

## Some denizens of tony street in tax suit

Assessor challenged over higher values

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By Gordon Russell

A lawsuit filed by two typical homeowners challenging new assessment values Uptown has its roots on Audubon Place, a private street inaccessible to most New Orleanians and among the city's most exclusive addresses.

The suit seeks to have thrown out all of the property values recently calculated by 6th District Assessor Nancy Marshall because she allegedly used a different method to appraise properties than the city's other six assessors. Marshall was elected last year on a reform ticket.

The suit was filed by lawyer Randy Smith on Aug. 16, a week after Tommy Coleman, treasurer of the nonprofit Audubon Place Commission, sent a memo to the enclave's 25 homeowners that laid out a plan to hire Smith to negotiate a "compromise" with Marshall. The legal argument outlined in Coleman's letter closely mirrors that of the lawsuit Smith filed the next week.

After weeks of queries about the lawsuit's origins from The Times-Picayune, Smith filed a motion Friday adding Coleman to the list of named plaintiffs.

Smith and Rick Jurisich, attorney for the Audubon Place Commission, both said the nonprofit organization did not hire Smith to represent it. Instead, Smith said he is representing Coleman and about 20 other homeowners, including "a few" on Audubon Place, in trying to negotiate lower assessments. He would not specify who they were.

Most of the street's denizens saw huge jumps in their assessments, with all but a few going up by more than 100 percent. Coleman, who owns two properties on Audubon Boulevard and is appealing the assessments on both, was among those hardest hit.

If the latest estimates of new tax rates hold, Coleman's tax bill for his two homes could roughly double, from about \$56,000 in 2007 to a little more than \$100,000 next year, based on his new assessment.

But the suit's two original plaintiffs — Jack Fong of Eleonore Street and Gregory Jalvia of Octavia Street — aren't nearly so aggrieved.

Jalvia's tax bill will jump from \$226 to a little more than \$700. Fong, who owns a commercial property on Tchoupitoulas Street in the 6th District as well as his house, is likely to see his tax liability rise from \$18,426 to a little more than \$21,000.

Jalvia did not respond to numerous phone messages. Fong cut an interview short, saying he had a business to run. He did not return subsequent phone messages.

### Not open to the public

While property all over New Orleans has historically been undervalued, Marshall said she felt some of the valuations on Audubon Place were especially behind the times.

But getting a firm handle on their prices is difficult because the street has only 27 houses, owned by 25 people, and they rarely change hands. When they do, details of the sale — in particular, the true price — are often shielded from public view.

Making matters even trickier, the gated entrance to Audubon Place is staffed by guards; the street is not accessible to the public, or, for that matter, to assessors.

On average, Marshall has raised the value of properties on Audubon Place by about 130 percent since taking office, about twice the rate by which she has boosted assessments in the 6th District as a whole. Whereas before, taxable values for homes on Audubon Place ranged from \$1.1 million to \$2.1 million, they now start at \$2.4 million and go as high as \$4.3 million.

Fong and Jalvia were selected as lead plaintiffs because their issues are representative of the area as a whole, Smith said. Smith added that if his attempt to certify the suit as a class action succeeds, every homeowner in the 6th District could be a client.

"You pick the people who you think would be good representatives of the class," Smith said Thursday. "I suppose I could have put Tommy down as one of the class representatives."

On Friday, he did just that, saying in a letter to Marshall's attorney that Coleman "has tried for months without success to work out an amicable resolution with your client" and that "it now appears an amicable resolution is impossible."

Technically, Smith said, no one is paying him for his work on the suit, although he is being paid for representing homeowners in appeals before the city's Board of Review. He took the broader case on a contingency basis, he said.

Marshall, a lawyer, said she doesn't buy that because the relief sought in the suit — the rejection of Marshall's tax roll — would not result in any payment for Smith. But Smith said he would ask a judge to order Marshall to pay him a fee "for the common benefit achieved for the class" if he prevailed. Precedent exists for such a ruling, he said.

An alternative, he added, would be to settle the case.

"The courts have huge discretion on how to handle something like this," he said.

### A 'class action for everyone'

The addresses of his clients are irrelevant, Smith said, adding that he believes Marshall is trying to link the suit to the upscale enclave to stir up resentment against the lawsuit and the people behind it.

"She was accusing me of being a tool for the rich who don't want to pay their taxes," he said, recounting a conversation with Marshall. "I said, 'That's not accurate. This is a class action for everyone in the 6th District.'"

Marshall said she also had a somewhat heated conversation with Coleman in which she asked him to drop the case. Coleman told her he might call Smith and get him to try another tack, such as suing the other assessors. Coleman did not return numerous phone messages to be interviewed for this story.

The lawsuit remains active, although it has been removed to federal court at Marshall's request.

Plenty of 6th District property owners appealed their assessments to the City Council — more than 1,500, or about one in 13. On Audubon Place, appeals are pending on about half the homes. The council is scheduled to vote on appeals at its meeting Thursday.

Among the street's notable residents is Thomas Coleman's son-in-law, businessman John Georges, who has poured several million dollars of his own money into a largely self-financed campaign for governor.

The house Georges lives in is owned by a trust, ZLN Properties, set up for Georges' three children. Through a spokesman, Georges said neither he nor ZLN is involved in the suit challenging Marshall's valuations.

The assessment of the Georges/ZLN home has been appealed to the Board of Review. Georges said he did not hire Smith to handle that appeal.

James Coleman, Tommy Coleman's brother and business partner as well as a neighbor on Audubon Place, also has appealed his assessment.

James Coleman said he has no involvement in the suit against Marshall. He also said he is handling his appeal himself and has not hired Smith.

As it happens, the Coleman family has also been the longtime landlord of Janyce Degan, who was the 6th District assessor for nearly 30 years before relinquishing the office to her son, Albert Coman, in 2005. Coman lost to Marshall in his first bid for election in 2006.

Degan's apartment is in an eightplex at 4739 St. Charles Ave. When she was assessor, the entire complex was valued at \$500,000; Marshall now has it on the books for \$853,700.

### Methods questioned

Whether Smith's suit will go anywhere is hard to predict. The complaint argues that the residents of the 6th District are being denied their constitutional right of equal protection under the law because Marshall uses a different method of appraising property than her six colleagues.

That claim rests on Marshall's stated intention of using real-estate data from the Multiple Listing Service to get better information about home sizes and other features to help with the appraisal process.

Smith noted that Marshall more or less conceded her methodology was different than that of other assessors in a letter she wrote to him after he filed the suit.

"I did try to get the other assessors to use MLS data, as well as data from the UNO Appraisal Board, to provide adequate information about square footage and other pertinent information," Marshall's letter states in part. "However, my fellow assessors were not interested."

The letter, dated Aug. 17, concludes: "I look forward to defending this lawsuit and taking the depositions of your named plaintiffs and all others involved in bringing this suit."

Marshall said she is trying to meet the law's mandate that property be assessed as close to its market value as possible.

Though Smith's suit argues that the other assessors appraise property differently, it does not detail which methods they use.

In an interview, Smith said he believes the other assessors use a home's most recent sales price and make "occasional adjustments" to homes that do not change hands for decades. "Otherwise, you're doing some appraisal work, which is guesswork."

State law says that assessments should reflect fair market value. New Orleans' assessors in the past have consistently undervalued properties that are not sold for long periods of time, putting a disproportionate share of the tax burden on recent buyers.

Smith said his real beef is not with Marshall. The problem, he said, is that her system has resulted in higher values in the 6th District compared with the other districts, and that's not fair to her constituents.

"It's great that she wants to be a pioneer," Smith said. "If she could get any of the other assessors to agree with her, that would be fair."

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