

DAVID BAKER vs. TOWN OF TROY
TAX ABATEMENT HEARING PETITION #334

September 11, 2007

10:00 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 David Baker along with Defendants Town of Troy Assessors Agent Elizabeth Morin and Carroll Weeks who is an employee of Hamlin and Associates. Also present were County Clerk Barbara Arseneau, Deputy County Clerk Veronica Stover, and members of the press.

Commissioner John Hyk opened the hearing by reading the rules of the hearing and then the Petitioner and Defendants were sworn in. Commissioner Hyk asked those present to introduce themselves.

David Baker introduced himself, stated he lived at 863 Detroit Road in Troy and that he was present to discuss a property tax issue and request an abatement. He added that this was his second or third time requesting the same abatement and he had gone the procedure of requesting [unintelligible word] from Ms. Morin and the Town of Troy. He was now approaching the Commissioners about it.

Elizabeth Morin introduced herself as the assessor's agent for the Town of Troy and has worked for Troy since 1988. She stated that she has done several revaluations of the State of Maine and her company is the assessor's agents for several towns in Maine.

Carroll Weeks introduced himself as an employee of Hamlin and Associates, C.M.A., for three years.

J. Hyk: So we don't have a municipal officer from Troy.

C. Weeks: We don't have a representative/selectman from Troy.

E. Morin: No, they weren't able to come today. I'm their representative today.

The Petitioner was allowed to speak first.

PETITIONER:

D. Baker: May I pass these to the folks, and I'll go through it verbally, as well, but it's a summary of the points I'd like to make regarding this tax abatement hearing?

J. Hyk: So this is something that we don't have, is that correct?

D. Baker: Yes. You don't. I'm sorry – I probably don't have enough copies for everyone but enough for several people.

B. Arseneau: I think you do. Thank you.

J. Hyk: That's fine.

D. Baker: The main point that we are trying to make is that our assessment is too high; we believe that it is too high. Based on what we understand to be the guidelines for the assessment is to assess the property's market value. I don't think - and it is our opinion - and in point one, that anything more accurate than a recent sale could establish the property's market value. And to go further into that, we paid \$200,000.00 in total for this property and it has been assessed at \$228,350.00 which is a \$28,350.00 over the price that we paid. Those, incidentally, were both done on the same date; the date of the sale and the date that, apparently, the town of Troy sent out the assessment and new tax notices. The property was for sale - trying to establish its value - the property was for sale for two years - more than two years - and continually dropping the price until finally we purchased it. And, actually, we purchased it for \$1,000.00 more than the asking price at the time. And although the assessment seems to have been based on a cost estimate from what I gathered here and speaking to Liz [Morin] on the phone. I don't think the cost estimate, apparently, from what I gather here and then speaking to Liz [Morin] on the phone, here, I guess that's the case, and I don't think the cost estimate takes into account anything to do with market value. It seems only to take into account the established guidelines for such as an insurance company might make for your home in establishing a value is replacement cost. Something of that nature, it's, I believe, it's similar to that. Liz [Morin] will no doubt explain in perfect detail, I hope. That's the way I understand it and that's what I can get, all I can gather from the assessed assessment, what we have received from the town. In that assessment there's also no allowance made for the conditions which would be detrimental to the cost or value of the property, as far as I can see. If they are, they aren't mentioned there. So, there are items or issues which I believe are detrimental to the value and those are, for one; there's a large bog right behind our house within 100 feet of our house. That bog essentially cuts off access to the remainder of our acreage. It is, I believe, it was mentioned by the real estate person who is selling the house for the seller to my agent who is representing us that that had been an issue with a number of people who looked at the house. And there's no mention of that anywhere as far as I can tell, or allowance made for it in this assessment. There's also, as I understand it - now, I'm not - I have no official knowledge of this, but I understand that property values have declined state-wide as well as nation-wide in the past year or two. And there's no mention of that in here; actually, this assessment raises the - increases the value - assuming that there was an increased value in the property. So, I believe from what I have heard, that's not the case. The case was that properties' values had, in general, declined. And possibly, from what I've heard, as much as 15% in 2006 - and the State of Maine, so that's generally my case and the points that I wish to make for you.

J. Hyk: Thank you, Mr. Baker. (To the Defendant) Do you have any questions for Mr. Baker?

E. Morin: No, I don't at this time. Thank you.

J. Hyk: Any questions? [To the Commissioners.]

A. Fowler: No. Not right now.

D. Berry: No.

J. Hyk: O.K., thank you. [To the Defendant] Would you like to make your case, now?

DEFENDANT:

E. Morin: O.K. I put together a packet of information for you folks regarding this abatement concern. (E. Morin passed out the packets.) I've got two left if anyone else wants one for the record.

B. Arseneau: Thank you very much.

E. Morin: Mr. Baker and I have had several conversations over the course of the last few months concerning property taxation in Maine and how it's put together. I had hope I'd done a little better job explaining some of the things, but perhaps we didn't. In any case, the opening letter here is mostly a history of how things went together. Mr. Baker's told you folks already that he paid \$200,000.00 for the property. We did have several conversations concerning how this assessment was done, here. Mr. Baker did apply on January 31, 2007 to the town of Troy for an abatement of his taxes and I have enclosed a copy of that abatement request for your perusal. At that time Mr. Baker did not mention an issue with swamp land on his property. I was unaware that it might be as vast as he's telling us that it is. I did do comparisons on other properties in Troy that would be of similar size and sale values, or assessment values that are similar to his and those are included here. I have also included a copy of the most recent sales ratio study that was performed by the Bureau of Revenue Services. That is simply to show that in Troy right now we are only at 69% of the market value – assessment value - according to the Bureau of Revenue Services. We are in the middle of a two-year revaluation; actually it is coming to a close right now and hopefully any issues like Mr. Baker's or any others will be settled during our hearing time. I have mentioned at the end of this letter that additionally Mr. Baker's concern with his land is due to wet areas. I had asked Mr. Baker a couple of times to please provide me with some kind of documentation for the reduction of his land, or reduced value. The documentation requested is not to irritate anyone but just so I can have that on file when the neighbors, his neighbors or any person in Troy comes in and says, "Why did you reduce Mr. Baker's value?" I can say, "Here – here's proof that he has swamp, bog, wetland or whatever." So that's basically what's in the opening – the cover letter – on this. Then, as you go through this packet you will see all have a copy of Mr. Baker's original abatement request to the Town and I believe, yes I do have it – it took me a while to find it but the last page in that section is my reply to the Town; my recommendation that they deny his request and the reasons for such. The next section I have included are copies of Mr. Baker's property record cards as it stood on April 1, 2006 and if you look at that you'll see it's still assessed to the Rogers who owned it April 1 of 2006. I hadn't had a chance yet to change that owner information. In the year – for the year 2006, as part of this two-year revaluation, we redid all the bids and

we're doing the land this year and are going to put it all together. If you see, as you follow this property record card down through, we try to keep track of changes and why those changes occur. Mr. Baker's house; not only did we do an across the board factoring for all of the structures in the Town of Troy in '06, but as we were going through this we also see that a deck and the basement entry had never been added in, which gave an increase of \$2, 820.00 for that issue. The back of that property record card is the information concerning Mr. Baker's home and the sketch. Those numbers that you see here on the back of the property record card correspond with the Maine State Assessment manual, which is what we're using in the Town of Troy for valuing the properties. The page is, again, the extra acreage that Mr. Baker is discussing. The 70 acres shown there, it is assessed as "contiguous" with the first piece. It does not show any waste acreage because we were unaware that there was any there.

The next page is the declaration of value; just as more evidence of what Mr. Baker did pay for the property. Then beyond that in the next section are just some constructors that I pulled just to put together to show basically that everyone is – we're using the same yardstick for everybody. We're using the Maine State Assessment manual; the properties are all measured, photo, graded and assessed according to the story height and whatever in the Maine State Assessment Manual. So that first one is just a comparison so that you can see how things go together. The second one – I pulled and you'll see some in some red ink on that. It was actually coincidence when I pulled this card. We were working on the deeds at the same time, Carroll was, and we found that this one had sold for \$285,000.00 in September of '06. So I just put that in so you could see our assessment in '06 was \$232,000 turned into \$50,000.00 and sold for \$285,000.00. The next one is just more of the same kind of information just to size a similar size and how it's put together. The next one is a two story structure, which does have the barns and whatever. Mr. Baker has a big chicken farm on his property. So just more information, there. That one also sold in May of '06 and as you can see it, the '06 assessment at the bottom right of that page where we were at \$201,000.00. The next section is the ratio study as performed by the Bureau of Revenue Service and that's just evidence to show that the Town of Troy was at 69% in its assessments between the sale prices and the local assessed values. It said we are at the end of a two your "reval" and I believe that Carroll was working on it yesterday and he told me that our new numbers are coming up somewhere between around 94%. And the next session I just included because I have talked with Mr. Baker a couple of times and asked that he give me – he said that he couldn't get any help from the County Soils Office as far as helping him determine what portions of his land are wasteland or now many acres there are and he called and asked if I would accept a photo, so, yes – and to date, Mr. Baker said he has them with him today, I guess. So, I guess that's really all I have – if you folks have some questions?

A. Fowler: She answered all my questions.

J. Hyk: Well, I have one comment I'd like to make. It's nice – the presentation of both parties is very good. To have something like this [referring to the packet provided by E. Morin] is very helpful because lots of times we, you know, the Town comes in and they

say, "Here's this and here's that," and it's a lot of hemming and hawing. So this is very, very good material here.

D. Baker: Well, please excuse the fact that it's not very formal and I had no idea what to expect until actually I spoke to someone here this morning. I had no idea that this was a...

A. Fowler: Oh, no! No! All we mean is a lot of times paper's being thrown across the table as we go.

D. Baker: I would have had something typed up and maybe something more presentable.

J. Hyk: No – no, no. What you presented is very presentable; very readable, very presentable. Do you have any questions?

A. Fowler: I can't remember now if it was in the book...

J. Hyk: I'm sorry [to A. Fowler]. Do you have questions? [To the Plaintiff.]

D. Baker: I do, yes. I have several questions. First of all, the properties shown in here; if you'll look at the photos, I think these are all much nicer properties than what I have. I think all these homes are much nicer and they're not particularly comparable. So, if the first property, based at \$199,000.00 has what looks like a two-story, yeah, possibly a two-story – ours does not – a three-car garage – ours is a detached two. The second property shown at \$232,000.00, which is closer to the value assessed on our property, is in no way comparable. It's a two-story home with an attached garage and it looks like quite, quite a very nice house, it looks like. Much nicer than ours, as far as I'm concerned. Same goes for the following properties. I don't believe they're very comparable at all, even though they may be assessed at near, somewhere near the value of ours. The second thing I'd like to ask of Liz – is it all right if I call you Liz [to E. Morin]?

E. Morin: Elizabeth is fine, yes.

D. Baker: You said all properties were done the same way. If that's the case, I'd ask then, did all properties in Troy increase their assessments by approximately 30%, as ours did? If they were done the same way - all done the same way – there was, I would say, ours was at least 30%. Did everybody's?

E. Morin: For the tax year 2006 the across the board factoring, I mean if you just took the numbers that we had – um, I can't remember what it was – 1.25, I believe. I believe it was 1.25, the factor that we used.

D. Baker: Yes, I saw that.

E. Morin: So the simple answer – yes everyone – every building did experience that factored increase for the year 2006.

D. Baker: So, everyone?

E. Morin: Yes.

J. Hyk: Well, if you look at this property – the George – that was owned by Klein - in '05 the building was \$113,000.00 and then in '06 it was 2011, so that's showing me that that one went up a lot.

E. Morin: Well it had, in 2005, it wasn't completely finished. This particular property experienced more of an increase because when I reviewed it for the tax year 2006, it had been completed.

J. Hyk: O.K. And the next one in '04 was \$81,000.00 and in '06 was \$119,000.00.

E. Morin: Um hum.

J. Hyk: Having been completed.

E. Morin: That was complete. That particular one, yes, was completed.

A. Fowler: May I ask a question, Mr. Chairman?

J. Hyk: Sure.

A. Fowler: Elizabeth, if I may?

D. Baker: That looks as though it went up approximately a little less than 20%.

A. Fowler: The request of the abatement that this gentleman is asking for is \$28,350.00, which is the increase in which went onto the \$200,000.00 which he purchased.

D. Baker: Right.

A. Fowler: It's my understanding from you [E. Morin] that it was after the fact that you discovered that there was a large deck and above-ground pool and that is what brought the property value up to \$28,000.00.

E. Morin: That's, that's contributed to that. That plus the factoring that we did across the board.

A. Fowler: Of the revaluation of the entire town.

E. Morin: Yes.

D. Baker: I believe – excuse me – I believe the deck was accounted for in the previous assessment. There's a sketch, at least, in the original plan that I have, even, a sketch of the home. There is a deck shown. This one also shows an attached garage which is not the case. The dimensions are approximately correct, but it is not attached to the house. This shows also [unintelligible] that porch in front is about correct, but I believe the deck that you mentioned was accounted for in a previous assessment. I might mention also that the assessed value of the house declined somewhat for a few years after this house was built. Not very much, but a little, and then all of a sudden in 2006 it increased by some 30%, I believe it was, was my calculation – something near that. I don't have a calculator.

A. Fowler: When the house was for sale, was there anyone living in it, or was it vacant?

D. Baker: It was lived in.

E. Morin: I'm really not sure.

D. Baker: Yes. Yes. And as I mentioned, it was for sale for two years. That helps establish a value. I mean, uh...

A. Fowler: Real estate-wise it helps establish, and I – but if something's valued, it is what it is. What might be very valuable to me might not be as valuable to him [one of the commissioners.]

D. Baker: That's true.

A. Fowler: So you have to be careful there.

D. Baker: Absolutely. The same goes for this replacement value. This replacement value, or calculated value, that was used all over the town is not necessarily reflecting market value. For instance, let's take a brand new house as an example. A brand new house might be built for, let's say, \$200,000.00. And that was the builder's cost to build it. He may not be able to sell it for \$200,000.00 because he put it next to a junk yard.

A. Fowler: A bog!

D. Baker: A bog. Whatever. And what I'm getting at is those standard formats do not reflect market conditions. And I think, unless I'm really wrong here, that's what we're after is market value, not a standard replacement cost.

A. Fowler: I also believe that assessors have to go by the figures and the numbers that are dictated down to them by the State. They have to take the figures – stop me anytime – they have to take the figures of the real estate that was sold, you know, and there's a configuration in there, and I don't know what the numbers are. I mean, they can't just pick a number out of the air and go with it.

D. Baker: Well, uh – excuse me. I don't mean to interrupt.

A. Fowler: No, do.

D. Baker: The market price is what we're after; is that correct? The market value? Is that not what the taxes – the property taxes in the State of Maine and Town of Troy are based on – supposedly – based on the market value?

A. Fowler: No...

D. Baker: Then all I'm asking, here, is that the market value not be ignored. It may not be correct to copy it, but it also wouldn't be correct to ignore it, I don't think. It has to be factored in. I would think if we're really after the market value.

E. Morin: If I...If could just...

D. Baker: That house – if I tried to sell it today, I might not be able get [unintelligible word] for it.

J. Hyk: I need to interrupt here because what's beginning to happen is we're having a free-flowing conversation around a lot of different concepts and that's not what we're going to do here. What we're going to do is we're going to conduct a hearing where you've made your presentation [the Plaintiff] and you've made your presentation [the Defendant] so the Commissioners are going to try to reach a decision based on their questioning now. So I would just ask you to, in answering the questions, not to make a second and third presentation...

D. Baker: Oh, I'm sorry.

J. Hyk: Just to try to answer the questions.

D. Baker: Sorry.

J. Hyk: That's quite all right – it's a natural – I think it's a quite natural tendency and these are matters where a lot of people have different opinions on how it works and how it should work. So it's quite understandable, Mr. Baker. I wasn't admonishing you; I was just trying to get things back on track.

D. Baker: O.K.

J. Hyk: Don?

D. Berry, Sr.: I have one question of him [the Plaintiff]. How long is the statement to the assessors about this bog behind your home been going on?

D. Baker: From me?

D. Berry, Sr.: Yes.

D. Baker: Well, the last time I spoke to Ms. Morin was three/four months ago, I think. The last time was here [pointing to documentation]. But if she visited the property and walked around and saw that deck, the bog is right there. It's less than 100 feet from the house. Anyone could see it. I mean, it doesn't take a survey or anything to see it. It's right there and obvious and certainly visible from the deck or any place behind the house.

D. Berry, Sr.: O.K.

J. Hyk: [To A. Fowler] Yes?

A. Fowler: Was the bog there when you purchased the property in July of '06?

D. Baker: Yes.

A. Fowler: You were familiar there was land not as valuable, in your opinion...

D. Baker: Yes.

A. Fowler...and you were familiar with that when you bought it '06?

D. Baker: Yes.

J. Hyk: Liz? Elizabeth – I'm sorry. Can you try to help me – it's my recollection that even though someone paid a fair market price - an arm's length transaction – that, is it true that – I know it's true that you have to look at that – and you do look at that – but the other thing that's you're supposed to be doing is keeping some kind of parity between the properties in the town and in the area.

E. Morin: That is correct.

J. Hyk: Some equity.

E. Morin: Equity, yes.

J. Hyk: Some equity between them. Can you help just explain to me, if you would, why the value of this house is on the books higher than what the gentleman paid for it? You're knowing what he paid for it, too, and yet you stuck your neck out and said, "Well, I'm going to – this is what it should be assessed at." Would you explain that a little bit for me?

E. Morin: Number one; we're using the Maine State Assessment Manual which has grades and understand we have to go through all of that...

J. Hyk: You graded – when you graded the building out.

E. Morin: We graded the building accordingly. There's also a large chicken farm there. I did not necessarily consider Mr. Baker's sale an arm's length transaction because the people who owned the property prior to Mr. Baker; they built it - I can't remember – maybe eight or ten years ago – and probably four years ago they were divorced and the divorce decree said that they had to sell the property. So in my opinion, I did not consider that an arm's length sale, even though they'd taken two years to sell the property and they started out asking a lot more originally when they first put it on the market than what Mr. Baker paid for it. In my experience, those kinds of sales we do not consider a total arm's length transaction sale. Am I answering your question or muddying the waters?

J. Hyk: You're answering in part. You're trying to tell me how you arrived at what you arrived at knowing it was more than what the gentleman paid.

E. Morin: Yes.

J. Hyk: Which I – so you'd just done that?

E. Morin: Well, no, that happened in '06 prior to Mr. Baker purchasing the property. Additionally, I did not have any consideration for any swamp land on that property because there was no concern from previous owners concerning swamp land. They didn't come in and ask or try to show me how many acres there are there or anything like that so all of that land was assessed at a useable land rate – I think it was \$803.50 or something – I can look it up. It was assessed as useable land and not swamp land. I spoke with Mr. Baker on the phone and told him that, you know, I'll change it – I just need some proof as to how many acres there.

J. Hyk: O.K. How many acres are there total?

D. Baker: 93, I believe.

J. Hyk: Any idea how much of it is bog?

D. Baker: No, I don't.

J. Hyk: And the abatement isn't based...

D. Baker: That's their percentage of it...

A. Fowler: The abatement isn't based on that?

J. Hyk: The abatement isn't based on the bog.

D. Baker: A fair percentage of it is.

J. Hyk: O.K.

D. Baker: Excuse me.

J. Hyk: Yes?

D. Baker: There was another issue which I believe would detract, certainly in my case, from the value of the property and if it were seen in the fall of the year, it could be seen – which I did not see it – I bought it in August last year – but if it was seen in the fall of the year when all the weeds are dead, there’s about a 200 yard dump all the way across the back of that property bordering the house; between the house yard and the bog. People have dumped there for years. Part of the barn was torn down and was bulldozed there. There’s old – I’m having people trying to get some of that out of there now, but had I seen that, which I couldn’t see because it was all covered with weeds, and so on, in the summer time – and you couldn’t see it now very well, either – but had I seen that, I might have considered differently on the house what was the value.

J. Hyk: Well...I guess that’s why they say, “Buyer beware.”

D. Berry, Sr.: Here’s a question.

J. Hyk: Yes, Don?

D. Berry, Sr.: Does the Town of Troy maintain land usage maps and land characteristic maps?

E. Morin: Not really.

D. Berry, Sr.: Really?

E. Morin: Very, very loosely done. There is a resource protection and that’s about it. Comprehensive map...Troy’s very rural and they don’t have much of a zoning.

D. Berry, Sr.: So does the Town of Belmont, but our maps do show...

J. Hyk: Well, they have soil maps that show whether it’s gravel, whether it’s swamp...

A. Fowler: And the majority of your old places if you’re traveling Waldo County have their own personal dump – as you [the Plaintiff] said – by a stone wall strategically hidden by the raspberry plants...

J. Hyk: Before we try to adjudicate this, I just want to be clear that you [the Defendant] are willing to make an adjustment outside this hearing – that you are willing to consider an adjustment for swamp land if somebody can present to you with some facts?

E. Morin: Yes, I have told Mr. Baker that for 2007, I would more than happy to consider that if he can present to me documentation as to how many acres of swamp there are.

D. Baker: Excuse me – if anyone’s interested, I have an aerial view. Actually it’s a satellite photograph.

J. Hyk: I’m not really interested because it’s not part of this abatement but I just want the record to show that the assessor is willing to entertain that, not unreasonably. I think we need to move ahead with this and stop – not stop procrastinating; we haven’t started procrastinating yet –

A. Fowler: All in due time!

J. Hyk: What’s your pleasure?

D. Baker: Excuse me? May I? Just one more.

J. Hyk: Sure.

D. Baker: I’d like to point out that the property and the bog that you’re interested in borders what they call Carlton Pond and Carlton Bog. That’s in our entire west – I’m sorry – east boundary of property borders that property and it’s 1000 acres of bog land.

J. Hyk: And you’re saying that that is a further reason to not live there... (Jokingly) or buy the property? (All laughed.)

D. Baker: Not at all! I’m just trying to give you a feel for the fact that much of the property is bog land.

J. Hyk: It’s too bad you’re not into reptiles and amphibians! (Jokingly.)

D. Baker: I am – but I did not intend to be!

A. Fowler: Welcome to Maine!

****D. Berry, Sr.: Well, based on the evidence presented, I’m going to move to deny the abatement.**

****A. Fowler: I will second for discussion.**

J. Hyk: It has been moved and seconded to deny the request. Discussion?

A. Fowler: I feel very good that the assessor, Ms. Elizabeth, and I’m sorry I can’t remember your last name...

E. Morin: Morin.

A. Fowler: I'll just call you Ms. Elizabeth.

E. Morin: That's fine!

A. Fowler: ...is willing to compromise there in regards to the bog land. It does – now I know where you're located and that's a big step. [To the Plaintiff] But jump on that train. I mean, she's willing to. Get the pictures; get that done. As far as it goes with – I hear what you're saying; I think we've all complained and had an issue or a problem with property tax, but the fact that the Town of Troy is in the process of a revaluation, or is just about done a two-year revaluation, which is huge – which means everybody across the board; they're on the same playing field – whether somebody went up 30% or maybe 3%, but everybody's equal now as where there was such problems with dissension before. So that would be why I support this.

D. Berry, Sr.: That's basically my same reason. That's why I asked the question about the bog area and understanding that the assessor has concerns, you [the Plaintiff] must present that evidence so, and I would say that that's what you'd better be doing because it's open to you to do that.

J. Hyk: I think I agree with what you've [D. Berry, Sr.] said and I agree, you know, I do have some – there is the amount that he paid for the property but then there are all these other factors involved with the equity, the parity, the assessing guide, the way the building – the way the building classes out – what do you call it, the way the structure...?

A. Fowler: Classifications?

J. Hyk: Classification works out and so forth, then, you know, it's numbers and they don't always jibe completely but they're close enough that I feel it's acceptable. Unless there's further discussion, we'll call the vote. All in favor for the motion? (All three Commissioners raised their hands.) All opposed? (None.)

****Motion passed unanimously.**

J. Hyk: O.K. Thank you.

E. Morin: Thank you ladies and gentlemen.

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