

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 351
RICHARD & MARIA LUCCO VS TOWN OF PALERMO
DECEMBER 14, 2010**

PRESENT: Commissioners Donald P. Berry, Sr. (Chairman), William D. Shorey and Amy R. Fowler. Also present in Richard & Maria Lucco's absence was Michelle Ridley of Reality of Maine and Richard Babine, Certified Soil Scientist. Also present were Defendants Town of Palermo Board of Assessors Darryl McKenney and Simeon (Blake) Brown. Recording the minutes was County Clerk Barbara Arseneau, assisted by Deputy County Clerk Veronica Spear.

County Commissioner Chairman Donald P. Berry, Sr. opened the hearing at 11:27 A.M. Commissioner Berry introduced the County Commissioners, read the rules of the hearing to all present and then the Petitioner and Defendants were sworn in. He asked the Petitioner and Defendants to introduce themselves.

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

Petitioner: Michelle Ridley and Richard Babine

M. Ridley: Richard and I are here in defense of Maria and Richard Lucco. They purchased a property back in 1967. It is a parcel on Sheepscoot Lake it is on page 2. It is .60 of an acre. It has 200 feet of water frontage. It has been on the market for almost twelve years. They are currently being assessed, as I understand, \$104,000.00 for this piece of property. Their taxes this year were \$1,300.00 and based on having a soil scientist there and the grade of the ground, from what I understand, it is currently not even a buildable lot. I am not even getting activity on it at \$49,000.00 listed.

R. Babine: I looked at the property on October 27, 2010 just trying to ascertain if it could meet the requirements of the Maine State Plumbing code, and the item that kicked it out is the slopes range from 30-45% and since 1973, the code has not allowed a building - a septic system - on slopes greater than 20%. So, that kicked it out from that standpoint. I looked into the possibility of a holding tank and called Mr. McKenney and the Town ordinance does not allow holding tanks in the shore land zone. So, from the standpoint of the Maine State Plumbing code, you cannot build there.

D. Berry: Questions Commissioners?

A. Fowler: None yet.

W. Shorey: I am going to let Commissioner Fowler go first, Mr. Chairman.

A. Fowler: I am going to wait for the Town.

D. Berry: Questions from the Town?

D. McKenney: The question that I would have is I understand the slopes are steep within 100 feet of the pond but there is 170 feet of depth. Are the slopes steep, as well, by the road or is there an area that is not more than 20%?

M. Ridley: No.

D. McKenney: So, starting from the road all the way down is more than 20%.

M. Ridley: I took a picture. [Showed photo] Right here is right at the road, and if you notice, it instantly drops right down. There is not even room enough, as I was explaining, to.... If for the allowance of fill, it would definitely exceed one dump truck load to make room for a little parking spot because it instantly drops.

D. McKenney: I guess the only other question we would note is that the evaluation was done in November, not in April when the assessment was made.

A. Fowler: I appreciate all of the paper work. I am curious that we do not have a copy of the deed. When this property was purchased in 1967 it was considered a cottage lot. The definition of a cottage lot is?

M. Ridley: I am guessing to be honest I don't know for what it would have met back in 1967.

A. Fowler: As I have learned everyone has their own terminology for something. I was curious as to what defined a "cottage lot" and at what point it was discovered that it wasn't. In 1973 the law changed and made the land unbuildable and used only as a picnic table. Do we have a copy of this law where it has changed and made it unbuildable?

R. Babine: It is a statewide external plumbing code.

M. Ridley: I can get a copy of that.

A. Fowler: That's O.K. I could probably figure it out. We don't have a copy of the deed?

M. Ridley: Actually, I do have one but Richard and I didn't think it was relevant because it didn't have any depth or description of 200 feet on the water front. I can get that.

W. Shorey: I have a question. This piece of land has been owned for some period of time and it makes reference to this deed as cottage lots and I am wondering - when it was purchased - if anyone did any research to find out what they could build there?

M. Ridley: When she purchased it in 1967 it was claimed to be a buildable lot and there actually are some houses down here on these lots.

W. Shorey: I don't mean to interrupt you, but I am not claiming one thing from a seller and going to a Town when you buy something and say, "If I purchase this piece of property, can I build a building on it?" That is the type of research I am talking about.

M. Ridley: I don't know what she found out in 1967 when she purchased it.

W. Shorey: It would appear that question was not asked because it says the original deed states "cottage lots" but I guess a deed could state anything in there.

M. Ridley: But every agent that has it listed before me was that it was a buildable lot, and then it just referenced in part two of it to "please contact Darryl McKenney."

W. Shorey: Let me ask the question of the Town. [To Mr. Kenney] How long have you been with the Town?

D. McKenney: 28 years. I was born in 1962 and I started in 1982.

W. Shorey: Do you ever recall anyone coming to the Town in those years and asking you if this was a buildable lot?

D. McKenney: I do not recall the owners; certainly people who have looked at this lot have questioned what they can do, and I guess when you say "buildable" - you can put a camp on that lot. You can't put a septic system on that lot. So, is it buildable for septic? No. For a cabin? Yes. It depends on who the person is and how they want to use it.

W. Shorey: Where this is, is there a road that divides the land?

D. McKenney: Correct. Basically I will pass out [information] whenever you are ready for our side. There are maps and I will explain it a little further whenever you are ready.

D. Berry: Are there any further questions? (There were none.)

DEFENDANT: TOWN OF PALERMO

D. McKenney: What you have now is the packet from the Town. The first is the valuation report and we use the TRIO system. They were assessed at \$104,000.00. We did reduce it 20% because there is no power in this area, which brought it down to \$80,000.00. That would be for 100 feet of frontage and this lot has 200 feet, and the extra hundred feet at \$300.00 per foot at the 80% is 24, and that is how we arrived at the \$104,000.00. They did appeal this in September and you will see the note below that we reduced it to \$74,000.00. So, we are currently assessing them at \$74,000.00 and we did knock \$30,000.00 off at our mil rate. The back side will show you the new calculation of \$74,000.00. Basically, we reduced the factor down to 50% because it hasn't been built on yet. The next sheet is our tax

map, noted as Map D5 Lot 5-7. That is the road that gets you down to the lake but there is no power. There is a road; the latest Lot 5-23 has a brand new home like any one else's. It's generator and septic and you could get down there. The back of that sheet shows you the original 1967 subdivision. It is a grandfathered subdivision. They can be sold individually as lots. They are only 50 feet wide. The only sales in the area you will note was Lots 13 and 14, and the neighbors purchased that, was \$30,000.00 and split it between them. There are basically 7 lots along the lake that makes up all of the lots. The only other sheets that I provided you with, which would be D55-3, which has a camp on it assessing at \$80,000.00 for the base lot; and the lot on the other side has a camp on it and that we have at \$80,107.00. The only other thing that I would state is that we did not have any site evaluation at the time of our review of this. If you look at the survey portion, it is 140 feet on one side and 170 on the other and we didn't know if someone could get on in there or not. I will note that we have had another lot - nothing against the soil evaluator - but we had another lot on the other side of the lake that Jack Lord from China came in and said, "You cannot get a soil test here who is a site evaluator" and then Jamie Marple from Liberty is a site evaluator, put them in a system. So, I guess it is how constructive and how much you want to spend. Obviously there is no power; there are outhouses.

W. Shorey: I am all set right now.

M. Ridley: Just to reference the property that has the brand new house on it, they sold that lot for \$10,000.00. It is a very nice house. It is not quite on the waterfront and this one being on the water front, what would one be allowed to do as the grade of it literally goes straight down. You cannot walk down the steep unless you are hanging on to trees. So, what would one be allowed to do to make it? I know the fill allowance is limited as it is shore land zoning.

D. McKenney: The set back is 100 feet. Basically, you can have a path to the shore. So, you could put a set of steps down that hill and do a winding path to your dock - presumably that is how you would get to the shore. As far as up top, if you have to get back the 100 feet, you have to have a structure.

M. Ridley: How many feet from the road do I have to be?

D. McKenney: You are supposed to be 10 feet from the property line.

M. Ridley: So, now I have to come back 110 feet and I only have 130 feet on one side.

B. Brown: I would like to clarify that 10 yards of fill. That is without a permit. You can apply for a permit to do more either with the Town, or DEP, or both.

A. Fowler: I think, again, this is like a lot of cases. I think value is "all in the eyes of the beholder." Whether someone wants to make it nice camp with an outhouse verses someone that wants power and septic...

R. Babine: Even with an outhouse you have to get rid of the water. You cannot legally do it on this property. From the State plumbing code view, the only thing that you could really build on this is basically a gazebo; someplace to go and look at the lake.

A. Fowler: To someone that could be valuable.

R. Babine: It is “in the eyes of the beholder,” but I don’t think too many people will pay.

A. Fowler: So, the Town of Palermo has decreased the value to \$74,000.00. When did you do this?

D. McKenney: September for one year. Again, we did not have a site evaluation at that time so we will take that document back and look at it for another year and I am sure we will reduce it further down.

M. Ridley: I understand you saying the value is in the eye of the beholder. I completely understand that because I sell real estate. But this property and it should sound so elaborate, “200 feet, Sheepscot Lake; beautiful, tucked away, a little private road.” But it is totally not the belief. When you go there my concern is you might be able to put a gazebo on this lot, but that is after I have to go through all of DEP because the slope is so much down-graded. DEP is probably going to kick me back out. What they are going to do is referenced in the beginning - a “picnic table lot.” Do I think \$74,000.00? I would greatly appreciate you going back to readjust it. Due to the complications in this lot, that is why people are pulling away from it. That is why I had a soil scientist there because it makes it a little more salable, but there is no beauty in this one. It’s too bad because it is 200 feet of shore frontage not usable.

D. Berry: Any further questions?

A. Fowler: Again, I think when we look at abatements we have to look at whether or not the Town is adhering the same standard to everyone across the board. It sounds like this lot would be an interesting survival challenge just to get to the water. To somebody, evidently, it was valuable or important enough that they purchased it back in 1967 with some dreams and hopes and whatever. But I have to look at that if the Town of Palermo is assessing all of these properties on Sheepscot Lake “prime” real estate. I bet anybody that pays taxes in Palermo is kind of kicking and scruffing about that “doggone Sheepscot Lake” because it brings everybody’s value up as it is prime real estate. Therefore, being lake frontage, I greatly appreciate the fact that the Town accepted responsibility and dropped the value of it. Thank you.

W. Shorey: It sounds to me like the officials from Palermo are willing to have a future discussion with the folks that own the lot. I would look at that as a positive thing.

D. Berry: I agree with you completely. I think with the information that is there and with the Town's statement to us just now, I think there is some credibility here and change. With no further questions I am going to close the hearing on this case.

A. Fowler: Back to my ramblings before I think the Town of Palermo is more than improved and they are fair and even! They do their homework and I greatly appreciate that. They are willing to work with the taxpayer, which is huge. You don't see that in a lot of communities, so I appreciate the fact that they have looked into this and I feel confident that they will look again.

D. McKenney: We can even go back and ask the Board to reconsider it this year. They may for this year, but definitely for next year.

M. Ridley: I was just going to say that I very much appreciate Darryl's comeback because I wish that I was the agent that had this 10 years ago, because I would have pushed the Luccos to have this really looked into. So, yes, he has been on his game and he did give them the adjustment, so I was quite shocked that we would have ended up here, as they had already started to take action.

****A. Fowler moved, W. Shorey seconded to rule in favor of the Town of Palermo.**

Discussion: W. Shorey: I think we have two parties that can work out some type of a reasonable solution. Both parties seem willing to discuss and that is a real good thing. I appreciate the efforts of both parties.

D. Berry: I agree with you completely. I look at this and being a shore land owner who could build, no problem, the State of Maine has changed laws over and over again on people who buy property. These people bought property in 1967 thinking they could be able to do something with it. Then comes the State of Maine and now you cannot do anything. Sure, whatever you did would be minor. The only way you could escape is to find someone to sell your land to be able to deal with that. So, even though people buy things in good faith, as Towns we end up taxing people "buildable," etc. I think what we see here is an understanding by the Town that it is not buildable and there needs to be some adjustment here. What I see and hear today is willingness of the Town and I would encourage that they take this action soon, and maybe not wait until next year; and especially the soil scientist, which I have great respect. I would encourage Towns to take a look all over on unbuildable lots and sensibility of taxing on an unbuildable piece of land. What value is it, other than just pretty? I am willing to go forward with this motion and hope that the Town would take action sooner and clarify this whole thing. Any further comments? [None] All in favor of the motion? **Unanimous.**

Respectfully submitted by _____
Veronica Spear, Deputy County Clerk