

MINUTES
FALMOUTH BOARD OF ASSESSMENT REVIEW
THURSDAY, APRIL 12, 2012, 6:00 PM
TOWN HALL COUNCIL CHAMBERS

Members Present: Secretary Lois Lengyel, Michael O'Connor, Acting Chairman Tim O'Donovan and Mark Porada

Members Absent: Chairman Richard Olson

Acting Chairman Tim O'Donovan moved to approve the minutes of the March 15, 2012, and March 22, 2012 hearings; Mark Porada advised the Board that in the March 15, 2012 minutes it should be noted that he was not present at the October 24, 2012 hearing. Motion by Lois Lengyel to approve the minutes. Mike O'Connor seconded it. **Motion carried 4-0.**

Acting Chair Tim O'Donovan moved to discuss the Guidelines on Procedures since the taxpayer, Mr. Preston, had not arrived. The Board is leaning towards Windham's Guidelines. Mark Porada explained to the Board his recommendation of changes (Mark's changes were in blue); Attorney Daggett explained her recommendation of changes (Attorney Daggett's changes were in purple).

Attorney Daggett also explained her recommendations regarding updating the Board of Assessment Review Application.

Since Chairman Olson was not present, Acting Chair O'Donovan tabled the Town of Falmouth Guidelines on Procedures pending everyone's attendance as well as updates to the Board of Assessment Review application. Recording Secretary Given will set up another date and advise the Board.

Recording Secretary Given excused herself to check voice mail messages. Upon returning, she advised the Board that she did not receive any messages from Mr. Preston regarding his absence.

Acting Chair O'Donovan and Lois Lengyel felt that thirty minutes was sufficient, without notice, to wait.

Assessor Gregory advised the Board that when she attended the State Board hearing for the LaBocca case, it was denied because the taxpayer did not show up for the hearing.

Attorney Daggett advised the Board that she has been in other municipalities where the taxpayer did not show. The Board still had the Assessor do an abbreviated summary of her case; the Board would make a decision based on the information presented, and then write a notice of decision letter in case the taxpayer wants to appeal to court. She also advised the Board that the taxpayer sometimes does not show up but still wants the Board to review the information he/she submitted.

Mark Porada asked if there was any discussion with the taxpayer about tonight's hearing.

Recording Secretary Given advised the Board that she left a v/m message at the number given on

the Board of Assessment Review application as well as called Mr. Preston's office and advised his assistant that the packet was being mailed and informed her of the hearing date. A certified letter was sent to Mr. Preston on March 1, 2012 notifying him of the hearing date. The hearing date was also posted in the Portland Press Herald on March 29, 2012, as well as on the Town of Falmouth website and Cable TV.

Acting Chair Tim O'Donovan introduced the 2011 appeal for property identified as **Map/Block/Lot R03-23-1; Tax Sheet 140; located at 200 Woodville Road and owned by Last Mile Properties LLC.**

Assessor Gregory presented her case. She began with her response memo and advised that she did grant a partial abatement, but she did not feel the taxpayer submitted information that showed the assessment was manifestly wrong. She did receive an email stating that there was an appraisal done. She then received another email stating they could not find the appraisal.

Assessor Gregory advised the Board that she was in the house when it was under construction but she was unable to do a final inspection. No one ever appealed the assessed value. When Mr. Preston purchased the property and appealed, she was able to have the house inspected and make corrections. She reduced the value from \$1.9 to \$1.4. As the Assessor stated in her denial to Mr. Preston, she does not feel that the \$810,000 was an arms length transaction. The seller, University of Maine Foundation, received this property as a gift and tried to obtain Zoning Board approval to have a conference center. They were unable to do this as the Farm and Forest zone did not allow that use. They submitted to the Zoning Board of Appeals to obtain a use for a private club; unfortunately, the private club status was not going to give them the tax exemption that they wanted, because it did not meet the qualification of a charitable and benevolent organization. The Codes Department would require them to renovate in order to meet code standards. It was on the market for a long time. Originally the University placed it on the market in 2009 for \$2.5 million. The Town's assessed value was \$1.9 million and they did not appeal the assessment. The Assessor had questions about a land swap and was planning to ask Mr. Preston about it. When Mr. Preston purchased the property, it had 7+ acres and then Mr. Preston conveyed 3+ acres to the abutter, Eric Cianchette. The Assessor called and spoke with Mr. Ouellette at the University of Maine Foundation to see if he knew who did the appraisal for the \$4.2 million gifted amount. It is the Assessor's understanding based on IRS guidelines that if you are gifting a property of this value and will be using it as a tax write off, it will need to have an appraisal done. She also wanted to know if the University of Maine is required to tell any potential buyer that they had to sell land back to Eric Cianchette. This transaction allowed Eric Cianchette to have an easement right up to the driveway on both sides, which is what was sold.

There was also another frontage sold to meet the Zoning Board requirements. Mr. Ouellette did not know how that land swap came about and this did not take place until after April 1st. The Assessor has corrected the land value for the coming year and the assessed value will be \$1.4 million. Mr. Preston's contention is that this house is not built for a family; the Assessor's feeling is that this is a very unusual house, it the third largest house in Falmouth, and it's considered an estate. When the Assessor was doing her research for all homes over 6,000 sf she noticed they all had one thing in common, a piano room. There was a grand built in organ the previous owner took.

Assessor Gregory referred to the photographs of the house, Exhibit 3A, 3B, 3C, and explained them. She obtained these photographs on-line when the property was on the market. The Assessor's opinion is that this house is not comparable to the properties that Mr. Preston presented in his documentation.

The next exhibit was the Real Estate Transfer Tax form. Exhibit 5C = Last Miles Properties to Mark Anthony Trading LLC, at 8 Forest View Drive; Mr. Preston's previous residence. The corporations are connected.

Acting Chair O'Donovan confirmed with Assessor Gregory that this transaction occurred on December 22, 2011 and sold for \$1,150,000.

Assessor Gregory explained that she took all the properties that Mr. Preston chose as comparable and created a spreadsheet (Exhibit 6). Mr. Preston stated that the property at 15 Olympic Drive was most comparable to his property. Assessor Gregory advised the Board that there were two things she would like to point out regarding this property, the square footage is in error and that this house was a foreclosure sale. In regards to 185 Woodville Road, they were built at the same time, but it is a smaller house.

Assessor Gregory then went over Exhibits 7A, 7B, 7C, 7D, 7E and explained how these properties are not comparable to Mr. Preston's property.

Assessor Gregory went over Exhibit 8 to illustrate what is happening in Falmouth since the revaluation. She advised the Board that when a property is sold lower than the assessed value, she talks to the buyer and sometimes with the Real Estate Broker. Either our data is incorrect or there is something about the sale that she needs to know.

Exhibit 9 is the one Assessor Gregory chose because it is the same location, even though it is a smaller house. It has a lot of space, according to Mr. Preston, that is not usable, but that is not unusual for this type of house. The sale was \$1,410,000 in 2010 and the assessed value was \$1,389,000. It does have more land, but she feels the Preston property is more private because it is surrounded by trees. Dr. Desieyes retained ownership of the back acreage and he has a right-of-way to go over this property to access the barn. This was an issue at closing. This does take away from the value somewhat.

Acting Chair O'Donovan wanted to know if he obtained the existing barn or did he build another one out back.

Assessor Gregory informed him there was a new one out back with the pond. The existing barn stayed with the house.

Assessor Gregory referred to Exhibit 10 which shows that there are 26 properties in Falmouth that are over 6,000 sf which includes the subject property.

Assessor Gregory went over Exhibit 11 which demonstrates that there are properties that sell over a million dollars throughout the town, not just in one section. She also wanted to show sales around the subject property.

During the 2008 revaluation, she used 2006 and 2007 sales; it shows we are close to market value. Accordingly to the State's last audit, which used the ratio study audit from July 2010 – June 2011, we are at 101% ratio and our quality rating is at 8 which indicates that our model is working even today which is four years after the revaluation.

Assessor Gregory feels that the evidence the taxpayer submitted does not prove that the assessment is manifestly wrong and does not feel the property is overvalued at \$1.5 and next year will be \$1.4. She feels this property is very unique.

Attorney Daggett wanted to summarize as far as any unjust discrimination claim from the taxpayer did the Assessor treat this property the same way as other similar properties.

Assessor Gregory advised Attorney Daggett that she did treat the property the same in regards to land value, quality of construction, and style.

Acting Chair O'Donovan stated that since the taxpayer is not present, he cannot present his case and he asked the Board if they had any questions for the Assessor.

Attorney Daggett advised the Board that after they close the public hearing, deliberate, and arrive at a decision based on tonight's information, she will draft up a notice of decision to adopt, and schedule another meeting to approve the decision. Upon receipt of the drafted notice, Recording Secretary Given will email it to all Board members for review.

Acting Chair O'Donovan closed the public portion of the hearing and brought it back to the Board for decision.

Mike O'Connor feels the Assessor's method of assessment is not different and she uses the same criteria for every property in town. This property is larger and it would appeal to less people. He does not feel the assessment is wrong and he would vote to deny the tax abatement.

Mark Porada agrees that this is a very unique property, and that it is challenging to compare with other properties. This property was assessed in a fair way and since the burden is on the taxpayer, he feels the taxpayer has not proven that it is manifestly wrong and he would deny the abatement.

Lois Lengyel agrees and cannot find anything that the taxpayer presented that would cause her to believe that the assessed value is manifestly wrong. Likewise support denying the request.

Acting Chair O'Donovan agrees with everything the Board has said. He does not feel that the taxpayer provided properties that are comparable with his property. He feels the taxpayer has not met the burden of proof and he would vote to deny the appeal.

Mike O'Connor motioned to deny the appeal and Mark Porada seconded it. **Motioned carried 4-0.**

The Notice of Decision hearing is scheduled for Thursday, April 19, 2012 at 8:00 am in the Town Council Chambers.

Hearing adjourned.

Motion carried 4-0.

Respectfully submitted,

Pamela Given
Recording Secretary

These minutes are not verbatim; CD available to view exact language.