

D. Gordon Mott Forester  
42 Damon Pasture Lane  
Lakeville Maine 04487

207-738-2180 Voice and Fax  
207-794-5729 Cell  
Forester@AlmanacMtn.US

May 11, 2023

## Testimony in Opposition to LD 1685

D. Gordon Mott

Honorable Members of the Taxation Committee, Senator Grohoski and Representative Perry. My name is D. Gordon Mott from Lakeville, a town in LUPC jurisdiction in Penobscot County.

I write in opposition to LD 1685, An Act to Increase Acreage Eligibility and Change Requirements for Filing Plans Under the Maine Tree Growth Tax Law.

I am a Maine Licensed Forester. I manage and advise owners of many properties in Tree Growth status including properties in Unorganized Territory and in mid-coastal Maine.

I ask you to please consider this most seriously:

1. Conversion to a minimum Tree Growth lot size of 25 acres will take away significant values from landowners who have relied for decades upon their contract with the State of Maine that the minimum Tree Growth size is 10 acres.

In Unorganized Territory (UT) it is illegal by statute to construct what is called a “Spaghetti-Lot” with a lot depth to shore frontage ratio greater than 5 to 1 on the shores of a river, stream, brook, coastal wetland or great pond (Title 12 §682 1.13, and Title 12 §682-A).

The proposed increase to 25 acres minimum Tree Growth lot size in UT will require shore ownership to be at least 480.5 feet wide 2402 feet deep to keep 25 acres in Tree Growth plus 1.5 acres for a building lot and road. It will force landowners on many properties to forego shore lot divisions and sacrifice large capital value without compensation by not dividing.

Several large subdivisions have been made here on land that is all in Tree Growth, anticipating that divisions would be in accord with the 10-acre rule which has been comfortably in place for 51 years. One of those subdivisions consisted of about 140 lots on 6,000 acres with many shore lots. The consequences of imposing 25 acre minimum lot size on one typical lot are shown below.

2. The last time a significant change was made in the Tree Growth statutes that presented landowners with potentially unsatisfactory changes, landowners were offered the opportunity to withdraw lands from Tree Growth status at what was said then to be the minimum constitutional permissible cost of five year’s back property taxes plus interest. This time it appears that an offer is being made to withdraw property from Tree Growth at no penalty for a one-year period: “*A penalty may not be assessed upon the withdrawal of land from taxation under this subchapter in the property tax year following an increase in the minimum acreage limits established in section 574-B*”.

Is there a required Constitutional penalty or not?

The question arises: Why is this being proposed? What is the objective? Is it to encourage and force properties out of Tree Growth to promote subdivision and development in some region such as on the high-value salt-water shore where assessors have always wanted more taxable property for revenue? Is it for developers? Have the unintended consequences been contemplated and will they be shared publicly? What will happen to sustainability of the forest resource and natural habitat along the coast when more and more natural land is developed? For another example, if the 25-acre no-penalty or reduced penalty for withdrawal proposal is passed, what is to stop a shoreland owner from withdrawing all the land from Tree

Growth at no or little cost – and then putting it back in Tree Growth the next year while keeping the building lot out? I had many clients do that the last time – it cost them far less than the penalty needed to withdraw one acre for building.

3. Confidentiality of anything in Town Offices in rural Maine is really difficult. Loggers and their families and friends are very often on Selectboards. Privacy in the affairs of private landowners is paramount and has been respected in the Tree Growth statute since the beginning. The proposal to file management plans with the Assessors of the 451 cities and towns, and with the Bureau of Revenue for the 429 Townships and Plantations, will be viewed by many to be as much an invasion of privacy as to require copies of private tax returns to be submitted, examined and certified by municipal assessors. Assessors really have no more business knowing citizens' private management affairs on their real estate property any more than they have any business knowing anything about anybody's bank account. They now have the identification of the licensed Maine Forester who is obligated to be truthful according to the ethics required by his license that states there is a valid forest management plan. They now have the assistance of Maine Forest Service to read plans and inspect land if they have a reason or desire. Why do they need or want to have all this extra authority and knowledge of private affairs? Who are they trying to benefit? Who? How many more staff foresters will Maine Forest Service need to be able to respond as required in the proposal? What is the fiscal note on this bill?

The 10-acre minimum Tree Growth Tax Lot has been in existence with total satisfaction for 51 years (<https://www.maine.gov/legis/lawlib/lldl/treegrowthtax/index.html>). What is the valid reason for changing it now?

In the most recent report in 2021, there are 25,335 Tree Growth parcels comprising 3,600,799 acres in the 451 Organized Cities and Towns in Maine (Municipal Valuation Return Statistical Summary Maine Bureau of Revenue). I can't find out how many additional parcels there are where Spaghetti lots are banned in 429 townships and Plantations in Unorganized Territory where there are 7,578,328 acres in Tree Growth – more than twice the area of the organized towns.

Thus, the total number and distribution of sizes of Tree Growth parcels where Spaghetti-lots are not permitted and where Owners will be unable to divide their shore lots is not known, nor is it known how many of those lots are greater than 25 acres in size. But it is known that there are many and it is probably fair to say that the shoreland ownerships in UT are where division intentions and Spaghetti-lot limitations will most frequently apply.

Please note the drawing on the attached page that shows how the 25-acre rule will prevent parcel division in an example lot in a subdivision that originally consisted of about 140 lots in about 6,000 acres in one municipality where many of the lots were on the water.

Please vote Ought Not to Pass on this proposal which will bring both financial harm and loss of privacy to a great many people.

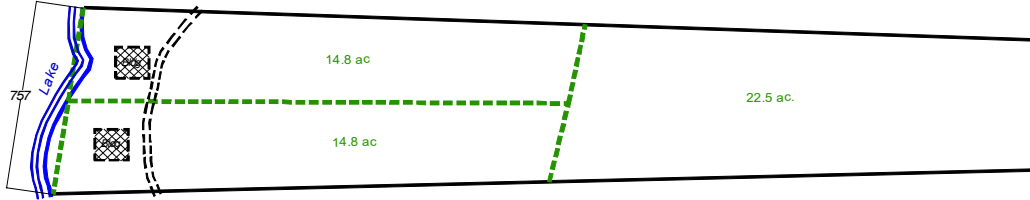
With appreciation for your public service and attention,



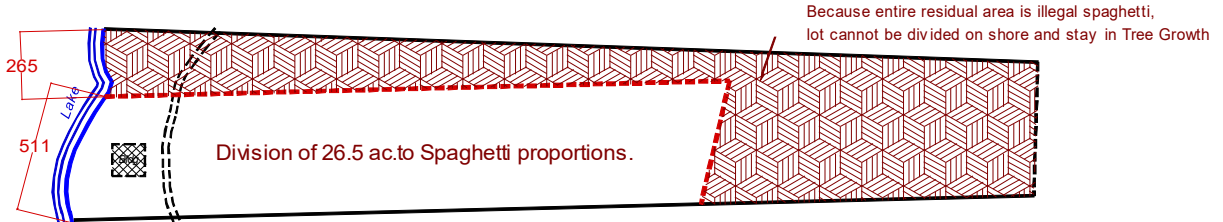
D. Gordon Mott

# How the 25-acre Minimum Tree Growth Requirement Will Take Property Values from Landowners in Unorganized Territory where Spaghetti lots are Forbidden

## One Property in Sysladobsis Land Owners Association Lakeville Maine 04487

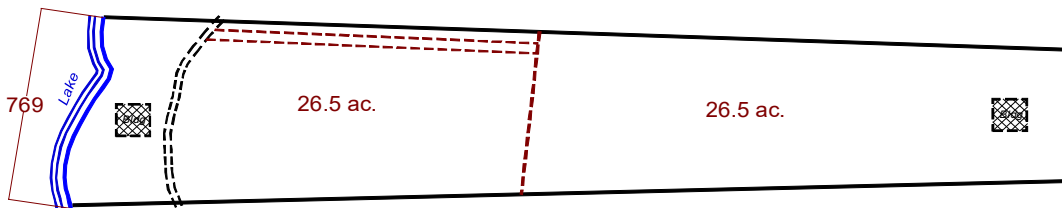


Showing that at 10 acres for Tree Growth it is possible to divide into two valuable shore lots in an Owner's lot that is all in Tree Growth and stay in accord with LUPC Spaghetti proportions and a 10 ac. minimum lot size deeded restriction keeping 10 acres for Tree Growth while paying a penalty to withdraw one acre for building and 0.5 acre for road.



Showing that at 25 acres for Tree Growth it is NOT possible to divide into two valuable shore lots in an Owner's lot that is all in Tree Growth and stay in accord with both LUPC Spaghetti proportions, and a 10 ac. minimum lot size deeded restriction. The remainder on the shore consists of a Spaghetti lot that is thus illegal even if taken out of Tree Growth at penalty.

Thus, the 25-acre Tree Growth requirement makes it impossible to divide on the shore. Two divisions can only be made front and back at significant loss in value.



The only possible division when 25 acres is needed for Tree Growth. All the shore frontage must go into the division. The back lot will need a right of way to be granted and a long driveway to be constructed. It is known that back lots have only 10% of the value of shore lots.

A 25-acre minimum Tree Growth lot size will take significant value from landowners.