

**BOARD OF CIVIL AUTHORITY HEARING MINUTES
RANDOLPH TOWN HALL
CONFERENCE ROOM B
OCTOBER 13, 2015**

Board Members Present: Joyce Mazzucco, Richard Burstein, James Sault, Martha Lawrence, Mike Ross, George Phillips, Larry Richburg, Tom Harty, Jessamyn West, Tom Schersten, and Pam Stafford

Others Present: Don Sweetser, Lister; Ed Luce, Lister; Pat French, Town Assessor; Arnold Spahn; Priscilla Spahn; Carolyn Lumbra; Ashley Lincoln; Jeff Hebert; Peter Nowlan; Lincoln Clark; Roger Prescott, Attorney; Joseph Woodin; Linda Minsinger; Glenn Howland, Attorney; Betty Edson; William Minsinger; Everett Lyon; Eleanor Strodt; Linda Schmidt; Steve Springer; and Barbara Springer

The Board of Civil Authority (BCA) hearing for tax assessment appeals was called to order at 6:04 p.m. by Board Chair Richard Burstein. The first order of business was to approve the agenda. Mike Ross made a motion to approve the agenda. Jessamyn West seconded the motion. A voice vote was taken and the motion carried by majority vote. The agenda was approved.

The appeal scheduled for this evening was the tax exemption appeal for properties owned by Gifford Medical Center, properties located at: 215 Tom Wicker Lane, Parcel #108015-010, SPAN #507-159-14164; 12 Highland Avenue, Parcel #225005-000, SPAN #507-159-13528; 9 Prospect Avenue, Parcel #240007-000, SPAN #507-159-13783; and 52 & 54 South Main Street, Parcel #248031-000, SPAN #507-159-13935. Town Clerk Joyce Mazzucco had handed out copies of the Town of Randolph's "Conflict of Interest Policy" and a memo from Pam Stafford, one of the BCA members, regarding appeals relating to tax exemption and whether or not the BCA has jurisdiction to hear such appeals, before the meeting was called to order. Before beginning the hearing of Gifford Medical Center's appeal there was a discussion about exemptions and whether the Board of Civil Authority has jurisdiction to hear such appeals. Mr. Burstein opened the floor to discussion on the question of jurisdiction to hear the tax exemption appeal. Peter Nowlan asked that the Board members introduce themselves to the public. The Board members stood and introduced themselves by stating their names and their elected office (Selectman, Justice of the Peace, Town Clerk). Participating in the discussion were the following individuals: Richard Burstein, Joyce Mazzucco, Pam Stafford, Glenn Howland, Tom Schersten, Jessamyn West, George Phillips, Joe Woodin, Roger Prescott, and Tom Harty. There was also a discussion about conflict of interest and determining the value for the new Menig Nursing Home facility. A number of the members of the Board have some degree of conflict of interest with Gifford Medical Center due to affiliations/associations such as Gifford Corporator, current or former Gifford Board of Trustees member, family members employed by Gifford or they themselves are working for Gifford, have performed services for Gifford, etc. Participating in the discussion were the following individuals: Richard Burstein, Tom Harty, Jim Sault, Joyce Mazzucco, Tom Schersten, Linda Minsinger, Jessamyn West, Roger Prescott, George Phillips, Glenn Howland and Mike Ross. Tom Harty made a motion to ask each Board member to state if they have a conflict of interest in this case and if they wish to recuse themselves from this hearing. Martha Lawrence seconded the motion. There was no discussion about the motion. A

voice vote was taken and the motion carried by majority vote. Richard Burstein stated that he is the Town Agent and is also a Corporator with Gifford and recused himself from this hearing. Jim Sault stated that his wife works for Gifford and that he has contributed to Gifford in the past and recused himself from this hearing. Mike Ross stated that he is a Corporator with Gifford and recused himself from the hearing. George Phillips, Martha Lawrence, Pam Stafford, Jessamyn West and Tom Schersten all stated they do not have any conflict of interest with Gifford. Tom Harty, Larry Richburg and Joyce Mazzucco all stated they have some conflict of interest with Gifford, but feel they can fairly and impartially hear the appeal under Article 5 of the Town's "Conflict of Interest Policy".

The next issue the Board needed to address was the question of authority to hear a tax exemption appeal. Tom Schersten stated he did not think the BCA was the appropriate venue for the tax exemption appeals and made a motion to decline to hear the appeal due to lack of subject matter jurisdiction. Pam Stafford seconded the motion. A discussion followed, with the following individuals participating: George Phillips, Jessamyn West, Joyce Mazzucco, Richard Burstein and Tom Harty. There was no further discussion. Mr. Burstein stepped down from moderating the meeting. Town Clerk Joyce Mazzucco called for a voice vote and it was unclear how the Board members had voted by voice. Ms. Mazzucco called for a show of hands for those in favor of the motion. She then called for a show of hands for those opposed to the motion. The results of the hand count was 5-2-4 (abstentions by Richard Burstein, Mike Ross, Jim Sault and Joyce Mazzucco). The motion carried to decline hearing the tax exemption appeals due to lack of subject matter jurisdiction.

There was still the question about valuation for the 215 Tom Wicker Lane property. Larry Richburg made a motion that the Board proceed with hearing the tax assessment appeal for the 215 Tom Wicker Lane property. Jessamyn West seconded the motion. There was no discussion of the motion. A voice vote was taken and the motion carried by majority vote-7-1-3 (abstentions Richard Burstein, Jim Sault and Mike Ross).

The next order of business was to elect a Chair pro tem. Town Clerk Joyce Mazzucco opened the floor for nominations. Pam Stafford nominated George Phillips to act as Chair pro tem. Martha Lawrence seconded the nomination. There were no further nominations. A voice vote was taken and Mr. Phillips was elected Chair pro tem by majority vote.

Before hearing this appeal, Town Clerk Joyce Mazzucco administered the following oath to Pam Stafford and had her sign an oath sheet: "Do you solemnly swear (or affirm) that you will well and truly hear and determine all matters at issue between taxpayers and listers submitted for your decision so help you God (or, under the pains and penalties of perjury)?" Mr. Phillips asked Ms. Mazzucco to administer the oath to the witnesses. Ms. Mazzucco administered the following oath to Patrick French, Town Assessor, and Joe Woodin and Linda Minsinger, appellants: "Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?"

Mr. Phillips asked that the Listers present their case on this appeal. Mr. French presented a 3 page handout with a picture of the new Menig Nursing Home facility and the itemized cost

sheet for the property which is located at 215 Tom Wicker Lane. This handout was labeled as "Exhibit #1". The property is a 32.82 acres parcel with the nursing home and maintenance building. The Listers asked Gifford if they could appraise the new facility back in May. They were not allowed to make a site visit to assess the property until late in July. At the time of Grievance in August, the Listers used the cost approach to determine value as they had not completed appraisal yet and needed to set the Grand List. Gifford had provided the Listers with information about the actual costs for the project, which totaled around \$8 million. The project was approximately 83.6% complete as of April 1st. The cost X 84% is reflected in the figure shown under "Miscellaneous adjustment", \$6,600,000. The total value for the property is \$7,130,000. The Listers hired Bruce Taylor to appraise the subject property for them. Due to the late inspection and unforeseen personal issues, Mr. Taylor has not yet completed the appraisal, but hopes to have it done soon. Mr. Taylor has 50 years of experience appraising properties. The Listers would like to enter that appraisal as evidence when they receive it. There was a discussion about the cost sheet and how the Listers arrived at the assessment value and about other methods to determine value. Participating in the discussion were the following individuals: Tom Schersten, Pat French, Larry Richburg, Jessamyn West, and Roger Prescott. Mr. French reiterated that the Listers take an oath to tax all taxable properties in the Town of Randolph.

Mr. Phillips asked for the representatives from Gifford Medical Center to present their case. Joe Woodin and Linda Minsinger gave a Powerpoint presentation. A hard copy of the presentation will be submitted into evidence at a later time. Mr. Woodin told the Board that Gifford has been a good steward and has paid property taxes to the Town for years on properties that should have been tax exempt. He stated that Menig is the only skilled nursing facility in Orange County and is the home to 30 residents. Annually 80% of its residents are Medicaid patients. The nursing home has historically operated with a financial loss, and will likely have a deficit of about \$970,000 this year. Mr. Woodin provided a couple of graphs based on information from the Levin Report, a compilation of information on skilled nursing facilities from across the country. One graph showed the average/median price per bed and showed an estimated average fair market value of \$2,295,000. The other graph showed the average/median price per square foot. The total square footage of Menig is 27,840 square feet, and showed a fair market value of \$5,011,200 based on this method. He also provided a table based on the Levin Senior Care Report, and it showed an average assessed value was \$3,067,509. A discussion followed, with the following individuals participating: Joe Woodin, George Phillips, Jessamyn West, Joyce Mazzucco, Linda Minsinger, Tom Schersten, and Larry Richburg. When asked what assessed value Gifford Medical Center is seeking for the Menig facility, Mr. Woodin said 83.6% of the \$3,067,509 or \$2,564,437.

Bill Minsinger asked to be recognized. Before addressing the Board Ms. Mazzucco administered the following oath to Mr. Minsinger: "Do you solemnly swear (or affirm) that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God (or under the pains and penalties of perjury)?" Mr. Minsinger gave a brief historical synopsis of Tranquility Nursing Home (a 59 bed facility), about Gifford being asked by the State to take over the nursing home due to multiple code violations. He told the Board that Gifford spent over \$700,000 to bring Tranquility up to code. Gifford did the right thing taking over the nursing home, and has a long history of doing the right thing for

the community. Discussion followed, with the following individuals participating: Roger Prescott, Pat French, Linda Minsinger, George Phillips, Tom Schersten, Tom Harty, Joyce Mazucco, Jessamyn West, Joe Woodin, Everett Lyon, and Glenn Howland. Pam Stafford made a motion to continue the meeting to December 1, 2015 at 6 p.m. Jessamyn West seconded the motion. A voice vote was taken and the motion carried by majority vote.

There was no further business to consider. Tom Schersten made a motion to recess the hearings to November 3, 2015 at 6 p.m. The motion was seconded. A voice vote was taken and the motion carried by majority vote. The hearing was recessed at 8:09 p.m.

Attest: _____
Joyce L. Mazucco, Town Clerk