APPLICATION FOR ABATEMENT OF PROPERTY TAXES

36 M.R.S. § 841

See Property Tax Bulletin No. 10 for more information

This application must be signed and filed with the municipal assessor. A separate application should be filed for each separately assessed parcel of real estate claimed to be overvalued.

1. Name of applicant: _____
2. Mailing address: _____
3. Property address or map/lot: _____
4. Telephone number for applicant: _____
5. Tax year for which abatement is requested: _____
6. Assessed valuation of real estate: _____
7. Assessed valuation of personal property: _____
8. Abatement of real estate valuation requested: _____
9. Abatement of personal property valuation requested: _____
10. Reasons for requesting abatement (please be specific, stating grounds for belief that property is overvalued for tax purposes): _____

_____

_____

_____

_____

_____

_____

To the assessing authority of the Municipality of _____

In accordance with the provisions of 36 M.R.S. § 841, I hereby make written application for abatement of property taxes as noted above. The above statements are correct to the best of my knowledge and belief.

_____ _____

Date Signature of Applicant

MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PROPERTY TAX BULLETIN NO. 10

PROPERTY TAX ABATEMENT AND APPEALS PROCEDURES

REFERENCE: 36 M.R.S. §§ 583, 706, 841-849, and 1118

June 1, 2017; replaces July 2010 revision

1. In General

When a property is overvalued for purposes of assessing local property tax, or if the assessment of a tax is illegal or erroneous, a property owner may request an abatement of property tax, in w. Abatement is the process by which valuation that is found to be excessive or the assessment is found to be void because of an error, or illegal may be corrected. To qualify for an abatement, a property owner must show that his or her property is overvalued in comparison to other, similar properties in the same municipality or that the assessment is illegal or void. This bulletin is concerned with abatements requested by the property owner or taxpayer.

Article IX, Section 8 of the Maine Constitution provides that "All taxes upon real and personal estate . . . shall be apportioned and assessed equally according to the just value thereof." 36 M.R.S. § 701-A states that "In the assessment of property, assessors in determining just value are to define this term in a manner that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put." The term "just value" has been interpreted by the Law Court to mean market value. Article IX, Section 8 also provides an exception to the requirement to assess property according to the just value in the case of classified farm, open space, forest lands, and working waterfront, which may be valued on the basis of their current use. While assessors are required to assess most property on the basis of just value, the constitutional requirement is not that property be assessed at just value, but rather that it be assessed in accordance with just value. For example, if your property is valued at 110% of market value and all other property in the municipality is valued at 110%, your property is not overvalued when compared to other properties. If, however, your property is valued at 100% of market value and all other property is valued at 85% of market value, your property is overvalued.

Each municipality has a ratio – or percentage of just value – at which all property in the municipality is generally valued. This ratio – called the declared ratio – is the assessed value as a percentage of market value. The declared ratio for a municipality is calculated by dividing the total local assessed value by the total market value of property in a municipality. The total market value is determined through analysis of recent selling prices of property in the municipality. In determining whether or not an assessed value is reasonable, a property owner must consider the effect of the municipality's declared ratio. The declared ratio reported by a local assessor may differ from the assessment ratio contained in various studies produced by Maine Revenue Services (36 M.R.S. § 848-A).

Overvaluation must be the result of comparing properties within a municipality. A difference between your tax bill and another bill on a similar property in a different municipality does not indicate a wrongful assessment. A high property tax on your property, compared to the tax on similar property in another municipality, may be due to a smaller tax base or a higher level of services in your municipality. The fact that a property tax is high, by itself, is not grounds for abatement.

An assessor may increase the assessed value of a property from one year to the next, if the assessor finds that the previous valuation had been less than it should have been. This valuation increase may occur even if no influence affecting the property's worth has changed. Assessors must adjust the assessed value for any property whenever the value is found to be inequitable. However, assessed values must be changed before property taxes for that tax year have been committed. A valuation increase from one year to the next is not, by itself, grounds for an abatement of tax. Note that an assessor is not required to give notice of periodic valuation changes to taxpayers.

Property tax assessed to a person who is not the owner or the person in possession of that property is an example of an illegal assessment. An inadequate description of property being taxed is not, by itself, reason for an abatement of tax.

Before a request for abatement of tax, the property owner must determine that the property in question has been significantly overvalued, compared to other property in the same municipality or that the assessment itself is illegal or void. A property owner may ask the assessor to see the valuation book to check assessed value of all property in the municipality or to check that the correct property is assessed to the rightful owner. The valuation book is a public record and is available for inspection at reasonable times and under reasonable safeguards. Some municipalities provide their valuation information online. Discussion with the assessor may also help determine if property is overvalued or illegally assessed. A property owner must show overvaluation compared to other, similar properties on average. A discrepancy with one or two other properties is not enough to show overvaluation. After reviewing the information described in this paragraph, if the property owner still feels his or her property is overvalued compared to other, similar properties, or the tax has been illegally assessed, the property owner should proceed as follows.

2. Method of Seeking Abatement

Note that neither the State Tax Assessor nor the Property Tax Division of Maine Revenue Services is authorized to abate taxes assessed in municipalities. Note also that requests for abatement are not made to the local tax collector. Tax collectors have no authority to make abatements.

A. Initial request. Maine tax law provides that a property owner who believes his or her assessed property valuation is excessive or illegal must seek relief through a written request to the local assessor or board of assessors. This request must be made within 185 days after the date the tax was committed to the tax collector, which is usually shortly before the tax bill is mailed. The request must state the amount of the abatement requested and the reasons for requesting the abatement. Though an abatement request must be made within the first 185 days for a taxpayer pursue an abatement, the assessor may make an abatement on his or her own initiative within one year of commitment. A property owner claiming an illegal or void assessment may also apply for an abatement with the municipal officers after one year but within three years from the date of commitment. This extended abatement request period does not apply to overvaluation claims. Except for claims that the assessment is illegal, initial

requests for abatement must always be addressed to the local assessing authority.

The assessor or municipal officers have 60 days to respond to the property owner's abatement request. The assessor or municipal officials have 10 days to provide the taxpayer written notice of their decision once their final determination is made. If the property owner is not satisfied with the decision, he or she may appeal the decision as outlined in subsection B. If a decision is not made within 60 days, the abatement request is deemed denied and the property owner may then proceed with an appeal.

B. Appeal of decision. If the property owner is dissatisfied with the decision of the local assessor, or the decision of the municipal officials in the case of an abatement for illegality, he or she may appeal – within 60 days – to the municipal board of assessment review (BAR) or to the county commissioners if the municipality has no BAR. For appeals related to one of the current use programs (Tree Growth Tax Law under §§ 571-584-A, Farm and Open Space Tax Law under §§ 1101-1121, working waterfront under §§ 1131-1140-B) appeal of the assessor's decision goes to the State Board of Property Tax Review (SBPTR).

The BAR, county commissioners, or SBPTR must respond to an appeal with a decision within 60 of the property owner's filing of the appeal. If a decision is still unsatisfactory or not made within 60 days, the property owner may then proceed with an appeal to Superior Court within 30 days of an adverse (or deemed denied) decision.

For abatement requests involving nonresidential property valued at $1,000,000 or more (adjusted to market value) the initial appeal of the decision of the assessor can go directly to the State Board of Property Tax Review rather than to the local BAR, followed by a subsequent appeal to Superior Court.

Generally, a property owner loses the right to request abatement if he or she had previously failed to file a list of taxable property at the request of the assessor, unless the property owner submits the requested list with the abatement request.

3. Statutory Provisions

The following sections of Title 36 contain the statutory provisions relating to abatement of local property taxes. Taxpayers who plan to seek abatement of local taxes should read these sections and follow them carefully.

§ 706. Taxpayers to list property, notice, penalty, verification

Before making an assessment, the assessor or assessors, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory may give seasonable notice in writing to all persons liable to taxation or qualifying for exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all their estates of which they were possessed on the first day of April of the same year.

The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If notice is given by mail and the taxpayer does not furnish the list, the taxpayer is barred of the right to make application to the assessor or assessors, chief assessor or State Tax Assessor or any appeal from an application for any abatement of those taxes, unless the taxpayer furnishes the list with the application and satisfies the assessing authority or authority to whom an appeal is made that the taxpayer was unable to furnish the list at the time appointed.

The assessor or assessors, chief assessor or State Tax Assessor may require the person furnishing the list to make oath to its truth, which oath any of them may administer.

The assessor or assessors, chief assessor or State Tax Assessor may require the taxpayer to answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State or subject to exemption pursuant to subchapter 4-C. As may be reasonably necessary to ascertain the value of property according to the income approach to value pursuant to the requirements of section 208-A or generally accepted assessing practices, these inquiries may seek information about income and expenses, manufacturing or operational efficiencies, manufactured or generated sales price trends or other related information. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. Information provided by the taxpayer in response to an inquiry that is proprietary information, and clearly labeled by the taxpayer as proprietary and confidential information, is confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or otherwise release such proprietary information to anyone other than the State Tax Assessor, who shall treat such proprietary information as subject to section 191, subsection 1, except that the exemption provided in section 191, subsection 2, paragraph I does not apply to such proprietary information. As used in this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available and information protected from disclosure by federal or state law or regulations. A person who knowingly violates the confidentiality provisions of this paragraph commits a Class E crime.

A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

If the assessor or assessors, chief assessor or State Tax Assessor fail to give notice by mail, the taxpayer is not barred of the right to make application for abatement; however, upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State. A taxpayer's refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the list and answers are not conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.

§ 841. Abatement procedures

1. Error or mistake. The assessors, either upon written application filed within 185 days from commitment stating the grounds for an abatement or on their own initiative within one year from commitment, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment, provided that the taxpayer has complied with section 706.

The municipal officers, either upon written application filed after one year but within 3 years from commitment stating the grounds for an abatement or on their own initiative within that time period, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment, provided the taxpayer has complied with section 706. The municipal officers may not grant an abatement to correct an error in the valuation of property.

2. Hardship or poverty. The municipal officers, or the State Tax Assessor for the unorganized territory, within 3 years from commitment, may, on their own knowledge or on written application, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of hardship or poverty, is in their judgment unable to contribute to the public charges. The municipal officers, or the State Tax Assessor for the unorganized territory, may extend the 3-year period within which they may make abatements under this subsection.

Municipal officers or the State Tax Assessor for the unorganized territory shall:

A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of hardship or poverty be informed of the right to make application under this subsection;

B. Assist individuals in making application for abatement;

C. Make available application forms for requesting an abatement based on hardship or poverty and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;

D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;

E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this subsection must be in executive session;

F. Provide to any person applying for abatement under this subsection, notice in writing of their decision within 30 days of application; and

G. Provide that any decision made under this subsection include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal.

For the purpose of this subsection, the municipal officers may set off or otherwise treat as available benefits provided to an applicant under chapter 907 when determining if the applicant is able to contribute to the public charges.

3. Inability to pay after 2 years. If after 2 years from the date of assessment a collector is satisfied that a tax upon real or personal property committed to him for collection cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, he shall notify the municipal officers thereof in writing, under oath, stating the reason why that tax cannot be collected. The municipal officers, after due inquiry, may abate that tax or any part thereof.

4. Veteran's widow or widower or minor child. Notwithstanding failure to comply with section 706, the assessors, on written application within one year from the date of commitment, may make such abatement as they think proper in the case of the unremarried widow or widower or the minor child of a veteran, if the widow, widower or child would be entitled to an exemption under section 653, subsection 1, paragraph D, except for the failure of the widow, widower or child to make application and file proof within the time set by section 653, subsection 1, paragraph G, if the veteran died during the 12-month period preceding the April 1st for which the tax was committed.

5. Certification; record. Whenever an abatement is made, other than by the State Tax Assessor, the abating authority shall certify it in writing to the collector, and that certificate shall discharge the collector from further obligation to collect the tax so abated. When the abatement is made, other than an abatement made under subsection 2, a record setting forth the name of the party or parties benefited, the amount of the abatement and the reasons for the abatement shall, within 30 days, be made and kept in suitable book form open to the public at reasonable times. A report of the abatement shall be made to the municipality at its annual meeting or to the mayor and aldermen of cities by the first Monday in each March.

6. Appeals. The decision of a chief assessor of a primary assessing area or the State Tax Assessor shall not be deemed "final agency action" under the Maine Administrative Procedure Act, Title 5, chapter 375.

7. Assessors defined. For the purposes of this subchapter the word "assessors" includes assessor, chief assessor of a primary assessing area and State Tax Assessor for the unorganized territory.

8. Approval of the Governor. The State Tax Assessor may abate taxes under this section only with the approval of the Governor or the Governor's designee.

§ 842. Notice of decision

The assessors or municipal officers shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon the application within 10 days after they take final action thereon. The notice of decision must include the reason or reasons supporting the decision to approve or deny the abatement request and state that the applicant has 60 days from the date the notice is received to appeal the decision. It must also identify the board or agency designated by law to hear the appeal. If the assessors or municipal officers, before whom an application in writing for the abatement of a tax is pending, fail to give written notice of their decision within 60 days from the date of filing of the application, the application is deemed to have been denied, and the applicant may appeal as provided in sections 843 and 844, unless the applicant has in writing consented to further delay. Denial in this manner is final action for the purposes of notification under this section but failure to send notice of decision does not affect the applicant's right of appeal. This section does not apply to applications for abatement made under section 841, subsection 2.

§ 843. Appeals

1. Municipalities. If a municipality has adopted a board of assessment review and the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks the applicant is over-

assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater either separately or in the aggregate, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial.

1-A. Nonresidential property of $1,000,000 or greater. With regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater either separately or in the aggregate, either party may appeal the decision of the local board of assessment review or the primary assessing area board of assessment review to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied, as provided in subsections 1 and 2. The board shall hold a hearing de novo. If the board thinks that the applicant is over-assessed, it shall grant such reasonable abatement as the board thinks proper. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

2. Primary assessing areas. If a primary assessing area has adopted a board of assessment review and the assessors or municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of $1,000,000 or greater, either separately or in the aggregate, either party may appeal the decision of the board of assessment review directly to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

3. Notice of decision. Any agency to which an appeal is made under this section is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, as long as that amount does not exceed the amount of taxes due in the current tax year or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This subsection does not apply to property with a valuation of less than $500,000.

§ 844. Appeals to County Commissioners

1. Municipalities without board of assessment review. Except when the municipality or primary assessing area has adopted a board of assessment review, if the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply to the county commissioners within 60 days after notice of the decisions from which the appeal is being taken or within 60 days after the application is deemed to have been denied. If the commissioners think that the applicant is over-assessed, the applicant is granted such reasonable abatement as the commissioners think proper. If the applicant has paid the tax, the applicant is reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against the applicant for collection of the amount due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made or a copy of it. Either party may appeal from the decision of the county commissioners to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

1-A. County board of assessment review. The county commissioners in a county may establish a county board of assessment review to hear all appeals to the county commissioners. The board has the powers and duties of a municipal board of assessment review, including those provided under section 844-M.

2. Nonresidential property of $1,000,000 or greater. Notwithstanding subsection 1, the applicant may appeal the decision of the assessors or the municipal officers on a request for abatement with respect to nonresidential property or properties having an equalized municipal valuation of $1,000,000 or greater, either separately or in the aggregate, to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. If the State Board of Property Tax Review determines that the applicant is over-assessed, it shall grant such reasonable abatement as it determines proper. For the purposes of this subsection, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

3. Notice of decision. An appeal to the county commissioners is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, as long as that amount does not exceed the amount of taxes due in the current tax year or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This subsection does not apply to property with a valuation of less than $500,000.

§ 844-M. County Board of Assessment Review

1. **Organization.** A county board of assessment review, as authorized by section 844, subsection 1-A, consists of 5 or 7 members, at least one of whom must be a licensed real estate appraiser and one of whom must be a member of the general public, who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board. The board shall elect annually a chair and a secretary from among its members. A county official or the spouse of a county official may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The county commissioners may dismiss a member of the board for cause before the member's term expires.

2. **Meetings; records.** The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the county commissioners. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the county commissioners' office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. **Hearing.** The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. **Evidence.** The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. **Testimony; record; notice.** The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the county commissioners within 10 days of the board's decision.

6. **Appeals.** A party may appeal the decision of the county board of assessment review to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

§ 844-N. Primary Assessing Area Board of Assessment Review

1. **Organization.** A primary assessing area board of assessment review, as authorized by section 471-A, consists of 5 or 7 members who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board. The board shall elect annually a chair and a secretary from among its members. A municipal officer or the spouse of a municipal officer may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The municipal officers or the executive committee, where applicable, may dismiss a member of the board for cause before the member's term expires.

2. **Meetings; records.** The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the municipal officers or the executive committee, where applicable. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the primary assessing area board of assessment review office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. **Hearing.** The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. **Evidence.** The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. **Testimony; record; notice.** The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the municipal officers or the executive committee, where applicable, within 10 days of the board's decision.

§ 848-A. Assessment Ratio Evidence

Reports of assessment ratios contained in assessment ratio studies of the Bureau of Revenue Services are prima facie evidence of what the reported ratio is in fact, unless a party to proceedings related to a protested assessment establishes that the ratio was derived or established in a manner contrary to law or proves the existence of a different ratio.

In any proceedings relating to a protested assessment, it is a sufficient defense of the assessment that it is accurate within reasonable limits of practicality, except when a proven deviation of 10% or more from the relevant assessment ratio of the municipality or primary assessing area exists.

§ 849. -- judgment and execution

Claims for abatement on several parcels of real estate may be embraced in one appeal, but judgment shall be rendered and execution shall issue for the amount of taxes due on each separate parcel.

The lien created by statute on real estate to secure the payment of taxes shall be continued for 60 days after the rendition of judgment, and may be enforced by sale of said real estate on execution, in the same manner as attachable real estate may be sold under Title 14, section 2201, and with the same right of redemption.

4. Current Use Appeals

Assessments made under the Tree Growth Tax Law, Farm and Open Space Law and working waterfront program are subject to the abatement procedures provided by §§ 841 and 842. However, appeals from the decision of the assessors in such cases are to the State Board of Property Tax Review.

5. Interest

If the amount finally assessed is less than the amount which the taxpayer has already paid, the municipality shall reimburse an amount equal to the overpayment plus interest at a rate defined in § 506-A.

6. Addresses and Telephone Numbers

Property Tax Division
PO Box 9106
Augusta, ME 04332
prop.tax@maine.gov
207-624-5600
V/TTY: 7-1-1

State Board of Property Tax Review
49 State House Station
Augusta, ME 04333
Prop.Tax.BD@maine.gov
207-287-2864

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PO BOX 9106
AUGUSTA, MAINE 04332-9106
TEL: (207) 287-2013

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MAINE RULES OF COURT

RULES OF CIVIL PROCEDURE

RULE 80B. REVIEW OF GOVERNMENTAL ACTION

(a) Mode of Review. When review by the Superior Court, whether by appeal or otherwise, of any action or failure or refusal to act by a governmental agency, including any department, board, commission, or officer, is provided by statute or is otherwise available by law, proceedings for such review shall, except to the extent inconsistent with the provisions of a statute and except for a review of final agency action or the failure or refusal of an agency to act brought pursuant to 5 M.R.S.A. § 11001 et seq. of the Maine Administrative Procedure Act as provided by Rule 80C, be governed by these Rules of Civil Procedure as modified by this rule. The complaint and summons shall be served upon the agency and all parties in accordance with the provisions of Rule 4, but such service upon the agency shall not by itself make the agency a proper party to the proceedings. The complaint shall include a concise statement of the grounds upon which the plaintiff contends the plaintiff is entitled to relief, and shall demand the relief sought. No responsive pleading need be filed unless required by statute or by order of the court, but in any event any party named as a defendant shall file a written appearance within the time for serving an answer under Rule 12(a). Leave to amend pleadings shall be freely given when necessary to permit a proceeding erroneously commenced under this rule to be carried on as an ordinary civil action.

(b) Time Limits; Stay. The time within which review may be sought shall be as provided by statute, except that if no time limit is specified by statute, the complaint shall be filed within 30 days after notice of any action or refusal to act of which review is sought unless the court enlarges the time in accordance with Rule 6(b), and, in the event of a failure to act, within six months after expiration of the time in which action should reasonably have occurred. Except as otherwise provided by statute, the filing of the complaint does not stay any action of which review is sought, but the court may order a stay upon such terms as it deems proper. The time for the filing of an appeal shall commence upon the date of the public vote or announcement of final decision of the governmental decision-maker of which review is sought, except that, if such governmental action is required by statute, ordinance, or rule to be made or evidenced by a written decision, then the time for the filing of an appeal shall commence when the written decision has been adopted. If such written decision is required by statute, ordinance, or rule to be delivered to any person or persons, then the time for the filing of an appeal shall commence when the written decision is delivered to such person or persons. If such written decision is sent by mail, delivery shall be deemed to have occurred upon the earlier of (i) the date of actual receipt or (ii) three days after the date of mailing.

(c) Trial or Hearing; Judgment. Any trial of the facts where provided by statute or otherwise shall be without jury unless the Constitution of the State of Maine or a statute gives the right to trial by jury. The judgment of the court may affirm, reverse, or modify the decision under review or may remand the case to the governmental agency for further proceedings.

(d) Motion for Trial; Waiver. If the court finds on motion that a party to a review of governmental action is entitled to a trial of the facts, the court shall order a trial to permit the introduction of evidence that does not appear in the record of governmental action and that is not stipulated. Such motion shall be filed within 30 days after the complaint is filed. The failure of a party to file said motion shall constitute a waiver of any right to a trial of the facts. Upon filing of a motion for trial of the facts, the time limits contained in this rule shall cease to run pending the issuance of an appropriate order of court specifying the future course of proceedings with that motion. With the motion the moving party shall also file a detailed statement, in the nature of an offer of proof, of the evidence that the party intends to introduce at trial. That statement shall be sufficient to permit the court to make a proper determination as to whether

any trial of the facts as presented in the motion and offer of proof is appropriate under this rule and if so to what extent. After hearing, the court shall issue an appropriate order specifying the future course of proceedings.

(e) Record.

(1) Preparation and Filing Responsibility. Except where otherwise provided by statute or this Rule, (i) it shall be the plaintiff's responsibility to ensure the preparation and filing with the Superior Court of the record of the proceedings of the governmental agency being reviewed, and (ii) the record for review shall be filed at the same time as or prior to the plaintiff's brief. Where a motion is made for a trial of the facts pursuant to subdivision (d) of this Rule, the moving party shall be responsible to ensure the preparation and filing of the record and such record shall be filed with the motion.

(2) Record Contents. The parties shall meet in advance of the time for filing the plaintiff's brief or motion for trial of the facts to agree on the record to be filed. Where agreement cannot be reached, any dispute as to the record shall be submitted to the court. The record shall include the application or other documents that initiated the agency proceedings and the decision and findings of fact that are appealed from, and the record may include any other documents or evidence before the governmental agency and a transcript or other record of any hearings. If the agency decision was based on a municipal ordinance, a state or local regulation, or a private and special law, a copy of the relevant section or sections from that ordinance, regulation, or private and special law, shall be included in the record. For appeals from decisions of a municipal agency, a copy of the section or sections of the municipal ordinance that establish the authority of the agency to act on the matter subject to the appeal shall also be included in the record. Copies of sections of the Maine Revised Statutes shall not be included in the record. In lieu of an actual record, the parties may submit stipulations as to the record; however, the full decision and findings of fact appealed from, and the applicable ordinances, regulations, or private and special laws as detailed above shall be included.

(f) Review Limited to Record. Except where otherwise provided by statute or by order of court pursuant to subdivision (d) hereof, review shall be based upon the record of the proceedings before the governmental agency.

(g) Time for Briefs and Record. Unless otherwise ordered by the court, all parties to a review of governmental action shall file briefs. The plaintiff shall file the plaintiff's brief within 40 days after the date on which the complaint is filed. Any other party shall file that party's brief within 30 days after service of the plaintiff's brief, and the plaintiff may file a reply brief 14 days after last service of the brief of any other party. However, no brief shall be filed less than 6 calendar days before the date set for oral argument. On a showing of good cause the court may increase or decrease the time limits prescribed in this subdivision.

(h) Consequence of Failure to File. If the plaintiff fails to comply with subdivision (e) or (g) of this rule, the court may dismiss the action for want of prosecution. If any other party fails so to comply, that party will not be heard at oral argument except by permission of the court.

(i) Joinder With Independent Action. If a claim for review of governmental action is joined with a claim alleging an independent basis for relief from governmental action, the complaint shall contain a separate count for each claim for relief asserted, setting forth in each count a concise statement of the grounds upon which the plaintiff contends the plaintiff is entitled to relief and a demand for the relief sought. A

party in a proceeding governed by this rule asserting such an independent basis for relief shall file a motion no later than 10 days after the filing of the complaint, requesting the court to specify the future course of proceedings, including the timing of briefs and argument and the scope and timing of discovery and other pretrial proceedings including pretrial conferences. Upon the filing of such a motion, the time limits contained in this rule shall cease to run pending the issuance of an appropriate order of court. After hearing, the court shall issue such order.

(j) Discovery. In a proceeding governed by this rule, discovery shall be allowed as in other civil actions when such discovery is relevant either to the subject matter involved in a trial of the facts to which the discovering party may be entitled or to that involved in an independent claim joined with a claim for review of governmental action as provided in subdivision (i) of this rule. No other discovery shall be allowed in proceedings governed by this rule except upon order of court for good cause shown.

(k) Pretrial Procedure. In the absence of a court order, the pretrial procedure of Rule 16 shall not be applicable to a proceeding governed by this rule.

(l) Scheduling of Oral Argument. Unless the court otherwise directs, all appeals shall be in order for oral argument 20 days after the date on which the responding party's brief is due or is filed, whichever is earlier. The parties may, by agreement, waive hearing and submit the matter for decision on the record and the briefs. The clerk of the Superior Court shall schedule oral argument for the first appropriate date after an appeal is in order for hearing, and shall notify each counsel of record or unrepresented party of the time and place at which oral argument will be heard.

(m) Remand by the Superior Court. If the Superior Court remands the case for further action or proceedings by the governmental agency, the Superior Court's decision is not a final judgment, and all issues raised on the Superior Court's review of the governmental action shall be preserved in a subsequent appeal taken from a final judgment entered on review of such governmental action. The Superior Court does not, however, retain jurisdiction of the case.

(n) Review by the Law Court. Unless by statute or otherwise the decision of the Superior Court is final, review by the Law Court shall be by appeal or report in accordance with the Maine Rules of Appellate Procedure, and no other method of appellate review shall be permitted.

Rule Amended effective July 29, 2016.