

Town of Westfield
Board of Civil Authority Grievance Hearing Minutes
July ~~June~~ 20, 2015 – 6 p.m. – Town Offices, 38 School Street

The Board of Civil Authority (BCA) Grievance Hearing was called to order at 6:04 p.m. in the Westfield Town Offices by Chair Jacques Couture. Board Members present were: Yves Daigle, Richard Degre, Mike Piper, Joyce Crawford, Yvan LaPlume, Anne Lazor, and Clerk LaDonna Dunn.

Members not present were: Pat Sagui

Others present included: Lister Steve Dykeman, Lister Scott Dunn, Lister Danny Young, Appellant Sister Benedict McLaughlin and William M. O'Brien, Esp., legal representative for the Benedictine Monastery

BCA members present were administered and signed their oaths.

6:10 p.m. Benedictine Monastery, Parcel ID 09-100-26, 4103 Vt. Route 100, south of Westfield village: The Listers, Sister McLaughlin and William M. O'Brien were administered and signed their oaths. BCA members were asked if they had any conflict of interest matters to disclose. Anne Lazor explained she sells yogurt to the Monastery and could have a financial conflict of interest. She recused herself from this hearing and future votes on this matter but stayed for the proceedings as a citizen. LaDonna Dunn said she had ex-parte communication with William O'Brien to discuss procedural matters regarding the hearing. Chair Couture reviewed the definition of ex-parte with the Board.

Lister Testimony: Lister Dunn began the hearing by submitting the Listers evidence packet labeled Exhibit A. The packet included a summary page which gives a detailed history of the property and how the Listers arrived at the current assessed value, as well as the current Listers Card. This parcel was professional appraised by APAS in 2009 during the town wide reappraisal. The Listers feel the parcel was assessed fairly. As of April 1, 2015 the Monastery owns 445.55 acres of land. During the last reappraisal (2009), the appraisers assessed the land only. They did not place a value on the buildings since the value of the buildings was exempt from tax liability at that time. Even though the buildings are still considered to be exempt of tax liability, a value must be indicated to satisfy current State requirements. Lister Dunn stated it is the policy of the Listers to use the insurance value for tax exempt buildings in town. An insurance value for all buildings was provided to the Listers by Sister Benedict. The total property value is currently \$4,803,200. This includes the land and all buildings. The town has exempted a total \$4,565,100 (includes 254.65 acres and all buildings) from the assessed value of their property leaving them with an assessed value of \$238,100. The Current Use program reduces this assessed value by another \$78,600 yielding a total taxable value of \$159,500.

Appellant Testimony: Mr. O'Brien explained that he provides legal representation for the Catholic Church and that he is representing the Monastery for this hearing. Mr. O'Brien wanted to clarify that his only communication with the Town Clerk was to find out procedural information for the hearing and to get help with land record information. Mr. O'Brien said that the Monastery is asking for a reprieve from the tax assessment that the Listers have provided. He began by giving a history of the Monastery stating that the Sisters came to Westfield in 1981. Mr. O'Brien stated that it is his legal opinion that all the property is fully tax exempt. The Sisters originally

To be approved at the August 12, 2015 BCA meeting

acquired 325 acres when it was gifted to them. Since that time they have acquired another 120 acres which is contiguous and abutting the Monastery property. They currently have a total of 445 acres. The Monastery is fearful that the current state exemption for pious organizations will go away and they will be taxed on the Towns assessed value. Currently the Listers have the assessed value of the building set at the insurance replacement value of 4.3 million dollars. Mr. O'Brien said that current statute allows exempt properties to be assessed at insurance replacement cost or fair market value. The Monastery wants the assessed value of the property to be based on fair market value. Mr. O'Brien presented oral testimony that the true fair market value of the buildings and 85 acres is \$500,000 based on a market analysis of similar properties done by Appraiser Michael Keller from Burlington. He stated that Mr. Keller felt the true market value of the buildings and all the land is \$714,000. Mr. O'Brien cited 32 VSA §4152(4) and 32 VSA §3802(4) as statutes that exempted the property from taxation.

Mr. O'Brien passed out his evidence packet at the end of his presentation. It included Exhibits 1, 2A, 2B, 2C, 3, 5, 6, 7, 8 and 9. Upon examination after the meeting, the Clerk noted that Exhibit 4 was missing from the packet. Five copies of the evidence packet were presented by the Appellant. The Clerk will make additional copies for each Board member and the Listers.

The Listers and the Appellant made additional comments and answered questions from the Board.

The Inspection Committee, comprised of Mike Piper, Joyce Crawford, Jacques Couture, Yvan LaPlume, Richard Degre and LaDonna Dunn, will meet onsite to inspect the property at 5:30 p.m. on Wednesday, July 29, 2015.

The hearing was recessed at 7:27 p.m. and scheduled to reconvene at 6 p.m. on Wednesday, August 12, 2015, when the Inspection Committee will make their report.

Following a short recess the next hearing convened.

7:43 p.m. Green Mountain Chipping, Parcel ID 03-001-02, land located off North Hill Road:

The Listers were administered and signed their oaths. BCA members were asked if they had any conflict of interest matters to disclose. None were disclosed. The Appellant was not able to be present and did not send a representative. Motion by Joyce Crawford and a seconded by Richard Degre to continue with the hearing as scheduled. Motion passed unanimously.

Listers Testimony: Lister Dunn stated this parcel has been off the Grand List for 22 years. Bill Davies, Town Attorney, recently did a title search and identified David Villeneuve as the owner of this 28.9 acre property. Lister Dunn handed out a summary page, Lister Card for the property and a Lister Card for the Richard Villeneuve property which was used as a comparable. This packet was entered as Exhibit A. He explained the value of land is dependent upon the neighborhood, the grade of the land and the total acreage held by the land owner. The Listers gave this parcel a neighborhood and grade the same as the Richard Villeneuve Trust property. This was their comparison. Both properties are located in the same general area and are both remotely located. As a result of the Listers Grievance Hearing, the Listers gave the Green Mountain Chipping property a lower land grade (0.4) to reflect right of way issues with the property. The new assessed value of the property is \$41,000. The Listers pointed out that the Selectboard does have the authority to grant a right of way to a property for the purpose of logging. The comparable property is the Richard Villeneuve Trust property which has 50 acres (with a 0.6 grade) and is valued at \$90,000.

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Appellant Testimony: In the absence of the Appellant, Chair Couture asked the Clerk to read an email from David Villeneuve stating: "Please let it be known that I do not have a problem with the original assessment of \$61,500 as long as you can prove to me that I have a legal right of way (ROW). I do not agree with the \$41,000 giving the fact that there is no ROW and cannot be accessed easily as this is a remote piece of property. My fair assessment of this lot would be \$10,000 based on no ROW and not easily accessible, remote and cannot be sold easily makes it very undesirable. I could only walk on this property and claim it to be mine with no access. This lot was researched by Joe Flynn, a registered land surveyor earlier this year and he could not find any ROW. If you feel it is worth \$61,500 or \$41,000 your obligation is to show me that I have a legal ROW. I will be out of town until July 28 and would be available any day after that if rescheduling occurs. Thank you." This email was marked as Exhibit 2 and entered into evidence. The original letter requesting a BCA Grievance Hearing was marked as Exhibit 1 and entered into evidence.

The Board asked the Listers for an explanation of grading the land and how that would affect the assessed value. Lister Dunn gave an example of changing the grade to .3 would change the assessed value to \$30,800.

An Inspection Committee comprised of Anne Lazor, Mike Piper, Richard Degre and Jacques Couture will meet at 8:30 a.m. on July 26 to inspect the property. Listers Scott Dunn and Danny Young will also be present.

On a motion by Yves Daigle, seconded by Joyce Crawford, the Tax Grievance Hearing was recessed at 8:40 p.m. to reconvene on Wednesday, August 12, 2015 at 6 p.m. to hear the Inspection Committee report. Passed unanimously.

A complete audio transcript of these hearing is available in the Clerk's office.

Westfield Board of Civil Authority Approval:

Date: 8/12/15 with one changes (Date on page 1)

LaDonna Dunn
LaDonna Dunn, Clerk of the Board

Jacques Couture
Jacques Couture, B.C.A. Chair

Joyce Crawford

Richard Degre

Yves Daigle

Wan to Plume

Mike Piper

Board of Civil Authority Representatives