

**WALDO COUNTY COMMISSIONERS COURT SESSION  
TAX ABATEMENT HEARING PETITION NO. 343  
LEWIS H. BROWN, JR. AND CATHY E. BROWN  
VS. TOWN OF BELMONT  
JANUARY 13, 2009**

**PRESENT:** Commissioners Donald P. Berry, Sr. (Chairman), William D. Shorey and Amy R. Fowler. Also present were Petitioners/Plaintiffs Lewis and Cathy Brown and Defendant(s) Barbara Bubar, Town of Belmont 1<sup>st</sup> Selectman and Sharon Reed-Hall, Town of Belmont 2<sup>nd</sup> Selectman. 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 9:55 a.m. 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.

D. Berry: Good morning. The Petitioners now can state your case. We have before us, in folders, the information that you have provided us; and we would now give you the opportunity to present your case and any evidence that you wish to present to the Commissioners.

**Petitioners:**

Cathy E. Brown and Lewis H. Brown, Jr.

C. Brown: Well, we're here today because I received some land a few years ago from my father when he passed away; and one of the pieces of land is a small lot. It's one hundred feet wide by 75 feet back. I have been paying the taxes on it since we received it. The taxes were (I have a copy of the bill here from 2003.); the assessment was \$5,500.00. I went to the town [Belmont] and I asked them if they would abate it a little bit because it is not buildable. It's 100 feet along Tilden Pond and 75 feet back from the pond. Because of the State and Town laws, we cannot build on it because it is too close to the water. So, they did abate it. They dropped the valuation down to \$4,275.00 at that time, and it stayed that way until this past year. This past year, all of a sudden, the assessment for the land was \$9,775.00; so we went back to the Town and we asked them why it is so high. I can't do anything with it; why did you up it? They said that it is because of the Phantom House law. I have another piece of land in Belmont that is over 200 acres that does have a house on it. So, I said, "Because I have a house in Belmont, can you abate this, because I can't even build on it?" The State won't let me and the Town won't let me. It's in shore land zone, and they said [Town] said, "No, we won't". That's why we're here.

L. Brown: May I add to that? This piece of property, as she said, is 75 by 100 feet, which is less than a quarter of an acre. You have to have three acres of property in this area of the Town to have a house anyway, and this is way too small a piece of property to have a house. Again, the Town is charging us taxes for a phantom house lot when we can't even build on the land. We also have a map that we got out of the ordinance book that shows that this land is on shore-land zone. That also proves that you cannot even build on this land, because it's on shore-land zone. Even if we had three acres, we still couldn't even build on it. Like I say, it's less than an acre.

We don't think it is justified for the Town to charge us for a phantom house lot when these two factors – it's on shore-land property and it is less than a quarter of an acre to build on. We think it's unfair for them to be charging us for a phantom house lot because of these factors.

C. Brown: I don't mind paying my fair share, but if I can't do something with the land, I shouldn't be charged for what I cannot do. This is the way I feel about it.

D. Berry: Amy?

A. Fowler: I have a bunch of questions; I have no questions for these folks.

D. Berry: Very good. Can we see the map that you have there, please?

(C. Brown showed the map to W. Shorey.)

W. Shorey: (asked question about land)

C. Brown: This is the map right here and that little, tiny one right there is number four. That's the piece of land we're talking about.

W. Shorey: O.K. When you were meeting with the Town and you were talking about it, did they up all valuations? Did they tell you that they did?

C. Brown: They told him [L. Brown] on the phone that they only upped the ones that needed to be; and, then, when we went down and met with them together, they said, "No, that's not what we did; we upped everybody."

W. Shorey: So, we've got two different stories.

C. Brown: Like I said, I do have a house in Belmont.

D. Berry: Okay. [To Plaintiff:] Do you have any questions? Okay, very good; any other questions from the Commissioners?

A. Fowler: No other questions for these folks.

D. Berry: Okay then, [to the Defendant] could you please present the Town of Belmont's position?

**Defendant(s):**

B. Bubar: Well, the Town, this year, because of the State value, has not been in compliance; we're supposed to be at least 80 percent of the State's value. We've been way below that. Because we've had computer crashes, thanks to a Jack Russell terrier bouncing on our keyboard

and wiping out programs and stuff, we've had to rebuild everything. So, we have not had a lot of time to do a lot of reassessment. This year, we are starting slow; or, we started slow in '08. We hit the land values first, because they have been extremely low. We asked the State Assessor for a breakdown of the average house lot value within the State and in the County; and he gave us those figures. We had previously put \$8,500.00 on a developed house lot, and that was with well, septic, driveway and electric. This year, in order to come closer to where anybody else in the State is, we added \$6,500.00 to make those values sixteen thousand versus eighty-five. Any undeveloped lot, which had a base value of \$3,000.00, we put another \$5,500.00 on that to make it \$8,500.00. Anything called a base lot or a phantom house lot – whatever the term - everybody in Town, every lot, every taxpayer, received that same figure that brought us closer to the State, as far as the land value is concerned. The base lots have no development on them, but every lot in town has that base line - that's a starting point. They [Plaintiff] do have the shore-land; it's 100 feet of shore frontage; it does only go back 75 feet. There is access to that lot; it has not been developed, but they do have the right-of-way to get there. It would certainly sustain a camper trailer that is self-contained; it's a place that would be very enjoyable. Last year, we did abate their property value because it wasn't buildable, so we did reduce it a little bit because of that factor. That doesn't decrease the fact that it would sustain a camper that is self-contained and is a very enjoyable piece of property. I think we tried to be fair to every taxpayer in town by putting the same base value on every lot, and any other pond property in town is valued a lot more than this lot is.

D. Berry: Any further comments?

B. Bubar: Yes. We did put out a newsletter to every resident in Belmont explaining why we put the new values on; and it is to get close to the State requirement. This year we had to tackle the building values – they've come up. That's where our figures have come from.

D. Berry: Commissioners, questions?

A. Fowler: So, basically, your town is doing a new revaluation – land one year, buildings the next – that's the way to do it, too. I didn't catch what you brought your improved lots up to.

B. Bubar: \$16,000.00; we added \$7,500.00.

A. Fowler: Thank you. I really wish you wouldn't use that term "phantom lot," because it's very deceiving. It's based on an unimproved lot. As a former property assessor, I can assure you that their job is not a pleasant one. It also speaks for the fact, and I very much understand that this is not a buildable piece of property; however, the way you also have to look at some of these properties is the intimate value of the property: Can you still enjoy the property, as she's saying, with a camper, a tent or something like that? Sometimes that fact that it's not buildable – to some, that is a great value. I feel very comfortable in the fact that you have increased everyone. This is not a certain area of people that is getting hit – everyone, across the book, as I look at it, would show.

B. Bubar: Everybody in town - we brought the commitment book so that you could see that everybody in town, without exception, had that same increase.

D. Berry: Yes, I can assure you of that!

Laughter.

A. Fowler: As I say, it's tough because they do; they have to bring these figures up for the State, because the State will come in and pick this great number and, then, you and I, the taxpayers, have to figure out how to get to that point. That's all I have.

D. Berry: Bill?

W. Shorey: No, you've covered the question I had.

D. Berry: Do you [Defendants] have any questions for the Town?

L. Brown: My question is: Where this lot is so small and not as large as some of the cottages along the water, where they can build a small cottage or camp, wouldn't it, kind of, exclude it being a house lot, where it's so small? Right now, you can only get there by walking there because there's no road there of any kind. I was wondering where it's a small piece of property, can you exclude it being a house lot.

B. Bubar: It's not classified as a house lot; it's a base lot. Every lot in town has that base value.

A. Fowler: A base lot doesn't, necessarily, have to be buildable; it doesn't even need a driveway, or power, or septic, or anything like that – it's a piece of property that you're stuck with, whether it's two acres or a half an acre, that there is always that potential that maybe you slide the camper in and build around it.

S. Reed-Hall: There is a right-of-way to that, so it is up to the property owner to develop a driveway to get to that location. I mean, there is a right-of-way to it.

C. Brown: Which property are you talking about?

S. Reed-Hall: Well, the Harriman's are quite a ways down in there.

C. Brown: Yeah, it goes down through the woods that belong to the Harriman's; so, who would need to fix the right-of-way? Them [Harriman's] or us?

B. Bubar: Whoever owns the deed, I would assume.

A. Fowler: What does the deed say?

C. Brown: I can tell you that.

A. Fowler: If the deed gives you right-of-way, I would assume that you have the right to clear to gain access to it.

B. Bubar: Right.

C. Brown: But, then, would they be able to come back and say, “You cut my woods.”

A. Fowler: Not if it’s a deeded right-of-way – you have that right to gain access to our property.

C. Brown: The deed says: “Also, a right-of-way from the granted premises due easterly to lands of the grantee, westerly of grantor’s premises.”

A. Fowler: I think before I went in and clear-cut it, I would make sure, have a surveyor get my lines right in order; but if you have a right-of-way, nobody can deprive you of your opportunity to get to that piece of property.

L. Brown: In the past, I’ve always had this understanding that of the phantom house lot which you said should have been done away with, that it should be a base lot instead.

B. Bubar: It’s an old term.

A. Fowler: Right; that’s why I said, “get rid of that term;” because it’s the whole house lot thing that’s very deceiving.

L. Brown: That’s why I thought the increase was because of the opportunity to build a house there, at some time or other, not because of what you are telling me is the fact that it is a piece of property that is in town.

B. Bubar: It’s an old term, and I’ve done this job a long time; so I’m used to that.

L. Brown: That makes a big difference. Is it just a piece of property, or if it’s a piece of property that you can build a house on. That makes a big difference. That’s why I didn’t think it was right for them to increase taxes for that amount, because you can’t build a house on it.

A. Fowler: As I say, there is a lot to be said about a piece of property and the enjoyment that you could have on it. I own some swamp land in the middle of nowhere that wouldn’t be worth anything to anyone, but it has a great trout pond. So, I mean, a lot of it is the value that person will put on it, and the State is going to make sure they get their portion.

D. Berry: Just to share with you, you know that I live on Route 131. The two acres across the street from my house I bought for a reason – so I wouldn’t have a trailer sitting on it eventually. I never intend to do anything with that; but, as they’re saying, the value on that is that I have the protection in front of my house, which is worth a lot to me to be able to do that. Any further questions?

A. Fowler: I just wanted to clear up another thing, just so you know, because it gets confusing: you mentioned that you own a 200 acre parcel of land in Belmont where there’s also a house on,

and you felt that where you had that house lot, you shouldn't be - unless the properties are contiguous (where they're all hitched), different deeds – that's a whole other ball game. Just so you know, you can own six or seven pieces of property in town, but if their on separate deeds, these girls are going to get you.

W. Shorey: And, these are separate pieces of property.

D. Berry: Yes; very good. First of all, just let me clarify to the other Commissioners, I am going to recuse myself from voting on this, at all. I am the head of the Appeals Board. in the Town of Belmont, and since this Board does prevent some of those things from occurring, it would not be right for me to express my vote. I will refrain from a motion.

A. Fowler: I am going to make a motion and deny your request for abatement with the grounds, as I've explained, they are doing this process and doing it well. Whether we agree with how the State sets these standards or not, is irrelevant. As I said, I have to support the Town in their decision. That's why I'm going to make a motion to deny your abatement.

D. Berry: Is that seconded?

W. Shorey: I'm going to second that motion. You've done a good job of presenting your case, but, clearly, these people [Town of Belmont Assessors] are doing their job and doing it quite correctly.

D. Berry: I think that, also, what's happened here today is maybe a clarification that you can get some access, and also the clarification of how the standards are set. If people are not being treated equally in this world, then it's a different situation. We've dealt with some situations in this County where that was happening – two different forms of valuation occurring in the same town, which was unfair to everyone in the town.

A. Fowler: But, this isn't the case here.

D. Berry: No further discussion? All in favor of that motion, please signify. It passes two to zero, with one abstention.

**\*\*A. Fowler moved, W. Shorey seconded to deny the abatement request. Motion passed with two in favor and one abstention (D. Berry.)**

D. Berry: Thank you very much.

A brief discussion followed between parties about the explanation of “phantom lots” and “base lots:”

A. Fowler: As I said, you should contact a good land surveyor.

L. Brown: We had one that surveyed the big lot.

A. Fowler: As I say, you have the right, you have the right to gain access to your property, especially with it written out as well as it is in the deed.

L. Brown: I hope the Town of Belmont will change that term “phantom lot” to “base lot.”

B. Bulbar: I was going to say that; that’s out of my vocabulary, for now.

L. Brown: Because that will make us understand a lot better that if it’s not a piece of property you can actually build on, it’s a lot.

A. Fowler: Well, we got to the point where it was either “improved” or “unimproved.”

B. Bulbar: Developed or undeveloped.

A. Fowler: Very good.

L. Brown: That would be helpful.

D. Berry: Now we have to wait and see if the State of Maine reduces the value of property, since it’s all dropped by a minimum of 18 percent.

A. Fowler: No, that only means that the State’s going to UP the value! Because they’re losing money.

D. Berry: Thanks for being here.

L. Brown: Thank you for giving us this time.

**\*\*A. Fowler moved to adjourn hearing, D. Berry seconded; motion passed unanimously; hearing was adjourned at 10:19 a.m.**

Respectfully submitted by Veronica Stover  
Veronica Stover, Deputy County Clerk