

## Minutes

### Board of Abatement

Meeting held August 28, 2017 at The Twitchell Building 100 Old School St. South Londonderry, Vermont

In Attendance: Timothy Enright(Appellant), Kelly Pajala, Tina Labeau, Sandra Clark, Geof Long, Debbie O'Leary, Lini Mazumdar, Margaret Dawedeit, Tom Cavanagh, Georgianne Mora, Paul Gordon, Jim Ameden, Jim Twitchell, Melvin Twitchell, Suzanne Fontaine, Robert Forbes

The Meeting was called to order at 6:33.

Members of the Board of Abatement who had not done so previously in 2017 swore to uphold the Laws of the State of Vermont during the proceedings.

Kelly Pajala acted as chair.

Timothy Enright, the owner of 99 Eves Drive in Londonderry presented his case. He said he purchased the property in 2004 at the height of the real estate market for \$395,000.00 and that the property was not his primary residence. Mr. Enright indicated that the statutory reason he requested an abatement was #4 in 24 VSA 1535, "When there has been manifest error or mistake of the listers". He handed out a packet of information containing a coversheet of value and tax payment comparisons for all the properties in his neighborhood, his property's lister card, the tax abatement informational form, copies of multiple years of tax bills for properties in his neighborhood and several real estate listings from his neighborhood. The tax bills showed that his assessment was set at \$454,400.00 for the years 2013-2017 which are the years for which he is requesting as abatement of taxes. Mr. Enright showed his property in comparison to the values of his neighbor's properties and the amounts of taxes paid from 2013 to 2017 in the neighborhood as evidence that the assessed value of his property must be incorrect because both his assessment and amount paid in taxes is significantly higher than other properties in the neighborhood. Mr. Enright chose \$380,000.00 for an estimated fair assessment for his property (based on the other assessed values of properties in his neighborhood) to show the difference in the amount of taxes he paid compared to his neighbors. Using \$380,000.00 as an estimated fair value the total taxes that would have been paid from 2013 to 2017 is \$33,782.00. In comparison to the amount of taxes paid for that period the difference is \$6,614.00. Mr. Enright asked that \$6,614.00 of his tax burden from 2013 to 2017 be abated based on his estimated fair assessed value of \$380,000.00. Georgianne Mora asked what Mr. Enright paid for the property. He answered \$395,000.00 at the height of the market. Margaret Dawedeit asked what the acreage is. The response was 1.9 acres.

The Listers stated their case next. A packet was handed out that contained the Grievance History of 99 Eves Drive for the years 2013 – 2017 specifically, as well as the history of assessment adjustments and Grievance requests starting in 2005. The Listers pointed out that there has never been a Grievance request by the current owner of 99 Eves Drive. The Listers showed that the current value of \$454,400.00 was set in 2008 during a town wide reappraisal and that the value of a two-car garage was added to the property in 2006. The Listers pointed out that their office had provided Mr. Enright with

most of the documentation that was in his informational packet. They also pointed out that the current assessment and sales information for the Adams Drive neighborhood was presented without any back up information for the reasons for those numbers. The Listers stated that they always send out notice of grievance when tax payers request to be notified, even if they do not have a change of appraisal notice and they always comply with the statutes for legal notification of the grievance process. They felt that Mr. Enright should have availed himself of the grievance process if he was unhappy with his assessed value but he did not.

The Board of Abatement asked both parties a few questions. Suzanne Fontaine asked Mr. Enright why he hadn't grieved his assessment. He replied that he did know about the grievance process but that he had faith that he was being treated fairly but once he looked at the information about the assessed values for his neighborhood, he felt that his value was way of out line with his neighbors and was therefore being charged an unfair amount in taxes. The Listers pointed out that the Town is currently in the middle of a Town wide reappraisal. A member of the board did not feel that the current reappraisal had a bearing on the question of abatement of taxes from past years. Mr. Enright stated that the current real estate market did not support the current assessed value of his property. A board member pointed out that the grievance process is the appropriate place to ask for the Listers to adjust a property's assessment. Mr. Enright repeated that he was not aware of the grievance process until after the period had passed for 2017 and he was looking to the abatement process to be shown equal treatment in his tax burden as compared to his neighbors. George asked if there was any way of knowing if Mr. Enright's assessment would go down during the Town wide reappraisal? The Listers said they could not answer that question but that values can potentially go up or down for any property in town. The Listers mentioned that Londonderry's common level of appraisal (CLA) had been close to 100% for several years. Melvin Twitchell asked Mr. Enright to confirm that he was asking for an abatement of \$6,614. Mr. Enright confirmed that. Debbie O'Leary asked if Mr. Enright had ever grieved his assessment. The answer was no, that he was not aware of that process until recently.

When the Board stated they had no further questions Mr. Enright and the Listers were excused. The hearing was closed and the board went into deliberations.

The board came out of deliberations. Georgianne Mora made a motion to have the Clerk call and get a legal opinion from the Town Attorney on the definition of "manifest error or mistake" and then have the board continue its deliberations on Tuesday September 5, 2017 at 6:00pm at the Twitchell Building. The motion was seconded by Lini Mazumdar. The motion passed. The board went into recess.

The Board reconvened on September 5, 2017 at 6:00.

Board members present: Kelly Pajala, Tina Labeau, Lini Mazumdar, Margaret Dawedeit, Tom Cavanagh, Georgianne Mora, Paul Gordon, Jim Ameden, Jim Twitchell, Melvin Twitchell, Suzanne Fontaine,

The Board entered deliberations again.

The Board came out of deliberations.

Melvin Twitchell made a motion to deny Mr. Enright's abatement request on the grounds it fails to meet the legal requirements for 24 VSA sec 1535A #4, that under the law the information provided does not prove a manifest error or mistake by the listers. Tina Labeau seconded the motion. There was further discussion. The Board felt that the About Abatement Handbook provided by the Secretary of State's office offered two helpful pieces of information in regard to the decision for this hearing. The first being "the Vermont Supreme Court has held that abatement requests cannot be a substitute for an appeal of a property assessment by the listers which must be appealed through the grievance and tax appeal process". The second being "If a local property taxpayer wants to challenge the assessment or fair market value listing of his property, a property tax appeal process is available to the taxpayer every April". The Board did not feel that they were within their legal rights to grant an abatement in this case. The vote to deny Mr. Enright's abatement request passed unanimously.

Tina Labeau made a motion to adjourn at 6:24. Georgianne Mora seconded the motion. The motion passed without discussion.