

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 350
ANNA SIRLES VS TOWN OF FRANKFORT
DECEMBER 15, 2009**

PRESENT: Commissioners Donald P. Berry, Sr. (Chairman), William D. Shorey and Amy R. Fowler. Also present were by telephone, Petitioner Anna Sirles and her son David Sirles of Virginia. Present in person were Defendants Town of Frankfort Selectmen Allan Gordon, Evelyn Adams and Joseph Watson. Also present was County Clerk Barbara Arseneau, with Deputy County Clerk Veronica Stover recording the minutes.

County Commissioner Chairman Donald P. Berry, Sr. opened the hearing at 9:30 A.M. Commissioner Berry introduced the County Commissioners, read the rules of the hearing to all present and then the Petitioner and Defendants were sworn in. He asked the Petitioner and Defendants to introduce themselves.

D. Berry: The Petitioner may now present your case.

Petitioner: Anna Sirles

A. Sirles stated that her son is David Sirles and that he would be speaking.

D. Sirles: This is David Sirles speaking and I will probably do all of the speaking. She owns the property and last year the assessed value was, I think, \$7,500.00. The amount of acreage listed for the Town of Frankfort was 2.5 acres and we paid \$72.00 in property tax and it could be off by a dollar or two. Since then we have learned that the acreage was inaccurately recorded and we learned that the true acreage amount was not really 2.5 acres but 1.6 acres. I have sent a real estate agent up to the property and someone else went up there and found this out and they told me it was worth about \$1,000.00 per acre which would make it not worth \$7,500.00 but really about \$1,600.00. We contacted the real estate agent that was originally involved and her name is Lesley Moose and she emailed back the same information concerning the real value \$1,600.00. The tax did not go down but it went up to, I think, \$92.00 and I could be off by a dollar or so. After that it took a lot of phone calls and letter writing to get the County [Town] to agree that the acreage was off and my request on abatement. The town did agree that the acreage was off and they adjusted it accurately but Frankfort refused to offer an abatement and they didn't go down but went up on the price. I believe that I called Selectmen Amy Stone and I spoke to her twice in a 24-hour time frame. I asked her what criteria the selectmen were going by and she said, no, that the size of the property is not a factor and that they were going by the State guidelines. So I asked her where in the State of Maine government can I go and talk with someone about these State guidelines and she said, "No, don't do that because just because we call them State guidelines that does not necessarily mean that it has something to do with the State of Maine. That is something that we make up here and we call then State guidelines." So I called someone in the State of Maine government, Nicole Stenberg with the Maine Revenue Property tax people and she said state guidelines do exist and that is something that the State of Maine does and it is not necessarily mandatory and she also said that when taxes are laid out for a property that it

should be in 70% of fair market value. She emailed me the property tax bulletin and I have the law in my hand where first paragraph section 8, Article 9 where it says that the tax should be assessed equally accordingly to just their own and the value is synonymous with fair market value, and later on it says that there should be assessment according to value; meaning it should be in approximation of it, which is 70%. So based upon two separate real estate realtors, they both said the property is worth \$1,600.00 and I think that the property next to it puts it to close to \$1,000.00 per acre. So the value should be as 1.6 acres which we all agree then we believe that it should really be assessed at \$1,600.00 and the tax should not have gone up and, to me, the main issues are the prices of the real estate and the size of the property should reduce the tax and not make it go up. It is curious to me why if it went up so much after me pushing for the value of the property changed, what it would have done if they had just stuck with the 2.5 acres. Would it have really gone up? I think that is about it.

D. Berry: Thank you. Questions? Commissioners?

A. Fowler: Do you have a warranty deed for this property?

A. Sirles: Yes.

A. Fowler: And it states on that deed that it is 1.6 acres?

A. Sirles: No, it says 2.5 acres.

D. Sirles: Can I answer for my mom?

D. Berry: Yes.

D. Sirles: Sirs, the deed doesn't say the amount of acreage but it does spell out the amount of acreage. The amount of acreage is no longer in dispute.

A. Fowler: Sir, if I may, when you spoke with Nicole at the Maine Revenue Service, did you explain your State Valuation and how the State sets the valuation with these towns?

D. Sirles: Right.

A. Fowler: So you understand that the State sets the values of these towns and that these Selectmen do not?

D. Sirles: Well, that is not what Amy Stone told me. I was told that it had to be within 70% of fair market value, which it is not.

D. Berry: Any other questions?

W. Shorey: I have a question. Is this land by a road, is it fields, woods or could you tell me where it is located?

D. Sirles: Tyler Lane. If you take Tyler Lane all the way past the beehives and you go another mile and a half, you will pass a beaver pond and you go another mile you will see another beaver pond which is on the left, and immediately to the right of that is a power line pylon and it is mainly rock.

D. Berry: O.K.

D. Sirles: I was told by Amy Stone that Mr. Gordon made up the assessment.

D. Berry: The Commissioners have asked their questions so far. Selectmen any questions? They have no questions.

DEFENDENTS TOWN OF FRANKFORT:

Allan Gordon: I am selectmen and tax assessor. One of the Commissioners just asked where it is located. Here is the tax map that is Lot 8-1. It is on a gravel road referred to either as Tyler Lane or White's Orchard Road. That road was declared abandoned in 1989 by the selectmen and we were sued last year by someone wanting us to rebuild it and we prevailed in court and the court said that it is abandoned and there is a public easement in the road. So that is an accessible lot and they have public access to get to it, although there is no public maintenance on that road. Now, that lot sold in 2004 and it sold for \$6,000.00 and in 2006-2007 we had a town reval [revaluation] done by Hamlin Associates. They are the ones that set the value on this property, which is presently \$7,290.00. They have different classifications of properties in town. This one is considered a remote property with road access. The first five acres of a buildable lot are assessed at a certain figure. They start out with a base figure of \$5,400.00 which came from a State guideline back in 2002 or 2003. Then you apply a price factor to it to bring it up to today. So they assessed, initially, \$5,400.00 on that lot. So, whether it is 2.5 acres or 1.6 it is still an under-five-acre buildable lot in the town on a remote access road. They actually used a price factor of 1.35 which gets it to \$7,290.00. I noticed that all of the adjoining properties around, that they used a price factor of 1.765. So they have already diminished the value of this property because of its smaller size but, for some reason, they have not valued it as highly as the other lots around it. I noticed that he mentioned that one of the properties recently sold for \$11,000.00. I don't know which one it was but on one side of him we had a property at \$10,330.00 and on the other side was \$12,030.00. We feel that this assessment is very consistent for any other lot of a similar size and nature in the Town of Frankfort. As a matter of fact, he mentioned the State valuation; we had this whole town valuation done and the State immediately said that we are only at 83% after having a full 100% valuation done.

A. Fowler: So, you are not even as higher as you could be.

A. Gordon: No, we're not. We feel that it is worth the \$7,290.00. It sold for \$6,000.00 five years ago. The other issue is the depressed value of the real estate. We have not seen that in Frankfort. We consistently have properties selling for more than what we have assessed at and the State continues to raise our State valuation. In one year we went from 65 to 81 million. In 2010 will be the first year that we won't have a substantial increase.

D. Berry: Commissioners, any questions?

W. Shorey: No questions.

A. Fowler: Just a comment that I would like to re-iterate - what this selectmen has just said, because people do not understand that the State comes in and takes your three highest real estate sales.

A. Gordon: They take all of them and they throw out, I think, the low ones.

A. Fowler: This is how they create their state valuations so when it increases it is not the selectmen that did that, it is, indeed, the State but people don't understand that. I have no questions.

D. Berry: [To the Sirles'] Do you have any questions of the select people here?

D. Sirles: Yes, I do. When it was sold in 2004 for \$6,000.00, the impression that everyone had at the time was that it was not 1.6 but 2.5 acres. But that was just recently changed and the valuation in 2004 was wrong, or it should be wrong. I have been to the site and you said that it has road access. You cannot drive to the site unless you have two foot clearance in your vehicle and that is seasonal, too. You cannot normally drive a vehicle to the site; you have to walk to the site. You were right - Tyler Lane does end in the other orchard; also, two real estate agents told me it is worth \$1,600.00 – Lesley Moose and Mrs. Baldwin. I feel that the true value is not shown here. That is all.

D. Berry: Is there a question here?

D. Sirles: No, I was told different things by Amy Stone. She said “going by State guidelines,” then she said, “No, don't check with State of Maine because we make it up here in Frankfort,” then the State of Maine told me something different. The State of Maine told me that they had to be assessed within 70% of what the fair market value is. I am saying what two real estate agents have told me that it is \$1,600.00 and it should be assessed at 70% of that figure and not around \$7,200.00.

D. Berry: Very good. Any other questions, anyone? Hearing no further questions I am going to close this hearing. We will render a decision and it will be up to the Commissioners whether we render that decision today, and we have thirty (30) days to render a decision, and we will inform you of our decision when it is made.

D. Sirles: By mail?

D. Berry: Yes. Thank you very much and for being cooperative on this issue, we appreciate this.

****W. Shorey moved, A. Fowler seconded to deny the Petitioner's request for abatement. Unanimous.**

Respectfully submitted by Veronica Stover
Veronica Stover, Deputy County Clerk