

JOHNSON BOARD OF ABATEMENT
THE ELLSWORTH ROOM, WILLEY LIBRARY
VERMONT STATE UNIVERSITY – JOHNSON
TUESDAY, NOVEMBER 7, 2023

Present:

Board of Abatement Members: Rosemary Audibert, Eric Osgood, Beth Foy, Duncan Hastings, Eben Patch, Shayne Spence, Mike Dunham, Jasmine Yuris, Jennifer Burton, Jan Gearhart
Others: Justin Mason, Burt Burleson, Susan Burleson, Ann Hennard Ruth, Rebecca Holmes, Thomas Michelson (via phone), Will Jennison, Maria Jennison

Eric called the meeting to order at 6:30.

Rosemary swore in the BOA members.

Burleson Hearing – 395 Lower Main West

Eric swore in the applicants, Burt and Susan Burleson. He asked if any board members have conflicts. Duncan said he knows Bert. He knew his parents very well. But he feels he can act impartially.

Eric asked if it is correct that the abatement category selected on the application was “taxes or charges upon real or personal property lost or destroyed during the tax year.” Burt and Susan said yes.

Burt said he has a copy of his tax bill and an estimate for repairs to the property. He recorded the times in the past when he remembered the property flooding in addition to this time. It is definitely in a flood zone. He brought pictures taken today to show the condition of the property today. It would cost \$77K for repairs. Since the property is in a flood zone he does not want to put that much money into it. The property is signed up for the buyout program.

Eric asked if there was loss of use. Susan said yes, because the property was a rental. Eric asked if the loss began on the date of flood. Bert and Susan said yes. Eric asked if there has been loss of use since that time. Bert and Susan said yes. No one is living there now.

Duncan said it sounds like Bert and Susan have no intention of repairing the home or putting a new mobile home on the lot. Burt agreed. The value isn't there and it may flood again. Susan said they would hate to have another renter lose all their possessions. They said they do not intend to put another mobile home on the site because it is in a flood zone and flooding has happened so many times. Susan clarified that this was the first time the trailer flooded. In the past the garage has flooded and water has gotten close to the bottom of the trailer but this was the first time this trailer flooded. Duncan asked if the pad was elevated. They said yes.

Eric asked if they lost use of both structures – the garage and the mobile home. They said yes. They would not use the garage. Water was almost up to the eaves.

Justin said he notices that the Burlesons have a right of way. He asked if they own any of the property the right of way goes through. They said no.

Justin asked if the Burlesons have river frontage. Susan said no, they do not own any river frontage.

Duncan asked if they consider the garage a loss as well. They said yes. It was soaking wet.

Eric asked, the estimate for repairs just to the mobile home is \$77K? Bert and Susan said yes, including \$6K for the furnace.

Beth asked if the Burlesons will be using the property at all. They said no. It is no use to them anymore.

Eric closed the hearing. He said he anticipates that the BOA will enter into deliberations tonight and will send written notice of the decision within 30 days.

Hennard Ruth Hearing – 152 Railroad Street

Eric swore in Ann Hennard Ruth. Eric, Beth and Shayne said they know her, but feel they can rule without prejudice.

The abatement request category was “taxes or charges upon real or personal property lost or destroyed during the tax year.”

Ann said her property was affected by the flooding and she had quite a few hefty bills. She has had to build back the foundation of her home. She got a little money from FEMA and she got multiple loans. She has proof of no flood insurance and she has bills for construction, excavation and repair.

Eric asked how long she had loss of use of the property. Ann said for at least a couple of weeks. They started living there again when they probably should not have.

Eric asked about the level of flooding. Ann said there was at least 7 ½ feet of water in the basement. The water was about 6 inches from the first floor.

Eric asked the total amount of the bills. She described several bills adding up to around \$40K.

Eric asked if she had any loss of income. She said no.

Jasmine asked if Ann is willing to disclose the amount of the funds she got from FEMA. Ann said she thinks it was \$18K.

Jen asked, she was out of the house for two weeks? Ann said yes.

Mike asked what type of foundation the house had. Ann said concrete. Mike asked, there is no stone in it? Ann said no.

Ann said she had to have the electrical wiring in the basement redone.

Beth asked if there is any loss of use now. Ann said they are fully back now. Beth asked, they were fully back after about 2 weeks? Ann said yes, though they may not have had hot water for a while.

Shayne asked if the damage was limited to the foundation and the basement. Ann said no; there was damage to the driveway, shed, landscaping, furnace, water heater, and personal belongings.

Eric asked if there was any loss of use of the garage or outbuildings. Ann said they were unable to work in the auto body shop for a while. They had to let all the water dry out. The shop can't function without water and electricity, which run from the main home. Eric asked if the period when they were unable to work was within the first 2 weeks. Ann said yes.

Eric asked how many outbuildings there are. Ann said there is a garage off the shop and also another garage that had kayaks and boats in it. As far as a structure with a foundation there is just the auto body shop.

Eric closed the hearing. He said he anticipates that the BOA will enter into deliberations tonight and will send written notice of the decision within 30 days.

Ingalls Hearing – 24 West Highland Drive

Owner Allyn Ingalls was represented by his daughter, Rebecca Holmes. Eric swore in Rebecca. No board members identified conflicts of interest.

The abatement was requested under the category "taxes or charges upon real or personal property lost or destroyed during the tax year."

Rebecca said her father's home was flooded and he would like see about getting taxes reimbursed because the house is no longer livable. He did get rid of the home. Someone else will redo it and live in it.

Eric asked, he had loss of use since the flood? Rebecca said yes. He gave the home to someone who will gut and rewire it. It was considered condemned by the state fire marshal, but that does not mean it cannot be repaired to be lived in.

Rebecca said her father has already paid his taxes for the year in full. His mobile home was gifted to his son, her half brother. The town has the Vermont mobile home bill of sale.

Jen asked, it was unlivable when it was gifted? Rebecca said yes; it was unlivable and condemned. It has no appliances now. The new owner had to get all new insulation, wallboard, wiring, plumbing, and water heater.

Eric said when there is a property transfer, typically the person selling the property has tax liability up until that date. If there is overpayment, who does the refund go to? Rosemary said to the person who paid it.

Rebecca said the mobile home has not yet been registered with the state in the name of the new owner.

Rosemary said when there is a transfer of ownership a mobile home bill of sale and property transfer tax form are needed. The owner of record as of April 1 is technically liable for all taxes. Duncan said normally at the closing there would be an apportionment of the tax due. That would get done as a credit to the seller and a debit to the buyer, but in this case it was gifted so he doubts that has happened. We should find that out for sure.

Eric said Allyn can only request abatement for the period he owned the property. He can't ask for abatement beyond that date. Rebecca said he paid all the taxes, though. Beth said that balance would be refunded. There is a difference between a refund and an abatement. Eric said the new owner could apply for an abatement. Beth said the property hasn't been reassessed yet, so there is nothing to abate yet. Justin asked, if a mobile home is sold in October, does the town typically refund that person? Rosemary said no, because the owner is not taxed anywhere else. If you move to Hyde Park in October, you have to pay the full year's taxes in Johnson whether you are living there or not, because you won't be taxed in Hyde Park until next year.

Duncan asked if he is right in thinking that settling the tax due would be a transaction between the purchaser and the seller. Rosemary said yes. Duncan said Allyn has paid the taxes in full. He could ask his son to reimburse him for a portion. Rosemary said that not for the BOA to decide.

Mike asked if the trailer has been removed. Rebecca said no; it is still on the same lot. It is in the process of becoming livable. The new owner hasn't been living in it. He has it registered with village water and light. He got his first bill. He has power on, but no plumbing yet. He just got a furnace but has no propane tanks. Her father's new home will be on a different lot. This trailer will stay on the lot where he used to live.

Rebecca said she thinks the transfer happened around September. Duncan said Rosemary can find out when it took place or Rebecca could provide information on that as supplemental evidence. Eric said without complete information about when the property was transferred the BOA may not be able to deliberate tonight. He closed the hearing and said Allyn will be notified in writing of the decision 30 days after the BOA deliberates.

Michelson Hearing – 399 Lower Main West

BOA members did not identify any conflicts of interest.

Eric said Thomas indicated he was applying due to hardship. He submitted income tax returns for evidence. He said on his application that the flood level reached 5 to 8 inches on the first level of the basement and that the property is uninhabitable but he was denied assistance from FEMA because it was not his residence and he was denied an SBA loan because he does not have the ability to repay a loan with his current income.

Thomas Michelson joined the meeting by phone. Eric swore him in.

Thomas said he can't fix the place up because FEMA wants to purchase it. He was told he didn't qualify for an SBA loan. He can't use the house. He is still paying a mortgage on it. He doesn't think there is any reasonable way he can get income out of it because it has mold and they don't want him to fix anything on it.

Eric asked if he has had loss of use since the flood. Thomas said yes.

Thomas said he had to spend \$3K for the first 3 weeks for the person who was living there until she could get into temporary housing. He can't afford to do anything with the house and it seems he is not allowed to because of the buyout situation.

Jen asked if he has formally applied for the buyout through FEMA. Thomas said he did and he was told by the state person that they were going to do that. They told him to check with the town. He did and the answer was that the town has to want to accept it. He was not directly contacted but his ex-tenant told him the FEMA people and the state told her they were going to do the buyout.

Beth said she thinks he submitted a form indicating interest in a buyout but that doesn't mean he has actually applied for a buyout. She doesn't know of the state opening up any formal buyout application yet. But the state will continue to work with towns and property owners who expressed interest on next steps.

Thomas said FEMA was very adamant that they wanted to buy it out and they said the next thing he would hear about was a third party appraiser. Beth said she thinks there may be some misunderstanding. She will have someone reach out to him.

Justin said fire damage is mentioned on the lister's card. Was that repaired? Thomas said all the fire damage was removed. The house was livable with heat in every room. The siding and roof were not all finished in the second unit. He got state fire marshal approval. Justin asked when it became livable. Thomas said probably several weeks before the flood the tenant had moved into the whole house. The repairs were not completed. All the windows were changed, all fire damage was removed, the whole house was insulated and the heating system was good.

Eric asked if Thomas could provide an estimate of how much fire damage was repaired. Thomas said all charred timber was removed and all windows were replaced. Most of the damage was pretty superficial inside, other than smoke damage. On the back part of the house an entire wall was burned. The burned siding was taken off and nothing was put on yet.

Beth asked, this property has flooded in the past, correct? Thomas said yes.

Eric closed the hearing. He said he anticipates the BOA will deliberate tonight and issue a written decision within 30 days.

Jennison Hearing – 136 Lower Main West

Eric swore in property owners William Jennison and Maria Jennison.

Eric said he has known Will for a long time. He has served with him on different town and village boards. But feels he can rule on this without prejudice. No board members indicated they felt they could not participate in this hearing.

Will said he is requesting abatement under the category "taxes or charges upon real or personal property lost or destroyed during the tax year."

Will said the entire building has been torn down. The building was condemned by the state fire marshal after 2 or 3 days. Maria said it was taken down and leveled and the basement filled within about a month. Will said loss of use was immediate. Will said according to the tax card the land itself is valued at \$7K. He would like to pay taxes on that number. There is a small one car garage on the property. It currently holds things salvaged from the torn down property. Maria said the garage had windows broken out. It was damaged during the flood. Eric asked if he plans to remove it. Will said he doesn't have an intention to take it down at this time but he can't say for sure. Duncan said according to the tax card that building is listed at about 273 sq ft. Does that sound right? Will said yes. It has no power. It is not a good structure.

Justin asked about the water and sewer hookups. Will said they have been removed. The power has been taken care of. There was no water or sewer to the building. He did have water and sewer allocations but it will never be feasible to build there so he returned his allocations.

Eric closed the hearing.

Jennison Hearing – 118 Lower Main West

Will and Maria Jennison said a portion of the building is residential and a portion is commercial. Losses included one furnace and one hot water tank. The furnace cost \$6K to replace. The hot water tank cost \$780. Water got to the first floor joists but not the carpet. Replacement insulation cost \$784. Some piping had to be replaced at a cost of about \$1000.

Will said losses were minimal but his biggest concern is that now flood insurance will be mandatory for that property when the building is sold. He would like to ask what the process is to get an appraisal redone. The property will not be worth as much because a buyer will have to pay for insurance. Eric said he will have to appeal the assessed value. Justin said the appeal has to be done by April 1. It can be started at any time.

Eric asked if there was any loss of use. Will said he gave one tenant a month without rent because of what they endured. The tenant could still use the unit. One apartment didn't have hot water. Maria said they just got the replacement furnace in about a week ago.

Jasmine asked how many rental units there are in the building. Maria and Will said there are 4 units. They live in one and rent 3. The renters were able to stay in the apartments. One had no hot water but his girlfriend lives nearby and he spent some time at her place. He was without hot water for a couple weeks. He just got heat back a week ago. Mike asked, Will and Maria did not leave? Will said no.

Shayne asked the total cost of repairs. Will said about \$8500.

Eric closed the hearing. He said a written decision will be issued within 30 days.

Minutes submitted by Donna Griffiths