

SUPERIOR COURT REQUIRES ABATEMENT INFORMATION IN TAX SALE NOTICE

A case from the Windsor Superior Court has important implications for the contents of the notice that is sent to a delinquent taxpayer before a tax sale. *Town of Windsor v. Blanchard*, No. S528-11-99 Wrcv (April 4, 2000). The notice must include a description of the process for applying for an abatement of taxes.

In the *Blanchard* case, property taxes for the years between 1993 and 1998 were not paid. The amount due was \$15,572.03. After sending Ms. Blanchard notices demanding payment throughout 1997 and 1998, the delinquent tax collector sent her a letter explaining that a tax sale would be held. The letter gave Ms. Blanchard a final deadline by which to make arrangements to pay the taxes, and included detailed information about the tax sale process. The letter did not mention the possibility of tax abatement, although the Town maintained that the letter included a copy of the abatement statute (Ms. Blanchard disputed this).

The Town bought the property at tax sale. After the redemption period expired, and Ms. Blanchard was still living at the property, the Town filed a complaint for possession. Ms. Blanchard defended the case by claiming that the Town had violated her constitutional right to due process of law, because it had not adequately notified her of her right to request an abatement of her taxes.

The court agreed. It explained that “due process” concerns arise whenever the government deprives an individual of real or personal property. Relying on the United States Supreme Court case of *Mathews v. Eldridge*, 424 U.S. 319 (1976), the court reasoned that an individual’s interest in his or her property is significant, and the government has no reason not to provide information about the abatement process. The court also noted that the Vermont Supreme Court has ruled, on due process grounds, that a notice of zoning violation must inform the property owner of how to appeal the violation. *Town of Randolph v. Estate of White*, 166 Vt. 280 (1997).

Furthermore, simply sending the taxpayer a copy of the abatement statute is *not enough*. The notice must be “reasonably calculated” to inform the property owner about the abatement process. In the court’s view, sending a copy of the statute did not meet this standard, because nothing explained when, how, or where Ms. Blanchard could apply for an abatement.

This case was not appealed to the Vermont Supreme Court. *Although this decision is not binding precedent throughout the state*, it is the second Superior Court to rule that the town must provide notice to a delinquent taxpayer of his or her right to request abatement. The Addison Superior Court ruled the same way in 1995 in the case of *Fysh v. Town of Bristol*, Addison Superior Ct., No. S110-95Ac (Aug. 9, 1995). It is very likely that other Superior Courts would rule the same way. Therefore, the delinquent tax collector should *always* include a description of the abatement procedure in the notice of tax sale that is sent to the taxpayer. This can be part of the letter or on a separate sheet of paper. In either case, the notice should make clear when, how, and where the taxpayer may apply for an abatement hearing, and should give a deadline for the taxpayer to do that. Law Center staff has prepared a sample notice; please contact us if you would like a copy.

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