

Overview of:
Bruce Cambriello vs Town of Atkinson
BTLA Docket Number: 23207-06PT

History of Atkinson 2006 revaluation:

Number of abatement requests filed with Town

1. 158 residential property abatement requests were filed with the Town (3000 parcels)
2. 141 abatement requests were granted. Town error rate of 89% !!
3. \$89,000 of tax money granted to taxpayers for “good cause shown”
3. Approximately half of the abatement tax refunds came to “lake property”.
4. Discrepancies in assessments were widespread throughout the Town.

Due to that number of challenges through appeals for abatements, Mr. Artus, Mr. Brownfield, and others started a loosely organized taxpayer group to challenge assessments in Atkinson. That participation in the democratic process has caused some, if not all of the Selectmen/Assessors to view them as adversaries, rather than public spirited citizens. As one form of retribution, the Selectmen/Assessors have enacted charges in excess of those allowed by the RTK law for copies of public records. (or as revised by HB 1408, “governmental records”). These excess charges serve as a financial disincentive for those seeking assessing and other public documents.

The results of DRA USPAP 6 review:

1. Please see report.
2. USPAP is not enforced by DRA, only a review and advisory to ATKINSON
3. No action taken by Atkinson. (question asked by Reed during BTLA ordered session Assessor Wood) (Ask for stipulation now.)

The Assessor in charge of the Revaluation for Purvis and Associates was dismissed by Mr. Brett Purvis for, as he described it, “incompetence”.

That’s little history of the 2006 time period being presented here today.

This having been said, I do want to stress to the Board that all parties conducted themselves in a calm and respectful manner in the Ordered settlement hearing held May 23, 2008.

End of History

Introduction of Mr. Cambriello’s Appeal

Mr. Cambriello has 3 issues.

Part 1 of 3 Order to meet

Part 2 of 3 Easement

Part 3 of 3 Taxation of land not owned by plaintiff.

Part 1 of 3
Bruce Cambriello vs Town of Atkinson
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Subject: BTLA Order to meet

1. Parties met May 23, 2008.
2. Mr. Cambriello highlighted several errors on his PRC.
3. The errors were corrected by Mr. Wood.
4. The parcel value changed from \$368,000 to \$339,000 due to these changes.
5. A reduction of \$29,000 assessed value.
6. Mr. Cambriello agreed that the corrections to the data were thus far correct.
7. TP proceeded to the next item which was the issue of ownership and taxation of the “waterfront”.
8. After some discussion, the Town gave us an ultimatum: Take it or leave it. We (the Town) are not going to address the property ownership issue.
9. We requested a partial settlement as we had done with Brownfield.
10. The Town refused, stating that the Town wasn’t doing any more partial agreements.
11. Mr. Cambriello refused the all or nothing offer by the Town.
12. We assert that the Town:
 1. Acted in bad faith,
 2. Reneged on its offer
 3. Violated the intent of the BTLA’s Order
 4. Failed to adjust the TP taxpayer’s PRC for known errors
 5. Violated their lawful duty of maintaining accurate assessing records.
 6. Retaliated against Mr. Cambriello for bringing up a valid question of property ownership.

We request that the Board order the Town of Atkinson:

- 1. to correct the now missing corrected physical data on Mr. Cambriello’s property record card to reflect a total parcel value of \$339,100.**

Part 2 of 3
Bruce Cambriello vs Town of Atkinson
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Subject: Easement

1. In reference to the EASEMENT:
 - i. Copy of plot survey.
 - ii. Copy of easement
 - iii. The easement is in use daily as Chase Island Rd. (a ROW)

- iv. The use of the easement deprives Mr. Cambriello of the use and enjoyment of his property.
- v. Town stated during meeting that if ROW actually crosses property then an adjustment is warranted. (seek Town stipulation today)
- vi. There exists, Town wide adjustment factor(s) for properties with easements. (Seek Town stipulation today.)
- vii. The NH Supreme court has stated that “ a landowner whose property is subject to an easement is entitled to a reduced valuation” (emphasis added) (see LSP Association v. Town of Gilford – Belnap No. 95-500 Page 6 of 9)

The Supreme Court statement is consistent with the majority of properties encumbered by an easement in Atkinson. Mr. Cambriello’s property is a notable exception. (Ask Town to stipulate that.)

When such relief is granted to some and not all, the result is a disproportionate assessment for Mr. Cambriello and any others so affected.

We request that the Board order the Town of Atkinson to correct the missing physical data on Mr. Cambriello’s property record card in regard to the existing easement that runs with Mr. Cambriello’s property. Then, apply that easement factor in the same manner that it is allocated to other properties in Atkinson. The Plaintiff asks for no specific monetary amount, merely to have the data corrected on his PRC to reflect the facts and be consistent with the easement factor throughout the Town.

Part 3 of 3

Bruce Cambriello vs Town of Atkinson BTLA Docket Number: 23207-06PT

Subject: Illegal assessment/taxation

The law:

PERSONS AND PROPERTY, WHERE AND TO WHOM TAXED

Section 73:10

73:10 Real Estate. – **Real and personal property shall be taxed to the person claiming the same**, or to the person who is in the possession and actual occupancy thereof, if such person will consent to be taxed for the same; but such real estate shall be taxed in the town in which it is situate. Any assessments report issued by the commissioner pursuant to RSA 21-J:11-a shall not affect the obligation of the taxpayer to pay property taxes otherwise lawfully assessed.

Source. RS 40:7. CS 42:9. GS 50:11. GL 54:11. PS 56:14. PL 61:10. RL 74:10. 2001, 158:58, eff. Sept. 3, 2001. 2003, 307:10, eff. July 1, 2003.

1. Mr. Cambriello asserts he is being taxed contrary to RSA 73:10. (Illegally) (as highlighted above)
2. Mr. Cambriello makes no claim beyond the bounds of his deed.

3. Referencing the registered survey indicates the relationship between Mr. Cambriello's and the waterfront. (See survey please)
4. The subject property has no water frontage.
5. The analysis and the determination of linear foot values relies upon the unsold properties having the same accurate data as the sold properties. This property has incorrect physical data attributed to it. Namely the waterfront footage.
6. That incorrect data has led to real property being illegally taxed to Mr. Cambriello for years.
7. Mr. Cambriello has never claimed the waterfront property is his.
8. Mr. Cambriello has never consented to being taxed for the waterfront property. (Which extends beyond his right, title and interest as described in his deed.)
9. A review of the lakeside lot line pictures demonstrates the factual nature of the waterfront.
10. The Town at the Ordered Meeting refused to address this issue because it was a "legal matter".
11. The Town has made no good faith effort to investigate the legality of the plaintiff's claims.
12. The Town has not consulted the Town attorney for an opinion.
13. The Town has made no effort to view the property for a determination of physical facts. Neither before, nor after the Ordered Meeting.
14. The Chairman of the Selectmen/Assessors, Mr. Sullivan, stated at the Ordered Meeting that "we'll let the BTLA sort this out". This action is not a good faith effort to settle as ordered by the BTLA. The inaction of the Selectmen/Assessor Chairman and the complacent agreement of the professional assessor are most egregious to the Plaintiff. The BTLA should not be used to settle plain facts of law.
15. Town Chairman Mr. Sullivan said that he had "no authority" to address this issue. We disagree.
16. The Plaintiff wishes the Board to deem the action by the selectman and as willful neglect of duty.
17. Furthermore, **If** the Board grants an abatement, the plaintiff argues that it is because of a clear error of fact, not of interpretation. The Town has made no effort to refute the facts presented at the May 23, 2008 Ordered Meeting. The Town has offered no argument of "interpretation", therefore Mr. Cambriello requests a favorable determination by the BTLA that filing fees be refunded in accordance with **RSA 76:17-b Filing Fee Reimbursed**.

The plaintiff requests that the Board order the Town of Atkinson:

1. **to correct the waterfront physical data on Mr. Cambriello's property record card to reflect only that property that is described by his deed and as marked at the bounds of his property. Then, apply that waterfront factor in the same manner that it is allocated to other properties in Atkinson. The Plaintiff asks for no specific monetary amount, merely to have the data corrected on his PRC to reflect the factual water frontage (property) attributable by RSA 73:10 as taxable to Mr. Cambriello.**
2. **If the BTLA so determines, filing fees to be reimbursed to Mr. Cambriello per RSA 76:17-b (as requested above)**

Summation:

Mr. Cambriello alleges that all the above issues were, and are, correctable at the Town level. That if the Town had performed its duties, upheld their oath of office, and been more diligent in their assessing practices, there would be no need to be before the BTLA today.

The plaintiff has not asked for monetary amounts because he believes that full and accurate physical data collection and the use thereof are the foundation for fair and

equal assessments. He will be satisfied to settle for that fundamental duty of the Town Assessors being followed to the best of their ability and in accordance with NHAAO and IAAO accepted assessing and ethical practices.

Mr. Cambriello requests this Board (BTLA) find for him and order the correct physical data be recorded on his PRC (for the 3 subject items). Then, a revised assessed value be CAMA calculated and used for the tax years of 2006 and following, until such time as the Town is revalued.

In as much as the Town has not factored these issues into their comparative analysis that they plan to use here today, we are of the opinion that the omission renders the comparative study unfair and inaccurate.

In as much as the Town has unnecessarily burdened both the Taxpayer's and this Board's resources, the plaintiff requests the Board to find and order costs be awarded to Mr. Cambriello in accordance with Tax 201.39 and RSA 71-B:9. The plaintiff asserts the actions by the Town as described throughout this document amount to frivolous actions. That is, this case was not brought before the BTLA in good faith on the part of the Town. (Such costs are requested separately from the filing fee requested per RSA 76:17-b. elsewhere in this document.)

If the Board rules favorably for the plaintiff's costs, the plaintiff shall submit itemized documentation of reasonable costs within 15 days of the BTLA's decision or as ordered by the BTLA.

End