

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

PROBATE & FAMILY COURT
NO. ES09E0094QC

_____)	
ALEXANDER B.C. MULHOLLAND, JR,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ATTORNEY GENERAL of the)	
Commonwealth of Massachusetts,)	
et al.;)	
)	Appeals Court
)	Single Justice No.:
Defendants.)	
_____)	

JOINT AFFIDAVIT OF COUNSEL FOR THE PARTIES

1. The undersigned were counsel of record for, respectively, the plaintiff Feoffees, the Office of the Attorney General, and the defendants Ipswich School Committee and Richard Korb.

2. At no time in the proceedings before the probate court did the Applicants for Intervention ("Applicants") argue, as they do now, that the trial judge improperly pressured the parties to settle or that she prejudged the case. Because the Applicants are advancing this argument, through new counsel, for the first time on appeal (in seeming violation of M.R.A.P. Rule 6's requirement that the grounds for a stay be presented in the

first instance to the probate court), the undersigned counsel submit this joint affidavit in response.

3. Prior to the commencement of trial, the trial judge was thoroughly familiar with the case background due to various pretrial proceedings before her, including the extensive evidentiary record presented in connection with the Feoffees' unsuccessful motion for summary judgment. In addition, at the outset of trial, 146 exhibits, including four appraisals of Little Neck, were introduced into evidence and were part of the record before the court. Many of those exhibits had been a part of the summary judgment record.

4. In the course of dealing with pre-trial matters, ruling on motions in limine, and ruling on evidentiary issues that arose at trial, there was colloquy between the parties and the court from which the parties' counsel might draw inferences as to the court's preliminary thinking about various issues in the case.

5. As is not uncommon, the trial judge discussed with counsel, off the record, and outside the presence of anyone other than counsel, the status of settlement negotiations. The parties' counsel reported on the discussions that had taken place and their respective positions concerning deviation and governance. The judge also offered her thoughts, always being

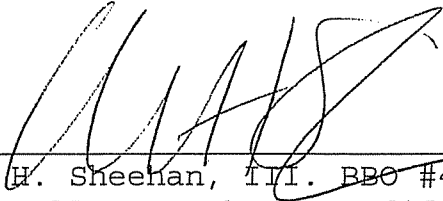
careful to note that she had not pre-judged any of the issues presented in the case.

6. Any statement that the trial judge in any way applied any "pressure" or coercion on the parties to settle is false.

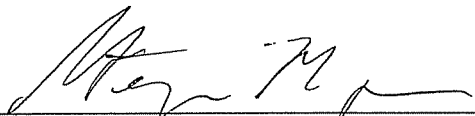
7. The proposed intervenors' memorandum states at page 13, without any basis other than hearsay statements by those who were not present, that the trial judge "announced her intention to force a sale on the first day of trial" (emphasis deleted). This is a complete and utter falsehood. At no time in the course of the proceedings, either on the first day of trial or at any other time, did she state that she intended to force a sale of Little Neck or make any similar comment.

[Signatures Follow on the Next Page]

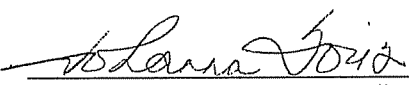
Signed under the pains and penalties of perjury, this 21st
day of February, 2012.



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