

Board of Abatement

3/11/21

Board Present: Jared Cadwell, (Jared), Chuck Martel (Chuck), Sarah Stavraky (Sarah), Doug Mosle (Doug), Rick Rayfield (Rick), Patti Lewis (Patti), Lisa Koitzsch (Lisa), Betty McCaffrey (Betty), and Peter Forbes (Peter)

Appellant Present: Eoin Beirne – Parcel ID 06-096 – 853 Phen Basin Road

Jared called the hearing to order at 9:00 a.m. and introduced the Board of Abatement (Board).

Jared began by stating he would like the Board to take a few minutes at end of meeting to consider review of the Rules of Procedure and nominate a Chair of the Board for the coming year.

Jared introduced Eoin Beirne (Eoin) - Parcel ID 06-096 – 853 Phen Basin Road and asked if Eoin had any questions about the Rules of Procedure. He was not sure he knew what they are but was ready to answer any questions the Board might have. Jared explained it was a Q & A between him and the Board. Jared administered the oath to Eoin.

Jared asked if there was any conflict of interest and Patti recused herself from any decision on this matter to avoid any perceived conflict of interest as she is also the Delinquent Tax Collector.

Eoin explained chronology of events. He had purchased last spring, had a long close to allow then occupants the time to move due to Covid, then closed the end of June and quickly moved in. Did receive paperwork at that time and was told by Jenn Blomback that he would be getting a tax bill and he should be sure to pay it by November. He expected to receive a tax bill. The tax bill was sent to former owner of record, Jude Blanchette (Jude) to Jude's address in VA in July. Eoin stated that Jude had since sold that home and moved to Rockville, MD. Eoin initially thought that Jude had received the tax bill, but he thinks that is incorrect and despite Jude having mail forwarding set up that Jude never got the bill. On November 5th it occurred to Eoin that the taxes had never been paid and he contacted Jude who contacted Patti who informed him that yes in fact the taxes had been due, the bill had been sent to his address on file in VA and that interest began to accrue and there was a \$794.94 late fee. Eoin then contacted Patti and went to the town office and collected paperwork from her. He had a check in hand to pay the tax amount due however did not pay anything at that time. Ms. Lewis handed him the paperwork for the BOA hearing, he stuck it in his car, and promptly forgot about it. The taxes and any interest have now been paid. The only issue is the \$794.94 late fee. He is hopeful that given the chronology of events and that he never received a tax bill, (he believes it to be nobody's fault but an unfortunate sequence of events) and, he had not had the opportunity to pay them on time, he asks that the late fee be abated. He admits it was his responsibility to seek out the tax bill. He hopes under the Board's discretion that they may be able to abate the penalty.

Rick asked about the application, and the fact Eoin had not checked any of the statutory boxes that allow the Board to abate. Would Eoin tell the Board under which he was seeking abatement. Eoin could not recall what the boxes were but was relied on and hoped the Board had discretion.

Jared confirmed that the application Eoin submitted did not have a box checked off but reread Eoin's written portion of the form.

Lisa asked why if Eoin realized in early November that the taxes were not paid, had he waited until 3/2/21 to pay them. Eoin explained he had started looking into the abatement process, got distracted, and forgot about it until Jude reminded him. He took full responsibility for that and paid interest without complaint. He does not think the initial lateness was his or Jude's fault, or anybody's fault, and is hopeful the penalty can be abated. Lisa asked if Jude had more instances of mail forward problems. Eoin did not know.

Rick asked again if the closing happened in late June and Eoin answered yes. Rick stated that at closing there should have been a proration of taxes. Eoin said there was although he did not fully understand the process but knows there was some credit on taxes. Rick asked if there was a letter that went to Jude or Eoin that reminded him. Eoin stated he had remembered and called Jude. Rick asked if both the original tax bill and late notice were both sent to VA. Eoin does not know but when he called Jude, Jude immediately contacted Patti for the information.

Sarah asked Eoin to confirm his mailing address, because according to the closing documents, his mailing address is in Boston, MA, but on the application it is Phen Basin Road. She asked the question to avoid next year's tax bill going to wrong address. Eoin confirmed his address as 853 Phen Basin Road 645, Fayston.

Lisa asked Sarah and Patti if the office had ever received return to sender on the notice sent to Jude. Patti responded that no mail had ever been returned to the office. Jared again asked if notices had been sent out and the answer was yes with none returned to sender.

Doug explained to Eoin that it was important for him to understand that the reason the Board asks the questions it does on the application is because the Board has a specific set of rules with which the Board is permitted to abate and that is really not the free will of the Board. He further stated the situation seems a little unfair but it is a narrow window of criteria in which to base a decision on.

Eoin stated that it sounds like the Town has the Boston address on file assumed part of the closing process documents. If a tax bill had been sent to 853 Phen Basin Road or Boston he would have gotten the bill and paid the taxes. Eoin stated that the Board may be powerless under the criteria to abate but it seemed ludicrous that he could be responsible for a bill he had never received and believes this should be a factor somehow. He noted that if the Board cannot abate, he is sure he and Jude will work something out, likely splitting. Jude had been kind enough to offer to pay the whole thing but Eoin thinks he has some shared responsibility, even though it was neither of their fault. He wondered who is on hook for the late fee, the person to whom the bill was sent and didn't get it, or the person who was responsible for the taxes but also didn't get it. He thinks there should be some mechanism to address a situation like this.

Doug stated that the way the statute is written in terms of transferring of property is that the previous owner is responsible for notifying the new owner when the tax bill arrives. Technically until the grand list rolls over the next year the new owner is not on the tax book until the following year. He noted this does seem like bad system but at same time if you look at how closings happen, the new owner is reimbursed significantly for taxes that have not been paid yet for the portion of the year the previous owner had lived in the house so he thinks the argument that the State has is that you are holding someone else's money, and that there is a responsibility of new homeowner to make a reasonable effort to follow-up. And because this money has been contributed by the previous owner, that they are

also motivated to make sure their money is appropriately forwarded to the officials so that they are not both on the hook. Doug stated Eoin was absolutely right that there is shared responsibility. He might disagree that there is no responsibility because the transaction that happens at the closing comes along with warnings which should be passed along by the closing attorneys that there is going to be a tax bill due at the end of the year. Prorations are designed to notify buyers of when the taxes are due. He stated there may be a failure of the system and wondered if it happens at the closing table when all papers are being shuffled, attorneys speaking a language only they understand and say 80 times a week, and that may be part of the process where things fall apart.

Rick stated that he would make his usual complaint that attorneys often say taxes are due November 1st and that is not true. They are due 30 days after bill goes out and they become delinquent on November 1st. He understands they say that to let you know you can string it out for a couple of months but if you do that and the mail goes awry then you are stuck with penalty.

Rick looking back through the criterion wondered if it could be a manifest error by Listers. Answered no there was no error.

Patti explained the way addresses and grand list work and that it is not up to Listers to follow up and change addresses until the grand list is lodged the following year. Jared asked if the responsibility lies with office of town clerk. Patti stated that by statute the town office must send tax bills to owner of record that is lodged in the grand list as of April 1st.

Doug stated that part two of that is that when the Listers receive the PTTRs, they take addresses from the PTTRs and put those into the working grand list, that grand list does not become the active (lodged) grand list until it is lodged the following year.

Eoin noted the second box under criteria "taxes or charges of persons who have moved from the State" as a possible criteria to which his request could fall under. Doug responded he thinks that may be in regard to people who have moved and don't live here any longer but could reasonably be applied to a bill not having been received by someone who does not live here any longer.

Jared agreed to follow up with VLCT about this question and proceeded to explain who VLCT was to Eoin. Jared is happy to inquire as it is part of the Board's deliberation.

Jared thanked Eoin and told him that the Board will deliberate and deliver a decision to him within 30 days.

Rick at this point asked Eoin to clarify that he would like to check the second box on the application. Eoin responded yes and that he hopes it applies. Jared asked that the record reflect that the Board and Eoin have agreed to check that box and we will pursue that as part of deliberation.

9:32 a.m. Jared closed the hearing and moved into deliberative session.

9:45 a.m. Jared made a motion to recess the deliberative session until 3/15/21 at 9:00 a.m. Lisa seconded. No further discussion, all in favor, motion carried.

Patti will set up the zoom meeting and distribute the invite. Jared will reach out to VLCT to follow-up on the criteria question.

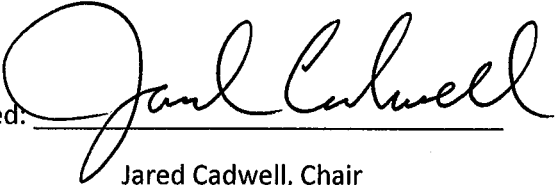
Jared then asked the Board to review the Rules of Procedure and discuss on Monday morning after deliberation.

Jared nominated Chuck as Chair of the Board for the coming year. Doug seconds. All in favor, no further discussion, motion carried.

9:50 meeting ended.

Respectfully Submitted:

Patti Lewis

Approved:  Date: 3.22.21
Jared Cadwell, Chair