

**MEETING MINUTES
BOARD FOR THE ABATEMENT OF TAXES
TOWN OF BARNET, VT
TUESDAY, MARCH 6, 2018**

Meeting convened at 12:30 p.m. at the Barnet Elementary School.

Board members present: Steven Adler, John Cook, Sarah Cook, Dylan Ford, William Graves, Benjamin Heisholt, Susan Jensen, Dennis McLam, Jeremy Roberts, Maurice Roberts, Shellie Samuels, and Michael Walsh.

Others present: Requestor James Kendall, Collector of Delinquent Tax Lisa Bowden, Dana Gray, and Alec K. Slater Esq.

1. Preliminary items

- Those present for the purpose of giving testimony, James Kendall, Lisa Bowden, and Alec K. Slater Esq., signed witness oaths. Treasurer Benjamin Heisholt also signed a Treasurer oath. Other members of the Board of Abatement are not required to take oaths at this time because the oaths they took when elected to office apply to abatement requests.
- Chairman Graves gave introductory remarks, as follows:
 - Explained that the Board of Abatement consists of the Board of Civil Authority and the Board of Listers, and introduced the members of the Board present.
 - Read the notice of hearing, including the text of 24 V.S.A. §1535, which describes the role and rights of the Board for the Abatement of Taxes.
- Mr. Adler indicated that Mr. Kendall has been a client of his law firm, although not relating to matters involving property taxes. Mr. Kendall indicated that he did not object to Mr. Adler's full participation in the hearing.

2. Tax Abatement Hearing

James Kendall appeared as Requestor. Also appearing was Mr. Kendall's legal counsel, Alec K. Slater Esq., of Marc E. Weiner Law Offices, PLLC.

Letter of request

Mr. Graves read the letter requesting an abatement hearing, which is signed by Mr. Slater. A copy of this letter is attached to these minutes.

Requestor's Testimony

A summary of Mr. Kendall and Mr. Slater's testimony is as follows:

- Mr. Kendall requested abatement based on 24 V.S.A. § 1535(a)(3), which permits the Board to abate in whole or in part taxes, interest, collection fees, and penalties when a person is unable to pay. Mr. Kendall specifically requests relief from interest and collection fees, not from the taxes as assessed (principal).
- Mr. Kendall stated that the extraordinary nature of this case rests on circumstances leaving him economically bereft of resources available to pay property taxes. These circumstances were divorce proceedings commencing in 2013, between the Requestor and his wife Michelle Kendall: during this time, he incurred both legal expenses and monthly support payments to his separated wife. Mr. Kendall also testified that the divorce proceedings and circumstances constrained him from repairing and rehabilitating certain uninhabited rental properties, further limiting his cash flow. As a result, Mr. Kendall testified that he has filed for Chapter 13 bankruptcy relief; reorganization under this filing is currently being administered by the bankruptcy court.

- Mr. Kendall testified, and presented evidence that his total liabilities are \$959,761, of which approximately \$650,000 is secured (property taxes, interest, and penalties, mortgages, and Internal Revenue Service obligations). The value of his real estate on the Barnet Grand List is approximately \$1,600,000. Mr. Kendall testified that many of the smaller parcels owned are free of mortgage encumbrances.
- Mr. Kendall and Mr. Slater testified that an inability to pay exists which is extraordinary in nature, and unusual for this taxpayer, and limited to the temporary constraints which separation and divorce proceedings, and subsequent restricted access to property and possessions, had placed on the normal practices of property management

Discussion

Graves opened the floor for discussion, which was had as summarized below:

- Collector of Delinquent Taxes Lisa Bowden testified that, contrary to Mr. Slater's letter, she has not been "supportive of an abatement": rather, she had advised Mr. Kendall that the abatement process is the only avenue available for relief of delinquent tax burdens. Ms. Bowden also testified that she had offered to apply payments of delinquent tax to principal only; this would reduce the total interest collected. Ms. Bowden presented a "debt list," which summarizes and succinctly states Mr. Kendall's delinquent tax debt. A copy of this document is attached to these minutes.
 - The Board reviewed the "debt list"; discussion ensued.
 - Mr. Kendall stated that since 2012 (the first year listed for existing delinquent taxes), he has paid some years' debt completely for individual parcels; for other years on certain parcels he has made partial payments.
- Mr. Kendall indicated that he intends to sell some of the parcels with delinquent tax burdens; the divorce proceedings and subsequent bankruptcy proceedings have prevented him from doing so.
- Mr. Slater indicated that Mr. Kendall does not argue with the current assessed Grand List value of his properties.
- Mr. Adler asked Mr. Kendall why the Board should consider abatement for a property owner with \$1.6 million real estate assets.
 - Mr. Slater responded that this is a unique case, in which the Mr. Kendall has very little in equity in the properties consisting of the \$1.6 million in real estate value.
- Mr. Slater indicated that Mr. Kendall's financial statements are available online at the bankruptcy court's website.

3. Deliberation & Decision

Ms. Ford moved to enter deliberative session. Seconded by Mr. McLam and approved by voice vote. Entered deliberative session at 1:35 p.m.

Mr. McLam moved to exit deliberative session. Seconded by Mr. Cook and approved by voice vote.

Mr. Roberts moved to deny this request for abatement, finding that 1) the Requestor presented insufficient evidence to support the inability to pay and did not present a report of cash flows, 2) the Requestor has a poor record of effort to pay taxes in years prior to his divorce proceedings, and 3) the value of the Requestor's real estate exceeds the amount of his debt by a significant margin. Seconded by Mr. Walsh and approved by voice vote.

4. Adjournment

Mr. Cook moved to adjourn. Seconded by Mr. Walsh and approved by voice vote. Meeting adjourned at 2:20 p.m.

A true copy.

Attest: _____
Town Clerk