

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION
EXEMPT FROM FOIL DISCLOSURE**

JUDSON K. SIEBERT
Principal Member

March 20, 2017

Mr. Anthony Ruggiero
City Administrator
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: *Manufacturers and Traders Trust Company v.*
Assessor of City of Beacon, et al.,
(Sup. Ct. West. Co. Index No. 15/51275 and 16/51705) –
Settlement of 2015 and 2016 Tax Certiorari Proceedings

Dear Anthony:

I write to advise the City of a proposed settlement of the above-referenced tax certiorari proceedings. These proceedings were commenced by Manufacturers and Traders Trust Company ("M&T"), the successor to Fishkill National Bank and owner of the bank building located at 200 Main Street. The proceedings challenge the assessment of this property in 2015 and 2016. The following is a summary of the settlement terms and a recommendation that they be accepted by the City.

The proposed settlement is the result of negotiations with the attorney for M&T and casts a modest financial impact of \$1,415.04 upon the City. These negotiations commenced after this case was conferenced before the Supreme Court, Dutchess County (Hon. James V. Brands, J.S.C., presiding), which placed these proceedings on a trial schedule, thereby requiring the preparation of a trial appraisal.

As stated, this case involves property located at 200 Main Street, which is identified as Parcel 5954-27-829943 on the Tax Map of the City of Beacon. This property is improved with the M&T branch bank. The assessment of this parcel was contested in 2015 and 2016, and equaled \$853,600 in both of these years. Following the initiation of the 2015 proceeding, Justice Brands directed counsel for the parties to appear for a series of conferences.

Mr. Anthony Ruggiero, City Administrator
March 20, 2017
Page 2

The attorney for M&T maintained the property had a market value of \$710,000, thus warranting a \$143,600 assessment reduction. As I previously related to the City, after conferring with Kathy Martin, I requested McGrath & Co. Inc. ("McGrath") to prepare a preliminary appraisal of this property. McGrath's preliminary report placed a market value of approximately \$1,200,000 on these premises in excess of the challenged assessment.

M&T's attorney was advised of McGrath's findings, as was Justice Brands. M&T's attorney however, refused to voluntarily forego this case, and the court scheduled this matter for a trial. The first required step in defending an assessment is filing a trial appraisal, the cost of which would be approximately \$4,000-6,000.

With the date for submission of trial appraisals approaching, a resolution was reached that provides for token assessment reductions in 2015 and 2016. In this regard, the settlement terms represent a "nuisance value" disposition.

An analysis of the settlement terms is as follows:

<u>Year</u>	<u>Ass't</u>	<u>Revised Ass't</u>	<u>Reduction</u>	<u>City Tax Rate</u>	<u>Refund</u>
2015	\$853,600	\$800,000	\$53,600	\$13.23	\$709.13
2016	\$853,600	\$800,000	\$53,600	\$13.17	\$705.91
Total:					\$1,415.04

Although I am confident this case presents little, if any, exposure, I nonetheless recommend the approval of this settlement. The assessment reductions are limited and dispose of these proceedings in exchange for refunds that carry slight financial impact. In this regard, the attorney's fees incurred for the mere task of attending additional court conferences and the legal and appraisal cost associated with further judicial proceedings far eclipse the refund amount arising from this settlement. Thus, from a practical perspective, the terms make economic sense.

Under the settlement terms, no interest will be paid on the refunds, provided they are tendered within sixty (60) days of the date a Consent Judgment (giving effect to the settlement's terms) is served upon the City. Under the settlement, Kathy Martin will hold the revised assessment for a three-year period during which it will not be contested. This provision will eliminate the prospect of any tax certiorari litigation involving this property through 2020. Moreover, the loss of \$53,600 in assessed

Mr. Anthony Ruggiero, City Administrator

March 20, 2017

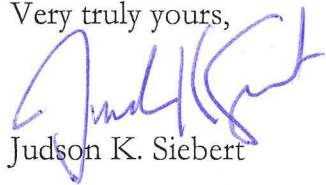
Page 3

value will be muted and readily replaced by the anticipated addition of assessed value on the City's upcoming 2017 assessment roll.

For these reasons, I recommend approval of this settlement. A proposed Resolution authorizing the settlement terms is attached.

Please contact me with any questions concerning this matter.

Very truly yours,



Judson K. Siebert

JKS/sj

Enclosure(s)

cc: Ms. Kathy Martin, Assessor
Nicholas M. Ward-Willis, Esq.

**RESOLUTION RE: CERTIORARI SETTLEMENT -
Mtr. of Manufacturers and Traders Trust Co. v. Assessor of the City of Beacon, et al.
(Sup. Ct. Dutchess Co. Index Nos. 15-51275 and 16-51705) -
SETTLEMENT OF TAX CERTIORARI LITIGATION**

WHEREAS, there are tax certiorari proceedings, entitled *Mtr. of Manufacturers and Traders Trust Co. v. Assessor of the City of Beacon, et al.* (Sup. Ct. Dutchess Cty. Index Nos. 15-51275 and 16-51705), pending before the Supreme Court, Dutchess County (Hon. James V. Brands, J.S.C., presiding); and

WHEREAS, these proceedings challenge the real property tax assessment of a parcel located at 200 Main Street, which is identified as Tax Lot No. 5954-27-829943 on the Tax Map of the City of Beacon; and

WHEREAS, by virtue of these proceedings, the assessments established by the City of Beacon with respect to said parcel has been contested in 2015 and 2016; and

WHEREAS, a settlement has been reached by and between Petitioner Manufacturers and Traders Trust Co. and the City of Beacon providing for a disposition of these proceedings; and

WHEREAS, a proposed Consent Judgment effectuating these settlement terms has been prepared, subject to the approval of the City of Beacon; and

WHEREAS, the City of Beacon has obtained the advice and assistance of its counsel, Keane & Beane, P.C., with respect to the settlement terms, the proposed Consent Judgment and has duly considered same; and

WHEREAS, under the settlement terms, the City will be liable for City tax refunds that equal One Thousand Four Hundred Fifteen and 04/100 (\$1,415.04) Dollars;

NOW, THEREFORE, BE IT RESOLVED that the City Council accepts the settlement of these proceedings so that the following adjustments are made to the assessment of the aforementioned premises:

	<u>Year</u>	<u>Combined Assessment</u>	<u>Revised Combined Assessment</u>	<u>Reduction</u>
	2015	\$853,600	\$800,000	\$53,600
	2016	\$853,600	\$800,000	\$53,600
	Total:			\$1,415.04

BE IT FURTHER RESOLVED, that counsel for the City of Beacon, Keane & Beane, P.C., together with the City Administration, is hereby authorized to undertake such actions as are necessary to confirm and effectuate this settlement, including execution of the Consent Judgment incorporating the settlement terms.