

Patricia McDonough

111 Dyke Farm Road
South Portland, ME 04106

August 31, 2009

Gary C. Wood
Corporation Counsel
389 Congress Street
Portland, ME 04101

Re: Application for Abatement of Property
Tax FY2007 and FY2008

Account ID # 35860

Location: Luke St. CBL # 339 G011001

Dear Mr. Wood:

Enclosed please find your original August 26, 2009 letter duly signed and executed. I thank you and the other municipal employees who have helped me resolve this matter. I really do appreciate your time and efforts.

Your letter does not indicate what changes are to be made to the value of my property for FY2007 and FY2008, and when I first read the letter I was reluctant to agree without knowing the particulars. However, given the good faith shown by the City I am comfortable to proceed in good faith as well, and trust that the property value for the years at issue will be adjusted as it was for FY2009 to the \$13,200 figure determined by Mr. Blackburn.

I am happy to have this matter resolved and would appreciate receiving payment of the abatement at the above address.

Sincerely,

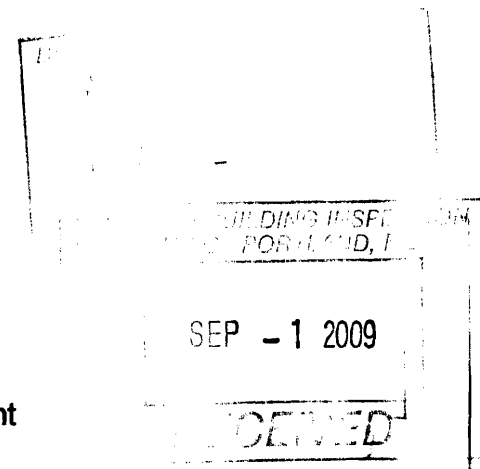
Patricia McDonough

cc: Mr. Richard Blackburn, Assessor

Mr. Richard Lagarde, Treasurer

Ms. Marge Schmuckal, Zoning Administrator

Ms. Penny Littell, Director of Planning and Urban Development





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August 26, 2009

Patricia McDonough
111 Dyke Farm Road
South Portland, ME 04106

RE: Application for Abatement of Property Taxes for FY2007 and FY2008
Account #35860
Location: Luke St. CBL #339 G011001

Dear Ms. McDonough:

Your letter dated July 31, 2009 was received in my office on August 19, 2009.

After receiving and reviewing that letter I did discuss the underlying land use issue with Marge Schunuckal and also discussed City Assessor Rick Blackburn, your request for an abatement for FY2007 and FY2008, I have authorized the City Assessor and Treasurer to grant your abatement not because either the Assessor's office or the municipal officers are legally obligated or required to do so, but because your request is both fair and reasonable in light of the facts that you state in both of your letters.

While we would all like to think that the law is always fair and reasonable that is not always the case and in fact your case is a good example, because under the applicable state law (36 M.R.S.A. § 841(1)) neither the City Assessor nor the municipal officers would be required to make any of the abatements that you have requested, including the abatement for FY2009.

It is fair to say that 36 M.R.S.A. § 841(1) is confusing and difficult to understand when it comes to errors in valuation, which is the error that is applicable to your lot. That being said, it has been consistently interpreted and applied by municipal attorneys and the courts for many years to limit corrections in errors of valuation to the one year period from the date of a tax commitment. Within that year it is only the Assessor who can correct an error of valuation (see the last paragraph of § 841(1), the municipal officers (in Portland, the City Council) may not grant an abatement to correct an error in the valuation of property

Under 36 M.R.S.A. § 843, a property owner who has filed a timely application for an abatement (i.e., within 185 days from the date of a tax commitment) can ask the Board to consider a case in which the Assessor has denied an abatement request based on valuation, however, in your case, a Board of Assessment Review would have no jurisdiction or authority at this time in relation to the FY2007 and FY2008 taxes.

In acting favorably on your 2009 application, even though it was filed more than 185 days after the date of commitment, the Assessor was acting on his own initiative to correct an over-assessment within one year from the date of commitment as you correctly point out in your letter dated May 29th.

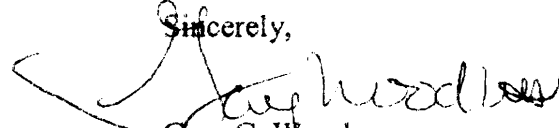
I commend that action by the Assessors Office and also their referral to my office for consideration your request for an abatement of the FY2007 and FY2008 taxes.

If you are now satisfied with the resolution of this matter by the City, please execute the seen and agreed to line at the end of this letter and return the original to my office. We will then forward it on to the Assessor and the Treasurer for payment of the appropriate abatement for FY2007 and FY2008.

By executing the seen and agreed to line you will be releasing the City from any further claims or actions related to taxes on your lot on Luke Street.

Thank you for your patience. If you have questions about the letter and the resolution of this matter I will be glad to talk with you about them but I will not be back in the office until September 1st at the earliest and may not be back until September 8th.

Sincerely,



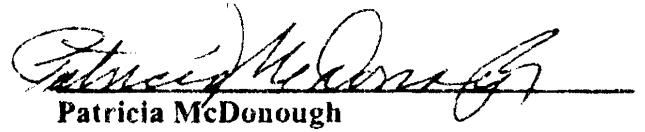
Gary C. Wood
Corporation Counsel

GCW:tlb

cc: Rick Blackburn, Assessor
Richard Lagarde, Treasurer
Penny Littell, Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator
Attorneys

SEEN AND AGREED TO:

Date: 8-31-2009



Patricia McDonough