Minutes of the BAA
Special Meeting
April 4, 2022

DRAFT

The special meeting was called to order at 12:45 by Chairman Tyler, Present was Lori Longhi, Donna Dubanoski and Thomas Tyler.

Chairman Tyler asked Todd Helems if he is recording; Chairman Tyler remarked that "I am not going to allow you to record over there (referring to the location Todd was sitting)" but Todd Helems didn't move. Chairman Tyler commented "so you're just going to abuse us ?" The Chair observed that Todd Helems (Tax Assessor) is disrupting the process of BAA meeting, then declared Todd Helems out of order and interfering with the process of BAA meeting.

Chairman Tyler presented a policy motion regarding amended rules re: photographing, broadcasting and/or electronic recording of BAA proceedings by reading proposed rules on the record (Rules attached) and requested a second to the motion. Lori Longhi seconded.

Chairman Tyler inquired, before we vote any is there any discussion on the motion? Donna Dubanoski stated as the prior chair and all the years that she has been on this board this has never been done by the BAA or the Tax Assessor (or staff). Lori Longhi stated that as an appraiser that goes to many towns and the assessor's do not tape record BAA meetings.

Chairman Tyler we have a motion to adopt, any more discussion – hearing none a roll call vote ensued. Roll Call Donna Dubanoski –yes, Thomas Tyler-yes, Lori Longhi-yes, all agreed to the Recording Rules, which passed unanimously and was adopted, effective April 4, 2022 at 1:00 p.m..

Chairman Tyler then handed me a copy of his statement to turn into the town to address BAA concerns over Tax Assessor's presence and/or tape recording at BAA hearings. Chairman Tyler read the entire statement "Enfield Board of Assessment Appeals Statement by Thomas J. Tyler, Chairman to Set the Record Straight Regarding Recording of 2022 Proceedings April 4, 2022." (Attached). Chairman Tyler asked if any board member have any comments; hearing none we finished that portion of our meeting.

We began hearing BAA appeals. (See attached schedule of 4/4/2022 hearings held and by which BAA member(s).)

The first three appellants take a seat but before testifying, Chairman Tyler asked a female that was sitting approximately 4 feet behind an appellant about to give testimony. "Are you recording?" Answer "Yes"; "Are you an employee of the town (tax assessor)?" Todd Helems interrupted; Chairman Tyler said that he had enough of Tax Assessor Helems antics. What is your name? Becky Cook. You're not here as the public, you're here because the town is paying you? Becky Yes. To tape record? Becky Yes. Ok if you are tape recording we have three different places for you to decide which of the three appellants each of you wishes to record. Chairman Tyler remarked: So we have three people from the tax assessor's office that are getting paid by the town, who have decided to tape record people. I just want to let the public know that in spite of the fact I've ruled them out of order and they (Tax Assessor or his staff) shouldn't be tape recording that you are being tape recorded by the Town of Enfield Tax Assessor. So now, we will have to give that warning to everyone testifying today.

About mid afternoon Becky received a call on her cell phone left the room for the remainder of the day the recorder stayed on the table running continuously and unattended until 6:00 pm when the Tax Assessor (or staff) removed it. Assistant Assessor, Vicki Rose also was recording and periodically throughout the day got up and walked over to the public to tell them they were being taped by the town. This was misleading since the implication was that the BAA was complicit with the tax assessor and/or the town in tape recording their hearings. At times, her recording device was left unattended on a chair behind and only a few feet away from appellants testifying on their BAA appeal. It appeared as though all three tape recorders were on all day regardless of whether or not the public was in the room.

6:00pm Dona Dubanoski made a motion to adjourn, Lori Longhi Seconded, Passed unanimously. Meeting adjourned.

<u>Enfield Board of Assessment Appeals ("BAA")</u>

Amended Rules Regarding the Recording, Broadcasting and/or Photographing of Proceedings before BAA

Pursuant to the provisions of Connecticut General Statutes Section 1-226, et seq., BAA has hereby amended and/or adopted rules requiring that any photographer, broadcaster and/or person recording any and all BAA hearings, meetings or proceedings, **commencing Monday, April 4, 2022 at 1:00 p.m. (EDT)**, forward indefinitely, **shall be required** to handle all devices and equipment as inconspicuously as possible and in such a manner as not to interrupt, interfere with or disturb BAA hearings, meetings or proceedings.

In addition, the following rules have been adopted and are equally applicable:

1) All photographers, broadcasters and/or persons recording **shall** operate such device(s) in areas designated by the BAA which will be at least ten (10') feet distance in circumference from BAA members, Appellants, their Attorneys, Agents or Speakers in order to create a "zone of privacy" where said persons or parties have a reasonable expectation of privacy;

2) Each and every recording device and equipment **shall** be in the possession, custody and control of its owner or agent at all times in order to maintain its proper operation (for instance, turning "on" and "off" at appropriate times) to insure compliance with state and federal civil and criminal privacy laws; and,

3) All photographers, broadcasters and/or operators of such recording devices and equipment **shall** be solely and exclusively responsible for complying with **Electronic Communications Privacy Act of 1986** ("ECPA"), 18 U.S.C. subsections 2510 – 2523; and, particularly, but not merely limited to, **Title I of the ECPA** as amended by **"CALEA" (Communications Assistance to Law Enforcement Act of 1994)**, the **USA Patriot Act (2001), USA Patriot Act Reauthorization in 2006** and **FISA Amendments Act of 2008.**
   [<u>**Note**</u>: ECPA had its origin in the **Omnibus Crime Control and Safe Streets Act of 1968;** subsequently referred to as the **Federal Wiretap Act of 1986.**]

AMENDED and/or ADOPTED Unanimously by Dubanoski, Longhi & Tyler on April 4, 2022 to become effective immediately

Enfield Board of Assessment Appeals
Statement by Thomas J. Tyler, Chairman
To Set the Record Straight Regarding
Recording of 2022 Proceedings

April 4, 2022

In the past few weeks a town official or officials, either intentionally or through ignorance, have misrepresented and/or mischaracterized both my personal position as well as official BAA policy regarding audio recording of BAA hearings. Those misrepresentations/mischaracterizations appear to be designed to pressure the BAA to begin electronic audio recording of its own hearings. Such misstatements must be corrected to set the record straight, which is the purpose of this statement.

BACKGROUND:

2-11-2022: Lori Longhi elected Recording Secretary to prepare BAA Minutes. This change relieved Vicki Rose of taking or preparing BAA Minutes. Vicki never took Minutes again.

3-10-2022: Tax Assessor Todd Helems made an unannounced appearance at BAA Meeting and attempted to engage in conversation with BAA. The Chair refused to allow Todd to speak explaining that to do so would be against the law in violation of the Freedom of Information Act since he was not on the Agenda. Arrangements were made to accommodate Todd's request to meet by scheduling him on the Agenda for the 3-22-2022 Meeting.

3-11-2022: I received an email purportedly from Vicki Rose (See **Exhibit # 1**, attached) stating that "This year we (the BAA) will tape record all hearings." On **3-15-2022 I had a telephone conversation with Vicki and my handwritten notes appear on Exhibit # 1,** Vicki admitted that her email was written by "my Superior, Todd Helems." After authoring the email Todd had directed Vicki to send it to me under her name, without attribution to him. I asked Vicki to relay a message to the Tax Assessor that "the BAA would not record its own hearings this year." Finally, Vicki opined that she did not know why Todd Helems did not reveal his role in "ghostwriting" her email.

3-28-2022: I requested a one month's extension of time within which to complete our BAA duties per CGS 12-117(a) via letter to Town Manager Ellen Zoppo-Sassu (See **Exhibit # 2**, attached).

3-29-2022: I received an email from the Town Manager (See **Exhibit # 3**, attached) regarding:

a) that my extension request would appear on Town Council Agenda for April 4, 2022;
b) more appropriate hearing locations were being sought for BAA hearings;
c) that Town "Attorney Tallberg will be shortly forwarding you an Opinion about taping the Appeals proceedings." (Note: This puzzled me since the BAA had not requested any opinion nor had any BAA members been contacted previously by the Town Manager or Town Attorney about any BAA hearing issues.); and,

d) the Town Manager expressed her personal opinion regarding BAA's 3-22-2022 Special Meeting Draft Minutes, requesting it be amended concerning some references to Tax Assessor Todd Helems; with which she disagreed.

3-30-2022: I received a copy of an email from Town Attorney Tallberg to the Town Manager purporting to give Legal Opinion 2022-1 (See **Exhibit # 4**, attached) concerning BAA Recording of Hearings. This process never sought to involve me or any other BAA member to verify the "facts" upon which this opinion was based. No facts were sourced and the portrayal of my alleged position was incomplete and misleading. My alleged statement was neither sourced not attributed. Actually, if true, this mischaracterization could put me in legal jeopardy for violating FOIA laws. **My position as Chairman and BAA policy is that audio recording of BAA proceedings by the public has been allowed consistent with the Freedom of Information Act (currently CGS Section 1-226; previously CGS 1-21a) at least since I first was appointed to the BAA, over ten years ago. To my knowledge, no member of the public has ever been denied their right to record any BAA hearing, meeting or proceeding.**

On the issue of BAA tape recording its own hearings we have questions of our own, for instance:

1) Why were we not contacted by the Town Manager or somebody before a legal opinion was requested ?
2) Why were we not contacted after it was requested in order to confirm or refute "facts", especially my own position as well as existing BAA policy ?
3) Why were we kept in the dark like mushrooms until after that opinion was issued ?

Finally, this opinion implied that the BAA should tape record its own hearings is shortsighted and fatally flawed for reasons as are more thoroughly discussed below.

POLICY ON BAA AUDIO RECORDING OF PROCEEDINGS:

The Board of Assessment Appeals ("BAA") is a statutorily-created agency whose purpose is to review individual taxpayer appeals of tax assessments levied or imposed by the Enfield Tax Assessor ("TA") as of October 1, 2021 for Fiscal Year 2022.

All three BAA members are natives and life-long residents whose roots run deep in the community. Each member brings a lifetime of varied experience and a wide range of expertise that complements each other while providing an extraordinary balance helpful in resolving disputes fairly and equitably. We welcome this opportunity to allow resolution with a full and fair hearing in as non-contentious, non-confrontational setting as possible.

Chairman's Position and BAA Policy regarding the Public Recording BAA proceedings:
Audio recording of BAA proceedings by the public has been allowed consistent with the Freedom of Information Act (currently CGS Section 1-226; previously CGS 1-21a) at least since I was appointed to the BAA, over ten years ago. To my knowledge, **no member of the public has ever been denied their right to record any BAA hearing, meeting or proceeding. That is my position as Chairman and BAA policy** for as long as I can remember. The BAA has discussed recording its own proceedings and rejected it for multiple reasons, which follow below.

We are not versed nor proficient in the operation of recording devices nor do we have the time or desire to interrupt hearings to make these recordings. The BAA will not assume responsibility to keep recorders in good working order and/or assure accuracy of recordings. It is not appropriate for the BAA even to be perceived to be acting as an agent or an arm of the town's tax assessor.

Many cases involve personal and/or financial information not subject to public disclosure. It would be virtually impossible for us, as BAA members, to monitor, screen, redact or otherwise guard against the accidental acquisition of and/or subsequent release of protected confidential/privileged information in violation of law, putting the town and us in legal jeopardy. Again, it is not appropriate for the BAA to act as an agent or an arm of the town's tax assessor. That is well beyond the nature or scope of our statutory charge or authority.

Due to the sheer volume of appeals it is completely unreasonable for the town to expect us to undertake responsibilities of transmitting and/or safe guarding these tapes in compliance with custodial obligations which could be legally imputed. Those "chain of custody" issues are most formidable and well beyond our capabilities. We absolutely decline to accept responsibility for such preservation of evidence duties.

Finally, and most importantly, we will not participate in the BAA being pressured or bullied into recording our proceedings. It is intimidating to most people who are already anxious and nervous; it would have a "chilling effect" on them as they try to present their cases. Most are not attorneys; they should not feel as though they are being interrogated at an inquisition. BAA hearings should be conducted in a dignified and orderly manner. One of our goals is to provide an atmosphere as comfortable as possible so that citizens and taxpayers do not feel threatened, intimidated or bullied by their own government, be it the BAA or town official(s).

Respectfully submitted

Thomas J. Tyler, Chairman

cc: Mayor Robert Cressotti
Members of the Town Council
Donna Dubanoski
Lori Longhi

EXHIBIT #1

Tom Tyler

From: Rose, Victoria <vrose@enfield.org>
Sent: Friday, March 11, 2022 4:37 PM
To: Tom Tyler
Subject: Meetings

I am going to post the meetings, but the Town has informed me that no town employee would be able to take the minutes during the normal course of the work day. I can come at 5:00 and will continue to schedule the hearings, do the prep work, and transcribe the minutes . This year we will record audio of all the hearings . This will allow us to be able to transcribe any missing notes. I'm sorry for any inconvenience this may cause.

BONE OF CONTENTION

Thanks,

Vicki

Victoria Rose, CCMA II
Assistant Assessor
Town of Enfield
(860)253-6337

3/15/2022 at 10:30 AM
PER TC w/VICKI ROSE

VICKI REPLIED

1.) Who is "we"? — "THE BAA"

2.) Who wrote it? — "MY SUPERIOR, TAX ASSESSOR TODD HELEMS"

3.) Please advise TODD HELEMS "THE BAA WILL NOT RECORD ITS OWN HEARINGS THIS YEAR" — "I WILL LET TODD KNOW"

4.) Why did TAX ASSESSOR NOT REVEAL HIS ROLE IN GHOSTWRITING EMAIL? — "I DON'T KNOW"

EXHIBIT #2

Enfield Board of Assessment Appeals
c/o Thomas J. Tyler, Chairman
18 Bridge Lane
Enfield, CT 06082

March 28, 2022

Ms. Ellen Zoppo-Sassu, Town Manager
Town of Enfield
820 Enfield St.
Enfield, CT 06082

Via ezoppo@Enfield.org and Regular Mail

Re: **Request for Extension of Time Within Which to Complete BAA Duties**

Dear Ms. Zoppo-Sassu:

Pursuant to the provisions of CGS Section 12-117(a), the Board of Assessment Appeals hereby requests a one-month extension in order to fulfill its duties during this revaluation period. The sheer volume of appeals makes it virtually impossible to fully and fairly hear each appeal then devote adequate time to deliberate and equitably consider each such case.

It is my understanding that should you grant this extension request, it is the responsibility of the Town Manager to send written notice of such extension to the Secretary of the Office of Policy and Management not later than two weeks after granting an extension.

If you have any questions please don't hesitate to let me know at your earliest convenience.

Thank you in advance for your attention, consideration and anticipated cooperation.

Very truly yours,

Thomas J. Tyler

Thomas J. Tyler, Chairman

cc: Debbie McCarthy
Donna Dubanoski
Lori Longhi
Vicki Rose

EXHIBIT #3

Tom Tyler

From: Zoppo, Ellen <ezoppo@enfield.org>
Sent: Tuesday, March 29, 2022 4:54 PM
To: Tom Tyler
Cc: McCarthy, Debra; ddubanoski@aol.com; Dllonghi; Bielenda, Steven
Subject: RE: BAA Request for Extension per CGS 12-117(a) to Complete Its Duties
Attachments: 03 22 BAA Minutes.pdf

Good Afternoon Attorney Tyler,
I received your letter and will be placing the request for extension on the April 4th Town Council agenda. I expect that there will be full support for this based on the number of appeals.

We have worked out the room reservations for next week so the BAA does not have to use the Thompsonville Room which we all agree is inappropriate for these type of proceedings.

I also wanted to let you know that the Corporation Counsel, Attorney Tallberg, will be shortly forwarding you an Opinion about taping the Appeals proceedings.

Also, I have read a copy of the attached minutes and I would like to respectfully request that they be amended before adoption. The focus on the Assessor's qualifications seems subjective in nature and does not accurately represent the meeting or that particular discussion.

Please call me if you have any questions...860-253-6350.

Sincerely,
Ellen Zoppo-Sassu
Town Manager

Cc: Assessment Appeals Board; Assistant Town Manager Steve Bielenda

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From: Tom Tyler <tom@tylerandtyler.com>
Sent: Monday, March 28, 2022 11:24 AM
To: Zoppo, Ellen <ezoppo@enfield.org>
Cc: McCarthy, Debra <dmccarthy@enfield.org>; ddubanoski@aol.com; Dllonghi <dllonghi@aol.com>; Rose, Victoria <vrose@enfield.org>
Subject: BAA Request for Extension per CGS 12-117(a) to Complete Its Duties

External Email: Use Caution when opening attachments or clicking links.

Ms. Zoppo-Sussa,

Attached please find a written request from me as Chairman of Enfield's Board of Assessment Appeals for an extension of time within which to complete its duties.

A hard copy of this request is also being mailed to you this afternoon.

If you have any questions please don't hesitate to let me know at your earliest convenience.

Thank you for your consideration.

Very truly yours,

Thomas J. Tyler, Chairman
Board of Assessment Appeals

#3 –

DRAFT

BAA Minutes

3/22/2022 Special Meeting

Donna Dubanoski, Thomas Tyler- Chairman and Lori Longhi were present. Tom called the meeting to order at 4:00. Lori Longhi will continue to take minutes. A couple of minutes later Vicki Rose (Tax Assessor's office) arrived accompanied by an individual she introduced as the new Tax Assessor Todd Helems to the BAA members.

Tom stated Lori is going to take the minutes, commented that the entire board is present, including Vicki Rose and Enfield's Tax Assessor, Todd Helems.

First item on the agenda was the minutes from 3/10/2022. After brief discussion, Donna made a motion to approve 3/10/2022 minutes, which was seconded by Tom and unanimously approved.

Second item on the agenda was the upcoming appeal hearing process for individual cases as well as multiple cases, including personnel matters. After discussion, the BAA decided to move on to the next item on the agenda.

Third item on the agenda was to engage in communication with the new Enfield Tax Assessor Todd Helems. After Tom swore-in Todd Helems a robust discussion ensued for over an hour regarding Todd's appraisal qualifications (he is neither a licensed Residential/Commercial Appraiser nor a registered Soil Scientist in Connecticut or any other state), expertise, work experience, perspectives, PA 490, Motor Vehicle changes, Residential & Commercial properties under Appeal to the BAA and several other topics. He specifically discussed several individual cases as well as his overall views on numerous generic cases.

Donna made a motion to adjourn, seconded by Lori – unanimously approved.

Meeting adjourned at 5:30 pm.

Respectfully submitted,

Lori Longhi,

Recording Secretary

#3 - 3

EXHIBIT #4

Tom Tyler

From: Roche, Susan <sroche@enfield.org>
Sent: Wednesday, March 30, 2022 2:48 PM
To: Helems, Todd; Tom Tyler; dllonghi@aol.com; ddubanoski@aol.com
Cc: Town Attorney; Zoppo, Ellen
Subject: Board of Assessment Appeals - Recording of Hearings
Attachments: LO 2022-1, Board of Assessment Appeals - Recording of Hearings.pdf

Good afternoon,

Please see the attached legal opinion in regards to the above referenced matter.

Thank you,
Sue

Susan M. Roche
Legal Assistant
Town Attorney's Office
820 Enfield Street
Enfield, CT 06082
Phone: 860-253-6405
Fax: 860-253-6362

Town Of
Enfield
Connecticut

Legal Opinion 2022-1

OFFICE OF THE TOWN ATTORNEY

TO: Ellen Zoppo-Sassu, Town Manager

FROM: James N. Tallberg

DATE: March 30, 2022

SUBJECT: Board of Assessment Appeals
Recording of Hearings

FACTS

The Town of Enfield Board of Assessment Appeals (BAA) conducts hearings during the months of March and April concerning real property and personal property valuations.[1] Historically, a Town staff member has essentially acted as the secretary of the BAA and was responsible for the taking of the minutes of the hearings. The staff member would later type the minutes for filing in the Town Clerk's office and for posting on the Town's website. Historically, there has been no "live" recording or taping of these hearings.

Town officials have indicated that there is an interest in having the hearings recorded.[2] However, the Chairman of the BAA has expressed his disapproval of the proposed recording of the hearings.

ISSUE

Whether the Town may have an audio recording of the BAA hearings.

SHORT ANSWER

Yes, audio recordings of the BAA hearings may be made.

LAW AND DISCUSSION

The Board of Assessment Appeals ("BAA") is a statutorily created entity pursuant to Connecticut General Statutes §12-110. The process for BAA hearings is set forth in General Statutes §12-111 through §12-115.

In addition, the members of the BAA are appointed by the Town Council per the Town Charter, chapter V, section 4.

1/ There are occasional motor vehicle appeals in March and April, but most motor vehicle hearings are conducted in September.

2/ It is my understanding that these will be audio only recordings.

#4-2

Although the BAA operates pursuant to this statutory authority, it is nonetheless a public agency that is affiliated with the Town as recognized by the Town Charter. It uses Town facilities, and it conducts the Town's business regarding assessment appeals. We are not aware of any statute, rule, or regulation that would prevent the Town from taping hearings in order to provide an accurate record of the proceedings. That being the case, I would proceed to tape the hearings.

Please let me know if you have any questions or need additional follow up on this issue.

James N. Tallberg, Town Attorney

HEARING CONDUCTED BY:

MONDAY, APRIL 4, 2022

DD = DONNA DUBANOSKI
LL = LORI LONGHI
TT = TOM TYLER

~~TOM~~	1:00	LIQUORE	JOSEPH	6	
	1:00	MASTROBERTI	CHARLES	5	
~~TOM~~	1:00	SZCZESIUL	TIMOTHY & AUDREY	8	
LL	1:15	KAMERER	WILLIAM	7	
DD	1:15	YOUNG	CHARLES	13	No Show
LL	1:15	SOLENSKI	JOHN	16	
LL	1:30	BURKAMP	KURT	12	
	1:30	DONAGHY	MONICA	14	W/drew
TT	1:30	DURFEE	MARK	17	
DD	2:00	FRENCH	THEODORA	25	
	2:00	RESCHEDULED			
	2:00	CARPENTER	KURT	18	MOVED
	2:15	SZKULA	WASYL & GLORIA	29	
LL DD →	2:15	CLASSEN	WILLIAM	30	
TT	2:15	ANNIS	JOSEPH OR LORI	36	
	2:30	LARUSSA	JUDITH M	37	✓
LL	2:30	BERRY	FRANCES	38	✓
	2:30	WHALEN	SHAUN	49	
TT	2:45	TOKARCZYK	FRANCIS	50	
	2:45	NGUYEN	HIEN	57	
TT DD	2:45	KRUZEL	WALTER	74	
LL	3:00	DUDLEY	STEVEN	75	
LL	3:00	MACK	DORIS	96	
LL	3:00	WERNER	ELISABETH	102	
TT	3:15	SFERRAZZA	CARL FRANK T.	136	MT. CARMEL SOCIETY LOT 8 MARGARET STREET
DD	3:15	RYPYSC	THOMAS	110	✓
LL	3:15	BEGLEY	BRENDAN	115	
LL		BEGLEY	BRENDAN	116	
	3:30	GNATEK	ANDREW	130	No Show
	3:30				
DD	3:45	MURRAY	BRIDGID	224	MOVED to be w/ART
	3:45	MULLEN	MAUREEN	108	
	3:45	SHAH	BAKUL	121	NO SHOW
DD	4:00	KEATING	JOYCE	230	
		BEND	IRISH		MOVED
LL	4:00	BULLOCK	WILLIAM	109	
TT	4:00	FOURNIER	WILLIAM	132	
	4:15	KOBER	PHILIP	134	No Show
TT	4:30	MONACO	ANTHONY	131	
	4:30	LAMONTAGNE	ELAINE	137	
TT	4:30	BOSCO	JACQUELYN	135	~~TONY~~ DIED – KEN NELSON ATTY. DEREK DONNELLY & O.J.
DD/LL/TT →	4:45	OWEN JARMOC			