

**BOARD OF CIVIL AUTHORITY**

**(DRAFT)**

TOWN OF ESSEX

**BOARD OF CIVIL AUTHORITY**

**Tuesday July 29, 2020**

**JUSTICE OF THE PEACE (JP), SELECTBOARD (SB) AND OTHER MEMBERS PRESENT:**

Chair Dawn Hill-Fleury, JP/SB; Kelly Adams, JP; Diane Clemens, JP; Rep. Linda Myers, JP; Bernard Couture, JP; Betsy Dunn, JP; Tim Jerman, JP; Elaine Haney, SB; Karen Lemnah, Assessor; Ryan McLaren, JP; Susan McNamara-Hill, Clerk/Treasurer; Patrick Murray, JP/SB; Rep. Marybeth Redmond, JP; Liz Subin,

**ADMINISTRATION and STAFF:** Greg Duggan, Deputy Manager; Bill Ellis Esq., Town Attorney

**OTHERS PRESENT:** Bruce Brown; Dennis & Kaley Barcomb; Peter Edelmann; Courtney Roman; Renato Wakim;

**Ms. Hill-Fleury called the meeting to order at 6:02 PM.**

**1. Meet with Town Attorney regarding Abatement Procedures**

Mr. Ellis provided an overview of VT Statute 24 V.S.A. § 1535, including all acceptable reasons for abatement and Board of Civil Authority procedures. He said all applications must receive a hearing, deliberation, a written decision and reason for the decision. He explained that abatement can be granted when the request falls into one of the acceptable 7 reasons for abatement, and the request is reasonable, based on the evidence provided. He cautioned that consistency of decisions is essential because they set precedence which can have consequences in later cases.

The board members discussed how to determine if a business should be approved for abatement due to evidence of hardship related to COVID. They talked about what evidence should be considered to prove financial hardship if recent tax returns do not reflect current status. The board members wondered what role state and federal COVID relief income should play in whether or not abatement is necessary. The board members talked about property tax processes and related fund transfers required by the schools. They discussed penalties paid by the municipality if taxes are delinquent. Rep. Redmond talked about state and federal programs related to COVID that can provide income for renters and landlords and the board talked about how these may contribute to board uncertainty of how to determine COVID related economic hardship in Abatement hearings.

Ms. Hill-Fleury recessed the meeting at 6:52 PM.

**2. Applications**

Ms. Hill-Fleury called the meeting back to order to enter into abatement hearings at 7:01 PM.

**a. Susie Wilson Holdings c/o Leah Chiofano Martin, 1 Towne Marketplace – Request to abate tax & penalty.**

Ms. Hill-Fleury called the hearing for the Susie Wilson Holdings c/o Chiofano Martin, 1 Towne Marketplace, parcel #2047012814, to order at 7:02 PM. Nobody identified themselves to be heard on this case. Ms. Hill-Fleury pointed out that, on the application, Ms. Martin identified “Taxes of persons who are unable to pay their taxes, interest and collection fees” (statutory basis 3), for reason for the abatement request. The board members reviewed the application and supporting documents, and discussed the applicant’s status as the owner of a yoga business, closed due to COVID restrictions, who paid some taxes through a payment plan, with a balance due of \$834.36.

- 54 b. **Bruce Brown, 131 South St – Request to abate penalty**  
55 Ms. Hill-Fleury called the hearing for Bruce Brown, 131 South St, parcel #1027082000, to order  
56 at 7:13 PM. Mr. Brown was sworn in to present evidence on this case. He identified “Taxes in  
57 which there is a manifest error or a mistake of the listers” (statutory basis 4) for reason of the  
58 abatement request. He said he switched from escrow to personal payment and misunderstood  
59 when the payment was due. Mr. Brown produced no records to support this claim.  
60
- 61 c. **Dennis & Kaley Barcomb, 29 Juniper Ridge Rd – Request to abate penalty**  
62 Ms. Hill-Fleury called the hearing for Dennis & Kaley Barcomb, 29 Juniper Ridge Rd, 131 South  
63 St, parcel #1089001055, to order at 7:23 PM. Ms., Barcomb was sworn in to present evidence  
64 on this case. She identified statutory basis 3 as reason for the abatement requests. Ms.  
65 Barcomb read the letter submitted with the application to the board and provided an additional  
66 spreadsheet outlining lost income due to COVID.  
67
- 68 d. **Michael Ovitt/Courtney Roman, 87 Maple Street – Request to abate taxes.**  
69 \*This hearing took place after the J Henry LLC. 35 Main Street hearing.  
70
- 71 e. **J Henry LLC. 35 Main Street – Request to abate taxes.**  
72 The Ms. Clemens recused herself from the Railroad and Man abatement hearing and  
73 deliberation. Ms. Hill-Fleury called the hearing on Michael Ovitt/Courtney Roman, 35 Main  
74 Street parcel #1029042000 to order at 7:31 PM. Ms. Roman was sworn in to present evidence  
75 on the case. She identified statutory basis 3 as reason for the abatement request. Ms. Roman  
76 provided evidence that the tax payment was due two days before COVID shut down. She said  
77 that sales dropped 90% and the three rental units above the restaurants remained vacant for 3  
78 months. Ms. Redmond asked about what stimulus applications the business sought. Ms.  
79 Clemens said the Payroll Protection Plan provided funds to keep all staff on payroll. Ms., Haney  
80 suggested she apply for Vermont’s Rental Housing Stabilization grant for landlords. Ms. Hill-  
81 Fleury clarified that the abatement request is for \$6109.  
82
- 83 \*Ms. Clemens returned for the home abatement hearing request. Ms. Hill-Fleury called the  
84 hearing on Michael Ovitt/Courtney Roman, 87 Maple Street parcel #102200400 to order at  
85 7:43. Ms. Roman provided evidence on the case, explaining that when the restaurant income  
86 was wiped out, so was their personal household income. The request was for the full march  
87 house installment of \$3061.86.  
88
- 89 f. **Renato Wakim – Request to abate penalty & interest.**  
90 Ms. Hill-Fleury called the hearing on Renato Wakim parcel #1089001094 at 7:51 PM. Mr.  
91 Wakim was sworn in to present evidence on the case. He identified statutory basis 3 as reason  
92 for the abatement request. Mr. Wakim explained that he works multiple jobs but lost two due to  
93 COVID restrictions. He said he has money for the September payment but requests that the  
94 penalties and interest be waived on the March payment. He said the March taxes were late  
95 because he was not sure if they could provide for their household with the two fewer jobs. He  
96 said they did not pay the bill to help protect savings in case another job was to be lost.  
97
- 98 The board members acknowledged that the hearings were proceeding ahead of schedule.  
99

100 **TIM JERMAN made a motion, seconded by LIZ SUBIN, to go into deliberation on the cases**  
101 **presented so far. The motion passed 11-0 at 8:04 PM.**  
102

103 The board members discussed challenges associated with making decisions on cases related  
104 to COVID, when these decisions will set precedence on future cases.  
105

**BERNARD COUTURE made a motion, seconded by TIM JERMAN, that the board not make a decision on the cases until hearing the next applicants. The motion passed 11-0 at 8:19 PM.**

**g. Eurowest Retail Partners, LTD, 19-27 Essex Way (5 properties) – Request to abate penalty & interest.**

Ms. Haney and Ms. Meyers recused themselves from this hearing due to conflicts of interest. Ms. Hill-Fleury called to order the hearing on Eurowest Retail Partners, LTD, 19-27 Essex Way (5 properties), parcels # 2092001000, #2092002002, #2092002003, #2092002001, 2092002004. Peter Endelmann was sworn in to present evidence on this case. He identified statutory basis 3 as reason for the abatement request. Mr. Endelmann said when taxes were coming due, family, employees, taxes and mortgages were priorities but due to the impact of COVID restrictions, he needed time to evaluate what direction they were going in. As soon as this was clear, he said he paid the taxes but is requesting abatement of penalties and interest. The tax payment was due March and received by the Town on May 20. He pointed out that he pays close to \$500,000 in taxes each year. Ms. Redmond confirmed with Mr. Endelmann that he took advantage of the Payroll Protection Plan but he said it was only a small portion of his expenses. Mr. Endelmann did not provide financial records to support his abatement request. The total requested for abatement is \$14,963.81.

**3. Board Deliberation and Decisions**

The board entered into deliberation on the cases at 8:35 PM. The applicants will be notified in writing of the board decisions.

Respectfully Submitted,  
Cathy Ainsworth  
Recording Secretary

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020

(See minutes of this day for corrections, if any)

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