

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

ESSEX, SS.

APPEALS COURT
SINGLE JUSTICE NO.: 2012-J-
0056

PROBATE AND FAMILY
DEPARTMENT OF THE
TRIAL COURT
No. ES09E0094QC

ALEXANDER B.C. MULHOLLAND, JR.,
PETER FOOTE, DONALD WHISTON,
JAMES FOLEY, ELIZABETH
KILCOYNE, PATRICK
J. MCNALLY, and INGRID MILES,
as they are the Feoffees of the
Grammar School in the Town of
Ipswich,

Plaintiffs,

v.

ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS,
IPSWICH SCHOOL COMMITTEE, and
RICHARD KORB, as he is
Superintendent of Schools in
the Town of Ipswich,

Defendants.

AFFIDAVIT OF PATRICK MCNALLY IN SUPPORT OF INTERVENERS'
MOTION TO STAY JUDGMENT

I, Patrick McNally, being duly sworn depose and say as follows:

1. I am a member of the Board of Selectmen of The Town of Ipswich and have been a Selectmen in Ipswich since 1990.

2. As a senior member of the Board of Selectmen, I am also a Feoffee of the Little Neck Trust as authorized by a 1786 statute (R. 216) and have served as a Selectmen Feoffee since 2007 (Id. at n. 12).

3. From the commencement of the Probate Court litigation, I have been opposed to the sale of Little Neck.

4. As a Feoffee, I was never consulted on the settlement of the Probate Court litigation providing for the sale of Little Neck.

5. I never voted in favor of the settlement, or the sale.

6. I understand that William Sheehan, attorney for the Feoffees, has submitted a memorandum of law to the Appeals Court, stating that all seven Feoffees, Life Feoffees and Selectmen Feoffees, were in favor of the Agreement for Judgment ultimately reached in the Probate Court.

7. Mr. Sheehan's statement is false. I was never asked to participate in any discussions concerning the Agreement for Judgment, never voted on the Agreement for Judgment, never expressed a position in favor of the Agreement for Judgment, and played no role in reaching the vote to settle the Probate Court litigation.

8. During my tenure as a Selectmen Feoffee, the Lifetime Feoffees typically and routinely did not include the Selectmen Feoffees in their decision making. In fact, the Lifetime Feoffees voted at a meeting on October 31, 2011 that all decisions regarding the pending court case be made by the Lifetime Feoffees. This vote took place at a meeting of the Feoffees which was called by the chairman on short notice, and therefore none of the Selectmen Feoffees were able to attend.

9. Attached as Exhibit A is a true and accurate copy of the minutes of the Feoffee meeting of October 31, 2011.

Signed and sworn under the pains and penalties of perjury
this 29th day of February, 2012

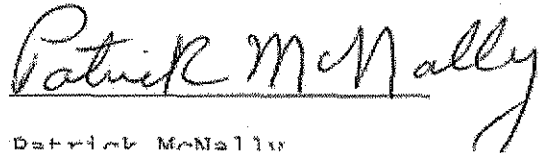

Patrick McNally

EXHIBIT A

----- Forwarded Message -----

From: "feoffees1@aol.com" <feoffees1@aol.com>

To: a.mulholland2@gmail.com; padofote@aol.com; foleyj07@comcast.net; ray.morley@verizon.net; lawtrick@yahoo.com; olym52@comcast.net; csurpitski@verizon.net

Sent: Wednesday, November 2, 2011 9:56 AM

Subject: Feoffee Meeting 10-31-11

Present were Foote, Foley, Whiston, Mulholland, Atty Sheehan @ Peabody Law office 2 PM. Selectmen Feoffees absent

Foley moved and Whiston seconded that a Committee on Litigation be established and that all decisions be made by life members as regards the pending court case. all in favor.

Atty Sheehan reported as of today there is no money left in the account for legal fees. Eastern Bank has \$125900. in the loan account which could be used through Dec 31, 2011. After discussion Foley made motion that \$124959.20 be drawn on the line of credit account at Eastern Bank to Maclean Holloway Doherty law firm. Mulholland seconded. all in favor.

Atty Sheehan talked about depositions and discovery issues. Gottlieb and Disalvo want to settle with School Committee by offering more money., hoping to get a 4th vote from school committss. Question as to when are feoffees going away. Atty Sheehan states Feoffees will go away after a sale is approved and Feoffees are given a release. Atty talked about windfall of assessed value of 32 Mill\$ divided by 167 would cost 24000\$ ea to reach more on sale price.

Atty Sheehan to notify Atty Allen of settlement of counterclaim in behalf of feoffees. After discussion on reconstituion of feoffees, Mulholland moved that Feoffees step aside upon sale settlement of LN by agreement.. Whiston seconded. Foley, Whiston, Mulholland voted in favor. Foote voted no.

After a discussion on hiring expert witness for court case Foley moved to engage Charles River Assoc as expert witness on terms of agreement dtd 10-27-11. seconded by Mulholland. all in favor.

After discussion with Atty, Foley moved to place \$1000 in Eastern Bank savings to establish a deposit relationship. Seconded by Whiston. All in favor.

Foote brought up the residents who for hardship reasons request to stay the winter on LN. Foote made motion, Mulholland seconded, all in favor. Costs to tenants would be \$1100 to \$1800 ea.

Foley and Foote discussed why taxes could not be direct billed to tenants. Currently Feoffees are losing money on having tax money and bills processed by feoffees. Atty Sheehan researched abd found staatute C59 Sec 2B which allows town to direct bill tenats.

Foely made motion that Atty Sheehan craft a letter to town assessor to tax 167 owners directly. scoded by Mulholland. all in favor.

1739 hrs Mulholland motioned to adjourn, seconded by Foley. all in favor.