

**TRI-STATE SNOW RIDERS VS. MORRILL
TAX ABATEMENT HEARING PETITION #340**

JULY 8, 2008

9:30 A.M.

(TAPE 1-A)

PRESENT: Waldo County Commissioners John M. Hyk (Chairman), Amy R. Fowler and Donald P. Berry, Sr. Also present was Petitioner Tri-Town Snow Riders Treasurer Lois Cross. The Defendant(s) present were the Town of Morrill Selectmen John Peeler and Keith Thompson; Dawn Roberts, Secretary/Bookkeeper. Recording the minutes was County Clerk Barbara Arseneau, assisted by Deputy County Clerk Veronica Stover.

Commissioner John Hyk opened the hearing by having everyone introduce themselves. The rules of the hearing were read to all present and then the Petitioner and Defendants were sworn in.

D. Berry: Commissioner, I will now recuse myself from all action on this case, due to the fact that I have a direct interest in the snow mobile club.

J. Hyk: So, Commissioner Berry is not taking part in these proceedings.

The Petitioner was allowed to speak first.

J. Hyk: Once you have signed this, you can begin the presentation of your case; your evidence. Thank you.

PETITIONER:

Lois Cross: The Tri-Town Snow Riders Club has been non-profit since the early '70's. We try to give back to the area as much as we possibly can. We have a 400' x 400' lot. The building was built in the late '60's, early '70's. In the past, we have had no problem paying our taxes. However, this past year they almost doubled. I called and left three (3) messages and did not receive a phone call back. At the December meeting, I spoke to the other people in the Club, and we discussed what we needed to do. I called one more time and talked to someone at home and explained that we wanted to contest our taxes. And then we had a meeting at the snowmobile club to find out what to do about further action. Because we did not get any kind of verbal response about our taxes, other than that they'd look into them, we felt that we had no other option but to come to the Commissioners' Office about our taxes. We do donations to the local County Technical Center; we provide a place for the Waldo County Law Enforcement Agencies to have their suppers to do their scholarships that they give out to the Technical Center; we provide food for families in the wintertime that are snowmobiling and do not charge – our food is free, they get to come in whether they're cross country skiing or snowmobiling or whatever. We always have a nice lunch, and it is donations only. So, we are asking to be tax-exempt from Morrill, as we are non-profit. I do have pictures of our clubhouse and it is just one big open room with two bathrooms and a kitchen. Nothing elaborate. And I have the copy of our non-profit to show that we are currently up-to-date, and of our map, if you need it. *(Photos of the clubhouse were submitted to*

Commissioners, along with a current, up-to-date copy of the club's non-profit certificate and a map of the premises.)

J. Hyk: The taxes were..?

L. Cross: Our taxes went from \$565.00 and change to over \$1,000. The \$565.00 are doable, but when we're trying to keep one of the few clubhouses left in this state – there's minimal clubhouses that are still active – to try to do that with upkeep and keeping the trails and keeping their equipment and try to provide donations and services to people; it's hard. I mean, it is very hard and I guess our biggest complaint was that we weren't...they [*Town of Morrill*] didn't call us back and advise us. We were willing to work with them to see what could be done and, as you can see, our building isn't anything spectacular - it was all volunteers that built it, everything was donated, and...

J. Hyk: So, as far as you're concerned, um...I don't have a... (*looking at evidence*) there isn't a property tax record – a property record card.

A. Fowler: Mr. Chairman, if I may ask?

J. Hyk: Yes?

A. Fowler: So, in 2007, they're saying the value of this building is \$67,590, is that correct? In '07? So, what was the value of this building in '06?

L. Cross: I'm not sure. I gave the Town of Morrill a whole update of the last three to five years of all everything, and we did not get that back.

J. Peeler: Whom did you hand it to? I'm sorry, but who...?

D. Roberts: All we got was just what you have paid out...

J. Peeler: That's just your expenditures.

D. Roberts: This is just expenditures.

J. Peeler: It doesn't cover any income or anything like that or any tax information.

D. Roberts: There's nothing else.

L. Cross: This will tell us what our taxes were. (*Several people were talking low all at once.*) So it is was evaluated at \$18, 530.00 for the year before.

A. Fowler: \$18, 530.00?

L. Cross: For the building.

A. Fowler: ...was what the building was valued in '06.

L. Cross: Yes. And the land is valued at \$14,060.00.

J. Hyk: The land was \$14...?

L. Cross: Thousand.

A. Fowler: Yes. '06. I'll wait on my questions for the Town. I have no other questions.

J. Hyk: O.K. All right, thank you; we have no further questions for you [Petitioner.]

L. Cross: Should I stay? Do I leave?

J. Hyk: No, you stay. You so stay. O.K., now the Defendant, which is the Town, may proceed with their case of evidence.

DEFENDANT: John Peeler, 1st Selectman and Keith Thompson, 3rd Selectman.

John Peeler: The first I heard of the snowmobile club having issues with the taxes was when Mr. Berry came into the office. I didn't get any three phone calls at my house or at the office. When he brought the paperwork down, I asked for documentation showing that they are a charitable group. We reviewed during the Selectmen's meeting. The problem we had - last year, we had a hired assessor that came in and we had a lot of problems with the work that she did. Most people had come down to the office and contacted us right off the bat as soon as they got the bill. We tried to figure out - find the mistakes - and work with people. The problem we are facing in Morrill is that we are a small town. If we give everybody that is a charitable organization a tax exemption, what does that do to the Town's income, basically? Anybody can start a charitable organization, and if they are all eligible for property tax exemption, that's going to hurt the town. I've had a lengthy discussion with Jeff Kendall from the State Revenue Department, and although he declined to put it in writing, he said that anybody who wanted can contact him about it. He also said that it is a bad precedent to set, to start giving charitable organizations these tax exemptions, he said, because then it doesn't stop. We were not given anything that shows what their income was. I found out that they have three (3) state grants, so they obviously have a source of income. I told Don [Don Berry, Sr.] in a letter that we would be looking at the building again this year, and we would certainly be willing to work with them about valuations and stuff like that. But he hasn't expressed any desire to walk through the building and look at it. It just kind of went from coming to the office to immediately the County Commissioners. There wasn't any real discussion in between about how we could have worked this out without having to go through all this.

A. Fowler: [*Jokingly*] Let's make them go out in the hall and duke it out.

J. Hyk: Well, now, wait a minute - I want to let them conclude their presentation. That's the way it works. [*To the Defendants*] It's your turn to state your case now.

J. Peeler: I understand that.

D. Roberts: We also give back every year everything that the State sends us back on their ATV's, snowmobiles, etc. – they get the whole thing back. If they had now, like the \$500 and something for taxes, we gave them back \$270 of that. Most of the time, it is close to \$300.00 a year – with no questions.

J. Peeler: I asked Don [Berry] about what they [Tri-Town Snow Riders] did and he said they give out five or six scholarships each year, but I don't know how many of those kids are actually from the Town of Morrill. What do they do in the Town of Morrill? Not everybody snowmobiles or rides ATV's – it benefits a select group of people, it doesn't benefit the community as a whole – that probably doesn't sound right – but it benefits snowmobilers and ATV-ers. It doesn't benefit the rest of the community – those who can't. So, I'm hesitant to say, "O.K., you guys do a lot for the community; let's tax-exempt them."

J. Hyk: Does that conclude your presentation?

J. Peeler: [To Keith Thompson] Can you think of anything else?

K. Thompson: I guess I'll just back up the fact that scholarships are good, but like John said, we don't know how many kids get scholarships from Morrill. They could be from Belmont, Searsmont – we don't know that. Shop 'n' Save also gives scholarships, but I don't think they are tax exempt because of it. Because of that, I don't feel that is a reason to be tax exempt. Now, if the building is over-rated – over-charged, or over-valued, I should say - we can look at that and like John said, we fully intend to do that anyway. Yes, that is definitely a big jump from 18 to 67, no question, but you also have to admit that 18 is pretty low and it has been for a long time. Of course, with the reval, it was bound to go up. We can work with that. I don't feel that it is fair to the rest of the Town to say they're [Tri-Town Snow Riders] are exempt. I do a lot of things for the Town that I don't get paid for. I'm not tax-exempt; I still have to pay for my property. Dawn does a lot and she don't get paid for it; John does a lot that he don't get paid for, but we all have to pay our taxes. I just don't see that it's any different.

J. Peeler: My taxes alone, because of that re-val, they went up, and then they went down, and then they went back up again. Everybody's taxes had issues last year. But by the end of December or January, we had most of them figured out, but it wasn't until – I don't remember when Don came in exactly – it was sometime during the winter...

D. Roberts: It was after I came back in. I didn't know anything about it until – it must have been February.

J. Peeler: Yeah.

J. Hyk: Ma'am, [to D. Roberts] would you like to add anything for the Town?

D. Roberts: Not really, it's just something - my husband was first selectman for twenty-two and way back from the very beginning, they never figured that it should be because where we gave so much back as far as their, you know, ATV's and all that, they got almost half of their taxes then, back. And

I'm afraid that if you go exempt with them, the townspeople when it comes up at Town Meeting, they're going to say, "No, they're not going to get that money back.

J. Peeler: The rest of the town is going to have to foot the bill for the tax money that we lost giving them an exemption.

D. Roberts: And it is going up every year as far as what we give them back.

J. Peeler: We don't have any business in town, some major landholders that pay to supplement the rest of the Town. We start losing \$1,200 here; \$1,500 there, to different groups, it's going to affect the Town. It's a small town.

J. Hyk: O.K. Do you have any questions, Amy?

A. Fowler: Wow! Boy. The first thing I want to say is that I really think this is a serious failure of communication on everyone's part. I'm not speaking for Don [Berry] but I know I've been in his position before where you've got to kind of step back and you can't – and I don't think he was blowing off or anything like that...

J. Peeler: No.

A. Fowler: I think he just got into that position where it goes to the point where you don't know if you can say anything...

J. Hyk: He has a conflict of interest.

A. Fowler: Right, right. I think my biggest concern here is, just like you said, sir, \$49,000 increase in the building – that is my first thought when you walked in was, "Where's the assessor that did this?"

J. Peeler: We kind of terminated our relationship.

A. Fowler: Thank God! This is – wow, that's a lot, especially where the land – you're looking at a couple of thousand there, which is very understandable, and you're right; I believe they agree that the building is in need of some increase in value, obviously – I question the \$49,000. You bring up a good point that we deal with all the time: Non-profit groups. And you're right, anyone can start a church or a group and call it 501(c)(3), and non-profit. They do good things; I have seen their financial reports. Unfortunately, you folks haven't. I have seen some of the scholarships, and you're right – do they all go to Morrill kids? I don't know.

D. Roberts: I haven't heard of one in years that's been in Morrill.

J. Peeler: I have spoken to quite a few towns that have snowmobile clubs, and it runs about 50/50. About half of them get taxed and half of them don't. The ones that don't tax them are the ones that I said, "Why aren't they taxed?" And they said, "We don't know - it's always been that way."

A. Fowler: That's a really lame excuse.

J. Peeler: It's not unheard of for - I talked to MMA legal department in order to find out if snowmobile clubs that are charitable and benevolent can be tax exempt and they have found no cases of them being tax exempt.

L. Cross: Unity, their snowmobile club is tax exempt, and Mars Hill. We called around. We have a club house which is different than a lot of - like Belfast does not have one; Northport does not have one; Hope; Union, and so this gives a place for people to ride. Clubhouses have gone pretty much extinct because people cannot keep the upkeep on them. As far as our grants that we receive, it is for trail maintenance that we do. The money that we get from the State of Maine, whether it's municipal or club grant, those are to be used to maintain the groomers, to do brush cutting, and any work that needs to be done. That is not to be used for donations. I just wanted to clear that up. I think there's a big difference between a snowmobile club and a snowmobile club that has a clubhouse.

J. Hyk: Can you answer the question on these scholarships - who do they go to?

L. Cross: Actually, we do not choose. It is written that it goes to an average student, someone out to the Waldo Regional Technical Center - and we chose that school because they are the people that will be doing the club in further years. They are the workers - the ones that aren't going on to become doctors, lawyers; whatever. It's someone who welds, or fixes cars or whatever - works in the kitchen. So we do five scholarships out there.

A. Fowler: For how much?

L. Cross: \$100 each, which we were going to increase and we had to step back from that this year for financial reasons. But, anyways: The school actually picks the student who they think could benefit from it more. If they were going to sit for a welding test or go for an EMT, it's a check that they receive to further education. One other thing; in the past, we have also donated tools, things like that, out to the vocational school. When they've needed extra tape measures and things like that, they've contacted us and we went ahead and did that.

J. Hyk: My question to the Town is: I see, by letter of April 22, 2008, that you denied this request for an abatement.

J. Peeler: They wanted a complete abatement; 100%.

J. Hyk: I thought I heard you say something to the effect that you might be willing to reconsider part of this or some of this - words to that effect.

J. Peeler: Definitely. We certainly can go down and walk through the building and...

J. Hyk: I'm suggested... [to A. Fowler] What are your thoughts on this?

A. Fowler: I see exactly where you're going on this. I feel it's unfortunate that you guys even had to come in here today, but like I said, I really think that's the reason why Don didn't know how far he could go with this. I really think that this can...

J. Hyk: Well, Don doesn't have anything to do with this.

A. Fowler: Right. But I think that's why.

J. Hyk: My thoughts...

J. Peeler: He's, actually, the only one that's approached the Town, that I know of, as far as coming to the office when the office is open...

J. Hyk: But as to this deliberation, he doesn't have anything to do with it. My question to you is – we're going to do something here today. We're not going to say, "Oh, go look at the building," or something like that. That isn't happening. What's going to happen is we're going to adjudicate this thing somehow today, I do believe, because that's our job. We don't have the luxury to say, "Go away and think about it some more." Once you're here, we have to act on it. But what I'm suggesting is before we act on it, maybe you all ought to go over in the other room over there and talk this over a little bit and see if you can't reach some kind of decision that everybody can live with, before we come up with something that nobody is going to like. I don't mean that in a threatening way; it's just that...

A. Fowler: We have to reach a decision.

J. Hyk: We have to reach a decision.

A. Fowler: And maybe you could guide us on it.

J. Hyk: And we're asking you maybe to help us to reach a decision that you all will like better than any decision we might come to.

K. Thompson: I think we're all willing to – I think we're willing to do that, right?

J. Peeler: Yeah.

J. Hyk: *[To L. Cross]* Are you willing to do that.

L. Cross: I am. Like I said, we had no problem paying our taxes in the past. I did call and talk – I left a few messages and then I think that I talked with a Vashon? At home?

J. Peeler: He's the tax collector.

J. Hyk: That's something new.

L. Cross: He had the – I called him at home, so I did actually speak to someone in and that was in the middle of...

K. Thompson: Well, you could have talked to...

J. Hyk: Now, hold on just a second, folks. – hold on. I forgot to tell you that what we're not going to do is we're not all going to start talking at once and stuff – it's like a little court we're having here, sort of, that's supposed to be the decorum of it and so forth. So what I'd like you to do, if you want – you don't have to do this – is to go out, we can open up something – they can go somewhere, right?

A. Fowler: Is Probate open?

B. Arseneau: I can go get that open, if you want.

A. Fowler: I don't think it will even take them that long.

J. Hyk: Go talk about this. See if you can come up with that you all can live that you can recommend us and if we can live with it, which we're likely to – if you can live with it, we're likely to live with it – then maybe we can work this thing out right now and move on. How does that sound?

L. Cross: Sounds fine. The only question I have is, may I converse with Don because...

J. Hyk: That's none of my business. Don doesn't have anything to do with what we're doing here.

A. Fowler: You guys are welcome to do what you want here.

****A. Fowler moved to recess the hearing; J. Hyk seconded; motion passed by two.**

[BREAK was taken for Plaintiff and Defendants to move over to the Probate Courtroom for discussion among themselves.]

J. Hyk: We will reconvene the hearing on the matter of Tri-Town Snow Riders Club, Inc. vs. Town of Morrill. Were we able to reach any consensus?

J. Peeler: Yes. We're going to let them pay what they paid last year, and then this year we will go look at the building and come to a more suitable valuation on the building.

J. Hyk: Well, I think that is very generous.

A. Fowler: I greatly appreciate that.

J. Hyk: I think that's very generous and I think it's a good way to proceed, too. Good! Great!

A. Fowler: And you guys are all happy with that?

[All indicated that they were.]

K. Thompson: Actually, they've already paid so they've got a credit coming for next year.

J. Hyk: O.K., so, I'll entertain a motion.

****A. Fowler moved to go with whatever the group came up with, which is to pay what was paid last year in the amount of \$565.44.**

Discussion:

J. Hyk: I don't have a problem, but I just want to make this clean for us, as if we are deciding this, because we don't have the right to tell them what to do next year. Do you follow what I'm saying? What they decided is great; what we have to do is different than what they decided. So what we're doing is we're approving the abatement.

A. Fowler: No, because in their abatement request, they requested everything.

L Cross: So I need to withdraw our past taxes and go for only this year's, meaning 2007's tax problem. So I withdraw our request to have refunded 2005 and 2006's taxes.

A. Fowler: Do you see where I was going with that because, right now, if we approve the abatement, then we really have just tucked it to Morrill. I'm just kicking this around – I think we need to deny the abatement with the condition that they pay upon the agreement that they came up with – see what I mean?

J. Hyk: I think it might be a little bit – it might be this way. The Town's agreed that they're going to pay the same this year as they paid last year. So by approving it by supporting the Plaintiff that happens, because they're asking that it be the same as last year. *[To L. Cross]* Isn't that what you're doing?

L. Cross: I am; however, when he wrote the abatement, we did put in for the three years, so I'm withdrawing 2005 and 2006 tax payment to be refunded to us and agreeing with the Town of Morrill that we will pay \$565.44 for the 2007 taxes.

A. Fowler: And then we approve the abatement.

J. Hyk: I think that is the way they do it. *[Brief discussion with County Clerk about how to record this.]* So what's going to happen here is that they're removing 2005 and 2006. 2007, they are going to pay the same amount as 2006. And then everything else is between them; whatever the Town and them do about negotiating in the future is on them. So, our decision is they're going to pay the same this year as they paid last year. That's the motion?

****A. Fowler moved to approve the revised abatement request to pay the same amount of taxes as 2006, or \$565.44, for the 2007 taxes; J. Hyk seconded; motion passed by two, with D. Berry abstaining.**

Hearing adjourned at 10:35 a.m.

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