at 529, 66 A. at 727

Exemption from taxation is inherently intertwined with the power of taxation

Brewer Brick Co., 62 Me. at 74

Delogu II, 2004 ME 18, ¶ 26, 843 A.2d at 39

Taxation is the rule, and exemption the exception

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 198

Rising Virtue Lodge, 73 Me. at 433

Y.M.C.A. of Auburn, 86 Me. at 247, 29 A. at 993

Millett, 121 Me. at 332, 117 A. at 94

Ferry Beach Park Universalists I, 127 Me. at 138, 142 A. at 66

Hinds I, 134 Me. at 440, 187 A. at 719

James, 136 Me. at 117, 3 A.2d at 432

MacDonald, 142 Me. at 239, 49 A.2d at 767

Green Acre Baha'i, 150 Me. at 353, 110 A.2d at 583

Dodge, 151 Me. at 481, 121 A.2d at 352-53

Green Acre Bahai II, 159 Me. at 398, 193 A.2d at 566

State Y.M.C.A., 295 A.2d at 441

Hurricane Island Outward Bound, 372 A.2d at 1043, 1046

Pentecostal Assembly of Bangor, 414 A.2d at 893

Silverman, 451 A.2d at 105

Connecticut Bank & Trust Co., 477 A.2d at 271

Advanced Medical Research Foundation, 555 A.2d at 1041

Eagle Rental, 632 A.2d at 131

Episcopal Camp Foundation, 666 A.2d at 111 (dissenting op.)

Marcotte Congregate Housing, 673 A.2d at 211

Humboldt Field Research Institute, 2011 ME 130, ¶ 7, 36 A.3d at 875

Hebron Academy, 2013 ME 15, ¶ 7, 60 A.3d at 778
("Exemption is a special favor conferred")

Francis Small Heritage Trust, 2014 ME 102, ¶ 13, 98 A.3d at 1017

Statutes of exemption are to be strictly construed; so all doubts are weighed against exemption

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 198
Maine Central R.R. Co., 66 Me. at 496, 501, 514-15
Rising Virtue Lodge, 73 Me. at 433
Camden Village Corp., 77 Me. at 538, 1 A. at 693
Y.M.C.A. of Auburn, 86 Me. at 247, 29 A. at 993
Sigma Alpha Epsilon Society, 105 Me. at 219, 74 A. at 21
Millett, 121 Me. at 331-32, 117 A. at 94
Ferry Beach Park Universalists I, 127 Me. at 138, 142 A. at 66-67
Hinds I, 134 Me. at 440, 187 A. at 719
James, 136 Me. at 117, 3 A.2d at 432
Wassookeag School, 142 Me. at 88, 46 A.2d at 862
Dodge, 151 Me. at 480, 481, 121 A.2d at 352, 352-53
Holbrook Island Sanctuary, 161 Me. at 483, 214 A.2d at 664
State Y.M.C.A., 295 A.2d at 441
Howard D. Johnson Co., 351 A.2d at 532
Hurricane Island Outward Bound, 372 A.2d at 1046
Nature Conservancy, 385 A.2d at 42
Pentecostal Assembly of Bangor, 414 A.2d at 893
Silverman, 451 A.2d at 105
Connecticut Bank & Trust Co., 477 A.2d at 272
Episcopal Camp Foundation, 666 A.2d at 110
Credit Counseling Centers, 2003 ME 2, ¶ 16, 814 A.2d at 463
Humboldt Field Research Institute, 2011 ME 130, ¶ 5, 36 A.3d at 875
Hebron Academy, 2013 ME 15, ¶ 9, 60 A.3d at 778

Why? Because exemptions conflict with the universal obligation to contribute to society through equal and impartial taxation

Rising Virtue Lodge, 73 Me. at 433
Episcopal Camp Foundation, 666 A.2d at 110
Credit Counseling Centers, 2003 ME 2, ¶ 16, 814 A.2d at 463

The less some property is taxed, the more must be other property

Brewer Brick Co., 62 Me. at 74 (“To the precise extent that

one man's estate is exempted from taxation, to that same extent is there an imposition of the amount exempted upon the rest of the inhabitants")

Rising Virtue Lodge, 73 Me. at 432

Hamlin, 86 Me. at 503, 30 A. at 79

Green Acre Baha'i II, 159 Me. at 399, 193 A.2d at 566

Delogu II, 2004 ME 18, ¶¶ 18, 25, 843 A.2d at 38, 39

The Legislature may not delegate to municipalities the power to determine what classes of property are exempt

Brewer Brick Co., 62 Me. at 74

Farnsworth Co. I, 62 Me. 451

Delogu II, 2004 ME 18, ¶¶ 23-28, 843 A.2d at 39-40

Municipalities are prohibited from taking unilateral actions to adopt exemptions

Milo Water Co. III, 133 Me. at 7, 173 A. at 153-54 (municipality cannot exempt water company from payment of taxes in return for services rendered, but may contract to pay water company annually a sum equivalent to taxes assessed)

Delogu II, 2004 ME 18, ¶ 15, 843 A.2d at 37

But whether a particular property qualified for a legislatively approved exemption is within municipal power

Delogu II, 2004 ME 18, ¶ 26 n.8, 843 A.2d at 40 n.8

A municipality may not tax inhabitants to make up for exemption from taxation, provided by commuting a toll, given to certain other inhabitants for use of property used under contract by the municipality

Bussey, 3 Me. at 196

Only assessors can grant an exemption, not the municipality

U. S. Pegwood & Shank Co., 123 Me. at 382, 123 A. at 172
Dillon, 322 A.2d at 335

The theory behind exemptions is that the benefits derived by the public are of greater value than would be their tax contributions

MacDonald, 142 Me. at 239, 49 A.2d at 767

No question of constitutionality of tax exemption is raised by the Legislature financing a water and sewer system by bonds rather than taxation

Opinion of the Justices, 231 A.2d 431 (*passim*)

The Legislature can provide for exemption from taxation by charter of legislatively created corporation, which is a contract that cannot be impaired

Maine Central R.R. Co., 66 Me. at 494-96

Conversely, the Legislature can provide for an exception to exemption from taxation by charter of legislatively created corporation

Passamaquoddy Water Dist., 1998 ME 94, ¶ 7, 710 A.2d at 899-900

The Legislature can exempt one corporation without exempting all similar corporations, on basis that the exempted corporation provides vastly greater benefits to the public than others

Portland Water Co., 67 Me. at 136-37
Greaves II, 143 Me. at 212, 59 A.2d at 219

Conversely, the Legislature can except one corporation from tax exemption that other like corporations enjoy

Passamaquoddy Water Dist., 1998 ME 94, ¶ 13, 710 A.2d at 901

Legislatively created corporation is entitled to exemption only if it is able to do what the corporations previously composing it were required to do

Maine Central R.R. Co., 66 Me. at 496, 502-03, 510-12, 514

Motive to incorporate to seek exemption

Ferry Beach Park Universalists I, 127 Me. at 138, 142 A. at 66
Camp Emoh Associates, 132 Me. at 69, 166 A. at 60
Wassookeag School, 142 Me. at 88, 46 A.2d at 862

Claim of subterfuge and device

Wassookeag School, 142 Me. at 88, 46 A. at 862

Exemption begins as of property owner's acquisition of property

Portland Water Co., 67 Me. at 138-39
Town of East Millinocket, 486 A.2d at 742

An exemption from taxation, while entitled to reasonable interpretation in accordance with its purpose, is not to be extended to situations not clearly within the scope of the statutory provision

Silverman, 451 A.2d at 105

Such strict construction must be reasonable construction, and does not mean that the narrowest possible meaning must be given to words descriptive of exemption

State Y.M.C.A., 295 A.2d at 442
Howard D. Johnson Co., 351 A.2d at 532
Alpha Rho Zeta, 477 A.2d at 1136
Eagle Rental, 632 A.2d at 131

In a tax exemption case, the assessors are the proper adverse party (although many cases have ignored this)

Dillon, 322 A.2d at 334-35
Eldridge, 392 A.2d at 41 n.3
Connecticut Bank & Trust Co., 477 A.2d at 271 n.5

This is a jurisdictional requirement

Dillon, 322 A.2d at 334

Abatement proceeding is proper vehicle to raise claim of exemption

Portland Terminal Co., 129 Me. at 267, 151 A. at 461
All Maine Fair Ass'n, 138 Me. at 43, 21 A.2d at 627
Berry, 322 A.2d at 324
Maine Central R.R. Co., 588 A.2d at 292
Camps Newfound/Owatonna III, 1998 ME 20, ¶ 4, 705 A.2d at 1112

Necessity for county commissioners (and boards of assessment review) to make sufficient findings of fact re whether organization qualifies for a benevolent and charitable exemption

Christian Fellowship & Renewal Center I, 2001 ME 16, ¶¶ 7-19, 769 A.2d at 837-41
Ram's Head Partners, 2003 ME 131, ¶¶ 16-17, 834 A.2d at 921

Consider effect of federal regulations governing property

Maine AFL-CIO Housing Development, 523 A.2d at 583
Marcotte Congregate Housing, 673 A.2d at 209

Inquiries that assessors are authorized to make under 36 M.R.S. § 706 should be concerned only with nonexempt property

Handyman Equipment Rental Co., 1999 ME 20, ¶ 10, 724 A.2d at 608

One exempt from taxation need not file list of property under 36 M.R.S. § 706 before seeking abatement of property claimed to be exempt

Holbrook Island Sanctuary, 161 Me. at 478, 214 A.2d at 662
Depositors Trust Co., 295 A.2d at 30
Howard D. Johnson Co., 351 A.2d at 526-27
Madison Water Dist., 1998 ME 154, ¶ 5, 713 A.2d at 330
Handyman Equipment Rental Co., 1999 ME 20, ¶ 9, 724 A.2d at 608

“Property liable to taxation” in the fourth paragraph of 36 M.R.S. § 706 refers to property that is not exempt; exempt property is not liable to taxation while nonexempt property is liable to taxation

Depositors Trust Co., 295 A.2d at 30
Handyman Equipment Rental Co., 1999 ME 20, ¶ 10, 724 A.2d at 608

To qualify for exemption one must prove each of the necessary facts set forth in the applicable statute; if he proves eligibility, he is entitled to exemption; if he does not, he is not; whether or not assessors have recognized the exemption is not what controls

Stockman, 147 Me. at 383-84, 87 A.2d at 684

A claimant for exemption must show that money paid has been received by the municipality, not merely paid to the tax collector

Stockman, 147 Me. at 385, 87 A.2d at 685

Burden is on taxpayer to prove eligibility for exemption

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 200
Camp Emoh Associates, 132 Me. at 70, 166 A. at 61
MacDonald, 142 Me. at 239, 49 A.2d at 767
Stockman, 147 Me. at 378-79, 384, 87 A.2d at 682, 684
Green Acre Baha'i II, 159 Me. at 398, 193 A.2d at 566

Holbrook Island Sanctuary, 161 Me. at 483, 214 A.2d at 664
Nature Conservancy, 385 A.2d at 42
Christian Fellowship & Renewal Center I, 2001 ME 16, ¶ 6,
 769 A.2d at 837
Humboldt Field Research Institute, 2011 ME 130, ¶ 6, 36 A.3d
 at 875
Francis Small Heritage Trust, 2014 ME 102, ¶ 12, 98 A.3d
 at 1017

Burden of proof: taxpayer always retains burden to prove eligibility for exemption

Humboldt Field Research Institute, 2011 ME 130, ¶ 8, 36 A.3d
 at 875

Burden of proof: one who has obtained an exemption is entitled to retain it year to year until it is denied by the assessors, at which point the taxpayer again must prove its eligibility for the exemption

Humboldt Field Research Institute, 2011 ME 130, ¶¶ 6-8,
 36 A.3d at 875 (section 652(1))

Burden of proof: one claiming exemption must prove his entitlement beyond all doubt

Rising Virtue Lodge, 73 Me. at 433

Burden of proof: one claiming exemption must bring his case unmistakably within the spirit and intent of the act creating the exemption

Rising Virtue Lodge, 73 Me. at 433
Holbrook Island Sanctuary, 161 Me. at 483, 214 A.2d at 664
Hurricane Island Outward Bound, 372 A.2d at 1046
Pentecostal Assembly of Bangor, 414 A.2d at 893
Silverman, 451 A.2d at 105
Alpha Rho Zeta, 477 A.2d at 1140
Advanced Medical Research Foundation, 555 A.2d at 1041
Poland Spring Health Institute, 649 A.2d at 1100
Episcopal Camp Foundation, 666 A.2d at 110

Credit Counseling Centers, 2003 ME 2, ¶¶ 10 n.3, 16, 17, 814 A.2d at 461 n.3, 463

Humboldt Field Research Institute, 2011 ME 130, ¶ 7, 36 A.3d at 875

Hebron Academy, 2013 ME 15, ¶ 7, 60 A.2d at 778

Francis Small Heritage Trust, 2014 ME 102, ¶ 12, 98 A.3d at 1017

Burden of proof: no error in applying preponderance of evidence

Ferry Beach Park Universalists II, 136 Me. at 205, 7 A.2d at 429

Poland Spring Health Institute, 649 A.2d at 1099-1100

Whether an organization qualifies for exemption is a mixed question of law and fact

Cushing Nature & Preservation Center, 2001 ME 149, ¶ 10, 785 A.2d at 345

Credit Counseling Centers, 2003 ME 2, ¶ 14, 814 A.2d at 462-63

Whether property qualifies for exemption—

30 M.R.S. § 4262—Revenue Producing Municipal Facilities:

Town of East Millinocket, 486 A.2d 739 (*passim*)(municipal water works—yes; three justices vote to resolve case under 30 M.R.S. § 4262, and three under 36 M.R.S. § 651(1)(E))

36 M.R.S. § 561—Abandoned Railroads:

Maine Central R.R. Co., 588 A.2d at 293-94 (abandonment of railroad right-of-way exemption depends on Interstate Commerce Commission certificate of abandonment)

36 M.R.S. § 651(1)(D), (E)—Public property:

Maine Central R.R. Co., 66 Me. at 514 (legislatively formed corporation not required to perform acts that qualified predecessor corporations to be exempt—no)

- Portland Water Co.*, 67 Me. at 139 (property of private company appropriated to use as a public utility—yes)
- Camden Village Corp.*, 77 Me. at 537-38, 1 A. at 692 (public buildings when used for public purposes—yes)
- Rockland Water Co.*, 82 Me. at 194, 19 A. at 164 (aqueducts, conduits, etc.—no)
- Maine Water Co.*, 90 Me. at 181, 38 A. at 102 (same)
- Sigma Alpha Epsilon Society*, 105 Me. at 219-22, 74 A. at 21-22 (although University of Maine is a public corporation, and owned the land on which fraternity house was located, building used as chapter house is not exempt)
- Hayford Block Co.*, 120 Me. at 519, 115 A. at 283 (buildings used by the National Guard for military purposes)
- Inhabitants of Whiting*, 121 Me. at 127-28, 115 A. at 900 (poles and transmission lines of town—yes; land with mill privilege—no)
- Greaves I*, 140 Me. at 165, 34 A.2d at 696 (municipal corporation providing electricity to neighboring towns—no)
- City of Bangor*, 142 Me. at 13-14, 45 A.2d at 436-37 (reservoir formed by river dam and land under dam—no)
- Greaves II*, 143 Me. at 213, 59 A.2d at 220 (municipal corporation given legislative exemption and providing electricity to neighboring town by legislative authority—yes)
- Inhabitants of Boothbay*, 148 Me. at 42-43, 88 A.2d at 825-26 (utility acting as municipal corporation and providing service to neighboring town—yes)
- Dodge*, 151 Me. at 481, 121 A.2d at 352 (airport and buildings—yes)
- Marshall*, 154 Me. at 382, 148 A.2d at 692 (airport buildings—yes)
- Howard D. Johnson Co.*, 351 A.2d at 530-31 (operation of restaurant by lessee on public land, by contract with state agency, is a public use)
- Exxon Corp.*, 351 A.2d at 537 n.5 (*Howard D. Johnson* would control if Court reached the merits)
- Town of East Millinocket*, 486 A.2d at 742 (concurring opinion of three of six sitting justices would resolve case under section 651(1)(E))
- Town of Madison*, 544 A.2d 317 (*passim*)(hydroelectric facility:

- dam, reservoir used to generate power or light, powerhouse, generator, and related equipment—yes)
- Passamaquoddy Water Dist.*, 1998 ME 94, ¶ 7, 710 A.2d at 899-900 (property of water district whose charter created an exception from exemption—no)
- Madison Water Dist.*, 1998 ME 154, ¶¶ 6, 8, 713 A.2d at 330 (modern water treatment facilities under 1911 statute, now subsections (D) and (E), to be read as applicable today—yes)
- Portland Water Dist.*, 1999 ME 161, ¶¶ 10-13, 740 A.2d at 567-68 (same; water district that by legislative authority provides service outside its territorial boundaries—yes)

36 M.R.S. § 652(1)(A)—Benevolent and charitable institutions:

- Inhabitants of Baldwin*, 37 Me. at 372 (no property of corporations except that of benevolent, charitable, and scientific corporations were intended by Legislature to be exempt)
- Maine Baptist Missionary Convention*, 65 Me. at 94 (missionary society—yes)
- Rising Virtue Lodge*, 73 Me. at 436, 441 (Masonic lodge—no)
- Straw*, 86 Me. at 78, 29 A. at 951 (cottages and land not used for corporate purposes—no)
- Piscataquis Valley Campmeeting Ass'n*, 86 Me. at 80, 29 A. at 951 (religious society's property used for its purposes—yes)
- Y.M.C.A. of Auburn*, 86 Me. at 246, 29 A. at 992 (religious society—no)
- Trustees of Ministerial Fund*, 109 Me. at 26, 82 A. at 292 (no)
- Ferry Beach Park Universalists I*, 127 Me. at 138, 142 A. at 67 (missionary society—yes)
- Camp Emoh Associates*, 132 Me. at 69-70, 166 A. at 60-61 (summer camp—yes)
- Ferry Beach Park Universalists II*, 136 Me. 202, 7 A.2d 428 (missionary society—yes)
- All Maine Fair Ass'n*, 138 Me. at 41, 21 A.2d at 626 (agricultural fairs—yes)
- Osteopathic Hospital of Maine*, 139 Me. at 33, 26 A.2d at 644 (land held for future expansion of hospital—yes)
- MacDonald*, 142 Me. at 241, 49 A.2d at 768 (bequest for payment of annual dues and maintenance of lodge building that is not exempt—no)

- Green Acre Baha'i I*, 150 Me. at 353, 110 A.2d at 583
(missionary society—yes)
- Holbrook Island Sanctuary*, 161 Me. at 484, 486, 488,
214 A.2d at 664, 665, 666 (wildlife sanctuary—no)
- South Blue Hill Cemetery Ass'n*, 221 A.2d at 287 (upkeep of
cemetery—yes)
- State Y.M.C.A.*, 295 A.2d at 442 (cottage occupied by
caretaker-employee—yes)
- Lucci*, 317 A.2d 1 (Maine Medical Center—yes)
- Nature Conservancy*, 385 A.2d at 43, 44 (nature preserve—no)
- Pentecostal Assembly of Bangor*, 414 A.2d at 893-94
(religious activities—no)
- Silverman*, 451 A.2d at 106 (wildlife trust—no)
- Christian Schools*, 489 A.2d at 515 (housing of employees—
yes)(*cf.* § 652(1)(B))
- Maine AFL-CIO Housing Development*, 523 A.2d at 584, 585
- Camps Newfound/Owatonna I*, 604 A.2d 908 (*passim*);
Camps Newfound/Owatonna II, 655 A.2d 876 (*passim*),
Camps Newfound/Owatonna III, 1998 ME 20, 705 A.2d
1109 (*passim*)(summer camp—yes, subject to commerce
clause regarding out-of-state campers)
- Poland Spring Health Institute*, 649 A.2d at 1100 (medical
clinic—yes)
- Episcopal Camp Foundation*, 666 A.2d at 111 (below cost
summer camp—yes)
- Marcotte Congregate Housing*, 673 A.2d at 212 (portions of
congregate care facility—no)
- Salvation Army*, 1998 ME 76, ¶ 7, 709 A.2d at 729 (staff
residences at summer camp for underprivileged
children—yes)
- Salvation Army*, 1998 ME 98, ¶ 7, 710 A.2d at 915-16
(thrift store with profits for rehabilitation center—yes)
- Christian Fellowship & Renewal Center I*, 2001 ME 16, ¶ 6,
769 A.2d at 837 (remanded for fact-finding)
- Cushing Nature & Preservation Center*, 2001 ME 149, ¶ 15,
785 A.2d at 346-47 (land conservation or preservation
alone—question not decided); *id.* ¶ 18, 785 A.2d at 347
(nature preserve used for education—yes, unless
property is held for noncharitable investment or other
noncharitable purpose)
- Credit Counseling Centers*, 2003 ME 2, ¶¶ 1-2, 814 A.2d at 460
(real property of credit counseling, debt management,
and consumer education services business—no)

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 39, 896 A.2d at 298 (religious organization that permitted recreation and relaxation on grounds, incidental housing for staff and others, and incidental noncharitable income produced by noncharitable events, whether or not it provides services not provided by government—not barred as a matter of law; remanded for further findings)

Humboldt Field Research Institute, 2011 ME 130, ¶ 2, 36 A.3d at 874 (claim made on this basis); at ¶ 9, 36 A.3d at 876 (if county commissioners deny exemption, taxpayer needs to show the evidence compels a contrary determination)

Francis Small Heritage Trust, 2014 ME 102, ¶¶ 21-22, 98 A.3d at 1021-22 (land conservation held by trust—yes, rejecting Board’s characterization of trust’s activities)

36 M.R.S. § 652(1)(B)—Literary or scientific institutions:

Sigma Alpha Epsilon Society, 105 Me. at 217-19, 74 A. at 21 (University of Maine—yes; land used by such for its own purposes—yes; university fraternities—no)

Kappa Sigma Society, 108 Me. at 324-25, 80 A. at 832-33 (University of Maine—yes; university fraternities—no)

Holbrook Island Sanctuary, 161 Me. at 488, 214 A.2d at 666 (small library and study area for wildlife sanctuary—no)

Hurricane Island Outward Bound, 372 A.2d at 1047 (self-discovery program—no); *id.* at 1047 n.4 (whether scientific research is an essential component of a scientific institution not decided)

Nature Conservancy, 385 A.2d at 42 n.3 (nature preserve with easements—no)

Alpha Rho Zeta, 477 A.2d at 1133, 1134 (college and college controlled fraternities—yes)

Christian Schools, 489 A.2d at 515 (housing of employees—question not reached)(*dictum*)(but *cf.* § 652(1)(A))

Cf. Colby College, 512 A.2d 1039 (Me. 1986)(whether fraternity or Colby College is entitled to refund)

American Martial Arts, 635 A.2d at 963 (remanded)

Humboldt Field Research Institute, 2011 ME 130, ¶ 2, 36 A.3d at 874 (claim also made on this basis); at ¶ 9, 36 A.3d at 876 (if county commissioners deny exemption, taxpayer needs to show the evidence compels a contrary determination)

Hebron Academy, 2013 ME 15, ¶¶ 18-19, 26, 60 A.3d at 780-81, 782 (preparatory school providing course of high school education—yes)

36 M.R.S. § 653—Estates of Veterans:

Millett, 121 Me. at 332, 117 A. at 94 (estate exempt if not larger than specified amount; not by that specified amount if estate exceeds that amount)

Whittier, 122 Me. at 88, 118 A. at 897 (same)

Holway, 130 Me. at 416, 157 A. at 236 (widow of veteran who remarries is no longer his widow and then becomes disentitled to exemption for veterans' widows)

Stockman, 147 Me. at 379, 87 A.2d at 682 (not without proof of residence in Maine at time of assessment)

Dillon, 322 A.2d at 335 (case dismissed for lack of jurisdiction)

Lambert, 423 A.2d at 534 (10-year residency requirement violates constitutional right to travel, but requirement of Maine residency at time of induction does not)

36 M.R.S. § 655—Personal property:

Trustees of Ministerial Fund, 37 Me. at 373 (fund of trustees—no)

Gardiner Cotton & Woolen Factory, 5 Me. at 137-39 (all property employed in manufacturing except store, merchandise, and lot—yes)

Farnsworth Co. I, 62 Me. at 451 (manufacturing company—procedural issue)

Donnell, 63 Me. at 16 (hay made exempt only by later statute—no)

Opinion of the Justices, 102 Me. at 529, 66 A. at 727 (taxes on railroad property, stock, and gross receipts are excise taxes, permitted by law)

Milo Water Co. II, 131 Me. at 379, 163 A. at 166 (water works, etc.—no)

James, 136 Me. at 117, 3 A.2d at 432 (cabinet radio as an article of household furniture—yes)

Opinion of the Justices, 141 Me. at 443, 42 A.2d at 48 (aqueducts, pipes, and conduits of any corporation supplying a town with water)

Bridges Bros., 223 A.2d at 73 (vehicles of dealer taxable as

personal property or, once registered, as an excise tax, but not both)

Hardy's Trailer Sales, 410 A.2d at 223-24 (under recent statute, stock-in-trade including inventory that is manufactured merchandise held for sale—yes)

Roberta, 449 A.2d at 1139-41 (pleasure boat of nonresident not regularly kept in state during preceding year—yes)

Jordan-Milton Machinery, Inc., 609 A.2d 1167 (where property was not taxable because it was of a nonresident, no need to address issue whether property was exempt as stock-in-trade)

Eagle Rental, 632 A.2d at 131-32 (inventory for resale and rental—yes)

Handyman Equipment Rental Co., 1999 ME 20, ¶ 7, 724 A.2d at 607 (same)

36 M.R.S. § 656—Certain real estate:

Portland, Saco & Portsmouth R.R. Co., 60 Me. at 198-201 (land appurtenant to a railroad bed, and railroad buildings—no)

Plaisted, 62 Me. at 92 (tannery not within scope of exemption for improvements to water power of stream)

Rockland Water Co., 82 Me. at 194, 19 A. at 164 (aqueducts, conduits, etc. of privately owned utility—no)

Norway Water Co., 85 Me. 330, 27 A. 143 (*passim*)(same—no)

Maine Water Co., 90 Me. at 182, 38 A. at 102 (same—no)

New England Tel. & Tel. Co., 103 Me. at 249, 68 A. at 1044 (underground conduits and telephone wires—yes)

Portland Terminal Co., 129 Me. at 267-70, 151 A. at 461-62 (land within railroad right-of-way and commercial, nonrailroad building built thereon—yes)

In re Maine Central R.R. Co., 134 Me. at 219, 183 A. at 845 (railroad right-of-way—yes, but not buildings on it)

Hinds I, 134 Me. at 439, 441, 187 A. at 718-19 (same)

Hinds II, 141 Me. at 78, 39 A.2d at 9 (buildings within and outside railroad right-of-way—no; taxable as real estate to owner of building although on land leased by railroad; leased building owned by railroad taxable to lessee as owner during term of lease)

Connecticut Bank & Trust Co., 477 A.2d at 271-72 (pollution control facility without DEP certification—no)

Exemption must be determined as of April 1st of year in question, not by statute granting exemption for later years

Donnell, 63 Me. at 16

The way in which property is used, not ownership, is the key to whether it is tax-exempt as public property

Sigma Alpha Epsilon Society, 105 Me. at 218-19, 74 A. at 21
Dodge, 151 Me. at 481, 121 A.2d at 352
Opinion of the Justices, 231 A.2d at 434-35

Where there are coexisting property rights—one of which is of an organization entitled to exemption, the other not—it is the way in which the property is used that determines taxability

Dodge, 151 Me. at 481, 121 A.2d at 352
Alpha Rho Zeta, 477 A.2d at 1134

Use of exempt property by private party does not defeat exemption if the private party's use is the public use underlying the exemption

Howard D. Johnson Co., 351 A.2d at 534

Property of a municipality not devoted to public use is not exempt

Inhabitants of Boothbay, 148 Me. at 35, 88 A.2d at 822
Dodge, 151 Me. at 480, 481, 121 A.2d at 352

Whether the Legislature can constitutionally create and provide for taxation exemption for a municipal corporation, for public purpose, as local governments are exercising the state's power without being socialistic

Portland Water Co., 67 Me. at 137-38
Dover & Foxcroft Village Fire Co., 96 Me. at 556, 53 A. at 68
Augusta Water Dist., 101 Me. 148, 63 A. 663 (*passim*)
Laughlin, 111 Me. 486, 90 A. 318 (*passim*)

Greaves II, 143 Me. at 211, 59 A.2d at 219
Inhabitants of Boothbay, 148 Me at 42-43, 88 A.2d at 825-26
Madison Water Dist., 1998 ME 154, ¶¶ 6, 8, 713 A.2d at 330
Portland Water Dist., 1999 ME 161, ¶¶ 10-13, 740 A.2d at
 567-68

Municipal corporations are presumptively exempt from taxation as public property if acting in trust for the public

Camden Village Corp., 77 Me. at 535-36, 1 A. at 690-91
Inhabitants of Whiting, 121 Me. at 122-23, 124-25, 115 A. at
 897, 898
Greaves I, 140 Me. at 163, 34 A.2d at 695
Greaves II, 143 Me. at 211-12, 59 A.2d at 219

But there is no per se exemption for public property as such

Sigma Alpha Epsilon Society, 105 Me. at 219, 74 A. at 21

Maine Turnpike Authority is a public agency whose land is exempt from taxation when acquired or used for its statutory purpose

Howard D. Johnson Co., 351 A.2d at 528-29

Whether the organization's stated purposes are benevolent and charitable is the first issue to resolve

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 16,
 896 A.2d at 293

Organizational qualification is a prerequisite for a charitable exemption

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 27,
 896 A.2d at 296

Benevolent and charitable organization defined

- Maine Baptist Missionary Convention*, 65 Me. at 93-94
(charity is not to be taken in its widest sense, denoting all good affections, nor in the restricted sense signifying relief to the poor, but has a legal signification)
- Rising Virtue Lodge*, 73 Me. at 434 (charity is not confined to privileged individuals, but is open to the indefinite public with an unrestricted quality)
- Green Acre Baha'i I*, 150 Me. at 354, 110 A.2d at 584
(four-point test often cited: examine whether organization is organized and operating in good faith purely for benevolent and charitable purposes, whether there is a profit motive revealed or concealed, whether there is any pretense to avoid taxation, and whether production of revenue is purely incidental to dominant purpose as benevolent and charitable)
- South Blue Hill Cemetery Ass'n*, 221 A.2d at 287 (a gift for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government; also quoting *Rising Virtue Lodge*)
- State Y.M.C.A.*, 295 A.2d at 443
- Christian Schools*, 489 A.2d at 516 n.3 (quoting four-point test of *Green Acre Baha'i I*)
- Maine AFL-CIO Housing Development*, 523 A.2d at 584 (quoting four-point test of *Green Acre Baha'i I*)
- Poland Spring Health Institute*, 649 A.2d at 1100 (quoting four-point test of *Green Acre Baha'i I*)
- Episcopal Camp Foundation*, 666 A.2d at 110 (quoting *Maine Baptist Missionary Convention* and *South Blue Hill Cemetery*)
- Marcotte Congregate Housing*, 673 A.2d at 211-12
- Cushing Nature & Preservation Center*, 2001 ME 149, ¶ 17, 785 A.2d at 347 (citing four-point test of *Green Acre Baha'i I* as a nonexclusive list)
- Credit Counseling Centers*, 2003 ME 2, ¶ 15, 814 A.2d at 463 (quoting four-point test of *Green Acre Baha'i I*, but citing it as from *Cushing Nature & Preservation Center*)
- Christian Fellowship & Renewal Center II*, 2006 ME 44, ¶¶ 17,

26, 29, 896 A.2d at 294, 295, 296 (these matters address organizational qualifications)
Francis Small Heritage Trust, 2014 ME 102, ¶ 13, 98 A.3d at 1017 (quoting four-point test of *Green Acre Baha'i I*);
id. at ¶ 14, 98 A.3d at 1017-18 (quoting from *South Blue Hill Cemetery* (but citing it as from *Episcopal Camp Foundation*))

It is difficult to say what the difference is between benevolent and charitable

Maine Baptist Missionary Convention, 65 Me. at 93
Camp Emoh Associates, 132 Me. at 68, 166 A. at 60

Benevolent is equated with charitable

Rising Virtue Lodge, 73 Me. at 433
Holbrook Island Sanctuary, 161 Me. at 483-84, 214 A.2d at 664
Maine AFL-CIO Housing Development, 523 A.2d at 584
Poland Spring Health Institute, 649 A.2d at 1100
Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 13, 896 A.2d at 293
Francis Small Heritage Trust, 2014 ME 102, ¶ 14, 98 A.3d at 1017

The charitable exemption was created at a time when government provided few services, and religious institutions and charities provided many services that government did not provide or subsidize

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 23, 896 A.2d at 295

The charitable exemption means, in effect, that the Legislature has decided to give up tax dollars to purchase charitable services

Camps Newfound/Owatonna II, 655 A.2d at 878

The justification for a charitable exemption is a *quid pro quo*: it alleviates the need for government to provide such services or benefits

Episcopal Camp Foundation, 666 A.2d at 110
Francis Small Heritage Trust, 2014 ME 102, ¶ 12, 98 A.3d at 1017; *id.* at ¶ 14, 98 A.3d at 1018 (this is a factor courts should consider)

But a charitable exemption cannot be denied because activities do not provide a service or benefit—a *quid pro quo*—to offset government services and benefits; this is merely on factor to consider

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 22, 24, 35-37, 896 A.2d at 295, 297-98 (recreational activities supported by a religious or preservation organization)

Organizations need not displace governmental services, or may do so in only a limited way, in order to qualify for a charitable exemption

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 23
 896 A.2d at 295
Francis Small Heritage Trust, 2014 ME 102, ¶ 14, 98 A.3d at 1018

After considering an organization's stated purposes, examine whether the organization's activities are benevolent and charitable under four-part test of *Green Acre Baha'I Institute I*

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 16-17, 896 A.2d at 293-94

To qualify for a benevolent and charitable exemption, an organization must be operated exclusively for such purposes

Credit Counseling Centers, 2003 ME 2, ¶ 12, 814 A.2d at 462
Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 12, 896 A.2d at 293

Education may constitute a charitable purpose

See Alpha Rho Zeta, 477 A.2d 1131
Episcopal Camp Foundation, 666 A.2d at 110
Cushing Nature & Preservation Center, 2001 ME 149, ¶ 16,
 785 A.2d at 347

Court must examine, first, whether stated purpose of organization is charitable and, second, whether the property is being used solely for benevolent and charitable purposes

Cushing Nature & Preservation Center, 2001 ME 149, ¶ 10,
 785 A.2d at 345-46
Francis Small Heritage Trust, 2014 ME 102, ¶ 12, 98 A.3d
 at 1017

Charitable means that the public benefits, not just members of the organization

Rising Virtue Lodge, 73 Me. at 435
South Blue Hill Cemetery Ass'n, 221 A.2d at 287

Benefit for an indefinite number of persons does not mean the activity must be open to the public at large

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 15,
 896 A.2d at 293 (organization may limit its benefits to
 a given religious affiliation)

The benevolent and charitable exemption may not be denied by reason of limitation in the classes of those for whose benefit the funds of an organization are applied

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 15,
 896 A.2d at 293

A charitable organization may restrict the use of its property and need not allow all public uses; it qualifies for exemption if it uses its property solely for a charitable purpose, and may exclude others not using the property for that purpose

Cushing Nature & Preservation Center, 2001 ME 149 ¶ 13,
785 A.2d at 346

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 30,
896 A.2d at 296 (religious organization can limit
benefits to persons or groups of same religious
affiliation)

Religious purposes are not to be equated with benevolent and charitable

Y.M.C.A. of Auburn, 86 Me. at 246, 29 A. at 992
Osteopathic Hospital of Maine, 139 Me. at 29, 26 A.2d at 643
Pentecostal Assembly of Bangor, 414 A.2d at 893-94

But being a religious organization does not remove it from being charitable

Ferry Beach Park Universalists I, 127 Me. at 138, 142 A. at 66
Ferry Beach Park Universalists II, 136 Me. at 205, 7 A.2d at 429
Green Acre Baha'i I, 150 Me. at 353, 110 A.2d at 583
Episcopal Camp Foundation, 666 A.2d at 110
Salvation Army, 1998 ME 75, ¶ 5, 709 A.2d at 729
Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 7,
15, 30, 896 A.2d at 290, 293, 296

Recreation and relaxation activities may qualify as charitable activities if they serve a charitable purpose of the organization

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 31,
36, 896 A.2d at 296, 297

But property may qualify for the charitable exemption even if it has little use for recreation or relaxation

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 31,
896 A.2d at 296

Charitable source of funds is some indication of charitable status

Rising Virtue Lodge, 73 Me. at 434
Camp Emoh Associates, 132 Me. at 69, 166 A. at 60
Episcopal Camp Foundation, 666 A.2d at 111

Irrelevance of source of funds

Maine AFL-CIO Housing Development, 523 A.2d at 584
Credit Counseling Centers, 2003 ME 2, ¶ 12, 814 A.2d at 462

The charitable exemption applies only when (1) property is owned and occupied or used solely for entity's purposes by benevolent and charitable institutions, and (2) institution is organized and conducted exclusively for benevolent and charitable purposes

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 12,
 896 A.2d at 292-93

Benevolent and charitable exemption statute require (1) ownership *and* (2) *either* use *or* occupancy solely for its own purposes

Camp Emoh Associates, 132 Me. at 70, 166 A. at 61
Ferry Beach Park Universalists II, 136 Me. at 203, 7 A.2d at 428
State Y.M.C.A., 295 A.2d at 442
Alpha Rho Zeta, 477 A.2d at 1136
American Martial Arts, 635 A.2d at 963
Salvation Army, 1998 ME 98, ¶ 7, 710 A.2d at 916
Christian Fellowship & Renewal Center I, 2001 ME 16, ¶ 6,
 769 A.2d at 837

The test is not (1) ownership and occupancy *or* (2) sole use

Maine AFL-CIO Housing Development, 523 A.2d at 584-85
American Martial Arts, 635 A.2d at 963

It is the fact of a charitable use, not its intensity, that qualifies property for the charitable exemption

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 31, 896 A.2d at 296

What constitutes sole use

Odd Fellows Androscoggin Lodge, 99 Me. at 360, 59 A. at 520
Camp Emoh Associates, 132 Me. at 70, 166 A. at 61
Nature Conservancy, 385 A.2d at 43
Alpha Rho Zeta, 477 A.2d at 1138
Marcotte Congregate Housing, 673 A.2d at 212
Christian Fellowship & Renewal Center I, 2001 ME 16, ¶ 6, 769 A.2d at 837
Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 34, 38, 896 A.2d at 297, 298 (sole use does not exclude incidental, noncharitable use so long as the dominant use is charitable)

Incidental use

Camden Village Corp., 77 Me. at 537-38, 1 A. at 692
Odd Fellows Androscoggin Lodge, 99 Me. at 359-60, 59 A. at 520
Ferry Beach Park Universalists I, 127 Me. at 138, 142 A. at 66
All Maine Fair Ass'n, 138 Me. at 42, 21 A.2d at 626
State Y.M.C.A., 295 A.2d at 443
Lucci, 317 A.2d at 3
Green Acre Baha'i I, 150 Me. at 353-54, 110 A.2d at 584
Alpha Rho Zeta, 477 A.2d at 1141
Maine AFL-CIO Housing Development, 523 A.2d at 584
Salvation Army, 1998 ME 75, ¶ 7, 709 A.2d at 729
Christian Fellowship & Center I, 2001 ME 16, ¶ 6 n.2, 769 A.2d at 837 n.2
Christian Fellowship & Renewal Center II, 2006 ME 44, ¶¶ 34, 38, 896 A.2d at 297, 298
Hebron Academy, 2013 ME 15, ¶¶ 23-25, 60 A.3d at 781-82 (two kinds of incidental use: institutional necessity and de minimis use)
Francis Small Heritage Trust, 2014 ME 102, ¶ 22 n.5, 98 A.3d

at 1021 n.5

Whether the Legislature can provide exemption to a benevolent and charitable Maine corporation that serves Maine residents but deny it to an organization that serves primarily out-of-staters

Green Acre Baha'i II, 159 Me. at 399-403, 193 A.2d at 566-68 (equal protection)

Camps Newfound/Owatonna II, 655 A.2d at 878-79 (commerce clause); 879-80 (equal protection); 880 (privileges and immunities)

Camps Newfound/Owatonna III, 1998 ME 20, ¶ 2, 705 A.2d at 1111 (on remand from United States Supreme Court)

Board of Directors of a benevolent and charitable corporation need not reside in Maine

Camp Emoh Associates, 132 Me. at 69, 132 A. at 60

A charitable organization can be seasonal

Ferry Beach Park Universalists I, 127 Me. 136 at 140, 142 A. at 66

Camp Emoh Associates, 132 Me. at 69-70, 166 A. at 60-61

Ferry Beach Park Universalists II, 136 Me. at 205, 7 A.2d at 429

Green Acre Baha'i I, 150 Me. at 353, 110 A.2d at 583

Lucci, 317 A.2d at 2 & n.2

Advanced Medical Research Foundation, 555 A.2d at 1042

Episcopal Camp Foundation, 666 A.2d 108 (*semble*)

Salvation Army, 1998 ME 75, 710 A.2d 729 (*semble*)

Property need not be in use on April 1st

Camp Emoh Associates, 132 Me. at 69, 166 A. at 60

Osteopathic Hospital of Maine, 139 Me. at 28, 26 A.2d at 642

Advanced Medical Research Foundation, 555 A.2d at 1042

A municipality is not a business or a charitable corporation

Thorndike, 82 Me. at 43, 19 A. at 95

Organization can generate revenues, so long as they are incidental to its dominant benevolent and charitable purposes

Lucci, 317 A.2d at 3

Cushing Nature & Preservation Center, 2001 ME 149, ¶ 17, 785 A.2d at 347

Credit Counseling Centers, 2003 ME 2, ¶ 17, 814 A.2d at 463

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 34, 896 A.2d at 297

Rents can be collected without losing exemption

Odd Fellows Androscoggin Lodge, 99 Me. at 360, 59 A. at 520

Cf. All Maine Fair Ass'n, 138 Me. at 42, 21 A.2d at 626

Green Acre Baha'i I, 150 Me. at 353-54, 110 A.2d at 584

Lucci, 317 A.2d at 2 & n.3

Maine AFL-CIO Housing Development, 523 A.2d at 584-85

Salvation Army, 1998 ME 75, ¶ 7, 709 A.2d at 729

Property can be occupied rent-free

State Y.M.C.A., 295 A.2d at 442-43

Lucci, 317 A.2d at 2 & n.6

Land can be undeveloped—if held to be used for future expansion consistent with benevolent and charitable purposes

Ferry Beach Park Universalists I, 127 Me. at 140, 142 A. at 66

All Maine Fair Ass'n, 138 Me. at 41, 42, 21 A.2d at 626

Osteopathic Hospital of Maine, 139 Me. at 33, 26 A.2d at 644

Green Acre Baha'i I, 150 Me. at 354, 110 A.2d at 584

Lucci, 317 A.2d at 2 & n.4

Poland Spring Health Institute, 649 A.2d at 1099

Question whether land that falls under Farm and Open Space Law is precluded from being exempt although held by a charitable and benevolent organization

Cushing Nature & Preservation Center, 2001 ME 149, ¶¶ 8, 14, 785 A.2d at 345, 346 (trial court's determination noted)

Francis Small Heritage Trust, 2014 ME 102, ¶¶ 23-27, 98 A.3d at 1022-23 (Farm and Open Space Tax Law does not preempt charitable exemption; that law and charitable exemptions, though perhaps overlapping in application, are distinct in scope and purpose)

Commercial use of intertidal zone of property does not negate eligibility for exemption because public enjoys an easement for purposes of fishing, fowling, and navigation

Cushing Nature & Preservation Center, 2001 ME 149, ¶ 12, 785 A.2d at 346

If purpose of alleged charitable use violates public policy, it cannot be classified as charitable

Holbrook Island Sanctuary, 161 Me. at 486-88, 214 A.2d at 666
Cushing Nature & Preservation Center, 2001 ME 149, ¶ 13, 785 A.2d at 346

Fact that an organization is tax-exempt under 26 U.S.C. § 501(c)(3) does not necessarily make it exempt for state tax purposes

Credit Counseling Centers, 2003 ME 2, ¶¶ 1-2, 814 A.2d at 460

But that fact that an organization's purposes qualify for such an exemption is an indication that it should qualify for a charitable exemption

Christian Fellowship & Renewal Center II, 2006 ME 44, ¶ 28, 896 A.2d at 296

Under old view, there could be “partial exemption”—exemption for part of property being used consistent with benevolent and charitable purposes, but no exemption for property being used inconsistent with that

Piscataquis Valley Campmeeting Ass’n, 86 Me. at 80, 29 A. at 951
Y.M.C.A. of Auburn, 86 Me. at 246, 29 A. at 992
Odd Fellows Androscoggin Lodge, 99 Me. at 358, 59 A. at 519
Sigma Alpha Epsilon Society, 105 Me. at 218, 74 A. at 21
Kappa Sigma Society, 108 Me. at 324, 80 A. at 832
Ferry Beach Park Universalists I, 127 Me. at 139, 142 A. at 6
Camp Emoh Associates, 132 Me. at 68, 166 A. at 60
Ferry Beach Park Universalists II, 136 Me. at 203, 7 A.2d at 428
All Maine Fair Ass’n, 138 Me. at 42-43, 21 A.2d at 626-27
Osteopathic Hospital of Maine, 139 Me. at 33, 26 A.2d at 644

Change towards now extant view must be legislative

Odd Fellows Androscoggin Lodge, 99 Me. at 358, 59 A. at 519

Legislative change to modern view described

Nature Conservancy, 385 A.2d at 43

Under modern statute, a benevolent and charitable corporation must make *sole* use of the property in a manner consistent with its purposes

Marcotte Congregate Housing, 673 A.2d at 212
Salvation Army, 1998 ME 98, ¶ 6, 710 A.2d at 915

Case law interpreting 36 M.R.S. § 652(1)(A) is applicable to 36 M.R.S. § 652(1)(B), and vice versa

Hebron Academy, 2013 ME 15, ¶20 n.4, 60 A.3d at 781 n.4

Legislative history of 36 M.R.S. § 652(1)(B)

Hebron Academy, 2013 ME 15, ¶¶ 14-18, 60 A.3d at 779-80

(literary institutions include academic institutions that own academy and college buildings)

A party seeking exemption as a literary or scientific institution, 36 M.R.S. § 652(1)(B), has the burden to prove (1) it meets the definitional requirement, (2) it owns the property, and (3) the property is occupied or used solely for its own tax-exempt purposes

Alpha Rho Zeta, 477 A.2d at 1136
Hebron Academy, 2013 ME 15, ¶¶ 7, 20, 60 A.3d at 778, 781

An organization generally does not occupy or use its property solely for its own tax-exempt purposes if it allows any use of the property that does not promote its tax-exempt purposes, but can retain its exemption if the non-exempt use is incidental

Hebron Academy, 2013 ME 15, ¶ 21-22, 60 A.3d at 781

Incidental use can be either that which relates to institutional necessity or that which is *de minimis*

Hebron Academy, 2013 ME 15, ¶ 23-24, 60 A.3d at 781-82;
id. at ¶ 25, 60 A.3d at 782 (rental of school buildings was *de minimis* and therefore incidental to tax-exempt purposes of school)

36 M.R.S. § 652(1)(B) requires only that an institution need only be literary or scientific

Hurricane Island Outward Bound, 372 A.2d at 1046
Hebron Academy, 2013 ME 15, ¶ 11, 60 A.3d at 778

Although an inheritance tax is not a property tax, so that an exemption for property would not necessarily exempt from taxation the privilege of receiving the property, if an organization is exempt under property tax laws it is also exempted from taxation under inheritance tax laws

MacDonald, 142 Me. at 240, 49 A.2d at 767

If owner is exempt, so too is private lessee of land thereon according to legislative intention

Howard D. Johnson Co., 351 A.2d at 531-34

Soft costs—insurance, excavation, etc.—are necessary for construction and so included in general valuation of property (and are exempt if property is exempt)

Portland Water Dist., 1999 ME 161, ¶ 13 n.7, 740 A.2d at 568 n.7

Who is entitled to an abatement if organization qualifies for exemption

Colby College, 512 A.2d at 1041

A guardian of an estate has a duty to pay taxes due, and a duty to assert as exemption if applicable; voluntary payment by a guardian on exempt property is not voluntary payment by the ward

Stockman, 147 Me. at 382, 87 A.2d at 683-84

VI. Classified Properties

Tree Growth Tax Law Cases

Definition of “forest land,” 36 M.R.S. § 573

Eastler, 499 A.2d at 926

Purpose of Tree Growth Tax Law program

Opinion of the Justices, 335 A.2d at 912 n.1

Chase, 1998 ME 260, ¶¶ 15, 17 n.6, 721 A.2d at 640, 641 n.6

Operation of Tree Growth Tax Law program described

McBreairty, 663 A.2d at 54

Tree Growth Tax Law program is constitutional

McBreairty, 663 A.2d at 54-55

Withdrawal of property from Tree Growth Tax Law program

Dubois, 645 A.2d at 1128 (withdrawal penalties are subject to abatement process)

Farm and Open Space Tax Law Cases

Purpose of open space program

Augusta Water Dist., 349 A.2d at 770

Operation of open space program described

Augusta Water Dist., 349 A.2d at 770

Classification in open space program is essentially an assessment duty of assessors

Augusta Water Dist., 349 A.2d at 770

Preparation of comprehensive plan by town is not a prerequisite to a land owner's qualifying for open space classification

Augusta Water Dist., 349 A.2d at 770-71

Whether land qualifies for open space program depends on its current use permitted by any statutory restrictions, not on potential unrestricted use

Augusta Water Dist., 349 A.2d at 772

Wildlife sanctuaries are open space land

Augusta Water Dist., 349 A.2d at 772

Possible interplay of 36 M.R.S. § 652 with farm and open space law

Cushing Nature & Preservation Center, 2001 ME 149, ¶¶ 14, 19, 785 A.2d at 346, 347

Francis Small Heritage Trust, 2014 ME 102, ¶¶ 23-27, 98 A.3d at 10223

Valuation of open space land

Francis Small Heritage Trust, 2014 ME 102, ¶¶ 4-5, 98 A.3d at 1015 (alternative valuation method and relationship to tree growth valuation)

Mine Site Cases

Minerals will not be valued separately from the land when the title to the surface and the mineral resources are in the same person, but will be valued separately when the fee to the land is in another person

,
Knox Lime Co., 230 A.2d at 818 (not a mine site case)

VII. Equalized Municipal Valuation

State valuation of municipalities is the equalized just value of all real and personal property within each municipality; see 36 M.R.S. § 208

Town of Madison, 541 A.2d at 940

Process of equalizing municipal valuation, including legality of “two year rule”

Town of Thomaston, 490 A.2d 1180

Town of Washburn, 490 A.2d at 1186

Board of Property Tax Review must consider Bureau of Taxation’s equalized valuations at fair market value and cannot adjust value of property within a municipality to have it be uniform with like property in another municipality assessed differently or at another valuation

Town of Madison, 541 A.2d at 940-41

Board of Property Tax Review has no authority in equalizing state valuation cases to alter Bureau of Taxation’s assessment of a municipality not before it

Town of Madison, 541 A.2d at 941

VIII. Poverty Abatements

Procedural issue

Dodge, 577 A.2d at 347 (town had no authority to act on request for poverty abatement after plaintiff had appealed denial to county commissioners)

Key question under 36 M.R.S. § 841(2) is whether one is unable to contribute to the public charges

Macaro, 468 A.2d at 605-06
Joyce, 565 A.2d 90
Gilmore, 580 A.2d at 700
Sager, 2004 ME 40, ¶ 3, 845 A.2d at 568
Hustus, 2004 ME 41, ¶ 6, 845 A.2d at 565
Penkul, 2016 ME 16, ¶ 13, 136 A.3d at 92

The purpose of the statute is to prevent towns from forcing the sale of property in order to collect taxes from those otherwise unable to pay

Macaro, 468 A.2d at 606
Mason, 1998 ME 201, ¶ 7, 715 A.2d at 181
Hustus, 2004 ME 41, ¶ 12 n.1, 845 A.2d at 566 n.1

Therefore, reliance on ownership of a valuable and unencumbered asset, such as a house, to deny a poverty abatement would be self-defeating in the absence of an ability to pay taxes

Macaro, 468 A.2d at 606

Burden to prove eligibility for poverty abatement is on the applicant

Joyce, 565 A.2d 90
Gilmore, 580 A.2d at 700
Sager, 2004 ME 40, ¶ 11, 845 A.2d at 570
Penkul, 2016 ME 16, ¶ 14, 136 A.3d at 92

36 M.R.S. § 841(2) applies to both residential and commercial properties

Hustus, 2004 ME 41, ¶¶ 1, 11-12, 14, 845 A.2d at 564, 566, 567

Where taxes assessed against commercial property are the responsibility of a person, not a separate business entity, the person's poverty is a relevant inquiry

Hustus, 2004 ME 41, ¶ 10, 845 A.2d at 566

Assessors have considerable discretion under 36 M.R.S. § 841(2)

Sager, 2004 ME 40, ¶ 10, 845 A.2d at 569

But do not have the discretion to exclude property used for commercial purposes from consideration of a poverty abatement

Hustus, 2004 ME 41, ¶ 14, 845 A.2d at 567

Three-year backward reach of 36 M.R.S. § 841(2)

Sager, 2004 ME 40, ¶ 10, 845 A.2d at 569

Applicant's eligibility for abatement is not to be determined only by evidence before the selectmen/city council or the board of assessment review, but those bodies may consider all relevant facts and circumstances

Gilmore, 580 A.2d at 700

Fact that town granted abatement for one year does not automatically mean applicant for abatement is entitled to abatement for another year

Gilmore, 580 A.2d at 700

When one who does not own the land on which she lives applies for a poverty abatement, the denial of the application means only that the true owner must pay the taxes

Mason, 1998 ME 201, ¶ 6, 715 A.2d at 181

One who is buying property by an installment contract is not the owner for poverty abatement purposes, even though the result may be that she will be defaulted under her contract and may face foreclosure if she, as the purchaser, fails to pay property taxes

Mason, 1998 ME 201, ¶ 8, 715 A.2d at 181

The Maine Residents Property Tax Program, 36 M.R.S. §§ 6201-6220, provides in section 6216 that benefits received under the program are to be considered when determining eligibility for poverty tax abatement, but there is no automatic setoff of benefits received

Sager, 2004 ME 40, ¶ 9, 845 A.2d at 569

Municipalities should consider the amount of a refund under the Maine Residents Property Tax Program when evaluating an applicant's financial need, rather than when calculating the abatement to be awarded

Sager, 2004 ME 40, ¶ 12 n.1, 845 A.2d at 570 (concurring op.)