

## **Town of Cape Elizabeth Review of Hardship Abatement Applications**

### **Introduction**

Pursuant to Title 36, §841-A of the Maine Revised Statutes Annotated:

The Cape Elizabeth Town Council, within 3 years from the date of a tax commitment, may, on their own knowledge or on written application thereof, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of infirmity or poverty, is in their judgment unable to contribute to the public charges. The town council may extend the 3-year period within which they may make abatements under this subsection.

### **Application Procedure**

The town shall provide that any person indicating an inability to pay all or part of taxes that have been assessed because of poverty or infirmity be informed of the right to make application for hardship abatement.

The town shall make available online and during regular business hours application forms for requesting abatement based on poverty or infirmity and such forms shall contain notice that a written decision will be made within 30 days of the date of application. All applications are to be submitted to the town manager. Town staff or contracted staff shall assist individuals in making application for abatement

All applications, information submitted in support of an application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held relating to abatement applications must be in executive session; a final decision on an abatement application shall be publicly voted but shall not indicate the recipient of the abatement.

### **Appeal Procedure**

The town manager shall provide to any person applying for abatement notice in writing of the decision within 30 days of application. All decisions shall include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal. The procedure for requesting an appeal is for the applicant to write to the town assessor within 60 days of the date of the written notice of the decision indicating the desire for an appeal. The Town assessor shall schedule a meeting of the Cape Elizabeth Board of Assessment Review which shall decide the appeal. An appeal of the decision of the Board of Assessment Review may be made to Maine Superior Court.

## **Town Council Review of Hardship Applications**

To obtain abatement, the applicant has the burden of proof of eligibility for the abatement.

The purpose of the abatement law is to prevent towns from forcing the sale of property in order to collect taxes from those otherwise unable to pay.

The town council shall consider whether or not the applicant's future use of their property as their primary residence is solely contingent upon the town's action.

The town council shall consider the status of other pending foreclosure proceedings on the property. If a foreclosure is imminent for reasons other than a property tax liability, abatement may be denied.

The town council shall consider the lack of a threat of forcing a sale of property if the tax lien process is not yet near maturity. Abatement may be denied if the applicant is not in imminent danger of losing their primary residence.

The town council shall consider two primary income factors. First, is the applicant eligible for general assistance? Second, does the household have income at or below 150% of the federal poverty level? Not meeting either of these standards may be a justification for denial.

The town council shall consider if assets other than income are available to pay for property taxes. If other assets are available, abatement may be denied.

The town council shall consider whether or not an applicant who has been granted a previous abatement has taken advantage of other assistance including the Maine property tax relief program, a homestead exemption and meeting with a social worker to assist the applicant with other programs. Failing to follow previous instructions to seek other assistance may be cause for denial.

The town council shall consider whether or not the primary residence has an assessed value in excess of the median assessed value of all single family homes in Cape Elizabeth. If the primary residence has an assessed value exceeding the median assessed value, abatement may be denied.

The town council may deny abatement if the application form is not signed and/or if false information have been provided on the application form.

Notwithstanding any of the above, the town council , within 3 years from the date of a tax commitment, may, on their own knowledge or on written application thereof, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of infirmity or poverty, is in their judgment

unable to contribute to the public charges. The town council may extend the 3-year period within which they may make abatements under this subsection.

### **Draft Motions for Use in Considering Applications**

*I move to enter executive session in conformance with 1MRSA §405 6 F to review a request for a hardship abatement. Requires 3/5<sup>th</sup> vote*

*I move to return to open session. Requires majority vote*

*I move to grant an abatement in the amount of \$\_\_\_\_\_ pursuant to 36 MRSA § 841 (2) Requires majority vote*

*I move to deny an abatement of property taxes pursuant to 36 MRSA § 841 (2) as the town council finds the application does not meet the standards to grant an abatement as \_\_\_\_\_.*

Choose any one or more of the following:

- *Other assets are available to pay for property taxes.*
- *The property in the application is not the primary residence of the applicant.*
- *The applicant is not under threat of forcing a sale of their property as the tax lien process is not near maturity.*
- *The applicant did not provide sufficient information to establish a burden of proof of eligibility for abatement.*
- *The applicant's future use of their property as their primary residence is not solely contingent upon the town's action.*
- *The applicant has not followed past instructions to seek other opportunities for assistance with their property tax liability.*
- *The applicant does not meet the financial eligibility standards.*
- *The applicant's property has an assessed value in excess of the median assessed value of all single family homes in Cape Elizabeth.*
- *The application was not signed.*
- *The application contained information that was found to be false.*