

Dana Berry

From: Legal Services Department <Legal_Services_Department@memun.org>
Sent: Wednesday, August 27, 2014 2:05 PM
To: Dana Berry
Subject: Madison - Revaluation

Dana,

I reprint below an excerpt from our *Assessment Manual* which confirms that advice that I gave you over the telephone this morning.

(from [chapter 2](#), page 16):

Legal Status of Assessors

Although local tax assessors are chosen by the municipality, the Maine Supreme Court has held repeatedly that an assessor acts as an agent of the State in performing his or her assessment duties. Those duties are imposed by State law and cannot be altered by a vote of the local legislative body or municipal officers. *Frankfort v. Waldo Lumber Co.*, 128 Me. 1, 3, 145 A.241 (1929); *City of Rockland v. Farnsworth*, 93 Me. 178, 183, 44 A.681 (1899); *McKay Radio and Telegraph Co. v. Inhabitants of Town of Cushing*, 131 Me. 333, 335, 162 A.783 (1932); *Inhabitants of Town of Milo v. Milo Water Co.*, 131 Me. 372, 377, 163 A.163 (1932); *Frank v. Assessors of Skowhegan*, 329 A.2d 167 (Me. 1974). See also 36 M.R.S.A. § 701.

(from [chapter 2](#), page 32):

A town meeting does not have the authority to reject or modify valuations determined by the assessors or to take any action directing the assessors regarding valuations or manner of assessment. *Rockland v. Farnsworth*, 93 Me. 178, 183 (1899); *Maine Consolidated Power Co. v. Inhabitants of Town of Farmington*, 219 A.2d 748 (Me. 1966). The town meeting probably cannot even legally dictate that a revaluation be conducted by appropriating money for that purpose, although it may be politically unwise for the assessors to ignore such a town vote. In a situation where the town has hired an appraisal firm to assist in the revaluation, the municipal assessors are still the sole authority to determine the final valuation figures. By statute, "(a)ny revaluation is under the jurisdiction of the municipal assessors whose judgment, as opposed to that of any hired appraiser, is final." 30-A M.R.S.A § 5722(7). Once the assessors have determined valuation figures in compliance with statutory and constitutional standards, the statutory remedy for a disgruntled taxpayer is to make application for abatement. (See discussion in Chapter 10.)

Here is a sample article that could be used to appropriate funds for a revaluation, recognizing that the assessors may choose not to use the money:

Art. __. To see if the Town will vote to [raise and/or appropriate **OR** appropriate from _____] \$_____ for the purpose of conducting a revaluation of real estate in the Town and to authorize the Board of Assessors to contract for said revaluation services, if in the discretion of the Board of Assessors, a revaluation is necessary or appropriate.

I hope that this is helpful. Let me know if you have any questions or want to talk about the wording of the article. I don't think that the last phrase ("if in the discretion . . .") is legally necessary, but I thought it might be politically helpful so that voters are not confused. It is up to you.

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