

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 358
DEBORAH PENNEY VS TOWN OF KNOX
AUGUST 14, 2012**

PRESENT: Commissioners William D. Shorey (Chairman), Amy R. Fowler and Betty I. Johnson. Also present were Plaintiff Deborah Penney along with Defendant Town of Knox Selectmen, Galen Larrabee, Jeff Stevens and William Ingraham. Recording the minutes was County Clerk Barbara Arseneau.

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: Deborah Penney

D. Penney: The reason why we are here; I have been applying for abatements for I don't know how long because it's been way over assessed. I have been way overtaxed for years. I was given a copy of someone else's taxes, which their trailers are newer than mine and taxed far less. My trailer, as of March or April 2011, hasn't been livable, there's been nobody there; then I get this big whopping tax bill. That's pretty much all I can say.

W. Shorey: Have you ever received any abatement on your trailer?

D. Penney: Not that I'm aware of, no, I mean, usually it wasn't even acknowledged that I'd applied for an abatement; I didn't even get an acknowledgement that I'd applied. So when somebody told me to bring it here, that's why I'm here. This is the first year that they've even acknowledged that I applied.

W. Shorey: How many years?

D. Penney: Oh, my goodness, I've been doing this for quite a few years except in 2004 when the 1st Selectman came to my home and he told me that it was way over assessed and he gave me an abatement then, then in 2005 it skyrocketed back up again and it's just been continuing. And it's like 40 years old.

W. Shorey: Do you own the land that this trailer's on?

D. Penney: No, just the trailer.

A. Fowler: This is personal property, yes? Is this taxed as personal property?

D. Penney: Uh-huh.

G. Larrabee: It's taxed as a trailer. We can tax trailers as regular property.

A. Fowler: As a home?

G. Larrabee: As a home, even though it sits on someone else's property.

W. Shorey: Questions, Commissioners?

A. Fowler: Well, as I said, I'm just curious. I made a note that Mrs. Penney had indeed received an abatement on this property.

D. Penney: Yes, they gave me an abatement – they had my taxes at, let's see, \$25,900.00, and then they knocked \$10,000.00 off it. They got it down to \$16, 600.00.

W. Shorey: When did that happen?

D. Penney: April.

G. Larrabee: Either March or April.

A. Fowler: So she received a homestead exemption on this property?

D. Penney: No.

G. Larrabee: Yes.

A. Fowler: You said no; the selectmen said yes

D. Penney: No, there's the paper right there. There's no homestead exemption.

G. Larrabee: It would have been taken off only last year.

A. Fowler: I'm sorry, Galen?

G. Larrabee: 2010, uh 2011, it was the first year....

A. Fowler: So it's not going to reflect on the bill that this lady is seeing?

G. Larrabee: Not for 2011, no.

B. Johnson: OK, so it was originally assessed for \$25,900.00 and when you asked for an abatement, it brought it down to \$16,600.00, correct? That cut down the taxes that you needed to pay from \$361.30. It looks like \$129.63 is what they took off plus interest, so it was a total of \$132.61 is what it came down to. So, you DID receive an abatement.

D. Penney: Yes

B. Johnson: It's a little confusing on your application

D. Penney: Well, at that time I hadn't received it, that's why.

B. Johnson: It's a little confusing on your papers here because at one point you said that on the abatement you hadn't heard anything but apparently you received some money.

D. Penney: That wasn't until after the fact. I had already, I think, not till after I had applied to you that I got that.

B. Johnson: And you had written a letter but when you did your form, you put a different date.

D. Penney: I think it was when I applied to the town I put down March 2010 and it was supposed to be March 2011 when I wrote that out.

B. Johnson: OK, that's supposed to be 2011 but I wanted, ...I can't find the form here....there was a problem with coming in in dribs and drabs....March, 7-6 is the other one, 7-6-12. If that's the date you are applying to us, this is past the time. Are you saying that you don't agree with the abatement you were given? It wasn't the fact that you didn't receive any abatement.

D. Penney: Yes.

B. Johnson: You are not satisfied with the amount that they knocked it down to?

D. Penney: Yes.

W. Shorey: Questions?

A. Fowler: I don't know about you, but I'm confused.

B. Johnson: Well Yes., this whole thing is confusing.

A. Fowler: So you accepted the abatement, you accepted the \$10,000.00 that they took off this, their words, trailer. You said, ok, I'll take the 10 thousand for now.

D. Penney: No, not really. I'm not happy with any of it. They charged me \$26,000.00, no, what was it...\$23,400.00 was the first part and then they took off 10 thousand, which knocks it down to \$16,600.00 and still, even at that, is still way over-assessed.

A. Fowler: Have you considered just getting rid of it?

D. Penney: Yes, but it costs money to do that. I would have to have \$300.00 just to have a dumpster to put the shingles in off the roof and I don't have that kind of money right now. Eventually, that's what's going to happen because it's not livable. At this point, I can't afford it.

A. Fowler: Right, I understand that.

W. Shorey to Betty Johnson: Do you have any more questions?

B. Johnson: As I said, right now I'm a little confused because you accepted the \$10,000.00 or whatever it is, \$16,600.00, you accepted that.

D. Penney: I don't know that I accepted that. They just sent me a letter saying that's what they had done. I don't understand what you meant by that.

B. Johnson: OK, so then you wrote to us and then...

D. Penney: See, I didn't receive that until after I had written to you.

B. Johnson: Right, and then you got the form after that and that could be an error as far as the date goes by the form, and I think that we probably have to go by the letter that you wrote to us, and that was within the 60 day timeline, where the 7-6 wouldn't have been. I guess right now I'm done asking questions.

W. Shorey: OK, I have just one question, then the Town of Knox, you'll be able to question Deborah. To Town of Knox Selectmen: when you reduced this amount, what did you call it? Just reduction, homestead exemption or....

G. Larrabee: No, we gave her an abatement.

W. Shorey: Do you recall that piece of paper?

G. Larrabee: Yes, the \$10,000.00 or whatever it was.

A. Fowler: Here's a copy in case you don't have one in your folder dated April 24, the official abatement that they served, dated April 24.

W. Shorey, Ok, Yes.

D. Penney: Excuse me, can I show, like, the tax things....

W. Shorey: Yes, you can continue as long as you've got something you want to say.

D. Penney (submitting two examples of tax assessments): This is like, the trailer in the Town of Knox that's a 1988 and it's a 14' by 70' and they've been assessed at \$17,600.00...

W. Shorey: And yours is what year?

D. Penney: 1970?...they've got it down as '73 but I think it's only a '72, but '73.

B. Johnson: I think I missed that..what year is this one?

D. Penney: an '88

B. Johnson: OK

D. Penney: And this one is an '87 and sitting on a cellar and what have you and it's only assessed at \$15,900.00 and these people are living in those and I can't live in mine; I'm paying rent.

B. Arseneau: Do I need to make copies for everybody?

****B. Johnson moved that set this be Exhibit A and B and so forth.**

(No second)

D. Penney: And this, I tried to get an updated version from the Town Office but I didn't get it, for whatever reason, so this one, the last year that's on it is 2008, but this trailer is newer than mine and it's always been assessed at \$8,900.00 or \$10,000.00.

A. Fowler: Barb, there's three exhibits.

D. Penney: And here's my CMP paperwork saying the power has been off since April 6th, 2011.

(Clerk leaves room to make copies)

B. Johnson: I don't think that relates to this.

D. Penney: It's because the Town of Knox said someone had gotten assistance or something in 2011 some time.

B. Johnson: Did you rent it out?

D. Penney: There's been nobody living in it since March.

B. Johnson: Have you ever rented it out?

D. Penney: Well, someone stayed there. I didn't really get too much for money, but people had stayed in it up until the end of March.

B. Johnson: It was turned off on 4/6/11. This tax bill is for 2011, so....

W. Shorey: OK, you all through now?

B. Johnson: I don't see any relevance...

W. Shorey: Town of Knox, you can question the Petitioner now if you have some questions.

G. Larrabee: I don't really have a lot of questions because I think Deborah has laid it out pretty well. The thing is, she has applied for three different abatements. The first two was over 185 days from commitment, which you do not have to honor. I was reluctant to let her know that and I'm partially to blame there. This year she came in and it was within the time frame, we went and looked at it and we decided it was in a different light. What I was trying to prove but I can't...I thought I had all the information but I don't. This is the breakdown for the different years, and she's right. That's where it went up, right there and that's when the homestead came off and it went up. Now we're on a computer program...

A. Fowler: TRIO?

G. Larrabee: Yes.

B. Johnson: Can I just halt this right now? Right now, it's just questions to Deborah, then it will be your chance to do that (referring to exhibits). I'm sorry, Bill.

W. Shorey: You just bring it up. Just say, "We're done questioning, but I have something I'd like to add".

G. Larrabee: We just want to show why we've done what we've done. It's not nothing against nobody, it's the program we use.

B. Johnson: Do you have any specific questions to Deborah?

G. Larrabee: No, I don't. Deborah has, I think, laid out her side of the story the way I would have done it had it been me.

W. Shorey: Do you have any other evidence that you would like to give us that we could view?

G. Larrabee. I brought a copy of the printouts. What this is, on this page here tells what the valuation was and she's right, it went up. But these all had homesteads.

A. Fowler: Which is \$10,000.00, correct?

G. Larrabee: For the last three years. Before that, it was \$13,000.00.

A. Fowler: Once there is no-one residing in this property, the homestead exemption goes away.

G. Larrabee: When she moved out and used it as a rent is when that homestead came off.

A. Fowler: Can we ask questions ahead of time?

B. Johnson: Can we do this as an exhibit and have everyone get a copy of it?

W. Shorey: Yes, we can do that.

G. Larrabee: And I was just going to show you on the second page the way the program works, this is the trailer, this is the size of it, her trailer is a 14 by 70 but she has a building on the back side of it.

A. Fowler: An addition?

G. Larrabee: The width of the building adds up to 14' by 84'. That's the grade, and 3 on TRIO is average for that year. We don't have to figure that it, it's how the program's written, and I had the condition as average.

(W. Shorey asks County Clerk for copies.)

(Exhibit from Knox was submitted and labeled A.)

A. Fowler So if I may, Bill, while we're waiting for Barbara to make copies of what I'm assuming is the assessment record for the town, what it's going to show is the value of this property, this home, when it had the homestead exemption and when no-one was residing in it, perhaps someone was....the homestead, which it's supposed to be....homestead is only supposed to be given in the event that someone lives in and on the property.

B. Johnson: The homestead is only given to the person who is living there.

G. Larrabee: No, the person that owns it or if you have a life lease. You can't rent it; you can't get it.

B. Johnson: There is a rental section of that homestead.

G. Larrabee: Well, that's what they told us back when we went on the program.

A. Fowler: TRIO is the tax-assessing program that Knox uses? Didn't you guys do a re-valuation back a few years ago?

G. Larrabee: Yes., back when that jumped up to \$65,000.00 up to \$10,000.00 or something like that. That was the year.

A. Fowler: So, I can remember the days when tax assessing was a pain in the butt. You had to go out, your neighbors hate you, you had to hoof it a lot. These programs make it nice, for the most part, you don't see these properties unless an issue comes up and you have to go there or do you still?

G. Larrabee: No, we go around.

W. Ingraham: April 1st. With this program, of course now it gives you a lot more years that you can go back and check on.

(County Clerk returns with copies of exhibits for everyone and distributes them. Exhibits from D. Penney were listed numerically and the exhibit from the Town of Knox was listed alphabetically).

W. Shorey: In Knox, do you have...we've had towns in here before that they have a (unintelligible word) for any mobile home is charged "X" number of dollars.

G. Larrabee: We have a lot, an undeveloped lot or a developed lot. The undeveloped lot is \$11,000.00 and a developed lot is \$18,000.00.

A. Fowler: That would be on the land.

G. Larrabee: That would be on the land, on the person that owns the land.

A. Fowler: What Bill's saying, I think, if you don't mind me saying, Bill?

W. Shorey: No, go ahead.

A. Fowler: Jackson says, we don't care what your trailer looks like - the minimal we're going to charge you is \$8,500.00. Even if it was collapsing into the ground it was \$8,500.00. Does Knox have a set....doesn't matter how bad it is, if it's got a roof and it's still up, this is...

G. Larrabee: We don't have a set thing, I mean, I've thought about it a lot. When I'm going down through this and I'm talking to these guys [other selectmen], the only thing we do now with is program is we set the grade and we set the condition. Everything else is all done by the computer. I punch in the length, the width, all of that stuff, and it prints out whatever. These dates are pretty tight, but we had somebody that was living in it apply for General Assistance, and according to this they were paying her \$650.00 a month rent.

D. Penney: Well, guess what; they were lying.

G. Larrabee (laughter): Well that could be....wouldn't be the first one to fill out one of these papers that way. The date on it was March 10th.... No. November 24, 2010.

D. Penney: Could be. They was out of there in March.

J. Stevens: This one here, I thought she said March?

G. Larrabee: Yes., she said to them that she made this out 2010 and it was supposed to be 2011. I think Deborah presented her side of the story, but from our perspective I can show you - I've brought a lot more paperwork - I can show you a lot more trailers that will show you the same thing. The main reason it went up is that it lost the \$10,000.00 homestead exemption.

W. Shorey: The assessment record for now after you made your adjustment would be, what, \$16,000.00?

G. Larrabee: Yes.

W. Shorey: That's what it would be right today?

W. Ingraham: Yes, I was hoping that I had the breakdown on that piece of paper, but it didn't. It only shows that there's a tax bill that went out, and the grade and condition but I would have had to drop it, we would have to drop it a whole grade. That's what we did, didn't we?

J. Stevens: Yes, we did.

W. Ingraham: We did, so instead of a three, instead of average, it's fair and that's what dropped it down to \$16,000.00.

W. Shorey: Would you think that, continuing on, that would be at that grade for the foreseeable future?

G. Larrabee: No.

A. Fowler: Do you think it would drop more, grade-wise?

G. Larrabee: That's what we have it for this year, but we haven't sent out tax bills.

W. Ingraham: The reason for that is, there's two windows missing. The problem that I have, being an assessor, over the 15 years that I've done it, is you find people will tell you one thing then all of a sudden they resurrect something that wasn't supposed to ever be lived it again.

D. Penney: I wish I could. (laughter)

W. Ingraham: The thing is, her son called me up and said, "I wanted to use a window or two out of that."

A. Fowler: So he took the window? Isn't that typical?

W. Ingraham: I said, "If you take, so that nobody can live in it, in other words, take the doors off, take the windows out, whatever, as far as we're concerned, it is over with." That's what they did.

D. Penney: (Showed all a picture of the kitchen, which was not submitted as an exhibit). This is my kitchen. This is what my kitchen looks like in the trailer. I don't think that anybody's ever going to live in it again.

A. Fowler: In his defense, let me just tell you, I've seen them put up teepees that you or I wouldn't camp in.

D. Penney: If I wanted to spend thousands and thousands of dollars, I could go back in there and, probably, fix it up, but then I'd worry about the roof coming down on me, so I'm not going to.

W. Shorey: What was that figure you had written down? The one between the \$361.00 and the \$132.00?

B. Johnson: I come up with \$128.69 as what she would need to pay.

G. Larrabee: I think so.

D. Penney: I'm not going to pay for a home I don't.....

B. Johnson: \$132.61 off the \$361.30.

A. Fowler: The abatement that the town gave you of the \$10,000.00 would add up to \$132 something, which would make the tax bill in total would be the \$128.69 instead of the \$369.00.

D. Penney: It was \$200.00 and something, I think.

B. Johnson: Did you owe something from before?

D. Penney: Well, I think that I owe \$50.00 from last year but that wouldn't be on this year's.

A. Fowler: (laughter) You realize, if you didn't pay that.....

D. Penney: They can take away! Good luck to you, hauling it!

B. Johnson: This has a couple of receipts on it. It says \$129.73 plus \$2.88, which was the interest, so it's actually \$132.61, which is the total that is coming off – the abatement.

G. Larrabee: I think one of you said it was \$301.00 or \$302.00 total.

B. Johnson: I thought that the \$361.30 was the actual tax amount.

G. Larrabee: OK, Maybe it was.

B. Johnson: OK, and then \$132.61 is the abatement, which leaves \$128.69 and that's what her tax bill should say. That's what she owes.

W. Shorey: To summarize, you've got the value back to \$16,000.00 which would leave a tax bill of \$128.69 and, looking down the road, you have indicated that next year, the tax bill would be zero.

W. Ingraham: Correct.

W. Shorey: Other questions?

G. Larrabee: Well, I don't like the procedure. I don't want to create any bad feelings and as far as I'm concerned, I think I've told you the reason why we've done what we've done and she's presented her case, and I'd like to leave it at that.

W. Shorey: You're welcome to say whatever it is you want to say, that's why we're meeting. I think you've done a good job presenting the case as far as that's concerned.

B. Johnson: Could I just ask one question?

W. Shorey: Yes.

B. Johnson: Now you said you dropped it down one grade and so that brought it down to two?

G. Larrabee: No, it was 3-4; now it's 2-3.

B. Johnson: And this year it's zero? What was your criteria just to make it go down one, looking at everything there?

G. Larrabee: In April, last year, 2011, there were people living in it and that's what we go by.

D. Penney: But there wasn't anybody living in it in April. The power was shut off on April 6th.

G. Larrabee: No, that's this year. Our "great day" of assessing is April 1, 2012. I'm afraid we have to go by that. I've had two different places burn April 15th and there's nothing we can do for people.

W. Shorey: So, you've had the opportunity to say what you wanted to say?

G. Larrabee and J. Stevens: Yes.

W. Shorey: You don't have anything else to add?

G. Larrabee and J. Stevens: No.

W. Shorey: Ms. Penney, you don't have anything else to add?

D. Penney: No.

W. Shorey: So we'll close this part of the hearing now and not accept any further comments unless we ask you for them and go back to the Commissioners and see what they decide.

G. Larrabee: Do you want us to step out of the room while you talk about it?

A. Fowler: No, if you don't mind; a lot of times we're very frank.

W. Shorey: No, you can sit right here.

B. Johnson: My feeling is, whatever percent or grade it's dropped down is kind of a decision of the assessors. They only went down one. I was a little surprised at that. I would have liked to see it go down to 1 or 1-2. Basically, half the year someone lived in it. I don't know what that would do for the tax year. Looking at the condition in the

exhibits, it doesn't look like it should have been assessed as the other trailers were. It could have come down to 1-2. \$16,600.00 still seems very, very high especially for that particular trailer in the condition it's in. We are just talking about it. I'm not firm on it but that's what I'd like to see it be. I realize she has to be assessed a certain amount because it had people living in it but I still think it is a little high.

A. Fowler: I appreciate you folks coming in because, Lord knows, it's a good day to hay. Mrs. Penney, I don't envy your position. I noticed you are right, the power was shut off April 6th. Unfortunately, April 1st, all you need is someone going around town telling that is where they are residing and you really can't get out there and prove it, and that's really not your responsibility as the assessors. Do I think \$25,000.00 is high, yes, I do. But I appreciate that you did, at least, go with the \$10,000.00 and I greatly appreciate you are recognizing zero value for next tax year, and I'm sure Mrs. Penney does also. At this point in time I would deny any further abatement on this, with appreciation that everyone is working together on this.

W. Shorey: I think I'm going to take a different approach. Commissioner Johnson, I appreciate what Knox has done and that they have said it will be zero, and the \$10,000.00, which was good. I think that maybe there may have been mis-steps on both sides as far as values and abatements. My recommendation would be that they split the bill of \$128.69.

A. Fowler: For clarification purposes, Commissioner, what you're asking the town to do is split the \$128.69.

B. Johnson: If it was 1-2, I imagine it would be pretty close to about half of what that amount is.

A. Fowler: So what you're saying, Sir, is that you are recommending an abatement of \$64.34?

W. Shorey: Yes, that is what I would be satisfied with. We have to come up with two votes.

B. Johnson: I would go with what you are recommending. It probably would have come out about that if they had gone down to the 1-2. I could be wrong. Do you think it would have knocked it down that much (to assessors)?

G. Larrabee: I don't know if it would or not, but, yes, it would come down some. I just don't know. When you get down to those low numbers you don't drop like you would from "very good" to "good".

B. Johnson: If you'd like me to make a motion, I'll make a motion.

****B. Johnson moved, W. Shorey seconded to allow an abatement of \$64.34.**

Discussion: A. Fowler: I don't dispute either Commissioner – the arguments are very good. I learned a long time ago not to question men or computers. I'm not comfortable enough with the TRIO program to assume. I understand what you are saying point-wise.

B. Johnson: The TRIO program is a good program. It is a program and it is a computer and it's not seeing what our eyes are seeing and that can never be changed. Sometimes, you can't go by that completely; you have to show some fairness.

A. Fowler: Right, but this motion is based on that.

W. Shorey: It was a difficult one but I think this would be somewhat fair and if they get some use of the trailer, that is subject to how much use and how much income. It's the only fair thing that I see to do, but if someone else wants another motion...

B. Johnson: There would have to be a new motion or pass it.

W. Shorey: All in favor of reducing the bill?

****Motion carried.** (Two in favor; A. Fowler opposed).

Respectfully submitted by: *Barbara L. Arseneau*
Waldo County Clerk