

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 356
TIMOTHY PAUL VS TOWN OF PALERMO
FEBRUARY 14, 2012**

PRESENT: Commissioners William D. Shorey (Chairman), Amy R. Fowler and Betty I. Johnson. Also present were Plaintiff Timothy Paul along with Defendant Town of Palermo Board of Assessors Chairman Darryl McKenney. Recording the minutes was County Clerk Barbara Arseneau, assisted by Deputy County Clerk Veronica Spear.

Commissioner William D. Shorey opened the hearing by reading the rules of the proceedings and swearing in the Petitioner and Defendants. He also stated that after the Commissioners have made a decision, which may or may not be the same day as the hearing, either party may appeal this decision to the Superior Court of the State of Maine in accordance with the Maine Revised Statutes Annotated Title 36, §844 and the Maine Rules of Civil Procedure, Rule 80B. The Petitioner was asked to speak first.

W. Shorey: The Petitioner may now present your case.

PETITIONER: Tim Paul

T. Paul: I provided copies of what I feel are my points for the difference in the town valuation as to what I feel the correct valuation should be. I think that my first point, not necessarily in this order; there are properties that have been sold on Bushy Shore, which is the road I live on. There have been two sold and you can see those as what I provided as "Attachment 2". One happens to be right next door and abounds my property and that was assessed by the town at \$204,100.00 and sold for \$170,000.00; again, what I feel is a 20% overvalue. Another one less than ¼ of a mile down the same road was assessed at \$285,500.00 and sold for \$240,000.00 and, again, this one is 19% over. Those are the two as far as sales. I think the second thing is I had an independent appraisal done on my property and I provided you with copies. It was done by Windcliff Appraisals and they came in with a market value of \$350,000.00, opposed to the town has it at \$466,400.00. In that particular instance I think it is overvalued by 33%. Again, all of that is on "Attachment 1". The third thing is I did some work on properties that were currently for sale, and probably still are as far as I know which is "Attachment 3". They are not all of them but most of them are properties that are just beyond our house on Bald Head Island and, again, those are anywhere from 14.5% to 22% overvalued by the town. Those are the asking prices, which you and I both know they are going to sell for a lot less than that. I guess all of these are pointing out the fact that our property is at least 20% overvalued by the town. I think "Attachment 4", I had which, as far as I know the town's valuation is at 110%, which that in itself to me, that it is overvalued by 10%. I got the state valuation from Darryl and there were a couple of properties on the water that were sold in December of 2010 and September of 2010.

D. McKenney: Excuse me, I do have copies in my packet if you want to give it to them and get them on the same page.

W. Shorey: Yes, thank you.

D. McKenney: What year are you looking at Tim?

T. Paul: I am looking at 2010 – next to the last page. Again I am assuming that the “W” stands for waterfront. I’m looking at the fourth one from the bottom shows that the month was December and the year was 2010 and that is showing that it was assessed at \$272,500.00 and sold for \$250,000.00. Then two below that one, was \$278,800.00 and sold for \$245,000.00 and the last one that was \$258,400.00 and sold for \$185,000.00. One is 40% over and the lowest one is 9%. Darryl tells me there has been another report since this one that is not completed Darryl?

D. McKenney: That is correct.

B. Johnson: Can I do some housekeeping? These attachments 1, 2, 3 and 4 should be marked if we want to accept them as exhibits 1,2,3 and 4. **** I move they become Exhibits 1, 2, 3 and 4 for the record.**

W. Shorey: Sure.

T. Paul: That’s it for my presentation and I do have questions as to why lake front property is assessed at such a higher value, and is the house assessed as like another house in town? It seems they are assessing the land at \$115,000.00 as opposed to \$30-40,000.00 for an in town lot and the house seems to be elevated as well.

W. Shorey: Commissioners, do you have any questions? I had just one thing that I wanted to mention. On this “Attachment 3” when you looked at that, did that perk your interest level at all at why all of the figures were that way?

T. Paul: I’m not quite sure I understand.

W. Shorey: Well, when we are talking about over values and you have several properties listed here 14%, 15.2%, 17.3%, 22%, 22.4% I am just wondering if you wondered about why this trend is this way.

T. Paul: What I did to give you a little back ground is after I got my appraisal and saw that it came in at \$120,000.00 less than my tax value that peaked my interest right there. I talked with the appraiser and it’s the economy. Most of these properties are right beyond our house so I went and there were “For Sale” signs out there and I found out which ones were for sale. I went to the town office and got the valuation records and found out what the asking price was and found out that these were all in the ball park of where mine was.

B. Johnson: I have a question on that too. Now this is just a selling price; none of these have sold at this?

T. Paul: Not that I know of. They weren't when I put this together. The way things are selling I doubt any of them have sold.

DEFENDANTS: Town of Palermo Board of Assessors Chairman Darryl McKenney

D. McKenney: I basically do have a packet if you want to accept that as an exhibit.

B. Johnson: Yes, that will be Exhibit 5.

D. McKenney: The first sheet is just an attached map. Mr. Paul is the third one down from the causeway to Bald Head Island, or Lot 21-1, which is part of a subdivision. You see Paul on Lot 20, which is the one he just mentioned that was just sold, and then Lot 13 recently sold. The back side of the sheet shows you what we have on the front of his folder which includes all of his property cards, septic system and all of that. Basically, in 2008 you can see that he was assessed at \$115,400.00 on land and buildings had not been done, which was \$188,500.00 at that time; just over \$300,000.00 was his assessment. In 2009 a re-valuation was done using the Trio system for the first time, and that is when the value went to \$351,000.00 on the building.

B. Johnson: What did that bring you up to for the town's assessment?

D. McKenney: If you follow over it is \$115,400.00 on land; \$351,000.00 on buildings, so we are at \$466,400.00.

B. Johnson: Right, but for the re-evaluation to bring you up.

D. McKenney: Yes, I have the reports in here and we are looking what the percentages were and what we went to.

A. Fowler: This was a re-eval on the entire town. Correct?

D. McKenney: The entire town of Palermo was brought in, which we will get to in just a second. The next one just happens to be the property record card that has been used since 1990 going back to the break down of the land. On the back of that you will notice a sketch of what the building actually consists of. The original called it a camp, but they live in it as a home. In 1996 it was a 28x32 feet with an eight foot deck to the front. Then, in 2004, the deck to the left and all of the structure to the right, two story on slab and one story cathedral and the garage was all added in 2004. To get to the question as where were we and why did we re-val, if you look at the 2009 State valuation report those are based on 2007 as they are always two years behind. So those were the sales in 2006 and 2007. At that time we had enough waterfront sales that they could do an independent study of that and you will note that the average ratio was 61% on our waterfront. The quality rating was 20 which meant we were below the state allowed 70% and our quality rating was at the top of the scale. That same combined study for the year put us at 76%. If you looked at all of the water and non water at 22 so we were over the 70%, but the 22 is out of compliance with State law. So, we were out of compliance.

B. Johnson: So, in 2009 you were at 72% then, or you brought it up to at least 72% by State?

D. McKenney: What we did was bring it to 100% right away. When the reval was done we were at 100%. That was in 2009 and the market since then has dropped. If you look at the 2008 sales, which is the next study that I gave you, there was a one year study and, again, it was a combined study because there were just not enough sales and we came in at 102% and a quality rating of 10. We were over 100 so we declared 110% so that way we could give \$11,000.00 on a Homestead today and we could also get reimbursed an extra 10% from the State on all. So, as long as we are over 100 we can declare 110. The next one is the 2012 State valuation, which they had to do a two year study, as there were not enough sales. So that is your December of 2008 until December 2010, which is the one we just looked at. That showed us at 97% and that would mean that this next year we could not declare 110, but the new study is over 100 so basically we can write to them and they will leave us at 110. The final sheet is the valuation report. It gives you a breakdown of the land; base lot ½ acre \$100,000.00. He has 101 feet of frontage so we charge him \$30.00 for the extra foot. Add the well and septic, the \$15,000.00, so the land is at \$115,000.00. To answer his question as to why this house is different than one on the North Palermo Road, we found to get to 100%, particularly on the water, we did if you come down under Cape Cod, it is a story and a half. The base house is 896 square feet and we put a grade factor of 120%. So, we do value the buildings on the water 20% more than if they were not on the water.

A. Fowler: But you do that for everyone.

D. McKenney: Yes. All properties on Sheepscott are at 120%. The other way you could do it would be reflected in the land value but this is the way we have done it throughout the entire town. The first report you are looking at is dated 4/09 and you see the total value is \$188,500.00 and that did not have the new deck or the new structures down at the bottom. You see down at the bottom that it has a basic house, a deck, a garage and a car port and that is how we arrived at that assessment. His current assessment is on the back side. The land value has not changed but we have added for the deck, a two story and a one story frame, so now it is at \$351,000.00 on the buildings. The way we have looked at it is if we go over the 110% on a sales ratio, we will drop the entire town. Where we are declaring 110% and as you have seen for those sales, we are in the 20% range and still 10% of the 110 and we, so far, have left everything alone. We are still waiting for the market to go somewhere with this.

B. Johnson: So, right now throughout the town, it has continued with what it was.

D. McKenney: It has been the same for three years and has not changed the schedule.

A. Fowler: Which, I say, has been our argument all along and, unfortunately, you are not the first person who has had this issue. It is sad when you look at real estate prices and what your home is worth by an assessor. I am just sitting here looking the municipal figures from the State's valuation and Palermo's has increased by \$750,000.00. So, what is happening is people feel their property is worth "x" number of dollars and the town still has to charge everyone equally across the board for whatever it is and real estate being what it is; I mean, water property is worth more to some as where farm land would be worth more to others.

T. Paul: I am here defending my lot and not someone that lives in the middle of Palermo or on a back road.

A. Fowler: One of the things that we have to look at is everyone being charged the same, whether it is your next door neighbor or someone across town that they are adhering to the same standards across the books.

T. Paul: I understand that, but I would think that you would also have to take in what the market value of that house is.

D. McKenney: I did not include it in the packet but there is a recent court case that, basically, the finding was that you cannot sell the property for what it is assessed at but everyone is over assessed by the same amount; therefore, you have not proven that you were segregated against. So, basically, yes; everyone here is agreeing that no one is going to give you \$466,000.00 in the near future for your property. But everyone is in the same boat. We could drop everybody's by 50% and double the rate and pay the same taxes.

T. Paul: I understand that; two wrongs don't make a right.

D. McKenney: I would just state that the appraisal, if you look at the date, it is August 23, 2011 and that is after April 1st, so it cannot be used in any hearing on an assessment based on April 1, 2011. The other point is if you look at the sales they used McGraw Pond in Oakland, Lovejoy Pond in Fayette and Pleasant Pond in Litchfield. These ponds are not near Sheepscott Lake, China Lake and Lake St. George. If you look at the sales there was a sale on Sheepscott and he never put that in. We do have all of the listings and, yes, there are some properties that are asking less than they are assessed but there are others that are asking \$200,000.00 more than they are assessed.

W. Shorey: You are indicating how Palermo came up with their assessment, so do you still have that same question or have you had that answered in this presentation that this gentleman just made?

T. Paul: I think Darryl answered my question.

D. McKenney: It's the way we chose to do it and the other way would be to have the values all of the same and "up" the land values.

W. Shorey: Here is the situation that we had several months ago, Mr. Paul and this involves mobile homes. Say, for an example, this particular individual may have had a home worth \$1,800.00 and he was being assessed \$7,500.00 and he was very unhappy, but after we reviewed all of the materials, everybody in that whole community was assessed that as a starting value. So, even though it was grossly overvalued.....

A. Fowler: There was uniformity. I mean, sometimes it just doesn't make sense but that is one of the things that we have to look at and, at no point, do you feel as though you are discriminated

against because you live on a lake front because everybody on Sheepscott Lake or Bushy Shore is all being charged the same.

T. Paul: That is right and I don't disagree with that, but I am also not sure that people on the lake are not subsidizing people that are off the lake.

D. McKenney: I disagree totally. The entire town; I have an assessment of \$200,000.00 on my home that will not sell for \$150,000.00. We are all, as you have seen from the ratio studies and we do the entire town, and everyone in Palermo is overvalued. I can say that.

A. Fowler: As I say, when you get the State that comes in and does the valuation and increases that. Now, at this point, their hands are tied again.

D. McKenney: It was increased because we had new construction.

B. Johnson: What you needed to do, Mr. Paul, was to convince us that you alone are treated unfairly.

T. Paul: That is what I hoped to do was show that my particular house was overvalued.

B. Johnson: But you have to go with what everybody is being assessed and that you alone are not being assessed that amount of 110% and your neighbor is only being assessed at 80%. You haven't proved that.

T. Paul: I worked for the tax department for 30 something years so I know a little bit about taxes. When an individual came in for a hearing we looked at that individual, we didn't look at the town as a whole; other people. We looked at that individual and what his case was. I think you are looking at the town and everybody else's property; you are not looking at Tim and Diane's property. That is where I guess I have a disagreement.

B. Johnson: But the law says we have to look at and prove that the assessors were wrong in their assessment of your particular property. By what you have shown, it doesn't show that you were separately assessed than someone else was.

T. Paul: But by showing other properties that have sold, and sold for much less than the assessed value.....

D. McKenney: The only comment I would have there is if you look at the prices, especially in 2011 and 2012, there hasn't been a property sell and the highest price is \$250,000.00. You have a \$450,000.00 property and none of those have sold. If you go back to the 2009 study you will see that at the top of that the very first two sales were \$420,000.00 and a \$470,000.00. There hasn't been one since 2007. The appraiser is looking at a \$300,000.00 home and \$300,000.00 homes really shouldn't be similar to \$400,000.00. They had to use anything they could get and that is for a bank appraisal.

W. Shorey: So, at this point, Mr. Paul, do you have any additional information to add?

T. Paul: No, I don't think so, just disagreeing with what I am hearing from the Commissioners here.

W. Shorey: #1 we are in the session of taking information and we are going to conclude that and then we will discuss it. I just want to know if you have anything else to add.

B. Johnson: Maybe, since our comments, there may be things you need to add.

T. Paul: I am looking at people on the lake. I was born in Maine and I have lived in Maine all of my life. I am not from away and a lot of people that live out there are from away. Probably 90% of them are out of staters. That is the fact and talking with a lot of these people, they are upset about their taxes. What's going to happen if they get together and want a hearing as a group or hire an attorney? Is this something that the town has thought about?

W. Shorey: This is not part of this case.

A. Fowler: It could be a "what if" of any town.

D. McKenney: I appreciate all of the comments. I have been assessing for 30 years and I probably think about it every day more than everyone. Yes, it is, and I have lived in Palermo all of my life and I understand the non-resident New Yorker pays 80% of all our taxes in town so, yes, I am aware of that. That is why we went to a Trio system. We mail a report every year to every taxpayer. It is on system no matter where you are from.

A. Fowler: I think that if it had been year ago prior to when you did the reval and it was a bunch of these guys trying to write it down and take measurements and whatever, and that is when you could have kind of scratched your head but the second they have gone with the Trio program, it's brought everyone onto an even playing field.

B. Johnson: The Trio program is pretty much throughout the state now. Almost every town is using it.

W. Shorey: I think we will close the hearing now as we are re-hashing comments over and over again and getting no new additional information. So, we will close this part of the session and the commissioners might have a question that they want to ask on a certain issue. So now we will have deliberations.

B. Johnson: When I asked him some questions, I probably was expressing that I don't feel Mr. Paul has proved that he has been treated unfairly due to the fact that the whole town has been assessed and granted, it seems high to me, but that is what everyone is paying and being assessed at. I don't feel that he has been individually singled out to have an assessment that was not along with the other ones.

****B. Johnson moved, A. Fowler seconded to not grant the abatement on this property because the applicant has not proved he has been treated unfairly. Unanimous.**

W. Shorey: Now, do you have any comments to make?

A. Fowler: I completely understand Mr. Paul's situation as a large taxpayer not in Palermo! This is the unfortunate thing with the market being the way it is. While we have watched real estate prices spiral, nothing else seems to give.

T. Paul: What would I have had to present to you that would have changed your mind? Is there something that I have missed as far as facts?

W. Shorey: You did a good job; maybe too good of a job.

B. Johnson: What I would say is, though, one of the things in the facts that you brought in asking prices really aren't prices as sold and we all know the market is low. So, people might have started out high but have had to go down, down, down. We are seeing that all over. It's better to have property like yours that have sold in your area.

W. Shorey: We are in the deliberation part so we are not in the conversation part. So a motion has been made and seconded to deny Mr. Paul's request. Any other comments? All in favor? **Motion carries.** Sorry, Mr. Paul.

T. Paul: Thank you.

Respectfully submitted by _____
Veronica Spear, Deputy County Clerk