

**Attorney-Client Correspondence
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August 4, 2017

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

Re: *Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.*
(Sup. Ct. Dutchess Co. Index Nos. 51754/16 and 51797/17)

Dear Anthony:

I write to recommend a proposed settlement of the above-referenced tax certiorari litigation, which encompasses assessment challenges in 2016 and 2017. This case involves a homestead parcel that consists of 3.04 acres of vacant land located on Slocum Road, which was assessed at \$180,000 in 2016 and 2017. The settlement calls for a reduction of the 2016 and 2017 assessments to \$160,000 and will entail a City tax refund of \$172.20. This refund is limited to the proposed 2016 assessment reduction because the 2017 assessment will not be the subject of a City tax levy until 2018.

I recommend approval of this settlement because its terms are favorable and will serve as a cost-saving disposition of this matter.

The property at issue in this case is designated as Parcel No. 5954-20-786193 on the Tax Map of the City of Beacon. This parcel consists of vacant land adjoining a residentially improved tax lot on Slocum Road. As mentioned, it is comprised of 3.04 acres in a "flag lot" configuration with limited frontage on Slocum Road. An aerial photograph of this parcel, taken from the Dutchess County GIS database, is attached for reference purposes.

This parcel was assessed at \$180,000 in 2016 and 2017. This settlement is based upon an appraisal of the subject parcel that was provided by the taxpayer-property owner. The appraisal was based upon an analysis of five (5) land sales of parcels situated in Beacon and the Town of Fishkill. The appraisal adjusted these sales based upon a series of comparative factors, including location, topography, size, views and

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time of sale. This appraisal concluded that the subject parcel had a value of \$125,000 - \$55,000 below the contested assessments.

The appraisal was evaluated by City Assessor Kathy Martin and my office. Although the methodology applied in this appraisal was sound, and the sales selected for comparative purposes appropriate, Ms. Martin took exception to certain adjustments applied in reaching its conclusions. Based upon this review, Ms. Martin concluded an assessment reduction was potentially warranted (based upon a value of approximately \$50,000 an acre, to \$152,000).

This prospect of over-assessment exposure, coupled with the placement of this case on the calendar of the Supreme Court, Dutchess County, led to settlement negotiations and the proposed settlement terms. Again, the settlement is based upon an assessed value of \$160,000, a figure that exceeds the value advanced in the appraisal provided by the taxpayer-property owner and Ms. Martin's analysis. The refund impact of the settlement is as follows:

<u>Years</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>	<u>Homestead Tax Rate</u>	<u>Refund</u>
2016	\$180,000	\$160,000	\$20,000	\$8.61	\$172.20
2017	\$180,000	\$160,000	\$20,000	<i>Unlevied</i>	<i>Unlevied</i>
Total:					\$172.20

I recommend the approval of this settlement. It will dispose of these proceedings based upon a value that exceeds the conclusions drawn in both the property owner's appraisal and the City Assessor's analysis of this appraisal. Moreover, the refund liability arising from the settlement is extremely modest and far less than the legal fees and costs that would be incurred in continuing to attend periodic pre-trial court conferences and those associated with a trial to defend the contested assessments. Furthermore, the settlement provides for a waiver of any interest on the refund amount, provided the refund is paid within sixty (60) days after an entered Consent Judgment (effectuating the settlement terms) is served upon the City. Interest would be imposed, as a matter of law, if this case were to be decided by the court.

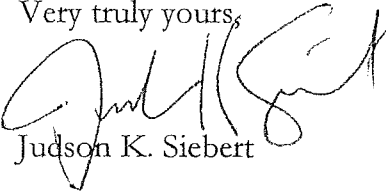
Based upon this recommendation, I have attached a proposed approving Resolution for the City Council's consideration. Again, the refund is limited to the 2016

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assessment reduction at this juncture because the 2017 assessment will be the subject of the City's upcoming 2018 tax levy.

I am available to answer any questions you may have with regard to these proceedings and the proposed settlement.

Very truly yours,



Judson K. Siebert

JKS/sj

Enclosure

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



**RESOLUTION RE: CERTIORARI SETTLEMENT -
Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.
(Sup. Ct. Dutchess Co. Index Nos. 51754/16 and 51797/17) -
SETTLEMENT OF TAX CERTIORARI LITIGATION**

WHEREAS, there are tax certiorari proceedings, entitled *Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.* (Sup. Ct. Dutchess Cty. Index Nos. 51754/16 and 51797/17), 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 homestead tax parcel located on Slocum Road, which is identified as Tax Lot No. 5954-20-786193 on the Tax Map of the City of Beacon; and

WHEREAS, on account of these proceedings, the 2016 and 2017 real property tax assessments established by the City of Beacon with respect to this parcel have been contested; and

WHEREAS, a settlement has been reached by and between Petitioner Faith W. Fina Trustee and the City of Beacon providing for a voluntary 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 a City tax refund in the amount of One Hundred Seventy-Two and 20/100 (\$172.20) Dollars;

NOW, THEREFORE, BE IT RESOLVED that the City Council accepts the settlement of the aforementioned proceedings so that the following adjustments are made to the assessment of the above-described tax parcel:

<u>Year</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>
2016	\$180,000	\$160,000	\$20,000
2017	\$180,000	\$160,000	\$20,000

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.