

# **SOUTH PORTLAND BOARD OF ASSESSMENT REVIEW RULES OF PROCEDURE**

## **AUTHORITY OF BOARD**

The South Portland Board of Assessment Review (hereinafter “Board”) receives its authority to hear and decide property tax abatement appeals pursuant to State law (36 M.R.S.A. § 843(1) and 30-A M.R.S.A. § 2526(6), as may be amended from time to time). The Board establishes the following Rules of Procedure for conducting hearings under Article VII of the City Charter.

## **ORGANIZATION OF BOARD**

1. ESTABLISHMENT OF BOARD. The Board shall consist of seven members not otherwise connected with City government, one member from each voting district of the City and two at large who shall be appointed by the City Council for a term of three years. Vacancies shall be filled by appointment by the City Council for the expired term.
2. BOARD QUALIFICATIONS. Board members shall be selected upon the basis of their knowledge of taxation and property values. Each Board member shall have been a resident of the City for at least three years immediately preceding his/her appointment and shall continue as a resident during his/her term. If a Board member terminates his/her residence in the City, his/her position shall become vacant.
3. CHAIRMAN/SECRETARY. The Board shall annually choose a chairman and a secretary from its membership. The chairman shall preside at all meetings and hearings and fulfill the customary functions of that office. The chairman may administer oaths. The secretary or his/her designee shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or his/her absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings and proceedings and all correspondence of the Board.
4. BOARD OFFICIAL DUTIES. The members of the Board in carrying out their official duties shall act in a quasi-judicial capacity, acting fairly, independently, and impartially. The Board’s findings of fact and determinations of each case shall be based only upon evidence presented to the Board in its public proceedings, which shall become the record in the case.

5. OFFICE. The office of the Board is located at the City of South Portland Assessor's Office, P.O. Box 9422, South Portland, Maine 04116-9422, and all written communications for the Board shall be sent to the Board in care of the Administrative Assistant to the Board at the foregoing address.

## **PROCEDURE**

1. MEETINGS/QUORUM. The chairman shall call all meetings of the Board as required. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least four members. The chairman shall preside at all meetings of the Board and be the official spokesman of the Board. When not inconsistent with applicable State law, City ordinance or these Rules, Robert's Rules of Order shall govern in the Board's deliberations. The Board shall give reasonable notice of all meetings and its meetings shall be open to the public pursuant to City Council Order #83-88/89.

2. BOARD RECORDS. The record shall consist of the minutes of the secretary or his/her designee, the transcript if one is made, all applications, exhibits or stipulations filed in any proceeding before the Board, any summaries prepared of an inspection of the property, and the decision of the Board. Such records shall be public records open to inspection and copying during regular City Hall office hours upon reasonable notice.

3. CONFLICT OF INTEREST. No member of the Board shall participate in the hearing or disposition of any matter in which he or she has a conflict of interest. Any question of whether a member has a conflict of interest sufficient to disqualify the member from voting thereon shall be decided by a majority vote of the other members present and voting; where such vote results in a tie, the subject member shall be disqualified.

4. APPLICATION. To initiate an abatement appeal, the applicant must have filed a written application to the City Assessor, must have received a written denial from him/her (or expiration of sixty (60) days from the date of filing if no written denial was given, unless the applicant shall have in writing consented to further delay), and must then file ten (10) copies of the written appeal and any supporting documentation to the Board at its office as set forth above. Appeal forms shall be provided, which forms shall provide the name and address of the appealing party, a description of the property involved, the amount assessed by the Assessor, and the amount the applicant feels constitutes the property assessment and the reasons therefor (for example, based on assessments of comparable properties). Copies of forms which may be used will be available in the Assessor's office. Before any appeal may be heard by the Board for a property with an assessed valuation of \$500,000 or more, an amount of current taxes equal to the amount of taxes paid in

the next preceding tax year, provided 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, must be paid by or after the due date as committed by the Assessor (36 M.R.S.A. § 843(4)).

5. TIME FOR FILING. The application must be filed in writing to the Board within sixty (60) days after the notice of the decision from which such appeal is being taken or after the application is deemed to have been denied. The application shall be filed with the Administrative Assistant to the Board, who shall present the same to the Board, and the Board shall schedule a hearing on the appeal within a reasonable time.

6. EVIDENCE. The Board may receive any oral or documentary evidence, but shall exclude irrelevant, immaterial, or unduly repetitious evidence. Each party shall have the right to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of facts. All lengthy documentary evidence that can reasonably be anticipated as part of the record shall be submitted by the taxpayer at least twenty-one (21) days in advance of the Board's initial hearing on the application and by the Assessor at least ten (10) days in advance of the Board's initial hearing on the application; provided, however, that such documentary evidence that cannot reasonably be anticipated as part of the record, such as rebuttal evidence, need not be submitted in advance. The Board may continue any hearing to obtain a clarification of the facts or legal issues involved; provided, however, that once scheduled, a hearing may not be continued except for good cause or as fairness requires as determined by the Board.

7. VIEW OF THE PROPERTY. If a majority of the Board deems it necessary, the Board may view or inspect the property at issue. At any inspection of the property, both parties, the taxpayer and the Assessor (and legal counsel, if any) shall have the right to be present. The purpose of any such view is to enable the Board to more intelligently apply and comprehend testimony presented at the hearing, not to receive evidence or testimony. No evidence or testimony shall be offered at the inspection, but both parties may nevertheless call to the attention of the Board those characteristics of the property that they wish the Board to observe, without further comment. A summary of the inspection shall be made by the Board on the record at the next scheduled meeting of the Board, and either party may at that time, offer his/her own summary of the inspection for the record.

8. DELIBERATIONS. The Board may close the hearing after all evidence has been submitted and continue its deliberations until the next meeting of the Board. All deliberations of the Board on all appeals shall be in public at its meetings.

9. OTHER RULES. The Board shall make such other reasonable rules of procedure as may be required.

## **DECISIONS**

1. TIME OF DECISION. The Board shall render a decision on all applications within sixty (60) days from the date the application is filed unless the applicant agrees in writing to further delay. If the Board should fail to give written notice of its decision within sixty (60) days, unless the period has been extended as provided herein, the application shall be deemed denied as if there had been a written denial and the applicant may appeal pursuant to 36 M.R.S.A. § 843, as may be amended from time to time.

2. WRITTEN DECISION. The Board shall issue a written decision upon all applications within ten (10) days after it takes final action thereon, which shall be forwarded to the applicant, the City Assessor, and the City's Finance Director. The written decision shall set forth the Board's findings of facts and reason or reasons for its decision sufficient to appraise the applicant, the Assessor, and any interested member of the public of the basis of the decision.

3. RECONSIDERATION. The Board may reconsider any decision within forty-five (45) days of its prior decision, provided it continues to have jurisdiction over the appeal. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is to be reconsidered. If the Board votes to reconsider the decision, it may conduct additional hearings and receive additional evidence and testimony as provided herein. If the Board votes to reconsider the decision, it shall vote again upon the merits and provide a second written decision; provided, however, that the vote to reconsider and the action taken thereon must occur and be completed within forty-five (45) days of the date of the vote on the original decision.

4. APPEAL. Any appeal from any final decision of the Board may be taken pursuant to the provisions of 36 M.R.S.A. § 843, as may be amended from time to time.

Adopted by Board: 1991

Amended by Board: March 29, 1994; September 15, 2010