

**CUMBERLAND COUNTY BOARD OF ASSESSMENT REVIEW
RULES OF PROCEDURE**

**SECTION I
AUTHORITY OF BOARD**

Pursuant to 36 M.R.S.A. § 844, the Cumberland County Commissioners (“County Commissioners”) have established the Cumberland County Board of Assessment Review (“Board”) to hear and decide all property tax abatement appeals to the County Commissioners.

**SECTION II
ORGANIZATION OF BOARD**

1. **ESTABLISHMENT OF BOARD.** The Board shall consist of seven members who shall be appointed by the County Commissioners for a term of three years, except that of those members first appointed, two shall be for a term of four years and two shall be for a term of five years.
2. **BOARD QUALIFICATIONS.** Board members shall be selected upon the basis of their knowledge of taxation and property values, provided that a least one of whom must be a licensed real estate appraiser and one of whom must be a member of the general public. A Cumberland County (“County”) official or the spouse of a County official may not be a member of the Board. Each Board member shall be a resident of the County. If a Board member terminates his/her residence in the County, 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, be the official spokesperson of the Board 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 Cumberland County Executive Department, 142 Federal Street, Portland, Maine 04101, 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.

6. VACANCIES. Vacancies shall be filled by appointment of the County Commissioners for the unexpired term.

7. REMOVAL OF MEMBERS. Any member of the Board may be removed for cause by the County Commissioners at any time; provided, however, that before any such removal, such member shall be given prior notice and an opportunity to be heard in his/her own defense at a public hearing.

SECTION III PROCEDURE

1. MEETINGS/QUORUM. The Chairman shall call all meetings of the Board as required. The Chairman 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 quorum of the Board necessary to conduct an official Board meeting shall consist of four members. The Board shall act by majority vote of those members present and voting; provided, however, that at least three affirmative votes are required to grant a tax abatement appeal. When a motion results in a tie vote, the motion fails. The Chairman shall preside at all meetings of the Board and be the official spokesman of the Board. The Secretary shall preside and be the official spokesman in the Chairman's absence. The Board shall give reasonable notice of all meetings, and its meetings shall be open to the public except as otherwise provided by law.

2. BOARD RECORDS. The record shall consist of the minutes of the Secretary or his/her designee, the transcript if one is made or electronic recording of testimony, all applications, exhibits, stipulations, papers and requests 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 during regular office hours of the County's Executive Department 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 Assessor(s) of the Town in which the property is located, must have received a written denial from him/her/them (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 **twelve (12) copies** of the written appeal and any supporting documentation to the Board. The applicant shall set forth in the application the name and address of the appealing party, a description of the property involved, the amount assessed by the Assessor(s), and the amount the applicant feels constitutes the proper assessment and the reasons therefore. Application forms shall be available in the Cumberland County Executive Department's office.

5. **TIME FOR FILING.** The application must be filed in writing to the Board within sixty (60) days after the notice of decision from which such appeal is being taken or after the application to the Assessor(s) is deemed to have been denied. The application shall be filed with the Board and a copy provided to the Assessor(s) of the Town in which the property is located, and the Board shall schedule a hearing on the appeal within a reasonable time.

6. **PAYMENT REQUIREMENT.** 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(s) (36 M.R.S.A. § 844(4)).

7. **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 documentary evidence from all parties that can reasonably be anticipated as part of the record (e.g., appraisal reports) shall be submitted to the Board, with a copy to the other party, **fourteen (14) 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. Notwithstanding the above, the Board may permit the submission of additional information at any time prior to its decision for good cause shown. 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.

8. **VIEW OF THE PROPERTY.** If a majority of the those members present and voting deems it necessary, the Board may view or inspect the property at issue. At any inspection of the property, both parties and their representatives 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, without further comment, those characteristics of the property which they wish the Board to observe. 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.

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

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

SECTION IV DECISION

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.

2. WRITTEN DECISION. The Board shall issue a written decision upon all applications. The written decision shall set forth the Board's findings of facts and shall specify the reason or reasons for such decision. The Secretary or his/her designee shall mail or hand deliver notice of the Board decision to the applicant, the Assessor(s) and the County Commissioners within ten (10) days of such 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. An appeal from any final decision of the Board may be taken by any party to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the Board 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.

ADOPTED: _____, 2010