

**JUSTINE MARKS (BEMCO) vs. TOWN OF BURNHAM
TAX ABATEMENT HEARING PETITION #333**

JUNE 12, 2007

9:00 A.M.

(TAPE 1 A)

PRESENT: Waldo County Commissioners John M. Hyk, Chairman; Amy R. Fowler and Donald P. Berry, Sr. Also present were Petitioner Justine Marks (BEMCO), her associate Morris Coleman along with Defendants Town of Burnham Selectmen Luke Goodblood, Stuart Huff and George B. Robison, and County Clerk Barbara Arseneau and Deputy County Clerk Veronica Stover to record the minutes.

Commissioner John Hyk opened the hearing at 9:30 a.m. with all introducing themselves for the records. Commissioner Hyk then read rules of the hearing and the Petitioner and Defendants were then sworn in. The Petitioner was allowed to speak first.

PETITIONER:

Justine E. Marks: O.K. My case concerns property located on Troy Road, Map 8; Lot 30. It contains a parcel of land and a building, an obsolete building - extremely obsolete. This building has basically been vacant for the past thirty years with the exception of about a year and one half, twenty-five years or so ago and it had someone living there that was working on the building trying to bring it back to usefulness, which didn't happen. O.K. My problem with the taxes is the dwelling. The building itself is, as I say, totally obsolete. Everything visible inside that building and anything of value has been stolen. In the past twenty-five years, it's amounting to over \$100,000.00. It is a shell, and it is wide open. The pictures that I have, and I know the town people here [referring to the Selectmen across the table] have don't solve my problem. There's a septic system on the premises, but it needs work. It's not all that workable. There's heat, NONE - absolutely none. There could be a little duct work left within interior walls, but everything else has been stripped out and stolen. Plumbing is zero. It's either been we have taken it out or it has been stolen for salvage. I should have spray-painted everything years ago. The electric is the same - it's been stolen. The windows, as you can see from my pictures, they were all aluminum. There are, I don't think, maybe ten left in the whole building. The aluminum has been stolen. The basement is wet and the foundation is falling in. On the back side, not visible in my pictures, the roof has major damage and leaks. There are still a few pipes in there from a sprinkler system and they are nothing but scrap - the rest of them have been stolen. The porch in front of the main house, and I couldn't get it in my pictures, shows that it is way down in one corner. Now, I'm questioning, in outbuildings here, what building is which because there is only one outbuilding that stands out away from the main building. There was what we called a "tank room." It was a large tank room measuring 50 to 60' long by 24 or so feet wide. That was taken off years and years and years ago. And the thing is I just question what is what here and what am I paying for that I don't have? I don't know - have I said it all? I think, basically, that's it.

Amy Fowler: Could we see some pictures?

J. Marks: You sure may. (The pictures were shown to the Commissioners.) If I might explain, in holding them up, this is the main building that goes out to a long piece here. There used to be, out here, an el, and that's where's the so-called tank room. There was a 20,000 gallon tank that supplied a sprinkler system. Right here, this used to be a glassed-in porch. This is down (referring to roof section) and I didn't get a shot so that it shows this is down. O.K.? You can see there are only some aluminums there. Everything is basically gone. There are a couple there. These have been just replacement old-fashioned windows that were taken from some place by someone and put on there. This shows that part of the building. This is all wide open. That side of the building, anybody could walk in. I didn't go around there because I was afraid to walk around there. And this one – the only outbuilding on the property. You can see there's a huge hole here, and it is wide open and a good wind will take it over. So that is it.

J. Hyk: What was this, that it had a 20,000 gallon sprinkler tank in it?

J. Marks: It was a nursing home for thirty years. Of course, law required a sprinkler system.

J. Hyk: That explains that.

A. Fowler: Is the property livable now?

J. Marks: Absolutely not?

A. Fowler: Is it condemned?

J. Marks: No. Right now I'm taking into consideration what and how I am going to do to it, if there's any salvageable things left, and get it down.

J. Hyk: O.K. Does that conclude your presentation?

J. Marks: I hope I've said it all. I've not been to one of these hearings before, so I didn't know...I do have some talking points lined up and that I've basically given you.

J. Hyk: Right. Questions from the Commissioners?

A. Fowler: I asked if it was livable which, obviously, it's not and if the property was, indeed, condemned, and it's not.

J. Hyk: Don?

D. Berry, Sr.: I have a question. When was the last time this was occupied?

J. Marks: The last time was about a year ago. There was someone living in it who wasn't in the best of financial circumstances and he thought he could live in there and help bring it up to – and he didn't live his commitment – and that was it.

D. Berry, Sr.: And then prior to that?

J. Marks: It had last been vacant probably, prior to a couple of years ago; I'm going to say, for... (conferring briefly with M. Coleman) so...twenty-five years – in that gap was vacant. Then we had a tenant in there, I'm going to say, for a year – maybe two.”

D. Berry, Sr.: I do have a question here, and you have to understand I'm an observer person. (Pointing to photo) Who put up these string lights on this building?

J. Marks: That tenant.

D. Berry, Sr.: Because those are not old.

J. Marks: That tenant. He just moved out last summer – less than a year ago.

D. Berry, Sr.: So he put up all of these string lights...

J. Marks: He put up all the lights. He was trying to make it homey. You'll notice there's a flag there.

D. Berry, Sr.: I just wanted to know why these Christmas lights are on this building. That's my only question. Super. Thanks.

J. Marks: You're welcome.

J. Hyk: So this building is on a lot of land, which is how big?

L. Goodblood: Seventeen, eighteen acres. Twenty-five total acres.

J. Hyk: Twenty-five total acres. And the value on the land is?

L. Goodblood: \$34,900.00.

J. Hyk: \$34,900.00. The value on the buildings?

L. Goodblood: \$8,700.00.

J. Hyk: \$8,700.00, or \$87,000.00?

L. Goodblood: \$8,700.00.

J. Hyk: And, just so I'm clear about this, [to J. Marks] you're asking that...what is it, exactly, that you're asking? I could read it, but it might be more understandable if you just told me.

J. Marks: O.K. I'm asking – The question was what is the estimate of the fair market value of the property? No, wrong place. Current assessed value of the property, which I guess is the total, is \$43,600.00. The amount of abatement requested on the property is \$5,300.00.

A. Fowler: How did you come with that figure, Ma'am?

J. Marks: With a lot of figuring. My master accountant.

J. Hyk: So, you're saying, when I read this, you're seeing that the building is worth \$2,000.00, so you're asking for...

J. Marks: \$53,000.00.

J. Hyk: O.K. And the rest is coming off the land?

J. Marks: Yes.

G. Robison: Now, the building's worth, according to us, \$8,700.00. She's asking for \$5,300.00 of from that.

J. Marks: Just the building.

M. Morris: The extra out-building is also what you were interested in.

J. Marks: Where is the extra out-building? That's not on there.

M. Morris: They included it in this.

J. Marks: I don't get it – I'm sorry.

A. Fowler: [To the assessors] Do you gentlemen have a copy of the tax bill?

L. Goodblood: Yes, we have this here. The outbuilding is not shown on it. This is it right here. It was a livable house at one time. There's a chimney and stuff in total disrepair. This is the tax bill but these two buildings with the 22,000 gallon tank was crossed off and gone in '05. The little porch was gone in '05. The back building was gone in '05. And, basically, April 1st of the year, every taxpayer has the opportunity to put in if something is removed, or something; it's the taxpayer's responsibility to come to their local office, or if it's LERC, to them, and fill out the paperwork that this is gone for the assessor to go and reappraise. This land has been marked because of the abatement for the assessors to go there.

J. Hyk: O.K. We're getting ahead of ourselves, here, just a little bit. I just want to hold off for a second on your [the assessors] presentation. [To the Commissioners] Do you have any more questions?

A. Fowler: I don't think at this time.

D. Berry, SR.: On statement 10 here, it says, "Assessed for two buildings that do not exist." So which two buildings don't exist?

L. Goodblood: Can we comment at this point, or do we have to wait for our presentation?

J. Hyk: Here is what I'd like to do. I'd like for us to finish asking questions and then if they [the assessors] have questions, let them make their presentation. I think it will work better for us.

D. Berry, Sr.: That's why I was asking it.

L. Goodblood: Just to interject, I have some comments, as Mrs. Marks made her presentation, I have comments, but I'm holding them until...

J. Hyk: That's a good idea.

D. Berry, Sr.: O.K., I'll withdraw right now.

J. Hyk: I'm not interested in comments, I'm interested in questions. Do you have questions of the Defendants? (There were none.)

J. Hyk: [To the assessors] now, could you make your presentation?

DEFENDANTS:

L. Goodblood: I'll comment first and make the presentation. The assessors have crossed off two buildings in '05 that was on the end that have been removed. I believe the shed that Mrs. Marks is talking about is this shed here off to the side of the building. It's valued at – the sound value is \$500.00, which is just a blanket value of the shed - \$500.00. Everything else is listed in poor condition. Amy [Fowler] has had the property card. This goes with it. And like I said earlier, if there has been stuff removed since last year, it's the taxpayer's responsibility to come to the Town, fill out the paperwork April 1st or before, and that puts a red flag on it so the assessors pay extra attention to the building. This year, it's already been red flagged. Because of this, the assessors will pay extra attention to the buildings. The total buildings on that is quite a few square feet for a \$8,700.00 value. And everything is here in the paperwork of how we did it and it's all above-board. George?

G. Robison: The initial abatement request – I took that and did some studying and comparing to the tax card just so that I could understand the facts that were before us. In the request, the request is to adjust the dwelling to a value of \$27,078.00 for a net decrease of \$5,300.00 and adjust outbuildings to a value of \$602.00. I think that there was a misunderstanding on the part of the taxpayer in determining what these outbuildings were and the fact that we were talking about units of measurement also. I think that maybe the taxpayer was concerned that we were charging for 260 units of living space as opposed to 260 square feet. There's an attached addition, which I wouldn't call an outbuilding, on the main structure that's 260 square feet, which is still there. The request was a little confusing until I studied the tax card because in reading the request, it would seem that one the one-frame shed value of \$500.00 doesn't exist – well, there is a one-frame shed there, and I think that is what the appraiser has listed as the outbuilding that's worth \$500.00. That's the only outbuilding that I could see on the property. One-story framed building 260 units does not exist; well, the units, again, are square feet. It's not a one-story framed building; it's an addition to the main building. And basically, if all of these conveniences or necessities – utilities – are gone, I wonder how the tenants could have lived in it up until July or August of last year, if they didn't have electricity or water or a septic system or not heat, because they lived there in the winter time; no plumbing, no windows, the basement falling in – you know, obviously the building needs repair, but I think it's worth a lot more than \$2,700.00 in value. I guess I don't have any more to say; any more presentation information.

J. Hyk: O.K. Mrs. Marks, you are going to get a chance to ask them questions in just a second. I'd like to ask a question. If this building were in good condition – not perfect condition, but pretty good shape – what would it be worth?

G. Robison: That's a very large structure...

S. Huff: It says here that it's \$202,600.00...well, right here.

L. Goodblood: Yeah, if that was new.

S. Huff: If it was new it would be worth that much.

J. Hyk: \$200,000.00.

S. Huff: \$200,000.00.

L. Goodblood: If we don't take into account the upstairs, we've got a footprint of roughly 2000 square feet, by current standards; I would think a livable house with 2000 square feet would be \$80,000.00 to \$90,000.00, anyway.

J. Hyk: I'm just trying, in my mind, to say, "O.K., it's not that, but this is what it would be if it was that."

L. Goodblood: This is the assessed values of if that was brand new and it's 10% functional. All of the percentages have been added in, as far as it's old and decrepit.

A. Fowler: And not maintained.

L. Goodblood and J. Hyk: Exactly!

J. Hyk: I think it's fair to say it is old and decrepit.

A. Fowler: Right. But I think if somebody came in there with some money...

J. Hyk: Don, did you want to see that? Do you guys have some questions for the assessors?

A. Fowler: I guess I'm confused. When Mrs. Marks approached you in regards to an abatement, what was the abatement request? For land, or for buildings?

L. Goodblood: For buildings. This is the total application for abatement right there, and it was for the buildings. The abatement request kind of...it was sent to us and Justine, Mrs. Marks, never came, but it's total protocol to send in your abatement and go over it and no outbuilding; there is an outbuilding – you know, it's in the same shape the house is. It's not good. It's been years since it was a nursing home.

A. Fowler: The reason why this is the letter, which came to us, (starting to read aloud.)

J. Marks: Oh, that's the wrong one!

A. Fowler: This is in my file.

J. Marks: What does it say on it, up on the top? The address?

A. Fowler: Waldo County Commissioners Office.

J. Marks: No, the title? Location? O.K., disregard that right now. Put that down. That's another case.

J. Hyk: For when? Today?

J. Marks: Barbara?

B. Arseneau: I explained to them that I was still confused because you mentioned that there were two properties and...

J. Marks: You said we would address it today.

B. Arseneau: We would try. So that's a second?

J. Marks: O.K. That's not part of this.

A. Fowler: Never mind the whole waterfront property thing.

(All laughed.)

L. Goodblood: No, it can't be taken up today because our notice is only Map 8, Lot 30, 280 Curry Road, so we cannot take up the other one today.

J. Hyk: Is this another property in Burnham?

A. Fowler: We can't talk about it!

J. Hyk: We cannot.

B. Arseneau: O.K. I was confused on that, obviously.

J. Hyk: Let's get through this one and then we'll see how we're doing on the next one. I'm sorry.

A. Fowler: So how did you know what to abate from this, I guess? She's asking for \$5,300.00 – how did you take this and even give her \$33.00 or \$37.00 abatement?

L. Goodblood: We did not. That's why were here.

J. Marks: Wait a minute – there's some confusion on this, too. That \$37.00 – oh, no, that's another property. That's lakefront property. You've got two different files that somehow got meshed.

B. Arseneau: They came together.

J. Marks: Well, they were clipped.

J. Hyk: So, the answer to your question was – look, I'm going to bear down and make sure this thing doesn't start wandering Robin Hood's barn – your question is what was the result of the request of the abatement...

A. Fowler: No, I was confused. I asked the selectmen what the abatement was that she was requesting because it doesn't say here what she was requesting. I was confused as to how they would even know what to abatement.

L. Goodblood: That one has an attachment on the back on the second page. That is the Troy Road, I believe, is it not?

A. Fowler: Map 8, Lot 30?

G. Robison: Does that say 260 units on it?

L. Goodblood: Yup, Map 8, Lot 30.

A. Fowler: O.K., so this is the one we're supposed to be looking at.

J. Hyk: This is the one we're looking at.

(All read the request again silently.)

J. Hyk: O.K., so no abatement of any kind was granted on this request.

G. Robison: No.

J. Hyk: Don, were you asking a question?

A. Fowler: No, he's checking his paperwork, like me!

D. Berry, Sr.: (Laughing) No, I'm all set. So, when did the electrical disappear out of this thing? Because you've got the Christmas tree lights!

J. Marks: Those weren't on this past '06. Can I explain something?

J. Hyk: Sure, why not?

J. Marks: O.K. The person that was living in there moved out, I'm going to say, last July. He left this stuff. As for livable/unlivable, in your questioning electric and all these things, we have taken out what we could - I live an hour and one half away from this property - and the rest of it has been stolen. It's been an on-going steal. The people that lived in there lived in like four little rooms downstairs, and he would just throw stuff upstairs in storage, which I guess there's still some stuff up there, but that is the scoop on why it's not livable now. It's a total shell. If I could add some more things...this building is 200 year old, plus.

J. Hyk: Wait a minute; we're done with your presentation. We're done with that. We're not going to do that at this point. While the applicant, the plaintiff, is saying the building isn't livable - and it may not be livable - that doesn't necessarily mean it has no value. Is that what your opinion is?

L. Goodblood: Yes.

J. Hyk: Your opinion is that it does have some value?

G. Robison: That's my opinion.

L. Goodblood: The Town's opinion, the Town's Assessors' opinion, is that it has \$8,700.00 value. It's on the report and that's the fact, Ma'am. That's all our paperwork that Amy [Fowler] has on the assessed value of the land, the house, the outbuildings and everything and the two buildings that have disappeared have been crossed off; the little porch that's disappeared has been crossed off. If more has to be crossed off this year, our assessor is going out there and look at it again and make adjustments where they need to be adjusted, but last year when the tax bill was sent out, this was the hard facts of what stuff was assessed at as far as worth and that was how the tax was based. We received nothing as of April 1st except for this request of abatement which came in January 11, 2007, we've received nothing as far as – what is the name of the paperwork you put in before April 1st if you've built a garage or torn one down – you all know what I mean?

J. Hyk: It's a notification of construction – you're notifying the Town that you're adding value...

L. Goodblood: Adding or subtracting. The Town has received nothing of that sort so far this year, but, the assessors are going to look at it because we received this the first of the year, the application for abatement.

J. Hyk: I'm going to allow you – I mean; we're almost through this thing – so go ahead. If you have something you want to add, please do.

J. Marks: O.K. I might add that I have been a real estate broker. And I have had builders, contractors look at this building to tell me best use – is it usable? Tear it down? What do I do with it? And they said, "Get it down."

J. Hyk: Why don't you do that?

J. Marks: I'm in the process of trying to do that now. The decision has been made, it is coming down.

A. Fowler: But until then, you have to appreciate also that although, and I was a tax assessor for years, which is a thankless, thankless job, but although it may appear to be of no value and use to you or to John, to myself or somebody else, it's still seen as valuable. It's just different levels of who can do what with it.

J. Marks: Well, as you said earlier, if someone comes in with a lot of money, they would tear it down and build new.

A. Fowler: Which an insurance company would probably recommend it.

J. Marks: He [one of the assessors] says this is "livable" or "can be used." Maybe by Burnham Maine standards – now don't get me wrong – not that there's anything wrong with Burnham Maine. I'm proud of the fact that I grew up in Burnham Maine, and I do defend that town, O.K.? I love Burnham. But, if someone came in with some money, as I said, they are going tear the building down, it's the land where the value is going to be

because it's rural. You might hear something off in the distance, but you're not going to see another building. But, I just want to make perfectly clear on here, because I was going on this "outbuildings, additions, improvements, anything." I'm only being taxed on a main building and that building. Is that right?

Assessors: Yes.

J. Marks: Then why are these numbers on here?

S. Huff: Because they measured the whole building. That's part of the whole building...

J. Marks: It says, "value..."

L. Goodblood: This is your copy, which is at the Town Hall, "This is a building, this is a porch, this is a building, this is..., this is..." These are what they are considering outbuildings right here. This is considered the main house, and this is the porch. This is another building – this is basically another one-story building beside it, they you've got your chicken house-type building right there, that's another building.

J. Marks: This is what we would call, I mean, we've heard – I mean, I grew up, basically, on this property because where I grew up was next door. This is an addition. It's this porch that's falling off.

L. Goodblood: Yes.

J. Marks: This is an addition. It's all falling off and access has been gained to the building through the back of that – it was like a corridor. It had to be put on there because you couldn't carry linen or dishes one way or the other and it would contaminate and all this kind of stuff, so that was put on there. So that is a "kaput." This is the main building, is what we call an el. So that explains that. And you were calling them porches.

A. Fowler: They have a roof.

J. Marks: Yeah. This was a porch. When I was a child, it was just an open porch and you sat out there with a rocking chair. And then we were in the business, it was closed-in and used as a front parlor, etc.

J. Hyk: O.K. Mrs. Marks – you had a chance to do all this during your presentation. I think you did a pretty good job; I think we understand about the building, but now we are about to move into the deliberative part this hearing, unless you Commissioners have any further questions of the Defendant? (There were none.) Thank you, ladies and gentlemen.

G. Robison: Could I say one more thing?

J. Hyk: You may.

G. Robison: At the current mil rate for our town, the requested abatement level of value of this house, the tax bill that we're talking about, is, give or take, \$40.00 for all of those structures. That's the tax bill. Probably a possible catalyst for the commencement of this whole thing was the fact that the Town went through a revaluation last year because there were a number of properties that were sold in town – shorefront properties – that were sold at astronomically high prices. As a result, the State said that we were worth 30 million dollars more than what our valuation said. As a result, the school budget – our share of the school budget – went up. To make a long story longer, we went through a revaluation process last year. Values went up and the mil rate went down. Many people look at that value and say, "Why did my house go up \$40,000.00 in value?"

J. Hyk: Because somebody else's went up \$400,000.00.

G. Robison: That's right. But, by the same token, the value went up but the mil rate went down. We're not raising more money.

A. Fowler: But you have to go by what the State sets the valuations at, what the State of Maine says your town is worth.

G. Robison: Because the school is charging us on what the State says we're worth.

J. Hyk: Hold on. We're not going down that road. We're going to keep our nose to the grindstone, here, and we're going to deliberate this case and we're going to do it now. So, I'm ready to hear what you other Commissioners have to say.

A. Fowler: Ignoring the confusion of where the waterfront property was and everything else, I guess, my thought, and I see this as a former assessor also, if it's old, and it seems to be tradition in Maine, if it's an old barn, you let it stand until collapses. However, as long as there is a roof on it, it's taxable. It's fair game, whether it's usable to you or anybody else in the world. If it's got a roof, it's fair game. You have to tax it accordingly. Again, as I say, I think everybody's opinion of a value of something – you would see an old dilapidated house that, in its day, was breathtaking. I might see it as "potential," whereas somebody else would see it otherwise. I think they're charging as least as they can because I know on other structures or trailers or properties, there's a minimum level you go at. I'd get it [the house] down as soon as possible and I would make sure every time you do anything on that property, that you notify them [the assessors]. Notify them by phone and notify them in writing ahead of time.

J. Marks: Can I just add one thing?

J. Hyk: No.

J. Marks: It's not that I don't add anything – that I don't do anything to it – it's people who live in that town and come in and steal and do things.

J. Hyk: I'm sorry, Mrs. Marks. This is the part where the Commissioners are going to decide what happens. We won't be hearing anymore from the Defendants or the Plaintiffs. I'm sorry.

A. Fowler: With regard to that, that is incredibly unfortunate and for that I am so sorry. As I said, I see your anguish and despair but I also see, from the Town's point of view, how you come up with these figures and where you're going and I can't go with an abatement on this.

J. Hyk: Don?

D. Berry, Sr.: I'm going to concur with Amy [Fowler] as far as I think they're [the assessors] charging about as low as they could possibly charge for existing of buildings, period; whether they are occupied or not at this point in time, and my advice here is get those things down and inform them [the assessors] that they are coming down. And at that point, I am now going to move that the abatement be denied.

A. Fowler: I'll second that.

J. Hyk: It has been moved and seconded. There is some further discussion; I'd just like to say that the thing that impressed me the most was that, as recently as a year ago, or two years ago, or something, there was some scheme afoot where someone was actually moving in that was going to fix the place up. Well, that tells me that it has some kind of value, even if it's minimal, minimal, minimal. And I think it is minimal and I concur with you Commissioners in your opinion on that, and unless there is further discussion, I'll move it to a vote. **The motion is to deny, and as moved and seconded, all in favor? The vote passed unanimously.**

J. Marks: Thank you for hearing.

A. Fowler: Absolutely.

J. Marks: But I'll tell you, this town's had about enough blood out of this turnip!

The hearing was adjourned at 10:18 a.m.

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