

Mesolella, state wrap trial over reservoir

Wednesday, September 8, 1999

- Lawyers make final arguments in the trial that will determine if the former state representative has the right to restrict public access to the Pascoag Reservoir.

By Jeff Whelan Journal Staff Writer

PROVIDENCE — Lawyers made closing arguments yesterday in the trial that will determine if former state Rep. Vincent J. Mesolella Jr. has the right to restrict public access to the 355-acre Pascoag Reservoir, which his corporation owns. Asst. Atty. Gen. Michael Rubin argued that public access to the lake had gone unchallenged from its creation a century ago until last year, when Mesolella put up no-trespassing signs and drained the lake to a 35 year low.

Mesolella's lawyer, John Webster, continued to attack the state's civil suit against his client as "patently frivolous" and a "knee-jerk political response." He said the state filed the civil suit against Mesolella because it wanted to appease homeowners during an election year.

The state is seeking a permanent injunction that would prohibit Mesolella from blocking public access to the lake, which is a popular destination for swimming, boating and fishing. The state is also asking Superior Court Judge Francis J. Darigan, who will decide the case in the non-jury trial, to issue a declaration that would recognize the state's and public's right to use the lake. In his closing argument, Rubin said that Mesolella devoted the "economic utility" of the reservoir to enhancing property he owned along the shore. By doing so, Rubin argued, Mesolella surrendered to the public the right to use the lake.

Rubin likened the lake to a road in a residential subdivision. When a developer builds a street for a subdivision, Rubin argued, he surrenders certain rights to that road as soon as he sells a single lot. He said that homeowners have an expectation when they buy a house that the road will always be there for their use.

Rubin said that people who purchased waterfront property from Mesolella had an expectation that they would be allowed to use the lake.

Pamela Kobrock, a real estate appraiser, testified as an expert witness for the state yesterday and said that property along the reservoir would have fetched significantly less money were it not marketed as waterfront property. "They were purchasing waterfront land with the amenities included in waterfront land into the future," she said. "I think it's an assumption they made without giving it a great deal of thought." Webster said that assumption was groundless. "We can't have 400 years of property law upended because of an assumption someone had," he said. During his cross-examination of Kobrock, Webster said, "All anybody had to do was walk into Town Hall and ask a simple question — who is the owner of this property?"

Earlier in the trial, Mesolella testified that he attempted to restrict access to the lake because he was frustrated that he paid for the taxes, liability and maintenance of the property while others, including for-profit businesses, enjoyed its benefits. He had attempted to sell the property to the state, but the state rejected his offer. As a last resort, Mesolella said, he drained the lake. "Everybody was fat, dumb and happy while my client was paying the bills," Webster said yesterday. He said it was unfair when "the state came in and said, 'We own it, but you pay for it.' "Lawyers for both sides are to submit briefs by Friday, after which time Judge Darigan will decide the case.

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- John Webster, lawyer for Vincent J. Mesolella Jr.

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Ratepayers lose homes over unpaid sewer bills

Activists angrily confront the Narragansett Bay Commission over the practice of attaching liens and then selling houses primarily in Providence's poor neighborhoods.

By JONATHAN SALTZMAN
Journal State House Bureau

PROVIDENCE -- Activists, elected officials and city homeowners yesterday confronted the chairman of the state Narragansett Bay Commission and accused the agency of selling people's houses without their knowledge for owing a few hundred dollars on sewer bills.

The group, which included activists from the Urban League of Rhode Island, said the commission chaired by **Vincent Mesolella Jr.** is selling people's houses from under them, chiefly in poor neighborhoods in Providence, for owing as little as \$150.

Lawyers and real estate agents who have obtained the properties are showing up on the doorstep of the unwitting homeowners, the activists said. The visitors tell the property owners that they no longer own their houses and will have to pay several thousand dollars to get them back.

Jackie Hicks, of Glenham Street, Providence, said the agency recently told her 66-year-old mother, Mattie Smith, that she no longer owns her house at 252 California Ave. because she failed to pay a bill for \$174.75 in November.

Waving a copy of her mother's bill, Hicks said the manager of a company named Realty Associates, Norman Reisch, told Smith that he now owns her house.

"Where do you get off selling off someone's property from under them?" Hicks yelled at **Mesolella** in a State House committee room. "I don't know how you sleep at night."

Reisch could not be reached for comment last night.

Dennis Langley, executive director of the Urban League and a member of the Narragansett Bay Commission, said the commission is targeting poor and minority homeowners who struggle to pay their sewer bills. The commission is giving the deeds to politically connected lawyers and real estate agents who are demanding exorbitant sums if the homeowners want to get back their houses, he said.

Mesolella, who resigned from the state House of Representatives in 1998 after a controversial tenure, confirmed that his agency attaches liens to the houses of delinquent commission ratepayers. But, he said, the ratepayers typically have failed to pay their bills for four years and owe at least \$750.

He said the commission, which has 80,000 customers in 10 communities, typically mails several bills to customers before it attaches liens to the properties.

"If anyone can demonstrate that there was a lien sale and that the property was sold without their being properly notified, it will be rescinded," he said.

Too often, **Mesolella** said, homeowners simply ignore their sewer bills. Because the commission has a responsibility to all ratepayers, he said, the agency sometimes has no choice but to attach liens in the hope of collecting outstanding bills.

Still, concerns about the way the commission is selling the houses of delinquent ratepayers has prompted him to cancel a lien sale scheduled for May, he said. Meanwhile, the agency will review its policy.

Sally Easton, the housing director for the Urban League, said she is familiar with at least a dozen cases in which the commission sold the homes of residents in South Providence, the West End and Federal Hill because they owed small sums.

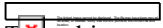
"Don't you think the punishment is a lot for the crime?" she said to **Mesolella**.

A handful of lawyers and real estate agents are surprising the homeowners with the news that they now own the properties, including attorneys Fernando Cunha and Patrick Conley, she said. Neither attended the hearing or could be reached for comment.

City Councilwoman Patricia Nolan said she has heard of several cases similar to the one involving Hicks's mother.

Arthur Lawrence, who is in his late 70s, told the 15 people sitting in the committee room that the commission sold his house because he owed \$547. To redeem the property, he has to pay \$4,895, which covers his delinquent bills and numerous other fees. He said he doesn't have the money.

Rep. Aisha W. Abdullah-Odiase, D-Providence, who chaired the meeting, said she was considering the possibility of a special legislative commission investigating the allegations. She is also considering introducing legislation to address the problem.



The subject came up when the Urban League discussed its legislative agenda for the 2000 session.

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