



**Town of Freeport, Maine  
Board of Assessment Review  
NOTICE OF DECISION**

<b>Property Tax Abatement Appeal</b>	
<b>Taxpayer:</b>	Freeport Village Station Capital, LLC
<b>Subject Property Location:</b>	1 Freeport Village Station (MBLU 811-112-ETC and 11-112-ETC)
<b>Date of Vote:</b>	August 28, 2025
<b>Date of Written Decision:</b>	August 28, 2025

The Town of Freeport, Maine Board of Assessment Review (the “BAR”) acted on the application for a property tax abatement appeal filed by Freeport Village Station Capital, LLC at its meeting on August 28, 2025, and made the following findings of fact and conclusions of law:

**Findings of Fact**

1. The taxpayer for the property in question is Freeport Village Capital, LLC (the “Taxpayer”).
2. The property associated with this abatement appeal is located at 1 Freeport Village Station and is further identified by the Town’s Assessor as MBLU 811-112-ETC and 11-112-ETC (collectively the “Property”). The Property is primarily used as a retail outlet mall, consisting of 23 tenant spaces/units and a net rentable area of approximately 122,121 SF. The Property also contains a parking garage with approximately 512 parking spaces.
3. The Property’s original assessed value as of April 1, 2024 (FY 2025) was \$28,431,700. The Town’s assessment ratio for FY 2025 is 100% of just value.
4. The Town committed property taxes for FY 2025 (April 1, 2024 assessment date) on September 15, 2024. The mil rate for FY 2025 was \$13.35.
5. The Taxpayer filed an abatement application with the Assessor on March 17, 2025, seeking an abatement of \$17,778,700, for a revised valuation of \$14,530,000.
6. The Taxpayer and the Assessor met in person on May 13, 2025, at which time the Taxpayer consented to the extension of the time within which the Assessor must render a decision on the abatement request to June 15, 2025.
7. On May 13, 2025, the Assessor sent a request for additional information, pursuant to 36 M.R.S. § 706-A (the “706-A Request”) to the Taxpayer by certified mail. The 706-A Request asked the Taxpayer to provide the casualty loss insurance certificate for the Property, the

Property's current rent roll, unredacted copies of all leases for the Property as of April 1, 2024, and an income and expenses report for the Property. The 706-A Request was delivered to the Taxpayer on May 15, 2025.

8. The Taxpayer responded to the 706-A request through its attorney, Jonathan A. Block, Esq., by correspondence dated June 6, 2025.
9. The Assessor denied the abatement application in correspondence dated June 13, 2025. *See* 36 M.R.S. § 842. The Assessor's rationale for denying the abatement application was that the current valuation was properly derived from use of the cost approach, with consideration given to both the sales and the income approaches. The Assessor did, however, conduct an equity study of the Property, which concluded that the Property's assessment method was inconsistent with that of similar properties. Specifically, the Assessor determined that the Property's parking garage was being assessed as fully rentable retail space and not as a parking garage. In light of this, the Assessor applied an 85% reduction in the assessed gross square footage of the parking garage portion of the Property, resulting in a total abatement of \$7,429,300 and a new valuation of \$25,131,900. This abatement has already been applied to the Property and the Property's assessed value for purposes of this proceeding is the reduced assessment of \$25,131,900 (\$21,002,400 for buildings and \$4,129,500 for land).
10. The Taxpayer appealed the Assessor's decision to the BAR on June 18, 2025. The Taxpayer's appeal included the following:
  - a. Attachment A, which included a summary of the Taxpayer's argument on appeal; and
  - b. An appraisal report of the Property, prepared by Goulet & Associates (the "Appraisal").
11. The Assessor, provided a written memo with attachments to the BAR in advance of its public hearing. The attachments included:
  - a. An abatement timeline;
  - b. The Property's tax card as of April 1, 2024;
  - c. The Taxpayer's abatement application;
  - d. The 706-A Request;
  - e. The Assessor's equitability calculation for the Property;
  - f. The Assessor's Notice of Decision as to the Taxpayer's abatement request;
  - g. The abatement certificate certifying the granted abatement in the amount of \$7,429,300;
  - h. The Taxpayer's abatement appeal application to the BAR; and
  - i. The Property's updated record card.
12. The Property's real estate taxes are fully paid for FY 2025.
13. The BAR conducted a public hearing on August 26, 2025. The BAR was comprised of Chris Grimm, Chair, Andrew Arsenault, Greg Michaud, and Barbara Skelton. The BAR was represented by Benjamin T. McCall, Esq. The Taxpayer was represented by Johnathan A. Block, Esq. The Assessor, Quang Le, appeared in person.

14. At that hearing, the Taxpayer argued that the Assessor's assessment of the Property was "manifestly wrong," as it was substantially overvalued and was valued in a manner inconsistent with other similarly situated properties in Freeport. In support of this claim, the Taxpayer's appraiser, Marc Goulet, relied on the income approach – which values improved real property in relation to the income that it generates from leases and other rental payments.
15. Specifically, Mr. Goulet testified that:
  - a. He is both a certified appraiser and assessor in the state of Maine and has significant professional experience in assessing retail properties, including retail outlet properties in both Freeport and Kittery.
  - b. In recent years, and particularly since the COVID-19 pandemic, the market for retail outlet properties has contracted significantly, making it more difficult for these properties to create income for their owners.
  - c. As of the April 1, 2024 assessment date, the Property had a physical vacancy rate of 23% and an economic vacancy rate of 33%, due to the presence of a number of licensed tenants (*i.e.*, those who did not hold long term leases and could be removed from the property on short notice).
  - d. In preparing the Appraisal, Mr. Goulet reviewed current leases and rent rolls for the existing tenants at the Property. Mr. Goulet also reviewed other comparable properties, both in Freeport and Kittery, reviewing their sales and rental data.
  - e. The Property consists of 122,121 rentable square feet, which is exclusive of service areas and parking areas. When compared to the April 1, 2024 assessment, this constitutes an assessed value of approximately \$206/SF, as the Assessor's valuation considers total square footage of the Property, not rentable square footage.
  - f. Stores and other tenant spaces on the Property range from gross full service to triple net leases (NNN). However, Mr. Goulet also testified that due to the significant softening in the market, newer leases for the Property and comparable properties are, at best, modified gross. What also makes the Property unique in the market is the inclusion of a two-tiered parking garage and a cinema with stadium seating. To that point, both of these conditions required a downward adjustment in Mr. Goulet's appraised value of the Property (Appraisal, p. 190), accounting for the deferred maintenance of the garage and the necessary gutting of the cinema to in-service condition.
  - g. The income approach to value is the most appropriate method for determining the just value of the Property. The sales comparison approach is inadequate as there are no comparable retail outlet properties that include both structured parking and the requirement (under Freeport's Traffic and Parking Ordinance) that such parking remain free and open to the public.
  - h. Likewise, the cost approach does not yield a fair representation of just value, as the current costs of financing and construction make it infeasible for the Property to be reconstructed in its current configuration. Moreover, Mr. Goulet noted that when the Property was originally improved, a credit enhancement agreement with the Town of Freeport was necessary in order to make construction economically feasible.
  - i. Unlike these two approaches, use of the income approach was most appropriate given the income-producing nature of the Property. Mr. Goulet testified that use of

only one of the three accepted approaches to value was not uncommon or unacceptable in the field.

- j. In conducting his analysis, Mr. Goulet utilized the direct capitalization method, as the alternative discounted cashflow method was only appropriate for projects that have variable cashflow and have not reached full market stabilization. In contrast, the Property has been operating as a retail outlet space for some time and has a relatively stable cashflow and tenant base. As explained in Mr. Goulet's testimony, the direct capitalization method is a "snapshot in time" and determines a property's value by dividing its net operating income by a market-derived capitalization rate.
  - k. In calculating market rent for the Property, Mr. Goulet conducted a full market analysis that included consulting with industry publications, interviews with brokers, and comparisons of rental rates for comparison properties in Freeport and Kittery (the location of the other major retail outlet properties in Southern Maine). Mr. Goulet also consulted his own appraisal files from past projects. (*See* Appraisal pp. 163-170).
  - l. The summary of Mr. Goulet's direct capitalization method is contained on Page 190 of the Appraisal. Based upon his market analysis, Mr. Goulet assigned a rent of \$65/SF for the smallest units (1,000 SF or less) in the Property, a market rent of \$31/SF for the mid-sized (1,000-4,500 SF) units in the Property (exclusive of a currently vacant unit), a market rent of \$28/SF for the large (4,500-8,500 SF) units and a market rate of \$20/SF for the largest (>8,500 SF) units. The Property's cinema, which is currently vacant, was assigned a market rent of \$14/SF. Applying these market rents to the Property yielded potential annual gross rental income of \$3,040,077. From that, Mr. Goulet added \$210,000 in potential income derived from the placement of excess parking spaces in the parking garage into the Town's shared parking program. A market standard deduction of 15% (\$456,012) was also applied to account for unit vacancy and collection loss. These calculations yielded an effective gross rent of \$2,794,065.
  - m. From this, Mr. Goulet subtracted reimbursable and non-reimbursable expenses, as well as replacement reserves (which includes \$70 for each of the 512 parking spaces in the parking garage), yielding a net operating income of \$1,583,106.
  - n. Finally, Mr. Goulet applied a tax-loaded capitalization rate of 10%, which accounted for a base capitalization rate of 8.7%. This figure was derived from Mr. Goulet's market analysis, which included two recent leases for retail outlet properties in Freeport and Kittery respectively. These leases contained tax-loaded capitalization rates of 8.7% and 9%. Applying the capitalization rate to the net operating income yielded a fee simple capitalized value of \$15,830,000. From this, Mr. Goulet deducted \$828,000 for identified deferred maintenance on the Property's parking garage (which was identified in a third-party report included in the Appraisal) and \$471,300 for the anticipated demolition and repurposing of the Property's cinema space. This last calculation assumed the lack of any market for vacant cinema space and the need for an alternative tenant to be found.
16. The Assessor cross-examined Mr. Goulet and provided his own testimony in support of the Property's original assessment. Specifically, the Assessor testified that:
- a. Mr. Goulet's assumption of a modified gross lease was inappropriate given the presence of multiple NNN leases for comparable income-producing rental properties in Freeport.

- b. Mr. Goulet's net operating income analysis failed to take into account the revenue generated by the Town's reimbursement to the Taxpayer of TIF revenues generated within the Property's TIF district.
17. The Taxpayer, though its attorney and through Mr. Goulet, argued that the inclusion of TIF revenue within net operating income was inappropriate because: (i) TIF revenue was allocated through a contract (a credit enhancement agreement) and was therefore not a proper part of the Property's assessed value, (ii) TIF revenue received by the Taxpayer was contractually assigned to its lender and was therefore not income that was usable by the Taxpayer, (iii) by definition, TIF revenue is not considered part of a property's net operating income and therefore has no role in determining value under the income approach, and (iv) even if none of these previous points were true, it is not reasonable to include TIF revenues in the Property's net operating income as the TIF only had (as of the assessment date) two years until expiration, and would therefore not be considered to be a stable or long-term revenue stream that would be considered by an interested buyer of the Property.

### Conclusions of Law

- Standard of Review.** "A town's tax assessment is presumed to be valid." *Ram's Head Partners, LLC v. Town of Cape Elizabeth*, 2003 ME 131, ¶ 9, 834 A.2d 916. In order to succeed in challenging an assessment, the taxpayer bears the burden of proving that the assessed value of their property is "manifestly wrong." *Petrin v. Town of Scarborough*, 2016 ME 136, ¶ 14, 147 A.3d 842. This may be done by demonstrating: "(1) that the property was substantially overvalued and an injustice resulted from that overvaluation; (2) that there was unjust discrimination in the valuation of the property; or (3) that the assessment was fraudulent, dishonest, or illegal." *Terfloth v. Town of Scarborough*, 2014 ME 57, ¶ 12, 90 A.3d 1131. To meet this initial burden, the taxpayer must demonstrate that the judgment of the assessor [in assessing the property] was irrational or unreasonable in light of the circumstances. *Yusem v. Town of Raymond*, 2001 ME 61, ¶ 9, 769 A.2d 865. "Impeachment of the assessor's methodology alone is insufficient to meet that burden." *Town of Bristol Taxpayers' Ass'n v. Bd. of Selectmen/Assessors for Bristol*, 2008 ME 159, ¶ 3 n.1 957 A.2d 977. Instead, the taxpayer must provide credible, affirmative evidence of just value in order to meet their burden. *See City of Waterville v. Waterville Homes, Inc.*, 655 A.2d 365, 367 (Me. 1995). When asserting that a property is substantially overvalued, the taxpayer has the burden of proving that the current assessment of a property is not in line with its just value. For the purposes of establishing the just value of improved real property, the property must be valued consistent with its highest and best use as of the assessment date, taking into account the cost, income, and sales comparison approaches. *See* 36 M.R.S. § 701-A.
- Jurisdiction and Timeliness.** The BAR concludes that it has jurisdiction to hear the Taxpayer's appeal, as: (a) the Taxpayer initially sought an abatement from the Assessor within 185 days of the tax commitment date for FY 2025, as required by 36 M.R.S. § 841, (b) the Taxpayer's appeal to the BAR was submitted within 60 days of the Assessor's denial of their abatement request, *see* 36 M.R.S. § 843, (c) the Taxpayer properly responded to the Assessor's request for additional information propounded under 36 M.R.S. § 706-A, and (d) the Taxpayer paid all assessed taxes prior to pursuing this appeal as required by 36 M.R.S. § 843(4).

3. **Substantial Overvaluation.** The BAR concludes that based on the evidence provided, the Taxpayer has met its burden of demonstrating that the Assessor's assessment of the Property for the April 1, 2024 assessment date was manifestly wrong insofar as the Property is substantially overvalued.<sup>1</sup> The BAR bases this conclusion primarily on the Appraisal and the testimony of Marc Goulet. The BAR finds Mr. Goulet's testimony to be credible and the Appraisal to generally demonstrate the just value of the Property. In total, the Appraisal and Mr. Goulet's testimony both impeach the Assessor's valuation of the Property and sufficiently demonstrate the correct market value (and therefore the just value) of the Property. This is the case for four primary reasons:

*First*, the BAR concludes that the Appraisal accurately reflects prevailing market rents for similar properties, which when applied to the Property average \$24.89/SF on a modified gross basis. (Appraisal, p. 170). The BAR also concludes that the Appraisal accurately calculates a model tax-loaded capitalization rate of 10%, which based on Mr. Goulet's testimony is comparable to capitalization rates for similarly situated properties that have been recently rented.<sup>2</sup> On both of these points, the BAR notes that the Assessor did not dispute the underlying data, with the exception of noting that some commercial leases in Freeport remain on a NNN, rather than a modified gross basis. Nonetheless, the BAR does not find this point to affect the validity, or its acceptance of, the Appraisal as a fair and accurate representation of the Property's market value.

*Second*, the BAR concludes that the income approach, rather than the cost approach, is the proper method for valuing the Property. This is because the Property is income producing and because the cost of construction and capital currently far exceed the possible income generated by the Property, making the same an inaccurate reflection of value.

*Third*, in applying the income approach, the BAR concludes that the Appraisal accurately demonstrates that the value of the Property is approximately \$14,530,000, which is equal to approximately \$118.98/SF of net rentable area. In contrast, the revised April 1, 2024 assessment of the Property, which takes into account the reduced value of the Property's parking garage, represents a value of approximately \$205.79/SF of net rentable area, as shown on the Taxpayer's annotated copy of Assessor's Exhibit E, which is part of the administrative record. The BAR concludes that this deviation represents the type of substantial overvaluation that constitutes a manifest error in valuation.

*Fourth and finally*, the BAR rejects the Assessor's argument that revenues received by the Taxpayer from the Town of Freeport related to the TIF district encompassing the Property are properly considered part of the Property's gross rental income for purposes of the income approach. The BAR expresses no opinion on the propriety of this approach in general, but concludes that in the context of the Property, and in the context of the income approach, doing so is inappropriate. This is because the TIF income is not a revenue stream directly related to the incoming producing features of the Property. But more importantly,

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<sup>1</sup> Given this, the BAR does not express an opinion on the Taxpayer's unjust discrimination claims, as the same are moot.

<sup>2</sup> Chair Grimm did not agree with this particular reasoning, arguing instead that a lower capitalization rate was more appropriate given his understanding of market conditions.

the BAR received competent evidence demonstrating that the Taxpayer is contractually obligated to divert any TIF revenues received directly to its lender. This alone is sufficient reason why such revenues should not be included in an analysis of the Property's market value, as it is not guaranteed that a future owner of the Property would have any claim to such revenues or would, given the relatively short lifespan of the remaining TIF payments, take this revenue into account for valuation purposes.

For all of these reasons, the BAR accepts the Appraisal as the proper indication of the Property's market value, which in comparison to the Property's current assessment, demonstrates that the latter substantially overvalues the Property.

### **Decision**

Based on the above findings of fact and conclusions of law, the Board of Assessment Review voted three (3) in favor and one (1) (Grimm) opposed to grant the abatement appeal of Freeport Village Station Capital, LLC by reason of overvaluation. The just value of the Property is determined to be **\$14,530,000**, resulting in an additional refund of **\$86,401.20** (exclusive of the original refund). The abatement is shown as follows:

1. Revised Valuation (as of June 13, 2025):


Land: **\$4,129,500**  
Buildings: **\$21,002,400**  
Applicable Tax Rate: **\$13.35/\$1000**  
Revised Total Valuation: **\$21,002,400**  
Revised Total Tax Liability: **\$280,376.70**

2. New Valuation:

Land: **\$4,129,500**  
Buildings: **\$10,400,500**  
Applicable Tax Rate: **\$13.35/\$1000**  
Revised Total Valuation: **\$14,530,000**  
Revised Total Tax Liability: **\$193,975.50**

The Board has authorized this Notice of Decision to be executed by its Chair on behalf of the Board.

TOWN OF FREEPORT  
BOARD OF ASSESSMENT REVIEW

Date: 8/28/25 By:   
Chris Grimm, Chair

**NOTICE**

**Any party aggrieved by this decision may file an appeal with the State Board of Property Tax Review within 60 days of the date of this Notice of Decision, pursuant to 36 M.R.S. § 843(1-A).**