

Accusations of Malfeasance by the NW Michigan Health Department 10-30-2022

Summary list of the things the NW Michigan Health Department did that were inappropriate:

- 1) They were uncooperative.
- 2) They aggressively propagating inaccurate info.
- 3) They enabled neighborhood biasing.
- 4) They used inflammatory language in their reporting.
- 5) They issued a potentially inaccurate data assessment.
- 6) Data supremacy – I paid to have two ground water monitoring wells installed directly in and adjacent to the drain field of my septic system. I was told my efforts were insufficient, yet their one hastily taken sample has been used to discredit the integrity of my long-used, well-functioning system.
- 7) Inappropriate categorization of maintenance work done when my father owned the property.
- 8) No consideration for the long-standing, fully functional unregistered system.
- 9) Overly restrictive code – a 3 bedroom house used year-round is effectively the baseline.
- 10) No consideration for a “right sized system” vs the what they feel is appropriate (ie meeting code). We are a lightly used seasonal cottage, NOT a house that will be used year round.
- 11) A code that seems to promote failure – that is you can use an old, inherently non-compliant system until it fails, but if you do maintenance work on it to extend its life or prevent failure, then you no longer have a system they will authorize.
- 12) The Right time to expand is not now – it’s when we develop or sell. Installing a compliant septic system for our tiny trailer that is used ~30 days per year is absurd.
- 13) Governmental over-reach. Their focus should be on helping to alleviate actual health issues, not on blind enforcement for situations where decades of use indicate absolutely no health issue exists.
- 14) Bogus assumptions regarding an on-site gravity-based system.
- 15) 54 years of family usage data disregarded.
- 16) A strong will to enforce code for enforcement’s sake, not to promote community welfare.
- 17) What is being fixed, and what’s the public risk?
- 18) They’re Bullies who made mistaken assumptions about my property but won’t own up to it.
- 19) They treated me wrong – they tried hard to poison the water of public opinion.
- 20) It’s easy to kick a man when he’s down (and invite his neighbors to do the same). But now I’m standing up and I’m ready to fight back, and so I shall. Bring it on.

Detailed list of things the NW Michigan Health Department did that were in appropriate:

- 1) **They were uncooperative:** When I applied for a well permit, they seemed determined NOT to talk to me. The field agent made 3 trips to my property over the course of a month. During that time, I made 3 attempts to communicate with the agent. No attempt to reply was made prior to issuing the initial inflammatory report that inappropriately indicated there was a risk of no septic system present on my property.
- 2) **They aggressively publicly propagating inaccurate info:** The initial inaccurate report, and all subsequent letters were fanned out to a group of people that they deemed appropriate, including the Township Board, Township Zoning Administrator, Country Building Dept., and to a prominent member of my neighborhood association. They had no right to point their finger at my family when they obviously had no idea what the actual situation was, but they chose to do so, and to include as many other people as they could muster, and they haven't backed off since.
- 3) **Neighborhood biasing:** when we finally met for the review board hearing, I had the opportunity to ask the field agent why my neighbor was being included in all of the notices. The reply was that they didn't know what this person's role was, but they chose to include him anyhow as they appeared determined to cast a wide net and see who might jump on their bandwagon, or smear campaign as it appeared to me. This resulted in neighborhood gossip being spread about me, and in fact my new neighbor sent his construction manager to attend the review board meeting and speak against me. Why a neighbor would have a bias against me getting a well is not clear, other than that there have been a number of unfortunate incidents caused my new neighbor and his ongoing construction that rubbed him the wrong way, and that was an easy chance to even the score. Basically, the Health Dept. purposefully provided the drum-beat to help try to create large group of people to rally against me, and guess what - they were partially successful.

In fact during the review board meeting, one of the board members actually challenged Mr. Jones as to why they added all of those agencies and a comment in their letter indicating that there might be issues that they would need to address when the matter at hand was purely and solely a Health Department decision. "It was just a statement", came his reply. The board member further implored what reason he would have to include so many others in an what was obviously internal matter for the Health Department. "It was just a statement" he repeated himself tersely.

NO – it was not just a statement. It was the purposeful distribution of inflammatory information that was willfully propagated that created a bias against me and my family's lifestyle that may perpetuate for some period of time. That was highly and entirely inappropriate, and a violation of my rights as a property owner and for my family that has tried to be good neighbors to our community for 54 years. In one fell swoop they've tried to strip that away.

- 4) **They used inflammatory language used in their reporting:** the agents both made it very clear that the improvements I had legally made (including the installation of an accessory building) was very likely a violation of some sort, when in fact it was not. The contents of the structure were recited a number of times. (I had showed them the inside in response to their inquiry if any other structures on site had internal plumbing. No was my answer, but to back that up I wanted them to see for themselves.) They then proceeded to try hard to use that willingness to open up to them against me, similar to the inflammatory statements that were made initially. To put it politely,

their behavior was atrocious, and seemed to be a further attempt to do damage to my standing in the neighborhood and the community. That too was wrong.

- 5) **Potentially inaccurate data assessment:** one reason for the field agents site inspection was to conduct soil borings that would allow for a soil assessment, and apparently also for the likely depth of the water table. They were unable to bore without the support of additional effort to clear the upper layer of rocky soil. I was initially told that a back-hoe would be required. Hoping to avoid needless disruptions to my property, I asked if I could help with the effort and dig a pilot hole for them. I did, but I was not told that where the hole was dug would be important. I had already dug a hole for a fence post fairly near the septic system, so I suggested they use that location, which was about 30' north of the grain field, closer to the lake. When that location proved to be problematic, a 2nd location was selected by the agent that was about 30' south of the drain field. That location revealed good soil, but apparently the ground water was higher than ideal. No boring was taken or even suggested right where the small drain field was located. Such a boring might have been very beneficial to the site assessment, but in the end an unfavorable assessment was made without the consideration for a 3rd boring closer to the drain field. If some distance away from the field is needed, it could have been taken nearby parallel to the lake shore, at an elevation similar to that of the field, whereas the two that were taken, the first one was a bit below, and the second one was a bit above. Why wouldn't they take one closer to the elevation of the actual drain field
- 6) **Data supremacy** - When I told them about the 2 wells that I had had installed on my property, they told me that I'd need to take 2 months of data during the rainy season (which I am now in the process of doing). Yet when they were presenting their own data in the Review Board meeting, they discredited my legacy system with one sample bore they took and claimed it indicated a problematic high ground water level. This they derived from observing a single sample of wet sand that wasn't even directly adjacent to my septic system. And for sure no monitoring-well was ever installed. No 8 weeks of data was taken including rainfall measurements comparing them to annual average as they told me would need to be done. Their one hastily taken sample apparently trumps months of data that I took, and yet my data still doesn't entirely meet the required procedure for to test in a new septic location. That's the kind of two-faced "do as I say not as I do" kind of rule making that they seem to dish out. And why not? They are the law of the land – who am I to challenge them? Trailer trash like me has no business whatsoever telling the God's of goop (or the septic satans as it were) how to run their shop. And I am not trying to do that, but the lack of consistency with what they preach and how they practice is quite literally disturbing. As a lifelong engineer (and former P.E.) I am appalled.
- 7) **Inappropriate categorization of maintenance work done when my father owned the property:** The site inspection revealed that tank material did not match what would be expected for a 54-year-old system. I tried to explain that maintenance work had been done on the system at some point, which likely resulted in the old tank being swapped out with a similar sized newer one. Exactly when and why that occurred is not entirely clear, but the system was not altered materially – it was approximately the same size and in the exact same location as it always had been. But it was deemed an "illegally installed system" that was unregistered. I don't think the categorization of the work done was accurate or appropriate, but no leeway was provided. My personal assessment was that the agents saw an unorthodox development that included a trailer that was connected to the septic system, and they simply jumped to the conclusion that it was

illegally installed at some point after the Health Dept code was in force, vs a well-maintained system that had been installed long before any Health Dept of Zoning Codes ever existed. The agents seemed determined to stick to that harsh and inaccurate assessment, even when challenged by the some of the members of the board. Again, 54 years of trouble-free usage did not register. They were totally unyielding and unwilling to acknowledge that maintenance on the tank might have led my father to feel replacement with a similar one was appropriate.

- 8) **No consideration for the long-standing unregistered system:** the fact that the system was never registered was made very clear many times. This was apparently la Cardinal sin. It didn't seem to register with them that my parents likely never knew that an existing system would need to be registered at some point. It was also not clear when they would have decided that such an action was even a consideration, given that in over 50 years, they NEVER CHANGED the accommodations on the property. Further, no notification was made to me when I purchased the property that an inspection or registration would be needed. The survey I paid for even indicated a cottage on site, so based on that info, it could have been inferred that there may well be a septic system as well. I paid a lot of money for the property with an expectation that I could not only continue to use it, but to make appropriate improvements, which I had been doing, and to be informed after the fact that since I didn't understand the old system should have been registered, and that my parents apparently never did either, that we were guilty of something egregious enough to tell us that we had to cease-and-desist from using a basic aspect of our property that we had safely used for over 5 decades. This was appalling and unjust.
- 9) **Overly restrictive code:** the Health Dept code is obviously well intended to prevent problems. But it is well known that the size requirements are generally much larger for both septic tank size and drain field size required for a given application. The obvious reason for this is to accommodate future growth. However, my family has a 54 YEAR track record us NOT growing, and in fact I recently downsized the accommodations on my property. This was not taken into consideration at all. 54 years of problem free operation was not considered in favor of strict adherence to code. That is wrong.
- 10) **No consideration for a "right sized system" vs the type they felt would be most appropriate:** they made the only assessment they are allowed, I understand that, but it isn't a good one. This is a seasonally used one bedroom facility. It isn't a two bedroom house with the likelihood to need to expand. 250 gallons is the right size for a tank to meet the needs of a full fledged one bedroom facility. We have that capacity. And the drain field, however small it is, it works perfectly. We offered to expand it if we could install a well. But for no good reason other than enforcement, there ought to be no reason to alter things that work fine as they are. It's ain't broke, so let's not fix it until it is.
- 11) **A code that seems to promote failure:** the Health Department code allows for existing systems to be used, and even allows for them to gain approval via a variance, which would have allowed for a well permit to be approved, but they seem to think that any maintenance work done on such a system that hadn't been properly registered disqualifies it from continued use. A "grandfathered" system can be used until it fails, even if such a failure might be dangerous and create real problems. This seems rather irresponsible.

We didn't have a registered system, but we didn't want the system to fail – this seems natural, and responsible - so we maintained our legacy system. Yet now we are being penalized for doing hard work and performing appropriate maintenance work as it has been deemed unauthorized. It's sure seems like a perfect Catch 22.

- 12) **The Right time to expand is not now:** the right time to make the changes they recommend / require is when I either develop the property or sell. What is so wrong with letting the old dog sleep peacefully for a few years longer? No one is getting bitten, that I know for sure. Installing a compliant septic system for our tiny trailer that is used ~30 days per year and that has a system that works fine is absurd. In fact it's such ridiculous overkill, I'd call it obscene, but no more obscene than the huge monuments to personal wealth that most people on the lake now seem so proud to create for themselves. And the people who are hell bent for demanding that outcome in my opinion are totally nuts – they are simply serving the master of personal excess. it's the worst example of public policy enforcement that I can possibly bear witness to. Just do it, and somehow the world will be safer and better off – it has to be – it says so on their piece of paper.
- 13) **Governmental over-reach.** The Health Department's focus should be on helping to alleviate actual health issues (ie their name!), not on blind enforcement of statutes to suit themselves (or some ornery neighbors) for situations like this where decades of use indicate absolutely no health issue exists, but the lifestyle in question doesn't meet with popular approval, and they know it, and they seem bound and determined to implement their iron-will. They seem to feel that they are a super-zoning authority that is redundant to and stands above the Township, and that the zoning standards that they themselves have enacted trump those of the Township and in this case they are behaving in an oppressive manner defending their own version of zoning standards as they are using to actively attempt to strip me of my legal rights. So not only do I feel like their behavior reflects an arrogant degree of Government overreach, I feel it's a disgraceful display of abuse of Government power. They need to be reigned in and show some sense of civility towards honest citizens that are not causing any health problems and are simply trying to live in a manner they are accustomed for the past 55 years.
- 14) **Bogus assumptions regarding a viable on-site gravity-based system:** it was carefully explained that the first criteria for a variance (that no solution for a system that meets code was possible) was not met because there was a way that a new system could be built, and all it would take was to cut down a number of trees, relocate our dwelling to that spot right up next to the road making things more uncomfortable for my family and the community, but in so doing we could then install an entirely new up-to-code septic system in that location. I feel that is entirely false logic and a disservice to the community to state that someone could cut trees and then rearrange property that they've maintained for decades, relocate their primary dwelling right next to the lane vs the more private location of choice for 54 years, and that was an acceptable means of meeting the code on their property. To me that logic was a farce. We could also build a 3000 ft² house and a new septic system and meet code that way, but we'd rather not do that either.
- 15) **54 years of family usage data disregarded:** no one can be trusted according the Mr. Jones. I might buy a bigger trailer, and somehow make friends that would be willing to make the 4 hour drive from where I live, or so I was told. Fact is the usage of our property was far higher when I was a young man and I did have lots of people visit – sometimes as many as 5 or 6 friends at once along with my parents and we never had an issue. Now I'm lucky to get one or two people up

there to join me, but that is not a consideration. I fully understand that based on their experience, they tend to see certain patterns of behavior, and for most installations promises of limited usage wouldn't be and shouldn't be considered, but for a family with 54 years of usage – why wouldn't that history be considered? Does 54 years of trouble-free performance mean nothing? Sadly, it certainly appears that way.

16) **A strong will to enforce code for enforcement's sake, not to promote community welfare.**

This is a classic example of solution looking for a problem, and when no health or environmental problem exists on my property, the worked hard to twist things to create just the problem they needed to allow them to implement their unwavering decree of “cease-and-desist”. (Illegally installed system, not enough ground water separation, hack down a bunch of trees, relocate his trailer and create a compliant system, can't connect a trailer to a septic system, inappropriate use of a shed, doesn't comb his hair nicely and probably showers very infrequently...”)

17) **What is being fixed, and what's the public risk?** An undersized system that will leak? Or maybe back up causing a nuisance to the users? The proximity of the system to groundwater? Or not even the soil constituents around the age old system as is currently being challenged? Is it any of that, or is it really the risk that they will have to admit for once what everyone who understands their code already knows – that *no uniform code is well suited for a one-size-fits-all solution*, but they are determined to ignore common sense and push for exactly that. That isn't safety, or justice. It's totalitarianism – thou shalt do as I say, if only because I say so! Good old might makes right. Bully for them.

18) **They're Bullies who made a mistake but won't own up to it:** it seems to me that the Health Department came in and made some improper assumptions right from the start, and they are not willing to admit to that, and in fact are making things more difficult than they would need to in effect to cover for their mistakes. They likely felt that they had caught some new property owner red-handed who had recently brought in a new trailer that wasn't allowed, and further had built a “he-shed” that they also seemed to feel was constructed inappropriately. They apparently didn't know that my family had kept a trailer on the property for all those decades, and that I had received the proper permits for the accessory buildings I had recently constructed. But they have the ability to make things difficult, and so they shall, or so it seems.

As to their general conduct, a number of civil engineer's spoke freely to me on the phone regarding the nature of the organization and they it is well known that the codes create excessive septic capacity (which their own code verifies). But when it came down to it, no one was willing to go on paper with a statement that crossed the Health Dept. One engineer told me directly that the standards are very conservative, one said I had “kicked the bear” and one receptionist actually started to laugh on the phone when I mentioned that I was having troubles with the NW Mich. Health Dept. The specifications for a 2 bedroom are much larger then needed, and they wouldn't see clear to relax it for a one-off living situation for a seasonally used one-bedroom trailer, that is not problematic in any manner and never has been, but instead they seek to enforce their code simply for enforcement's sake, common sense be damned. I find little redeeming societal value in such an outlook on their mission, which seems to simply seek pleasure in flexing their muscles and forcing people to adhere to their policies, whether it is for the best of not. Possibly they truly think it is always for the best. On that notion, I'd say they are wrong.

- 19) **They treated me wrong - they tried hard to poison the water of public opinion:** they blamed me for the “sins of my father”, for his diligence in performing appropriate maintenance work, and for the lifestyle we have lived, which the Health Department took advantage of and repeatedly lampooned at their pleasure. They made a point to list the contents of my beautiful shed, which I was careful enough to build in a manner that would both hold my scooter and bicycles and a small office area to conduct conservancy meetings or relax. They made it clear that they felt the chosen lifestyle of my family was inappropriate. Their behavior like boorish cads, trampling on decency with every plodding malevolent step they took. Their motto might as well be: “The NW Michigan Health Department – we stomp out Trailer Trash”. That is very much how I feel. I was treated badly and repeated so by people that seemed to take pride and/or pleasure in doing it. Shame on them for that. This sad episode has left me feeling disgusted that public tax money was supporting this kind of mis-guided effort.
- 20) **It’s easy to kick a man when he’s down:** My family has been coming to Lake Charlevoix since I was six years old. My whole life I’ve dreamed of having a cottage here. My parents were not interested in doing anything like that, and so they kept things the way they were, because they enjoyed it that way. Charlevoix was the “land that time forget” for my parents – a time capsule to the past, and their past. A simple time when we were all young, all together, and life was wonderful and happy. What a beautiful place to cherish, and treasure.

When I inherited the property a couple of years ago Eveline Township had decreed that out two lots might actually only be one for development purposes based on a caveat in the Township Zoning Code regarding non-conforming property, which one of my lots was. Their argument was equally wicked. They would let me keep two separate lots, but only if I didn’t attempt to shift the lot line between the two lots and make them equal in size. That didn’t make sense to me – help fix a problem but risk getting permanently penalized for it. So before I could sell one of my two lots, I first had to sue Eveline Township for the privilege of doing so. I won the case, but at considerable personal expense. Now I’m trying to figure out if I have the fortitude to take on a 2nd case in which I feel my rights are being trampled on. In the meantime, I tried very hard to make the best of what I had – to implement the improvements I could muster and afford.

I know that the manner in which my family has chosen to maintain our property is out of step with our neighborhood and what it has become with the gentrification that has occurred over the past 30 years. But I still hoped to do my best to make the property functional for me, and as presentable as possible to the neighbors. But now with the thanks of the NW Michigan Health Department, they have helped turn my neighbors against me – their letters even inspired one of them to come and actually testify against me. Bloody good show if it – bully for them. But I’m not done just yet. I will try to find the right way to keep my dream alive, but tearing up our property to install a 1000-2000 gallon septic tank and construct a new drain field to replace a system that has worked fine for many years is not what I had in mind, that’s for sure. But hopefully if I work hard and gather the support of some honest, upstanding people who aren’t intimidated by the Health Department or swayed by their mis-information, I’ll find a way.

Hal Wolff