

UNITED STATES DISTRICT  
DISTRICT OF MAINE

ASSOCIATION TO PRESERVE AND	)	
PROTECT LOCAL LIVELIHOODS, et	)	
al.,	)	
	)	
Plaintiffs,	)	
	)	Civil Action
PENOBSCOT BAY AND RIVER PILOTS	)	No. 1:22-cv-416-LEW
ASSOCIATION	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
TOWN OF BAR HARBOR, a municipal	)	
corporation of the State of	)	
Maine,	)	
	)	
Defendant,	)	
	)	
CHARLES SIDMAN,	)	
	)	
Defendant-Intervenor	)	

ZOOM DEPOSITION OF: Todd Gabe, Ph.D.

BEFORE: Lisa Fitzgerald, Notary Public, via Zoom on  
May 23, 2023 beginning at 9:07 a.m.

Maine Court Reporting Services  
60 Starlight Drive  
Brewer, Maine 04412  
207-989-3264  
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1 thing? Happy to do that on a break or whenever it is  
2 convenient for counsel.

3 MR. PAPAZIAN: That would be great.

4 BY MR. PAPAZIAN:

5 Q. Okay. What opinions are you going to be offering at  
6 this trial?

7 A. None.

8 Q. What opinions are you going to be offering today?

9 A. None.

10 Q. Are you going to be submitting anything to the court in  
11 this case?

12 A. (Indicates) I guess these documents.

13 Q. Okay. You often write about tourism's effect on Maine;  
14 correct?

15 A. Yes.

16 Q. Are they paid -- are they often paid by anybody, paid  
17 studies?

18 A. Not often. I should mention, my research program is  
19 supported by the U.S. Department of Agriculture.

20 Q. And do they fund your research?

21 A. My appointment at the University of Maine, I'm  
22 50 percent teaching, 50 percent research, and that 50  
23 percent research piece is funded through what's called a  
24 Hatch Project, and that's funded through the U.S.  
25 Department of Agriculture.

1 have on sidewalks in Bar Harbor.

2 Q. And how is sidewalk congestion related to your expertise  
3 as an economist?

4 A. I don't think I understand the question.

5 Q. You're an economist; correct?

6 A. Yes.

7 Q. So is there any overlap in your profession with what you  
8 studied in this article?

9 A. Impacts of cruise passengers.

10 Q. Economic impacts of cruise passengers?

11 A. No, on sidewalk congestion.

12 Q. Okay. Is it related in any way to economic impact?

13 A. Yeah, I mean, a cruise passenger, I guess, has to be at  
14 a certain point in town to go in and make a purchase.

15 Q. But you're not a traffic engineer?

16 A. No.

17 Q. Okay. Have you taken any courses or done any -- or  
18 taught any courses that contribute to your ability to  
19 testify about pedestrian traffic?

20 A. No.

21 Q. Okay. How did you conduct this study?

22 A. Literally walking the streets of Bar Harbor.

23 Q. How does that -- how does that measure sidewalk traffic?

24 A. You count the number of people that you observe as  
25 you're walking.

1 Q. Did you, personally, count the number of people?

2 A. Yes.

3 Q. Did you have any other researchers with you?

4 A. No.

5 Q. It was just you walking?

6 A. Yes.

7 Q. Okay. How many total days did you conduct this  
8 research?

9 A. Let's see here. 66 different days.

10 Q. Over the course of what time frame?

11 A. July 2017/December 2018; right?

12 Q. So July until December?

13 A. '17 to '18.

14 Q. Got it. And how many hours do you estimate you were  
15 conducting this research?

16 A. I don't have an estimate off the top of my head.

17 Q. Do you have an estimate of the average number of hours  
18 per day that you were out there conducting research?

19 A. It varied by day.

20 Q. Did it vary widely?

21 A. I wouldn't say widely.

22 Q. Okay. So approximately on average how many hours were  
23 you out there each day?

24 A. Off the top of my head, I don't have an estimate for  
25 you.

1 Q. Okay. What conclusions did you draw from this study?

2 A. That an increase in the number of cruise passengers that  
3 were in port would increase the number of people that  
4 you would encounter as you're walking on the sidewalks,  
5 but that effect would vary quite a bit based on where  
6 you were relative to where the cruise ships come into  
7 port.

8 So the effect of cruise passengers on sidewalks  
9 decreases as you get farther away from Harbor Place.

10 Q. And did you only study the impact that Harbor Place had,  
11 or did you study other areas that -- sorry, strike that.

12 How many ports allow cruise passengers to disembark  
13 in Bar Harbor?

14 A. How many ports?

15 Q. Yes. How many places in Bar Harbor are allowed to  
16 disembark cruise ship passengers?

17 A. I don't know off the top of my head.

18 Q. Do you know what ports you've studied in this report?

19 A. I just studied the port of Bar Harbor.

20 Q. In what location in particular?

21 A. For this study?

22 Q. Yes.

23 A. I was all over town counting people on the sidewalks.

24 Q. Sorry, but where was the point of disembarkation?

25 A. It would have been primarily Harbor Place.

1 Like if I were to extend this out in increments of a  
2 half a person, it wouldn't be that many.

3 Q. Okay.

4 A. So that 12 or more could be anything from 12 to a number  
5 larger than 12.

6 Q. Got it. And did you come across more than 12 people in  
7 your study per 100 feet?

8 A. I think what you're asking me is were all those  
9 observations exactly 12?

10 Q. Correct.

11 A. No.

12 Q. So 12 or more encaptures more people than 12; right?

13 A. 12 or more, so, yes, it captures 12 or more.

14 Q. Okay. But you don't have the data -- sorry, do you have  
15 the data about the breakdown of 12 or more people?

16 A. It's publicly available data. It's posted on UMaine  
17 Dataverse -- I mean, it's here (indicates). This is the  
18 data set from this study.

19 Q. Got it. And does that -- do you recall the maximum  
20 number of people you walked past, 100 feet -- over the  
21 course of 100 feet?

22 A. I don't recall but it would be --

23 Q. In the data?

24 A. In the data, yes (indicates).

25 Q. Going back to 1634, under Section 2, Related Literature,

1           you write, Sidewalk congestion is often analyzed in  
2           terms of pedestrian level of service, LOS. And then  
3           skip a sentence, "It is influenced by the sidewalk's  
4           capacity, quality of walking environment (e.g.,  
5           architectural interests, pedestrian signals), and the  
6           pedestrian's perception of comfort, safety, and  
7           security," and then you cite Landis, et al; Raad &  
8           Burke.

9    A.    Yes.

10   Q.    Along with its impact on pedestrian LOS, sidewalk  
11           congestion influences the walkability of neighborhoods,  
12           which is related to the health of residents and the  
13           local environment, and then you cite another study.

14                    Did your study measure any of these concepts?

15   A.    No.

16   Q.    Okay. So you didn't study the sidewalk capacity;  
17           correct?

18   A.    No.

19   Q.    Do you know how wide the sidewalks are in Bar Harbor?

20   A.    There is a footnote -- it varied because there were  
21           times that there was snow that was piled up, there would  
22           be sections where there would be vegetation growing out,  
23           and there would be sections where there would be benches  
24           and lamp posts and things like that.

25   Q.    Okay. But your study didn't factor these things?

1 A. Correct.

2 Q. This study only measured sidewalk congestion due to  
3 pedestrians; correct?

4 A. I don't know if I understand the question.

5 Q. What did this study measure?

6 A. The effect of cruise passengers on sidewalk congestion.

7 Q. And that is foot traffic of cruise ship passengers?

8 A. I'm not sure I understand the question.

9 Q. How were cruise ship passengers getting around in  
10 Bar Harbor?

11 A. Yeah, people you observe on the side- -- I was focusing  
12 on the sidewalks, yes.

13 Q. Okay. You were trying to isolate cruise ship  
14 passengers --

15 A. Yes.

16 Q. -- from your studies?

17 A. Yes.

18 Q. Okay. Did you come to any conclusions on the  
19 walkability of the neighborhood?

20 A. No.

21 Q. Did you come to any conclusions about the health of  
22 residents and the local environment?

23 A. No.

24 Q. Did you come to any conclusions about pedestrians'  
25 perceptions of comfort, safety, and security?



1 reduction of space is associated with slower walking  
2 speeds?

3 A. Yes.

4 Q. You continue, Mori and Tsukaguchi, 1987, who also found  
5 that an increase in pedestrian density is associated  
6 with a reduction in walking speed, suggests that a focus  
7 on sidewalk capacity and related measures such as  
8 walking speed are suitable for the analysis of congested  
9 sidewalks due to heavy pedestrian traffic.

10 Your study did not take into account sidewalk  
11 capacity; correct?

12 A. Not explicitly.

13 Q. You were looking at just pedestrian volumes and walking  
14 speeds, correct, in this study?

15 A. Yes, a count of the number of people that you encounter  
16 while you're walking down the sidewalk and the effects  
17 on walking speeds.

18 Q. And what conclusions did you draw about walking speeds  
19 and congestion?

20 A. Yeah, it was the results from Table 1. The more people  
21 that you encounter on the sidewalk, it slows you down.

22 Q. Do you think that the opposite is true, the slower the  
23 walking speeds, the more congestion?

24 A. I don't know.

25 Q. You didn't study that?

1 than pedestrian walking speeds at detecting differences  
2 in congestion.

3 Does that mean that walking speeds is less of an  
4 indicator of congestion than your people observations?

5 A. No, they're just different.

6 Q. Is there one that is more reliable than the other?

7 A. No, I use both.

8 Q. And that's what this study did, right, they used both?

9 A. Yeah, of course.

10 Q. All right, the next study. It's the Maine Policy  
11 Review, Impacts on COVID-19 on Tourism in Bar Harbor,  
12 Maine.

13 (Deposition Exhibit No. 8, Impacts of COVID-19 on  
14 Tourism in Bar Harbor, was introduced.)

15 BY MR. PAPAZIAN:

16 Q. All right, on Page 49, the last paragraph you state that  
17 the analysis shows that every dollar spent at hotels in  
18 the Bar Harbor area is associated with an additional  
19 37 cents spent at restaurants and bars in the area and  
20 each cruise passenger spends an average of \$21.83 on  
21 food (and drinks) while in port.

22 Does that conflict at all with your prior study  
23 going back to the first exhibit that we looked at --  
24 sorry, I think it was the first study that we looked at,  
25 which would have been the economic impact study where

1           you wrote that -- the previous study said that each  
2           person spent -- each passenger spent \$24.60 on food and  
3           drink?

4   A.    It's a different value.

5   Q.    And one is from 2016, correct, the first one is from  
6           2016?

7   A.    Yes.

8   Q.    And this one, the \$21.83, is from what year?

9   A.    It's based on analysis between January of 2000 and  
10          December of 2019.

11   Q.    So the expenditure on food and drink went down; correct?

12   A.    It's a lower estimate but this is -- it's a different  
13          time frame than we're looking at here.

14   Q.    Okay. You didn't accommodate for a different time frame  
15          in this study?

16   A.    I'm not -- I mean, I adjusted all the values for  
17          inflation.

18   Q.    So it's even less that they spent on food and drink if  
19          you're adjusting for inflation; right?

20   A.    This is a different analysis. This is looking at  
21          average expenditures of cruise ship passengers over this  
22          20-year period.

23   Q.    Oh, it's over a 20-year period?

24   A.    Yes, January of 2000 to December of 2019.

25   Q.    How did you get this information?

1 in the number of Acadia National Park users, which is a  
2 proxy for the recreational activities of local residents  
3 and day visitors, is responsible for an additional 14  
4 percent decline.

5 You're talking about restaurant sales; right?

6 A. Yeah, and that's basically summarizing this last bar  
7 here (indicates).

8 Q. Okay.

9 A. If you look at the -- if you go back a page, the final  
10 bar at the very bottom, which is the lightest shade of  
11 pink at least on mine --

12 Q. Mine are all blue.

13 A. Sorry, the lightest shade is -- the last is -- that  
14 first part of the bar is right above 10 percent. That's  
15 the 11 percent I talked about.

16 Q. So in your research, in your studies, do you extrapolate  
17 how much the cancellation of all cruise ship visits  
18 contributed to the lost income of Bar Harbor?

19 A. I mean, we show the -- we show the economic impact from  
20 the previous year. I'm trying to see if we used that  
21 to -- I don't -- I know I present the regression -- I'm  
22 sorry, I know I present the economic impacts -- I  
23 extrapolate that to a -- the paper mainly focuses on the  
24 results in Figure 3.

25 Q. Okay. But turning back to Exhibit 2, the economic

1 impact study --

2 A. Yes.

3 Q. -- on Page 22 you're measuring 2016 economic impact of  
4 cruise passengers that visited Bar Harbor; correct?

5 A. Yes.

6 Q. And what is the total amount of spending you list there?

7 A. 14.9 million.

8 Q. That's direct but including the multiplier?

9 A. 20.2 million.

10 Q. Do you know what percentage of that figure -- do you  
11 know what percentage that is of the total impact of all  
12 tourism in Bar Harbor?

13 A. Only on the rest- -- I only isolated the restaurant  
14 piece.

15 Q. But you didn't isolate the restaurant piece here; right?  
16 This is the total economic impact, correct, not just  
17 restaurants?

18 A. To answer your question, if you want to talk about the  
19 impact -- the percentage of tourism that is accounted  
20 for by cruise ship passengers, you want to focus on the  
21 direct spending.

22 Q. Why not the multiplier effect?

23 A. Because the multiplier effect captures expenditures that  
24 are connected to the cruise ship passengers but are in  
25 other types of businesses.

CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on May 23, 2023, appeared via Zoom Todd Gabe, Ph.D., the within-named deponent, who was sworn to testify to the truth, the whole truth, and nothing but the truth, in the cause of action ASSOCIATION TO PRESERVE AND PROTECT LOCAL LIVELIHOODS, et al. v. TOWN OF BAR HARBOR, et al., now pending in the UNITED STATES DISTRICT COURT, DISTRICT OF MAINE; and that this deposition was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

I further certify that the adverse party was duly notified according to law to attend at the taking of said deposition and did attend.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this May 27, 2023.



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LISA FITZGERALD, NOTARY PUBLIC  
Court Reporter

My commission expires: May 10, 2025