

**MEETING MINUTES
BOARD FOR THE ABATEMENT OF TAXES
TOWN OF BARNET, VT
THURSDAY, DECEMBER 13, 2018**

Meeting convened at 6:30 p.m. at the Barnet Town Clerk's Office.

Board members present: Carrie Dunbar, Dylan Ford, Benjamin Gates, William Graves, Benjamin Heisholt, Susan Jensen, Dennis McLam, Maurice Roberts, Shellie Samuels, and Michael Walsh.

Others present: None physically present; requestor Frederick Choate participated via telephone conference.

1. Preliminary items

- Treasurer Benjamin Heisholt signed a Treasurer oath. Other members of the Board of Abatement are not required to take oaths at this time because their oaths of office apply to abatement requests.
- Chairman Graves gave introductory remarks, as follows:
 - Explained that the Board of Abatement consists of the Town Treasurer, Town Clerk, Selectboard, Justices of the Peace, and the Board of Listers, and indicated 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. Graves indicated that that an abatement requestor, Frederick Choate, is unable to attend the hearing in person, and has requested to participate via telephone conference. Mr. Graves indicated that Town Clerk Benjamin Heisholt had obtained a legal opinion regarding telephone conferences from the Vermont League of Cities & Towns (VLCT). Mr. Graves then read from and summarized the VLCT opinion. Mr. Graves indicated that the Board does not have a policy or rules of procedure to guide a decision regarding allowance of telephone testimony, nor does it have a precedent for this request. Discussion ensued, with regard to this request in particular, and with its precedent-setting nature, the general idea of allowing testimony via telephone conference.
 - Mr. Walsh moved to allow Mr. Choate to testify at this meeting's hearing via telephone conference. Seconded by Ms. Ford and approved by voice vote.

2. Tax Abatement Hearing – Choate, Paul M & Elvira E Trust (parcel ID #0021-21-36)

Board Chair recusal

Mr. Graves indicated that he has had business relations with Frederick Choate in the past that may cause a conflict of interest, and that he would recuse himself from this hearing. In his place, Vice Chair Mr. McLam assumed the Chair for this hearing.

Letter of request

The Board read the letter requesting an abatement hearing, which is signed by Frederick Choate. A copy of this letter is attached to these minutes.

Requestor's Testimony

Mr. McLam called the telephone number provided by Mr. Choate, and was able to make a connection with Mr. Choate, and commence the hearing. Mr. McLam then administered the Board for the Abatement of Taxes witness oath to Mr. Choate. Mr. Choate then provided testimony, as summarized below.

- Mr. Choate indicated that the notice of hearing that he received seems to indicate that the Board can only abate tax, and that any interest and collections fees associated with the tax would be automatically abated. Mr. Choate indicated that it is his understanding that the Board may abate in whole or in part taxes, interest, or collection fees: the Board would not be constrained to abate only tax, with any associated interest and collections fees following from such abatement.
- Mr. Choate never received a packet from Collection of Delinquent Tax Lisa Bowden that included his first delinquent tax billing, a photocopy of his original letter with its date-stamp, and information regarding the abatement process. It was revealed that the packet was sent to the wrong address.
- In many years of mailing items from California to Vermont it has never taken as long as long as a week for mail to arrive; usually items are received in three or four days. A replacement check, sent when Mr. Choate thought his first check was lost, arrived in only two days.
- Town Clerk Benjamin Heisholt indicated that he time-stamps and initials payment received after the due date of taxes, then forwards them to the Collector of Delinquent Tax. Mr. Heisholt reported that he had received perhaps five or six payments on October 22, 2018 but did not recall if Mr. Choate's was one of them. The envelope containing Mr. Choate's payment, which was in the possession of Ms. Bowden, was date-stamped October 22, 2018.
- The Town did not lose a penny due to the delinquency of Mr. Choate's payment; the check was deposited November 2, 2018.
- The penalty and interest charged are an unfair burden for a taxpayer who has made timely payments since 1975.
- Mr. Choate is requesting abatement of penalty and interest, but not principal.

Discussion

Mr. McLam opened the floor for discussion, which was had as summarized below:

- Ms. Ford asked if there are funds available in the trust that owns the property to pay the penalty and interest.
 - Mr. Choate responded that the trust consists only of the Barnet real estate in question; no liquid assets are available.
- Ms. Dunbar asked what type of trust the property is held in.
 - Mr. Choate responded that he is unaware of the category of the trust that holds the property.
- Ms. Ford asked about Mr. Choate's statement indicating he is basing his request on inability to pay the penalty and interest.
 - Mr. Choate confirmed that his monthly Social Security payment is \$748, and reported that he lives paycheck-to-paycheck.
- Mr. McLam noted that a monthly Social Security payment of \$748 calculates to an annual income of \$8,976, which is only a slightly more than the annual property taxes on the Barnet property, \$8,549.44 in 2018.
 - Mr. Choate indicated that he is a retired University of California, Davis lecturer, and receives a monthly pension of \$700. This and his Social Security payment are his only sources of income.
- Ms. Dunbar asked if there are any other persons involved in the Paul M & Elvira E Choate Trust.
 - Mr. Choate responded: Mr. Choate's parents, Paul and Elvira, are deceased. Mr. Choate is the executor and a Trustee; there is one other Trustee, Mr. Choate's sister. Mr. Choate would not ask her to assist with paying the penalty and interest, because she was not at fault for the delinquency.

Deliberation and decision

Mr. Walsh moved to enter deliberative session. Seconded by Mr. Heisholt and approved by voice vote. Entered deliberative session at 7:23 p.m.

Exited deliberative session at 7:37 p.m.

While in deliberative session the Board voted to deny the request for abatement.

3. Tax Abatement Hearing – Catanzaro, Marion (parcel ID #0017-01-07)

Resumption of Chair

After the conclusion of the first hearing, at the beginning of the second hearing, Mr. Graves re-assumed the Chair in place of interim Chair Mr. McLam.

Letter of request

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

Requestor's Testimony

No requestors were present for this hearing; therefore, the testimony for this request consists only of the letter of request and several documents submitted with the letter. These documents are:

- 1) A Social Security Administration statement indicating Mr. Papineau's date of birth, and that he is entitled to hospital insurance under Medicare beginning April 2011 and to monthly disability benefits.
- 2) A copy of a 2018 Barnet property tax bill for parcel ID #0017-01-07 indicating a net tax due of \$2,349.22.
- 3) A copy of a Barnet Delinquent Tax Collector's Notice as of October 21, 2018 indicating a balance due of \$211.43.
- 4) A copy of a receipt from the Collector of Delinquent Taxes indicating that \$2,349.22 was received October 24, 2018, and that this payment was applied to principal, interest, and penalty.
- 5) A copy of a Certificate of Death of Marion Lucille Catanzaro from the Rhode Island Department Health, indicating a date of death of October 9, 2018.

Deliberation and decision

The Board discussed and deliberated documents submitted as testimony, and the merits of the request for abatement.

Ms. Jensen moved to abate \$213.59 in taxes, interest, and collections fees, finding that the taxpayer was unable to pay her taxes, pursuant to 24 V.S.A. §1535 (a) (3), taxes of persons who are unable to pay their taxes, interest, and collection fees, due to the fact that the taxpayer died shortly before the due date. Seconded by Ms. Samuels and approved by voice vote.

4. Adjournment

Ms. Ford moved to adjourn. Seconded by Mr. Walsh and approved by voice vote. Meeting adjourned at 8:07 p.m.

A true copy.

Attest: _____
Town Clerk