

STATE OF MAINE
SAGADAHOC, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-04-004

TARYN SANGER,

Plaintiff

v.

DECISION AND ORDER

TOWN OF BOWDOINHAM,

Defendant

DAVID L. LEITCH
JUDGE

Plaintiff appeals the denial of her request for an abatement of her 2002-2003 real property taxes due to poverty by the Town of Bowdoinham Board of Selectmen and the Sagadahoc County Commissioners. R. at 1-2, 5.

The Selectmen determined that Ms. Sager misspent income on non-necessities and the amount spent exceeded the amount due for taxes. R. at 5, 9, 12.

On appeal of the Selectmen's decision, the Commissioners determined and the record shows that the plaintiff submitted income information for the year 2001 and expense information for July, 2001 through June, 2002. R. at 2-3, 7-13. The taxes for which an abatement was requested were for tax year 2002-2003. R. at 3. Because Ms. Sanger had the burden of proving that she was unable to contribute to the public charges, information relevant to tax year 2002-2003 was required. See 36 M.R.S.A. 841(2) (1990); Joyce v. Town of Lyman, 565 A.2d 90, 90 (Me. 1989). Unlike in Macaro v. Town of Windham, there is no record on which the Commissioners and this court can determine Ms. Sanger's financial circumstances and her ability to contribute to the public charge for tax year 2002-2003. See Macaro v. Town of Windham, 468 A.2d 604,

606 (Me. 1983). On this appeal, Ms. Sager is , therefore, unable to show that the record before the Commissioners “compelled a finding that [she was] indeed unable to contribute to the public charges.” Joyce, 565 A.2d at 90.

The United States Department of Agriculture paid the plaintiff’s taxes for 2002-2003 to preserve its mortgage. Supp. R. at 14. Any tax abatement would be sent to the plaintiff, however, and not to the USDA. Id. Section 841(2) is designed to “prevent towns from forcing the sale of property in order to collect taxes from those otherwise unable to pay.” Macaro, 468 A.2d at 606. The Town did not and could not have engaged in any such effort in this case.

The entry is

The Decision of the Sagadahoc County Commissioners is AFFIRMED.

Date: February 14, 2005



Nancy Mills
Justice, Superior Court