

# MINUTES OF THE MEETING OF THE BOARD OF ABATEMENT

Wednesday, January 10<sup>th</sup>, 2024, 7 pm, Brandon Town Hall, DOWNSTAIRS 1 Conant Square,  
Brandon, VT

Present: Board of Abatement members: Annie Stratton, Linda Stewart, Jeff Stewart, Tim Guiles, Doug Bailey, Brian Coolidge, Bertram Coolidge, Patricia Welch, Bob Clark, Kathy Clark, Wendy Feldman (acting Chair), and Susan Gage.

Guests: Lang Durfee, representing Third Branch Investment Co LLC

Acting Chair Wendy Feldman opened the meeting at 7 pm and the opened the following hearing:

## **SEWER FEE ABATEMENT**

**Third Branch Investment Co LLC, 11 Grove St, Brandon, VT; Abatement of Sewer fees based on a manifest error or mistake. 24 VSA § 1535(a)(4)**

Chair Feldman administered the oath to guest Lang Durfee who was presenting evidence at the hearing. Ms. Feldman then confirmed there were no conflicts of interest or ex parte communications. Clerk Susan Gage distributed the evidence provided in the hearing which consisted of Mr. Durfee's letter requesting abatement, a summary of charges due, and a listing of activity since the account went into arrears. Mr. Durfee is requesting abatement based on a manifest error or mistake. 24 VSA § 1535(a)(4).

Mr. Durfee attested that Third Branch Investment Co LLC purchased the properties on 11 Grove Street in 2008, which included a building with a commercial tenant. The last tenant in the building, Dirty Works Laundry, discontinued operations and vacated the building in late 2019 or early 2020, Mr. Durfee was unclear about the exact date. After the tenant closed the business and vacated, Mr. Durfee discovered that there was a large outstanding balance for sewer and water use related to the building, upon receiving an invoice from the town in August of 2020. A prior bill sent in May of 2020 was returned to the town undeliverable according to Mr. Durfee, as the tenant Dirty Works Laundry had vacated the premises prior to the bill mailing. The bills were for the periods August 2019 – January 2020, and January 2020 – July 2020, accordingly. These bills were the first combined water and sewer bills that the Town and Water District collaborated on. They were also issued late, four months after the usage periods, and after Mr. Durfee's tenant had vacated the property.

Mr. Durfee stated that he approached Town Manager Dave Atherton at the time he received the bills and was informed that the property owner bears the ultimate responsibility for any outstanding utility bills associated with that property. Mr. Durfee stated that he had never received any water and sewer bills for this location prior to the outstanding billing. Mr. Durfee further stated that following his meeting with the then Town Manager, David Atherton, both the town and Mr. Durfee for Third Branch Investment Co LLC consulted legal counsel. Mr. Durfee stated that his legal counsel advised him that the town sewer ordinance does not align with the state statute therefore the town bears responsibility for this error and the charges against him should be abated.

Mr. Durfee stated that he contacted the owner of the Dirty Works Laundry about the outstanding balance for water and sewer after the fact and that the owner shrugged off his request for payment. Mr. Durfee insisted that the town should have pursued payment from the owner of Dirty Works Laundry directly

rather than default to the property owner. Mr. Durfee stated that he is in an awkward position pursuing the owner of Dirty Works Laundry because they are also a customer of the lumberyard and hardware store owned by Third Branch Investment Co LLC. Again, Mr. Durfee asserts that the error lies with the town and the town should either pursue it directly with the business owner or abate it completely.

Tim Guiles asked for clarification about the rental relationship between Dirty Works Laundry and Third Branch Investment Co LLC. Mr. Durfee explained that there was a tenant prior to Dirty Works Laundry, who sold the business to Brian Thomas, owner of Dirty Works Laundry. Brian Thomas owned the business and the equipment in the building. Mr. Durfee also asserted that the tenants paid their own water and sewer fees which the town billed to them directly. Mr. Guiles then asked whether there was any language in the lease speaking to finalizing bills before vacating the property. Mr. Durfee said he was not sure and would have to examine the lease.

Mr. Guiles then confirmed that Mr. Durfee had reached out to the old tenant to pay the bill. Mr. Durfee stated that the tenant told him he was going to contact the town and work it out. Mr. Durfee also stated that the new Town Manager Seth Hopkins stated that he was going to send a bill directly to the prior tenant to collect the amount owed. No one attending the hearing had any knowledge whether that letter had been answered.

Mr. Durfee asserted that all billings since the tenant vacated have been paid in a timely manner and Ms. Gage concurred. Ms. Gage explained that the balance due was directly attributable to Dirty Works Laundry that rented the facility at the time. She further asserted that Third Branch Investment Co LLC has paid all the water and sewer fees it incurred since the tenant vacated the premises.

Doug Bailey asked Mr. Durfee whether he had received any bills prior to the unpaid bill that was sent to him in August of 2020. Mr. Durfee answered that he had not received any bills prior to that and attested that the prior owner of the property had never received any water and sewer bills from the rental building either.

Mr. Durfee would like to be relieved of the responsibility for this outstanding bill. He attests that it was due to an error by the town. He also asserts that the bills did not get sent to the landowner until the tenant did not pay, and that the length of time between billings contributed to the situation. Mr. Durfee does not feel he should correct an error by the town. He does not feel it is equitable.

The hearing was closed at 7:36 pm.

Hearing opened at 7:37 pm:

#### **ABATEMENT OF TAXES AND SEWER FEES**

**June Doaner, 2443 Forest Dale Rd, Brandon, VT;** Abatement of Taxes and Sewer fees of persons who are unable to pay their taxes, charges, interest, and/or collection fees.

24 VSA § 1535(a)(3)

Chair Wendy Feldman confirmed there were no conflicts of interest or ex parte communications. Clerk Susan Gage distributed the evidence provided in the hearing which consisted of a letter of request from June Doaner, a hand-written accounting of her monthly expenses, and an accounting of her delinquent utilities and taxes. Ms. Doaner is seeking abatement of sewer fees and taxes due to her inability to pay them. Ms. Doaner was not at the meeting to testify, so Clerk Susan Gage presented her case.

Ms. Doaner has fallen behind in her municipal obligations due to health issues, and bills related to the same. Ms. Doaner noted in her letter she has reached out to the Council on Aging and is hoping they can provide some assistance paying for medications. She has also committed to filing an annual homestead on her property which would lower her taxes annually.

Board members questioned whether Ms. Doaner has equity in her home that she could tap into to provide cash flow for the payment of items in arrears. Ms. Gage believes she may have equity in either her home or the rental home where her son resides.

The hearing was closed at 7:49 pm.

Hearing opened at 7:50 pm:

**ABATEMENT OF TAXES AND SEWER FEES ON TOWN-OWNED PROPERTY**

**Town of Brandon, 337 Newton Rd** – Abatement of Taxes (\$2,517.54) for town-owned property. Town of Brandon purchased this from Damon Moseley on April 20, 2023.

Chair Wendy Feldman confirmed there were no conflicts of interest or exparte communications. Clerk Susan Gage explained that the property at 337 Newton Rd was purchased by the town through FEMA as part of its ongoing flood mitigation work. The property was purchased after April 1, so the Town will not be listed on the Grand List until next year and the taxes were assessed under the old owners name. These taxes need to be abated as the town does not pay property taxes.

Hearing closed at 7:50 pm

The Board of Abatement went into deliberative session at 7:51 pm. Deliberative session continues until the decisions are written up.

The Board of Abatement was adjourned at 8:26 pm

Respectfully submitted,

Susan Gage, Clerk