

**WALDO COUNTY COMMISSIONERS COURT SESSION
TAX ABATEMENT HEARING PETITION NO. 361
DEBRAJEAN SCHEIBEL VS TOWN OF BURNHAM
DECEMBER 11, 2012**

PRESENT: Commissioners William D. Shorey (Chairman), Amy R. Fowler and Betty I. Johnson. Also present were Plaintiff Debrajean Scheibel and her husband, John Wilson along with Defendant Town of Burnham Selectmen, Bruce Cook and Stuart Huff and Assessor Matthew Caldwell. 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:

J. Wilson: We wonder what the criteria is for assessing. We would just like some clarity on that because as we understand it, the property is only capable of supporting one house lot and there is a house on it. The taxes here seem to be higher here than taxes elsewhere with similar properties.

W. Shorey: Is that, in essence, the case you want to present at this time?

D. Scheibel: When I looked at the various pieces of property around Burnham, and most particularly the general area where my lot is, there are discrepancies in the way properties are assessed. One particular piece of acreage is .75 acres with a building on it and their taxes are \$2,470.00. Another comparable piece is \$3,651.00, an 8.75-acre piece with about the same amount of shore frontage as mine and the taxes are \$185.25. One piece is 8.20 acres and the taxes are \$79.63. My argument is that my acreage is unbuildable. I cannot do anything other than this house is on it. I had to build a road in order to get on the property because 10 months out of the year the property is under water with the exception of where the house sits. I can't do anything else with the property. The discrepancies of how the property is assessed have no logic. I appreciate that taxes need to be paid and am happy to pay taxes but there needs to be equity and a methodology for how things are assessed. When we asked why taxes are going up, we were asked why we were complaining – “You have 3 acres of water front property.” Again, 3 acres of property that is underwater. (Ms. Scheibel distributed photos of the property since the recent storm. (Exhibit A)

J. Wilson: The property is essentially unusable except for this one area. It actually flooded a few years ago. It's nice property for turtles and fish and frogs, etc., but there is not much use beyond that.

A. Fowler: Has there been any discussion with people at the Town office regarding this matter? Has there been consideration of putting the property under "wetlands"?

D. Scheibel: I spoke with the Town Clerk and was told to file for an abatement with the Selectmen. I did this and it was denied.

B. Johnson: Was this in the form of a letter? You didn't appear before them?

D. Scheibel: No, they did not tell me when they were meeting, I did not hear from them after I sent my letter with my abatement request. I got the response in the mail two weeks later telling me that it was denied and that I had the option to bring it to the County Commissioners.

B. Johnson: When did we receive the request for a hearing from the petitioner?

B. Arseneau: November 14, 2012 (later it was determined that the original letter was received on October 24, 2012.)

B. Johnson: It's customary that when you request an abatement, it's like a hearing, somewhat like what we are doing now. You tell the assessors how you feel and why, and they either deny or accept. It seems strange that you didn't get a hearing.

W. Shorey: Can you give us a little bit about this property? How long have you been on it? How did you acquire it?

D. Scheibel: I bought the property about 12 years ago. I decided that I wanted to have a house on the lake, so I bought it. I did not use it until the last two years.

J. Wilson: It was originally a hunting camp. A man would come from Portland to hunt and fish. Before we had a road put in there, in the spring, I had to borrow my son's hip boots. It's quite isolated.

DEFENDANT:

M. Caldwell: I am on call with the Town of Burnham. I get called in on when they have a certain amount of work. Burnham had not been through a revaluation since 2006. At this time, everything was brought up to fair market value. Building and land scales were upgraded. (He submitted folders with information including Exhibit B - Map #19 and Exhibit C - Map #20).

Topography issues have been taken into consideration and have always been taken into consideration. In Burnham, we want to know how many waterfront acres there are. (Provided a figure example). Base lot value is typically the most valuable and expensive portion of your land value. (Referred to a Valuation Report - Exhibit D). Theirs is 270' of frontage, but only assessed at 30 feet of the frontage and never have assessed for this. The base lot is 68' of frontage. Everything else (1.56 acres) is classified as rear land. If you have a functioning well and septic system, which are lot improvements, they are valued as a \$9,000.00 improvement on average. Everyone is assessed this amount if they have a working well and septic. The area to the north is lesser value than you and the area south is higher value. Your lot is getting the greatest reduction of all of these lots for topography issues – on both sides of you. Lots 19 and 20 have been deemed unbuildable. Those are the lowest taxed, even though they are waterfront and higher elevation, for whatever reason.

D. Scheibel: I asked if I could raise the height of the house and was told I could not do so as the property couldn't handle it.

M. Caldwell: This isn't an assessing issue. That's a code enforcement issue. All I am required to do is be responsible for valuation.

Wilson: So, essentially, you are saying that with the exception of the area where the house is, the property is unusable except for visual pleasure?

M. Caldwell: Correct. We're reducing everything for the fact of the wet issues. All are being treated as water frontage. We looked at their request and could not see any rhyme or reason to their request. The land is \$82,300.00 and the building is \$31,700.00. When taking off \$52,000.00, leaving us with \$62,000.00, then you subtract the building from that; you are looking at a \$30,000.00 land value. That is a full cottage with running plumbing and a heating system.

D. Scheibel: When you look at the property across the stream, a much smaller piece, taxes are a little higher, but it has more property and has two levels. My rationale is, I have less than a half acre that is useable.

M. Caldwell: There is a higher valuation on the land of these people. They have 110' of water frontage, with land valued at over \$100,000.00 whereas your land is 82'. There is a 15% discount on the other property whereas yours is 35%.

D. Scheibel: Why are there different rules for different people?

M. Caldwell: A couple of different things happen during a re-valuation. (He had brought a number of maps and showed the Plaintiffs.) We have to bring land and building schedules to current market value. We re-price all buildings, apply the new physical depreciation to all buildings and this gives you one of your knows. When applied to new building, we take

sales, subtract building value from the selling value, and this leaves them with the fair market value of property. That is how the base lot values are determined.

D. Scheibel: So, with that rationale, the front acre is the most valuable. So a base lot is \$82,000.00? Not even an entire acre.

M. Caldwell: On the lake, this lot has a valuation of \$82,300.00. Fair market value of this property that was set in place in 2006 would have been \$114,000.00. We have to use the same methodology, and then we have to reduce it.

A. Fowler: How long have you owned this property? Has it always been this wet or did this just happen?

D. Scheibel: 12 years. When I asked the owners if it ever flooded, they said no. It has flooded every year since I have owned it.

J. Wilson: So, whatever someone is willing to pay is what sets the fair market value. What can be done to the property to lower the taxes or the assessment? Declaring some of the land unusable....would that do it?

A. Fowler: Many towns don't work with their taxpayers the way this one seems to be. The Commissioners see many towns that don't work with the landowners as these folks have. What you keep saying is a non-value of the land, others may see that as amazing wildlife; primitive and quiet. We all see value differently. I am pleased to see that you have taken the time to research all of the camps or homes in this area and give them appropriate discounts for the problems.

W. Shorey: How many feet are you considering as useful waterfront?

M. Caldwell: 238' is what we are using for the affective frontage. We are reducing all of that by a certain percentage.

W. Shorey: Maybe the Plaintiff has a point of complaint.

M. Caldwell: Again, that's based on the first .34 acres of waterfront property as considered the most valuable part of the property. The first 68' holds most of the land value. (Referred to the map.) Lot 20-9 has only 85' of water frontage (.42 acres), so we have .29 at \$180,000.00 and 15% off for the topography is \$82,400.00. (He went on to explain other valuations).

D. Scheibel: The point I'd like to make is that even though I have 200' of frontage, most of it is under water. The only reason I am able to get to my property is because I raised a road up. It is wet all around that.

(There was more discussion between M. Caldwell and D. Scheibel on the condition of the land.)

B. Cook: If someone offered you \$114,000.00 for your property, would you take it?

D. Scheibel: No. I wouldn't. It is not for sale.

B. Cook: I'm not an assessor; that is why they hired a professional assessor.

A. Fowler: I commend the town for making the discounts. Speaking as a former selectman, shame on the Burnham Selectman for not communicating and not letting them know when the hearing was. Someone dropped the ball there.

(Both Selectmen explained that they are open to the public every Monday night. They always call the assessor to look at these appeals and it can take a little while before he can come out and look at things.)

J. Wilson: The Town Office should have guided us more firmly and I applaud the work that has been done.

B. Johnson: It is too bad there wasn't more guidance from the Town. It also looks like they had more than just tax abatement questions but also building questions.

(Conversations back and forth about the duties of the Town Clerk and their functions and whether or not there should have been notice of the hearing.)

W. Shorey: You have a large piece of land compared to others and I feel that you feel that you are paying a high price for land you can't use. My question is...if you bought this camp originally, it was sitting on .5 acres, and the places around it were \$80,000.00 to \$100,000.00, would you be here today?

D. Scheibel: That's a hard question. Given that I was led to believe it was more than it was, I may not have bought it. I bought it because of its privacy and the size of the property...the acreage. I had no idea that I would not be able to use that property in the way that I would liked to have. I can't put in a septic system. I have a holding tank, which I have to have pumped out continuously.

W. Shorey: I think that perhaps the Town could have resolved this with the Plaintiff prior to it coming here. I think this issue can be solved in a way that is fair and equitable by having a workshop.

A. Fowler: I agree, Bill. I think that Burnham is ahead of many other Towns in terms of having an assessor that is very knowledgeable. Nobody else is going to give you a discount unless you fight for it.

B. Johnson: This is shore frontage and the percentages seemed to be equitable for the frontage property. There is a cost for shore land property, whether or not it is flooded.

****A. Fowler moved, B. Johnson seconded to deny the appeal as requested. Passed with one opposed. (W. Shorey.)**

The Commissioners encouraged the Town to work with the Plaintiffs and for all to communicate better in the future.

Respectfully submitted by: 
Waldo County Clerk