

**CLIFFORD H. BENNETT VS. TOWN OF BROOKS
TAX ABATEMENT HEARING PETITION #338**

January 23, 2008

10:05 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 Clifford H. Bennett, Defendants Town of Brooks Selectmen Raymond D. Shute, Benjamin F. Lufkin and Linda H. Lord, and present as was observers Fred Eikelberg citizen of the Town of Brooks. 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. The Petitioner was allowed to speak first.

PETITIONER:

C. Bennett: I have a piece of land here in Brooks and all I have is this old tax map to go by. This piece of land right here, #59, which says in the tax books 240 acres.

J. Hyk: Do we have that?

C. Bennett: Linda has a copy of that.

J. Hyk: So, we don't have that map?

B. Arseneau: Is it the same as this that you sent us?

C. Bennett: Yes.

B. Arseneau: Then you should have it.

J. Hyk: If I don't have the exact same map, I just want to be sure of what I am looking at here.

A. Fowler: I am looking at two maps. Is either one of these the map that you have in your hand? No.

J. Hyk: Proceed.

C. Bennett: So, they are charging me for these 244 acres. Also, I have a commercial gravel pit there and they are charging me 10 acres as a commercial gravel pit. So they are charging me twice for the same piece of land. So, what I am saying is there shouldn't

be 244 acres on my billing; it should be 10 acres less to account for the 10 acres that they charged me for on the other tax bill. So, I am thinking that they can't charge me twice for the same piece of land – it has to be one or the other. It has been that way two or three years and I have mentioned it a few times in the office. On this one tax bill that I got, it says land and buildings, this must be the 10 acres they are charging me; \$208.00. On the 244 acres it is charged at \$24.98, but it should not be 244 acres; it should be 10 acres less. They are charging me commercially for the gravel pit and that is all that I have to say about that.

J. Hyk: What map and lot # is this that we are talking about?

C. Bennett: On my new one here, I would say that it is Map 8 that is the reference that I had at the top corner of my page.

J. Hyk: [To C. Bennett] maybe you can explain this. The town of Brooks says that it is Map 7, Lot 55 unless I am reading this wrong. I think I've got it. Is there something further that you would like to add?

C. Bennett: Just that they are charging me twice for the same piece of land. They have been doing it for a couple, three years and I have mentioned it.

A. Fowler: Just for clarification purposes, Mr. Chairman, can I, just to make sure I have it all straight, you are saying that you are being charged 244 acres that should be less 10 acres, which is a gravel pit, which should be its own separate tax bill.

C. Bennett: Or minus the 10 acres off the original land piece of 244. They never deducted the 10 acres off and they are charging me for it.

J. Hyk: If what he is saying is true, if they are actually charging him for the whole thing once and then the 10 acres again as a commercial gravel pit, then what they should be doing is charging him 10 acres as the commercial gravel pit and the remainder, less the 10 acres, of whatever rate they are charging him. Does that make sense, Don?

D. Berry: That is what I understand.

J. Hyk: You wouldn't create another lot. That is what I understand right now. I think that it is the paperwork that is confusing me, not the concept. Do you have any questions Don?

D. Berry: No, I don't.

J. Hyk: [To the Selectmen] do you have any questions for the Petitioner?

R. Shute: No.

J. Hyk: Well, I have no more questions, so please present your case [to the defendant].

DEFENDANTS:

R. Shute: (R. Shute presented packets to all of the Commissioners.) What I have done is we have tax maps and I have put them together in one piece and I have color coded it so you can follow along. You have three packets of stapled information that I would like to go through one at a time. The first one is Clifford H. Bennett, R642, 244 acres, Map 7, Lot 55. You will see that in the orange. The second piece of information, the billing information to go with the 244 acres, if you look down in the left hand corner, you have 244 acres, 182 acres of tree growth, 62 acres, 1 base lot, 5 acres of gravel pit and 56 acres undeveloped at \$400.00 an acre. If you figure those all out it comes out to 244 acres. The next piece of information is R715 Jeannie Hurd and you go down below and it is 7 acres on Map 7, Lot 57 and you will find it in the orange in the corner. The next page is that lot's billing information, which is 7 acres. The next one is how did we come up with 7 acres? We will see a plumbing permit signed by Mr. Bennett and you will see 2/3 down, you will see the size of Lot 7 plus or minus acres. The next one you flip over and it is a data billing/entry form from 1998 that shows that the piece of property was, back then, 251 acres. So, if you take 251 acres and you subtract 7 from it, you come out with 244 and that is what Mr. Bennett's bill on that piece of property was for 244 acres, using the breakdown on the second page on his billing of 244, less 182 and all the way down through. So, we have billed him once on that parcel of property and only for 5 acres of gravel pit. The next packet of information is R574, Clifford H. Bennett and Linda Bennett and it has 123 acres and that is on Map 4 and 5, #1 and that would be in the yellow. That is 123 acres. The next page is the billing information and that is tree growth and other and you will see how we broke that down at 21 acres at \$400.00 an acre and one base lot at \$8,000.00. That is the information of how we bill Mr. Bennett on that 123 acres.

J. Hyk: I do have a question; he is not contesting that, is he?

R. Shute: This is my definition of how to explain to you that he is not being double taxed.

J. Hyk: Well, go ahead then, keep going. If you think that this is going to be helpful then we will just keep going.

R. Shute: Well, I hope so. The next one is R759, Clifford H. Bennett and that is 10 acres. That is on Map 4 and 5; Lot 42 and that is in the yellow. The billing information is the next page on that. The next material is R739, which is Clifford K. Bennett, and that is 2 acres, Lot 49, which is in the yellow. So, you take those three parcels and it comes up to 135 acres. If you go down to tax bill and data entry form, Clifford and Linda Bennett, South Brooks Road, is 135 acres. The next page is Gary and Mary Ferguson. When they owned that in 2003, Mr. Bennett bought it in 2004, which was 135 acres. The last piece of information in this packet is Gary and Mary Ferguson in 1998 and the reason why I put this one is because I have gone back to 1998 on both of those parcels of land to

get you up to today. Now the next material is what Mr. Bennett has appealed to you people, that he is being taxed twice on the gravel pit. All of the information that I have provided you at this point, there is nothing that we have double taxed him on any of his pieces of property; in fact we are taxing him only for 5 acres instead of 10 acres on his gravel pit. If you go down on the second piece of paper where we denied Mr. Bennett's abatement, and down at the bottom we explained to him and sent him copies and we asked him if he had any questions to feel free to contact us. He chose not to. The next piece of information is what we as assessors denied him his appeal on the abatement, which is different than what he wrote on yours. The next piece of information is from the DEP. The only reason I've got this in here is that DEP has in fact looked at his gravel pit and said that it is 9.6 acres. So we in fact are not charging him as much as we probably should be for his commercial gravel pit. I am half assuming and speaking out of turn and probably his valuation will change next year. Maine tree growth, if you want to double check all of the material that we have put in and how we got up to his costs, is what we use for his tree growth. The information that comes out to us and you don't have this part here because I didn't copy it for everybody, one of the things that we have done and it has been done 2004 to 2005 – is anywhere a road goes through a piece of property or dissects a piece of property, we are putting base lots on. Everyone is charged a base lot and another thing that is happening is in our new billing system on the new tax equalization program, each parcel has its own bill. As before our billing system all of those parcels were all on one bill. So, that is the possibility of the confusion that may be there. As far as I am concerned, Mr. Bennett is not being double taxed; he is being taxed appropriately with the information that I have provided you. I would ask that you deny Mr. Bennett's abatement.

J. Hyk: Thank you, as ever. It is always a very thorough presentation that you have made. Do you have any questions, Don, for the town of Brooks?

D. Berry: Does he [C. Bennett] have any rebuttal questions?

J. Hyk: Do you have questions, Mr. Bennett?

C. Bennett: Why isn't that deducted, then, from the other two tax bills? Why doesn't it show up? Why doesn't it show up on the 244; 5 acres less? It is not deducted. They are charging me 10 acres and I have my tax bill right here and it says really plain. It is not deducted off the other bill. So, I am thinking, why it is not deducted? It is 10 acres on my sheet.

R. Shute: The land that he is referring to, as far as I am concerned, has nothing to do with the 244 acres. If the 10 acres came off the second lot that I talked with you about that was originally 135 acres. The initial presentation that I made of the 244 acres, which is originally 251 acres, has only had 7 acres deducted. How we got to his assessment, as far as I am concerned, is very clear that we only are assessing him 5 acres of gravel pit for \$25,000.00. If you look at the 10 acres that he is referring to, if it was 10 acres at \$5,000.00 an acre, the valuation would be \$50,000.00, and that isn't what is on that.

C. Bennett: It is confusing. It gets more confusing by the minute. But still, it is nevertheless just the same. It is not deducted off the main bill. If you are going to tax me separately state so and take the acreage off the one bill. If it is fifty cents, get it straightened out for future references and things.

J. Hyk: Are you confused, Don?

D. Berry: Yes.

J. Hyk: I am confused too.

A. Fowler: Can I just ask a question because I am incredibly confused and this is an extremely good map and I understand, kind of, sort of a little bit what you are saying, if I may ask Mr. Bennett, the amount of the abatement which you are requesting is 208 times 3?

C. Bennett: I have no idea what their taxation is, and like I said before, I don't care if it is fifty cents as long as they get it straightened out.

A. Fowler: That confused me even more.

C. Bennett: I didn't know. What am I going to put down? I don't do taxes for towns. Whatever is fair and equitable is fine with me.

J. Hyk: Mr. Bennett, you held up a piece of paper a minute ago and said, "This is my bill." Do you have that piece of paper right there?

(The Commissioners examined it along with the Town's map.)

J. Hyk: So you don't have a problem with lot 42, the 10 acre lot? (He showed map to C. Bennett.)

C. Bennett: I had one piece of land that I bought, so why would it be separate? I bought that all at once on the same day.

J. Hyk: The gravel pit is over here on a different lot.

C. Bennett: I went into the town office one day and they had my area squashed off in 10 acres. So when I thought this was the 10 acres, I thought they were charging me for that.

J. Hyk: No, they are charging you for 5 acres of gravel pit over here.

A. Fowler: Why are you not charging for 10 acres, just out of curiosity?

R. Shute: DEP just came in this year and looked at that gravel pit and the information was 9.68 acres and we had already billed out for the 5 acres.

A. Fowler: You bill at \$5,000.00 an acre for a gravel pit?

R. Shute: That is correct.

A. Fowler: That is the minimum that you can charge, you know that. I am glad that you made the clarification there. I think that it is just quite confusing.

C. Bennett: The only reason that was separated out is they tried to sell it off as two pieces and I bought it at once.

J. Hyk: That doesn't mean it is one lot.

C. Bennett: It was sold to me as one thing that day.

D. Berry: Does it have a single deed or multiple deeds?

C. Bennett: A single deed is all I have.

A. Fowler: We have a single deed on our property and I get four tax bills.

J. Hyk: Let me see if we can get this right. The land that he bought as one lot is now three lots?

R. Shute: That is correct. Clifford still owns two of them and his boy owns the two acre lot.

J. Hyk: So, the land that you bought originally is now three lots. One belongs to your son and the remaining piece the town has listed as two separate lots because there is a road that runs through it. They can do it, believe me. They do it in my town. So, I think what the Town is trying to tell you is, and maybe you didn't know this, based on what I am seeing here is they haven't charged you an additional 10 acres on your gravel pit. What they have done is they have taken the land that you had as one and it is now three pieces; one is your son's and the remainder is in two pieces for you. They didn't charge you at 10 acres commercial operation. They charged you a 5 acre commercial operation and it doesn't look like to me now that you are being taxed for more land than what you own. That is what it appears.

C. Bennett: In a sense they have subdivided my land.

A. Fowler: To subdivide it, there has to be separate deeds.

C. Bennett: Which I don't have.

J. Hyk: Your land just appears on a tax map as two lots. Is that correct?

A. Fowler: Any court will tell you that a tax map goes right out the window.

J. Hyk: Now because they send you two different bills, it is two different lots. So you could sell a piece off of one lot and a piece off the other lot and it is still not a subdivision. So in a way, depending on how you want to look at it, it could work to your advantage except that when it is two lots that are divided by a road, they get to tax you for a base lot for each one.

C. Bennett: So, what they have really done is a subdivision but I don't have to worry about it because....

A. Fowler: I wouldn't keep calling it a sub division. As I say, a subdivision is three separate names on three separate deeds that are not family.

J. Hyk: If all of that land was on one side of the road and there was no road through there, you would have one lot. The reason why you have two lots is because there is a road that bisects it. So let me ask you a question. [To C. Bennett] Are you satisfied that you are not being overcharged for more acreage than you own?

C. Bennett: Right.

J. Hyk: It is unfortunate that you couldn't have sat down and gone through this before you came here but, hey, this is what we are here for.

****A. Fowler moved, D. Berry seconded to deny Mr. Bennett's request for an abatement with the information shown here. Unanimous.**

L. Lord: Mr. Bennett mentioned that he had come into the town office several times complaining that he had been overtaxed. We never saw any paperwork to that affect until we saw this and I had to take time off from work for this whereas if Mr. Bennett could have come in and talked with us on a Saturday or an evening and got it straightened out with us, I wouldn't have to had to take time off so that is my last statement. Thank you.

Respectfully submitted by Veronica Stover
Veronica Stover, Deputy County Clerk