

Board of Abatement
10/10/18
Minutes

Board of Abatement (BOA) Present: Jared Cadwell (Jared), Chuck Martel (Chuck), Michael Jordan (Mike), Patti Lewis (Patti), Lisa Koitzsch (Lisa), Doug Mosle (Doug), Sarah Stavraky (Sarah), and Rick Rayfield (Rick) (Board)

Appellants Present: Keith Kuegel (Keith) – Property 03-086.001

Jared called the meeting to order at 9:08 a.m.

Rick made a motion to continue the hearing for Keith Kuegel from 9/17/18 and 9/27/18. Chuck seconded the motion. No further discussion, all in favor, motion carried.

Jared clarified that the meeting was a continuation of the Kuegel hearing and that the Board was present to hear any additional evidence provided by Keith as a result of the Board's request for more documentation on the Trust and Keith's ability to pay his taxes. Keith provided a copy of his SSDI statement and added that he also made a small amount annually from his cab driving business. He does not have his tax forms back to 2009 because he is unable to get in contact with his old accountant, Doug Hall, to get that information. Keith clarified that he is not declaring income sensitivity prior to four years ago, only in the last four years. He is mostly focused on his subdivision issues going back to 2009.

Patti handed out some documentation that Keith had brought to the meeting: Copy of his SSDI benefits and a portion of the Certificate of Trust showing article 14. Keith stated that he hoped this would be sufficient information for the Board.

Rick told Keith that he could go to the IRS website to get copies of his income taxes from previous years. Keith was not aware of that but did reiterate that he had not filed income taxes for the last 3 years.

Rick asked if the property Deed was filed under the two names or just under the Trust name. Sarah said it is filed under the Trust and the two trustee names.

Jared asked if the two people on the trust can act independently from one another. Can one person on the trust act on behalf of the whole trust and if so, could that result in a lawsuit. Doug read from the article and noted that the document said "Trustee" not the plural "Trustees". Sarah noted that in Article 14, section J of the Trust document, it mentions that a trustee can act independently for the Trust when securing a loan.

Doug stated that the issue is a question of responsibility. As long as Susan is on the deed, she is likely fiscally responsible.

Jared asked the Board, that with the exception of the missing income tax info, were they satisfied with Keith's information and did they feel comfortable deliberating? Doug said he is confused about what we are deliberating. He stated that one item on the table is the liability of taxes due, and that an important part of that issue is missing since without Keith having filed his income taxes, the state could not make a statement of income sensitivity and therefore the Board cannot form an opinion on Keith's income sensitivity.

Doug asked Keith what the probability was of Keith filing his income taxes that had not been filed in the last three years. Keith said they could be filed. Doug said that there is a measure from the state that would abate the taxes due if taxes were filed and income sensitivity identified. If income came in below a certain threshold there is a burden that could be removed from taxpayer.

Keith asked if a document explaining his situation from Rebecca Barruzzi of Capstone would be helpful. Rick said that was a good question but wondered if the state would accept that. Doug said that if your income is below a certain amount, the state will subsidize a more significant portion of that burden. If Keith's income has been as low as he says, then that is a big factor in any decision the Board can make.

Chuck said that the state would not go retroactive with respect to property tax rebate. Sarah said she believes that the extension due date of every year is the deadline and agreed with Chuck.

Rick said given that Keith's property was sold in a tax sale, did Keith have an overall plan to work this situation out. Keith said he plans on keeping his home unless things cannot be worked out with the bank and the BCA. Rick asked again if Keith had a plan. Keith said the bank would step in and pay everything at the last minute and give Keith another mortgage. Sarah said the bank could help deal with the tax sale. Keith said his plan was to get his home back.

Keith said he put in the appeal paperwork to the state before the deadline but nothing was done (this was referring to a Vermont State lien for Room and Meals Tax on Keith's property). Keith asked the Board to clarify what he owed. Patti said the longer the property is in tax sale, the longer the interest is compounded. He would be paying 12% interest on the \$110,000 bid at tax sale, but would only have to pay back the interest accrued plus the taxes that were delinquent and any associated legal fees.

Doug said that it sounded encouraging for Keith to get his property back. He said that having the decision benefit the right person, Keith, is the point of this appeal. If the bank is prepared to step in, are they willing to do it sooner than later because every month it will cost them more. Doug asked if Capstone provides any assistance with accountants and/or someone to negotiate with the bank. Keith said the organization mostly helped people with heating, food, and transportation. They do offer some other services for taxes as far as he knows but he actually doesn't know exactly what these are.

Keith asked if he could ask a question of Susan's involvement. She is legally responsible but she has emailed that she has no interest in the property. Jared said she can have that opinion but her name is still on the Deed. Doug said that Keith would have the right to secure some compensation from her because of this. Sarah asked if the deed was being transferred. Keith said he would need a modification of mortgage but that has not been addressed. If there is a modification, at that time, he could take Susan off the deed.

Rick stated that Keith's divorce left both parties on the property deed. Usually in divorce there is a separation of property. Keith said Susan was awarded the property in their divorce but that she has since given Keith full rights to the property.

Jared commented that the gap he sees in this situation is in the lack of income statements. Beyond the social security information, the Board has no IRS information and no state income tax information. It seems there are significant unanswered questions that are not for the Board to answer. It is incumbent on Keith to provide enough information to allow the Board to deliberate this issue fairly and completely. Keith said he has done everything possible to give the Board all the information it needed.

Chuck said that there were two criteria at issue here: one is Keith's inability to pay, the other is a potential lister error concerning the ability for Keith to develop his land. Chuck stated that there is enough information to address the potential lister error question, but not enough to address the income sensitivity questions so he feels that he and the Board cannot deliberate fairly. Jared mentioned that the Board could deliberate lister error, but agreed that they needed more financial information. Rick reassured Keith that it wasn't that the Board did not believe him, but that it needed to see concrete numbers, especially from the State. He stated that he did not want to deliberate without all the pertinent information because he did not want to inadvertently hurt Keith rather than help him.

Doug stated that in a week, Keith's ability to receive a state payment against his property tax would go away as the deadline is October 15th. He asked the Board that if Keith did file his missing income taxes for the last four years, could they use that income information to determine if it represented his inability to pay his property taxes.

Chuck said there is a huge responsibility that goes with the Board's decision and that more information is needed to be able to make a decision.

Keith said Doug Hall said he had to file ALL his delinquent income taxes at once not just one year at a time and that this has caused him to delay filing. Sarah said Keith should talk to Rebecca from Capstone and perhaps she could point him in the direction of someone to help him with his taxes. Mike googled Capstone's website and told the Board that the organization does seem to deal with housing issues. Keith said those housing issues were more in line with subsidized housing and getting low income people into housing. Rick stated that the organization might have other resources that Keith could draw from.

Jared stated that the Board had two options: keep the abatement hearing open or deliberate on one issue but not the other. The Board agreed to leaving the hearing open pending more information from Keith.

Doug said that the State of Vermont has a contingency plan for people who earn below \$47,000 per year. If a person's income drops below that amount, education taxes are only charged at a maximum of 10% of actual income. Sarah said that Keith not being the full shareholder in the property might affect this. Keith asked what would happen if he was acting on behalf of the trust and if he would have to give Susan half of any state payment he received.

Jared tried to clarify for Keith that it was the Board's wish to keep the hearing open and continue to work with him. At this point in the hearing, Keith Kuegel left.

Rick summarized that the Board had 1) requested a legal document from Susan but only received an email from her stating that she was not interested in the property; 2) requested the full trust agreement including Section 14, but only received a portion of the trust agreement that included language from Section 14; and 3) asked for specific evidence of yearly income since 2009 but only received a statement of Keith's SSDI monthly amount.

Lisa asked that perhaps the Board could try to keep their requests as simple and straightforward as possible since Keith was struggling to deal with all the details.

Doug said that if Keith had filed his income taxes on time, he might have had a big reduction in his property tax bills over the last four years.

Patti said the state would not go backward and award payments retroactively. Doug said that even if the state doesn't give Keith any money back, perhaps the Board could provide abatement anyway and would it have enough information to do that. Chuck reiterated that the more information the Board has, the better it could help Keith.

Patti stated that she was confused between exactly what was being asked for between 2009 and the last four years. Jared said going back to 2009 was based on subdivision, not based on ability to pay. Keith paid his property taxes up until the last four years and the Board is really focused on verifiable income over the past four years. Chuck said that the Board needs something beyond what they have been given so far. Doug agreed and said that Keith does seem to need someone to help him sort things out.

Sarah said that when he originally came before the Board, Keith was focused on the subdivision issue on his property but that the Board has focused more on his inability to pay his taxes and that Keith might have been a little unprepared for that. Doug said that Keith believes he has been overtaxed because of the assessment on the subdivision but he said that due to current use Keith is actually assessed very little for the subdivision status.

Mike said that the Board could help steer him in the right direction and thinks that Capstone should be able to help him. Sarah said we could slow the abatement process down. Jared asked for clarification on the tax sale. Mike said the bank will step in at the last moment but are not going to give Keith another mortgage. The Board is worried that Keith is confused about what is going to happen.

Jared summarized that the Board wanted to see three main items of information from Keith before they could continue any deliberation: 1) Income information from as many years as he is able to provide, but especially from the last 4 years (preferably 1040 forms from the Internal Revenue Service); 2) the full text of the Trust Agreement for Keith and Susan Kuegel; and 3) any financial information or documents that would help the Board better understand Keith's situation. Jared added that he believed the hearing should be continued at a later date.

Doug said that if Keith can provide these documents, then the Board would feel more comfortable deliberating this abatement request. If Keith cannot provide this information, then perhaps he could give us some sense that he is making an effort to get the information, especially the tax documents, to the board in some reasonable time. Doug questioned if it was in the community tax payers best interest for the Board to reach out to Capstone. Mike replied that it probably was not appropriate for the Board to do so but perhaps someone from the Selectboard acting as an individual could do so. Doug commented that a few people that have tried to help Keith have actually inadvertently caused him more harm and that if the Board can be very clear about what it is he needs to do, that would be a good thing. Rick asked if there was anything that would stop anyone on the Board from reaching out to help him.

Chuck asked if under open meeting laws, did the Board have to set a certain date and time for the continuation of the meeting or could it be open ended. All agreed that it would be better to schedule a specific date and time.

Rick added that once Keith filed his federal and state taxes, it would be help if he could show proof of his state tax information as well.

Jared moved to approve the minutes from the BOA meetings of September 17, 2018 and September 27, 2018. Chuck seconded. There was no discussion and all were in favor. The motion to approve the minutes was passed.

Chuck made a motion to continue the hearing on December 10th at 9:00 a.m. Rick seconded. There was no discussion. All were in favor and the motion passed.

The meeting was adjourned at 10:08 a.m.

Respectfully submitted,

Lisa Koitzsch and Patti Lewis