

HARTFORD BOARD OF ABATEMENT
Thursday, January 12, 2023
Hartford Town Hall, Rm 2
171 Bridge St., White River Jct., VT 05001

MINUTES (draft)

Members Present: Lannie Collins; Pat Cook; Mary Erdei; Dan Fraser; Nancy Howe, Chair; Gabrielle Lucke-arrived at 5:55pm; Joe Major, Treasurer; Mike Morris; Lisa O'Neil, Town Clerk; Gayle Ottmann; Nancy Russell, Vice Chair; Linda Trombley Saturley; and Joe Turner (via phone), Assessor-did not vote on any applications.

The Chair, Nancy Howe, called the meeting to order at 5:33pm. She shared long-time BCA member, Roy Black, had passed away. She passed around a sympathy card for the BCA to sign for Roy's family.

Nancy Russell made a motion to approve the minutes from the September 26, 2022, Board of Abatement meeting. Mike Morris seconded the motion. The motion carried unanimously; Gayle Ottmann abstained because she was not present at the September meeting.

Nancy Howe reviewed the General Abatement Rules of Procedure with the Board. She asked if any member had a conflict of interest related to applications or any ex parte communication with any of the applicants. The Chair indicated the deliberations would happen after all the hearings had concluded; deliberative sessions are not public.

Hearing #1: Turnkey Properties-Rick Desharnais-present
Property Location: 138 Summer St.
Parcel ID #31-85/SPAN #285-090-14919

The Chair opened the hearing, administered the Oath to the Applicant and confirmed the applicant had received a copy of the Rules of Procedure. Mr. Desharnais explained they had acquired the property in November 2021. They had the power and water disconnected because they did not intend to begin renovations until the spring of 2022. When they started the renovation, they determined the building was not salvageable so, it was demolished in October 2022. They applied for permits to construct a new home on the property. They have installed a foundation. They were unaware of the Grievance process through the Assessor's office so, they are requesting an Abatement based upon 24 V.S.A. 1535(a)(5)-"...lost or destroyed during the tax year".

Nancy Howe asked Joe Turner if "loss" calculation is on fiscal year or calendar is used. Joe explained use is based on tax year (the Grand List valuation is established on April 1st; the fiscal year is July 1-June 30). Lisa explained the calculation provided by Dawna Nadeau in the Finance Office reflects the loss (273 days) from demolition forward at \$8.35 per day. Lannie Collins asked the applicant to describe why the building was not salvageable. The applicant explained there were foundation and structural issues and, although possible to repair, the cost of doing so was not practical. Mike Morris asked Joe Turner the value of the new foundation. Joe explained there is some small value for the new foundation, but in assessment, it is generally built into land site value as are other amenities such as water, sewer, etc. He also stated the foundation could be seen as limiting marketability since it ties a purchaser to a particular footprint. Joe added if there were other structures on the property, they would add value. The applicant confirmed there are not any other structures on the property.

The applicant was asked what portion of the taxes they are requesting be abated. Mr. Desharnais indicated they did not have a specific amount in mind but would appreciate any abatement the Board could grant. They are looking forward to building a new home to contribute to this neighborhood.

Hearing #2: James E. Packard, III-present
Property Location: 364 Norwich Avenue
Parcel ID #22-33/SPAN #285-090-13999

The Chair opened the hearing, administered the Oath to the Applicant and confirmed the applicant had received a copy of the Rules of Procedure. Mr. Packard was asked under which statutory criteria is he requesting an abatement. Mr. Packard indicated he was not sure which to choose since none seem to apply to his particular situation. Through some discussion, it was decided 24 V.S.A. 1535(a)(4) "...manifest error" would be applied. Mr. Packard explained he received a utility bill in the amount of \$2,340+/- for one quarter for residential use. From 2007 to present, the total use cost a total of \$9,000. He discovered there were two holes in the pressure regulator (he brought the part with him to illustrate the culprit to the Board. He paid the water portion of his bill, but he is contesting the sewer portion since the water went into the ground in his dirt floor basement.

Mary Erdei asked Mr. Packard if he was aware of the problem before receiving the bill. He indicated he was not. They do not go into the basement often as it only houses the heating system, hot water tank and has a dirt floor. He said he received a note from the water department prompting him to go into the basement. He heard water running and discovered the problem. He indicated the dirt floor drained the water well leaving little on the surface; there was no damage to the hot water tank or furnace.

**Hearing #3: Hazen Street Holdings, Inc.,
Julie Lyford, Executor Estate of Richard Daniels & Jeff Lyford-present
Property Location: 0 Union Street
Parcel ID #42-112/SPAN #285-090-11178**

The Chair opened the hearing, administered the Oath to the Applicant and confirmed the applicant had received a copy of the Rules of Procedure. Ms. Lyford explained she selected several statutory criteria for this situation to include 24 V.S.A.: 1535(a)(1) "...persons who have died insolvent", 1535(a)(3) "unable to pay...", and 1535(a)(5) "...property lost or destroyed". The applicant explained both the company and her father's estate are basically insolvent. She explained based upon the history of the property, the environmental issues were present prior to her father's ownership. She stated these are extraordinary circumstances; she said she had provided a summary of the history to the Clerk on January 12th. (The Clerk indicated she had forwarded the summary to the Board by e-mail earlier in the day and projected it onto the screen during the hearing).

The applicant explained her father bought the property (the former Parkway Cleaners site) at tax sale in 1995. She does not believe her father understood the impact of the contamination or the cost of any potential remedy related the environmental issues. The property was demolished in 2000. In June 2008, the property went up for Tax Sale but the purchaser, Clair Lovell, released his claim to the property in January 2009. After that time, the taxes were no longer paid. She further explained in 2012 the State took Mr. Daniels to court. According to the applicant, in 2018, the State prevailed. Testing began in 2019 then COVID hit halting everything. Testing was scheduled to resume in 2021 then Mr. Daniels passed away. The Applicant hired a firm, GZA, to perform environmental testing which resumed in 2022. The mitigation solution proposed by GZA is estimated to cost \$1.3 million. The applicant stated this essentially renders the property value at zero. The remedy proposed by the State is estimated to cost \$2.4 million. Continued testing would be performed for 5-30 years after the installation of a mitigation system; the applicant suggested it would probably be at least 10 years before the property was marketable. She indicated the pollution has migrated to the 39 Maple Street LLC property.

The applicant is asking the taxes, interest, and penalties to be forgiven. Nancy Howe asked if her father had ever approached the Assessor's Office about the situation. The applicant indicated, to her knowledge, he had not. Ms. Lyford is not sure why her father did not pursue other remedies through the Assessor's Office. She explained in 2012 her father had a serious health situation perhaps impacting his cognitive function. She has since met with Assessor, Joe Turner, about each of the properties to discuss the grievance process. They will pursue through grievance in March. Joe Turner concurred.

Mike Morris inquired about the size of the parcel. The applicant indicated this parcel is .2+/- acres. (She stated combined with the 39 Maple Street LLC parcel it may reach 2 acres). Mike asked if it is still leaking. Ms. Lyford indicated the leaking occurred from barrels creating vapor and entering the water table. The State has installed some wells and some of it is dissipating. The vapor is all over. GZA has recommended the installation of a mitigation system designed to extract ("suck out") the pollution from the ground with the result of it dissipating. She stated she is not sure VT ANR will approve of this solution.

Gayle Ottmann asked if there was anything that could be done before a remedy is in place. The applicant indicated the property is unsaleable, and even if someone was willing to buy it, they would be unable to obtain financing. The applicant indicated, in the early 2000's several homes in the area of the property had mitigation systems installed. At that time, the court determined those properties were not the responsibility of Hazen Street Holdings. The applicant indicated ANR has suggested Richard Daniels transferred the property into Hazen Street Holdings to avoid liability. She stated Parkway Cleaners caused the pollution. She indicated the State sued the former owners of Parkway Cleaners, but they have moved out of State. The subsequent owners, Fournier Cleaning, settled with the State.

Mike Morris asked if insurance helped. The applicant indicated there was not insurance for environmental pollution. She is not sure what prompted the non-payment of taxes in 2009. She stated in 2012, based on the federal thresholds her father felt a solution was forthcoming; the State thresholds are stricter.

Joe Major asked what portion of the total the applicant is asking to have abated. The applicant stated they are requesting the full amount to be abated. Mary Erdei asked if the Board abates, what will happen in the future. The applicant indicated they have a court order requiring the issue to be addressed. They are working toward a solution to make the properties viable again, but nothing can occur until environmental issue is resolved.

Hearing #4 39 Maple Street LLC
Julie Lyford, Executor Estate of Richard Daniels & Jeff Lyford-present
Property Location: 305 Maple Street
Parcel ID #42-134/SPAN #285-090-11178

The Chair opened the hearing, administered the Oath to the Applicant and confirmed the applicant had received a copy of the Rules of Procedure. The applicant is seeking an abatement under 24 V.S.A. 1535(a)(5) "...property loss or destroyed...". The applicant described the situation on this property as being similar to the Hazen Street Holdings property as a result of the environmental pollution caused by the former dry cleaners. In recent years there have been several interested parties in the property who would likely tear down the building, however due to the environmental concerns the property remains unsold. Since 2015, the State has stipulated the property cannot be occupied. It can only be used for storage. They have a storage tenant generating income of \$24,000 per year. The applicant continues to keep the lights on, the building heated, etc. The quote to install a mitigation system in this building ranges between \$85,000-\$115,000. The applicant stated investing that kind of money into a building likely to be torn down is impractical. The pollution is mainly on this property due to the vapor and run off. People can only be in the building for more than a few minutes with the doors open.

Nancy Howe confirmed with the applicant the grievance process will be pursued for this property and taxes have been regularly paid on this property. The applicant affirmed and further stated due to her father's health decline she is not sure he was aware of remedies available to him. They are now working to find a remedy.

Linda Trombley Saturley asked to clarify the tax status for each of the properties. The applicant explained Hazen Street is a vacant lot. The property was torn down because it was beyond repair and transients were using the property. The State required the lot to be paved over to cover the dirt.

At 6:45pm Gabrielle Lucke moved to have the B of A go into deliberative session. Gayle Ottmann seconded the motion. The motion carried.

Hearing #1 (Turnkey Properties): Dan Fraser moved to abate \$1,800; Mike Morris seconded the motion. Linda Trombley Saturley offered a friendly amendment to abate \$2,279.55. Dan Fraser accepted the amendment. Lannie Collins seconded the amended motion. The vote was 10-1-1 (*In favor*: G. Ottmann, D. Fraser, L. Trombley Saturley, N. Russell, N. Howe, L. Collins, J. Major, M. Erdei, P. Cook, L. O'Neil. *Opposed*: M. Morris; *Abstained*: G. Lucke).

Hearing #2 (Packard): Mike Morris moved to credit the utility charges in the amount of \$1,331.17. Dan Fraser seconded the motion. The motion carried unanimously.

Hearing #3 (Hazen Street Holdings): Nancy Russell made a motion to abate \$38,434.48. Gabrielle Lucke seconded the motion. Lannie Collins offered a friendly amendment to abate a total of \$35,689.16. Nancy Russell did not accept the amendment. Dan Fraser moved to call the question. The motion to call the question carried 9-3 (*In favor:* N. Howe, N. Russell, L. Trombley Saturley, D. Fraser, G. Lucke, G. Ottmann, P. Cook, M. Erdei, L. O'Neil; *Opposed:* M. Morris, J. Major, L. Collins).

The motion on the table to abate \$38, 434.48 passed on a 7-5 vote (*In favor:* G. Ottmann, D. Fraser, P. Cook, G. Lucke, L. Trombley Saturley, N. Russell, N. Howe; *Opposed:* L. O'Neil, J. Major, L. Collins, M. Morris, M. Erdei).

Hearing #4 (39 Maple Street LLC): Dan Fraser moved to deny the request for abatement. Gabrielle Lucke seconded the motion. The motion carried unanimously.

The meeting adjourned 7:45pm.

Submitted by Lisa O'Neil, Town Clerk