

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 346
RANDALL AND ZOE HENDRIX
VS. TOWN OF NORTHPORT
AUGUST 11, 2009**

PRESENT: Commissioners Donald P. Berry, Sr. (Chairman), William D. Shorey and Amy R. Fowler. Also present were Petitioner/Plaintiff Zoe Hendrix of Northport and Defendant(s) Assessor's Agent for the Town of Northport Robert Duplisea. Recording the minutes was County Clerk Barbara Arseneau, assisted by Deputy County Clerk Veronica Stover.

County Commissioner Chairman Donald P. Berry, Sr. opened the hearing at 10:12 a.m., noting that it was scheduled for 9:45 a.m. Commissioner Berry introduced the County Commissioners and then read the rules of the hearing to all present and then the Petitioner and Defendants were sworn in. He asked the Petitioner and Defendant to introduce themselves. The Defendant introduced himself as Robert Duplisea, Assessor's agent for the Town of Northport and the Petitioner introduced herself as Zoe Hendrix, wife of Randall Hendrix, resident of Northport was allowed to speak first.

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

Petitioner: Zoe Hendrix

Z. Hendrix: I have brought forth written letter for each of the Commissioners to have as part of their visuals.

D. Berry: Thank you.

Z. Hendrix: I also have diagrammed and highlighted the area in question. My hope this morning is to just to seek clarification, as I have compared what's on the books of the Town of Northport with my neighbors, which is what I understand is how the formula comes about. These are also for each of you [handing papers to Commissioners.] These are comparables to, umm...to the areas which we question. We bought our property at the height of the real estate market in 2006 at a price of \$650,000.00. Our taxation at that time was in the range of \$5,700.00. We sat and watched as some, you know, \$7,200.00 taxation and now as we're seeing this increase, we must come and question it. If you have any questions of what you're seeing before you, I've tried to diagram what makes sense. The main property that we have brought forth as comparable is the one directly north of us, which belongs to 1442 Atlantic Highway. You can assess that that is a seven and one half parcel acre; acreage. We are at 3.68 acreage. The dollars just don't quite seem to align. My property is accessed by that highlighted little piece that comes from U.S. 1. I have twenty feet on U.S. 1. My neighbor has...300, is it? Um, so I access down through someone else's property to get to my property and yet my taxation is just not looking quite right. So I'm here to understand it better. I have no qualms with paying taxes; give to Caesar what's due him. I have no need to pay more than I have to.

D. Berry: Any further comments? Commissioners?

W. Shorey: I'm just...

Z. Hendrix: If you had to...I know it's hard to decipher; there's maps and comparables so I'll clarify anything that I can point to for you. I didn't know how to put the info in a pertinent way.

W. Shorey: So, if you had any, uh, I guess – like licensed professional appraisers do an evaluation of your property?

Z. Hendrix: At the time of purchase.

W. Shorey: At the time of purchase. And, so I guess that they – the price at the time of purchase...

Z. Hendrix: It reflected...

W. Shorey: It reflected a fair amount.

Z. Hendrix: ...you know, a fair amount.

W. Shorey: And then did I, on some paper, did I see somewhere around 2007 that your valuation went up or was increased?

Z. Hendrix: What we did, that structure was a remodel. I don't have any exotic woods or anything – there's no granite in my house; it's a comfortable home and I'm blessed to decorate it well, but it's nothing – it nothing – it's no Taj Majal. So, there again – we just don't quite understand the building, the dwelling – all of it.

W. Shorey: Are you more unhappy with your land value than you are your building value?

Z. Hendrix: I think, um, the land value seems to just not justify.

W. Shorey: I think I was looking at a paper and I noticed that around, I might have the year wrong, because I'm trying to remember back, it was around 2007 I think your land value at that time, I think this was by Northport, was around \$561,000.00?

Z. Hendrix: Um, that's what we are now.

W. Shorey: And your total valuation is around 800?

Z. Hendrix: M-hum. [Yes]

W. Shorey: So, that would leave – what - \$200 and some for your house and is there an outbuilding or cottage or some other building on the...

Z. Hendrix: Everything that was there – there’s garages – there was something they were using for their mother-in-law – nothing new has been constructed.

W. Shorey: Any of your acreage that you have – wet land or...

Z. Hendrix: Yeah. The access to this property – my daughter attempted to live there and couldn’t get out. She’s a school teacher, so she had to rent a room in town, so we don’t technically maybe have year round. And the way we’re structured, we can’t cut across to get to our home any better because of this. [Showing map] As you look at this, this is my neighbor’s property. I own this and then I easement to my neighbor to me.

W. Shorey: Yeah?

Z. Hendrix: So this, this is a tumbledown cottage right here. So if I wanted to try and get, really, past the hill to use my property, I can’t. This is not mine, this is not mine; so it is a hindrance, but yet, big fat tax dollars. If you look at the geographic amount, this more aligns with the property Mr. Flagg has. You know, he’s my “acreage man” and he’s got lots of U.S. 1 frontage, that’s commercial value.

W. Shorey: Yeah, but he doesn’t have shore frontage, right?

Z. Hendrix: Nope, no.

W. Shorey: That’s good value, too.

Z. Hendrix: Well, try to resell that! It sat for three years and now we kind of know why.

W. Shorey: O.K. I have no other questions.

A. Fowler: No, nothing right now. Thank you, though.

D. Berry: I have no questions. Thank you. Sir?

Defendant: Robert Duplisea, Assessor’s Agent for Town of Northport

R. Duplisea: I may ask to have a copy of what was given to the Commissioners...

Z. Hendrix: They’ll have to share one of theirs. This is mine.

W. Shorey: Here. You can use this while we’re getting a copy made. (Several voices talking at once while copies were made.)

R. Duplisea: Well, as I said earlier, my name is Rob Duplisea; I’m the Assessor’s Agent to the Northport. We have been their agents since 1987 and I’ve been there off and on since 1989. The values you have in front of you – first of all, what you have in your packets: You have two tax maps, I think it’s to the back. On Map U-1 and Map U-2. They’re color-coded; the subject is

highlighted in yellow on Map U-1 and the two lots north of the subject lot are marked “comparable” and then there’s another lot that’s marked “sale reference,” they’re initial abatement request to me referenced that map Lot A-A and then on the other map, Lot #2 is their lot immediately to the south, which is marked “Comparable” and that is actually a sale subsequent to our evaluation that I’d like to speak of. All of our values in Northport are based on the last time I performed a revaluation, which was back in 2004, so at that time we had a sales analysis of property in Northport for a three-year period prior to that, and what was left was the schedule for valuing land and a schedule for valuing buildings, all relative to that point in time, as any typical revaluation was. One of the petitioners’ complaints was the fall of the real estate market since their sale. Our assessment is, it’s obviously above their purchase price. What we didn’t – she’s contesting the 2008 assessment. The 2008 assessment included a review of the buildings after their building permit for remodeling. We all know that there was work done to the house that enhanced the value of the home, so it’s not – the assessment that’s being contested isn’t a real dollars-to-dollars comparison to the sale price because the remodeling was reflected in the tax bill that they’re contesting. But aside from that, in your packets you’ll find the most recent State valuation that just came in this past July. And on page – this will confirm the fact that there’s no accessible evaluation, which is one of the main claims here. On that initial page of the State Valuation Report, in the center down the bottom under the sales information, we have two years with the State Valuation Analysis gone and if you look at waterfront study, for last year’s State Valuation, we were at 65%; the valuation was 65% with a drop to 60% this year. This is an indication of a growing market in this class of property in Northport. But that is, just, and this is only to serve the fact that, based on the State’s analysis, there’s not excessive overvaluation here. I have valuation reports for all the sales that were referenced and highlighted in the Maps. The top valuation should be actually of the subject property. It should say “Hendrix, Zoe and Randall.” Basically from what I wanted to do here is to just explain the land pricing methodology that we use for this – the waterfront is in this part of town. Subject Property Hendrix has 3.68 acres with an amount of water frontage of 276 feet of frontage. Based on – now our waterfront methodology is as follows: We use what is called a “water front” acre, not a front-foot acreage but more like a waterfront acre. The idea is based on the amount of water frontage that you have, we tie a certain amount of acreage into that. The sales analysis in town demonstrated that – a quick example – if you had a 100-foot and a half-acre 100-foot lot, with two acres, there should be a difference in value there, and this methodology does take care of that. In this area of town, the first 100 feet and one half acre is denoted on here as the house lot, so the first 100 feet is valued at \$353,553.00. You follow that first line over on the land [referring to document.] As we go through the rest of these, when you look at the properties that are similarly situated north and south, they all start off with that designation of \$353,000.0 Then, after that, the next 200 feet of water frontage and one acre in size, would add up to \$212,100.00. In the case of the subject property, it does not have the full 300 feet to qualify for both of those top two categories, so there’s 100 feet so the first category is classified – is satisfied, I’m sorry. The next unit is what’s called “frontage lot,” that’s .88. So that next 176 feet adds \$186,000.00 roughly. So out of the total acreage of 3.68, 1.38 of it is considered “front land,” O.K.? So what we have left in this case is additional excess rear land, which under the third line of land category you see 2.3 acres of rear land and that’s at \$5,000-per-acre cost, or value. The last line you’ll see in there is what we call “Lot Improvements.” The value of the well, the septic, the driveway, the lawn; all those amenities that were put on the lot for the development of the house are included in the land. The idea is if the houses were removed or destroyed, the lot has more value

developed than it would undeveloped. And that's the basic land pricing methodology. And once we've determine that, we have the responsibility of applying that methodology and schedule uniformly across all similarly situated properties. Which is what we've done here. When you look at – comparison was made with the lot just to the north, which is Map U1 Lot 10. It's under the name of Smith in the valuation report. When we determine value, and if there's a lot that fronts on two different bases, if you will – one of the lots in question here fronts Route 1 and the shore. We will value the base lot from the highest value point. There's no additional value added on for the additional road frontage. These lots in Northport aren't developed that way; it's just single family residential/seasonal and there's no additional value unless there's some sort of subdivision. Then if you look at the Gene Smith property, they have 220 feet of frontage – slightly smaller, but again, they satisfy the first category of land which is .5 acres at a value of \$353,533.00. The next category of frontage; it's a little over 6/10's of an acre as opposed to the almost 9/10's of an acre that the subject has. It's at the same rate per acre, but it's just adjusted down because the lot is inferior to the subject. This particular lot, again - then you get into the rear land; you have little less than an acre and one half of rear land, which adds \$7450, as opposed to the \$11,500.00 the subject has. And then, the same exercise – and I won't go through it line for line with you, but if you look at the next lot to the north, which is Lot 9, the Holmes Lot. The lot has 300 feet of frontage and more acreage, so that first 100 feet of frontage and base lot is the same: then there's a full acre of access frontage and then additional rear acreage. You'll see that the methodology has been applied uniformly across all of them. There is one lot that was referenced in their initial abatement request to me, and that was Lot 8-A and there was an asking price...reference was made to that lot and it was on the open market for x-amount of dollars – much less than the subject. As you can see from tax map, that is not a waterfront lot. This lot was a family split where Lot 8-A – Lot A, I'm sorry, holds all the water frontage; Lot 8-A and Lot 8-B only have a right-of-way across the family land to the water, so it's not even a comparable piece of property, so that comparisons was “no” as far I'm concerned. I did not consider it at all. And the only other piece of information I brought to you was on other map, May U-2. [Sounds of maps rustling.] Longhorn Associates, LLC. And as you can see, it is a considerably larger piece of land, but as you look down through the land pricing, it is priced exactly the same way, using the same methodology. And our end result is an assessment of \$921,000.00 on a piece of property that sold just prior to this appeal at \$1,450,000.00. That puts our ratio of assessed value to sale at 63.5%, which is almost exactly what the state is telling us our waterfront sales ratio is. So I really don't see any issue, here, to demonstrate excessive overvaluation or that there was any sort of mistreatment or singling out of the subject property. The Town has not provided any information to disprove the methodology that I've put forward to this point. As we all know, the burden of proof is on the taxpayer to prove that the Assessor's decision is irrational; that an injustice has been created, and nothing like that is the case here.

D. Berry: Does that complete?

R. Duplisea: That completes.

D. Berry: Any questions?

Z. Hendrix: I compliment you on your preparation of many, many papers for us to look at and in trying to decipher them, I go back to the second unit that is not the waterfront, but they all seem

to claim the \$353,000.00 as the frontward. I understand that concept. And you had stated that my neighboring person – her setback area is judged as inferior to mine, so that would be my question: What causes a conception of her land area inferior? She is well-drained, easy access to the water, so explain that.

R. Duplisea: Inferior just in numbers. This first, initial number here, I know I'm supposed to...

A. Fowler: What lot are you speaking of?

R. Duplisea: I think she's talking about Gene Smith.

Z. Hendrix: The neighboring one, you know, he gave all these pages and so this woman, you know...

R. Duplisea: Lot 10.

A. Fowler: Thank you.

Z. Hendrix: Yeah, sorry – she's the lady I have to pass her property to get to mine, so he's going to do one.

R. Duplisea: Is it O.K. to speak to her directly? I know I'm supposed to be communicating to you...

(Commissioners authorized)

R. Duplisea: The idea, what I mean by inferior is this first number – that's the first 100 feet of water frontage. When I say inferior, this number is less than yours because she has less than waterfront than you do. It's not the quality of the land or anything like that – the idea is waterfront is sold, bought by how much moneys that it is has. And this lot has a little bit less frontage, it is a little bit less valuable, so we that's what I'm calling by inferior. The lay of the land is fairly, fairly similar down there.

Z. Hendrix: Well, with that concept then, to revisit Mr. Holmes' property as the waterfront who has considerable more than myself.

R. Duplisea: He has 300 feet of water frontage, so he has...

Z. Hendrix: And I have 257.

R. Duplisea: ...276 according to our records.

Z. Hendrix: Survey is 257. That was in error.

R. Duplisea: What we can do, aside from this appeal, if you had a survey done, that was never brought forth to my office. That would be the responsibility of the taxpayer – send me a copy of that survey and I can straighten that out separately, O.K.?

Z. Hendrix: The other thing; I don't know, when I'm looking at this – I have part of my address of my taxes at 1442, which is my neighbor's address. Could that just be a typo?

A. Fowler: It's just clerical, I'm assuming.

Z. Hendrix: Yeah, but maybe it's the time for the city – Town of Northport to know that. This is what I found when I went to the books.

R. Duplisea: That's the 911 address, you mean?

Z. Hendrix: Yeah. I am 1436; my neighbor is 1442, so it's like parceled on the books as an error.

R. Duplisea: I will... I have 1436 with the report I printed out.

Z. Hendrix: Right, but then they have me; if you notice, I'm slotted in two delineations.

R. Duplisea: O.K., this is just land...the land, I wouldn't take that – the number shouldn't even exist because 911 is tied just to...

Z. Hendrix: Whatever, whatever. For future reference. And then the land, the property that you are saying is not comparable because it only has river front and it doesn't have ocean front?

R. Duplisea: No, no – it doesn't have any frontage.

Z. Hendrix: It has to Ducktrap. This is...

R. Duplisea: The lot that you reference in your appeal – you see this lot here?

Z. Hendrix: Right.

R. Duplisea: It stops short of the water. You see, this is a family split and they deeded this to one family member – I think a brother, and this to the other brother but all of the frontage is on a different lot. They have rights of way across it to get to the water, but they don't own any frontage at all.

Z. Hendrix: Well, you know, I just wanted to try to get educated about this process. I can't say that I feel totally that I'm comprehending it, but I do, when I look at the big bottom numbers, much bigger properties than me, and my number's the big fat one - \$774, 747, 517 and then the 20 acres is A.P.

D. Berry: Questions?

A. Fowler: Not so much a question at this point but I guess just a comment. My biggest concern when we have abatements come before us is that they are equitable and even for everyone across the books and from what I can see here, you're absolutely right, some of the figures are large; however, I mean, he has shown for a fact that, everyone is, indeed, treated equal. So some might own more land or what have you, obviously it's the waterfront aspect of it that really boots you up there. Any time we're ready for a motion...

D. Berry: Any further questions of either party, either of you? I have none, either. Therefore, they have stated their cases and I am now open for a motion and discussion of the situation.

A. Fowler: I am going to make a motion in favor of the Town of Northport to deny this abatement and I'll discuss it afterwards. W. Shorey seconded.

Discussion:

A. Fowler: I completely understand this lady's point and, as I say, land value being what it is; however, this is one of the best presentations that I've seen so far come before us where there's an actual breakdown. A lot of times we don't get a breakdown where you can see a good comparable study to neighbors with equitable properties and such.

Z. Hendrix: Well, our Northport dollars paid for him.

W. Shorey: And well spent.

A. Fowler: Exactly, because there are a lot of towns that don't and you have neighbors that are completely off the books and stuff so that is my reason for it. You presented a very good case and you have a very good argument.

Z. Hendrix: Just for the Town to understand, as a landowner in Northport and Belfast, we provide housing; we are landlords. Nothing is changing with our taxation; however, to provide housing to this community, we have done rent-rollback. We have done whatever it takes to keep these people housed. So when we come with an appeal, it is very disheartening that there are no ears to hear. But I thank you for your time.

W. Shorey: Thank you.

A. Fowler: If I could just say, I believe I heard you tell Mr. Duplisea that you had had a survey done and you were going to present that or get that to him and maybe you can work something...the problem is, and there was just a delightful article in the paper the other day, we are having more abatements coming before us right straight ahead because back three or four years ago when the real estate market was delightful and people were buying and that's what they were worth, then and right now – buyers sale – you couldn't get it, unfortunately.

Z. Hendrix: Yet the towns are not willing to recognize that.

D. Berry: It's not just the Towns. The State of Maine...

A. Fowler: But also understand it's not just the Town, it's the State of Maine sets a valuation based on real estate and so on and so forth. His hands are tied, a lot of times.

R. Duplisea: Can I? We have to remember the two things I'm responsible for: The first one is equity; the second one is we are not to be excessive in our valuations. And when I go back to the office, I have a long list of people I have to call with just this same answer. The idea that if there is any slipping in values, our numbers have not changed forward or rolled forward since 2004. So it would have to take the property value to decrease lower than what they were in 2004 before I have to start making changes.

Z. Hendrix: [Sound of cell phone ringing] That's my husband wanting to know what happened here, I can guarantee you. There was something I did see in your report, though, that showed a 7.56% increase where the average is not 7....

R. Duplisea: That is the difference between the State's value of the Town of Northport from one year to the other.

Z. Hendrix: Yeah...

R. Duplisea: That State valuation number is, the way they come up with the 2009 State Valuation, they look at the second half of 2006 and the first half of 2007 sales and determine the 2009 State Valuation. So they're 18 months antiquated back...[several people talking at once] I'm sorry – just to finish that thought – our State Valuation for this year is going down 4 tenths of a percent...

Z. Hendrix: Congratulations!

R. Duplisea: ...partly because we lost value with the old MBNA property and partly because things are flat. Again, we have to get to point where we're less than what things were worth in 2004. If somebody's value is off by 10%, the town still needs their \$4.3 million to run, so they've got to still raise \$4.3 million.

D. Berry: O.K. I have a motion on the floor. All in favor of that motion, please signify. It is unanimous. Thank you very much. Thus endeth this hearing.

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