

DECREE

WALDO, SS.

COUNTY COMMISSIONERS COURT
PETITION # 342
NOVEMBER 12, 2008 ADJOURNED SESSION
TO WIT: NOVEMBER 24, 2008

EDWARD AND JANICE LEARY VS. TOWN OF PALERMO:

On November 12, 2008, at approximately 9:45 a.m., Waldo County Commissioners John M. Hyk, Chairman, Amy R. Fowler and Donald P. Berry, Sr. held a tax abatement hearing at the request of Plaintiff Edward and Janice Leary regarding their property as listed on Map D4, Lot 97 and Map R6, Lot 15 in the Town of Palermo. Present with the Commissioners were Petitioners Edward and Janice Leary or Palermo and Defendants Town of Palermo Selectmen Paul Cowing and Darryl L. McKenney. Recording the minutes was County Clerk Barbara Arseneau, assisted by Deputy County Clerk Veronica Stover.

Commissioner John Hyk opened the hearing by reading the rules of the proceedings and swearing in the Petitioner and Defendants.

Petitioners Edward and Janice Leary requested abatements because they claimed that the Selectmen had assessed for a "lot improvement" that had not occurred at an increase of \$15,000.00 in their property. He claimed that the lawn and driveway had not changed in 30 years. He further explained that he had "limited access," because the gravel driveway referred to on the card was actually a right-of-way and did not belong to the Leary's; nor was it even a driveway. The State Engineer had told them to park in the parking lot near Fish & Game because they were not allowed to park in the right-of-way. They were also denied the ability to have a driveway by the Highway Department Department's Rockland Division Engineer and Traffic Engineer. The Learys stated that they were being taxed on property they did not own. Mr. Leary also informed the Commissioners that Mr. McKenney laughed at the Leary's when they inquired about the method of taxing them since the Selectmen had acknowledged, when asked by the Leary's, that they had not had time to visit the property.

Defendants the Town of Palermo Selectmen explained that the Selectmen had denied both abatement requests. They submitted the Property Assessment Record for the Leary's property (Exhibit A), a sheet with a Code Description dated April 28, 2008 showing the tax increase on the property in the "General Development, Route 3" section (Exhibit B) and a Code Description sheet dated April 28, 2008 showing the tax increase on the lake property (Exhibit C.) A copy of a photograph of the Leary's camp was submitted (Exhibit D) and a listing of Maps and Lot numbers along Route 3 to demonstrate the "General Development" structure along that route (Exhibit E) were also submitted. The Valuation Report for the property of Barbara A. and Slater E, Claudel, Sr. (Exhibit F) was submitted by way of comparison. The Selectmen stated that the Plaintiff could drive to the camp on the property by going over the Fish and Game property and using the right-of-way. Regarding the Leary's concern over Mr. McKenney "laughing at them," Mr. McKenney explained that he had been assessor for over twenty-six years, had been in the Leary's camp numerous times and was very familiar with it, and that is why he had "chuckled" over being asked about the assessment. The Selectmen explained that they had done a revaluation of the entire town of Palermo and that all the properties in the town were "hit with a tax increase exactly the same." When asked why the Leary's property was treated as an "improved lot," the Selectmen explained that this simply was describing a "bare, livable lot," and it did not mean it had actually been improved.

After hearing the testimonies of the Plaintiffs and Defendants and examining the evidence before them, the Waldo County Commissioners voted as follows:

****A. Fowler moved, D. Berry seconded to rule in favor of the Town of Palermo and deny Leary's abatement requests. Passed unanimously.**

Signed this Twenty-fourth day of November 2008 by the Waldo County Commissioners:

John M. Hyk, Chairman

Amy R. Fowler, Associate

Donald P. Berry, Sr.

Attest: _____

Barbara L. Arseneau, Waldo County Clerk