

Maryjane Kenney

From: Stephen Anderson
Sent: Wednesday, October 12, 2005 4:16 PM
To: Don Johnson; John Murray
Cc: Doug Halley; Mary Liz Brenninkmeyer
Subject: Acton/Sewer: Draft Abatement Decision - 26 School Street

<<Abatement-Decision- 26 School Street.rtf>>

Don and John:

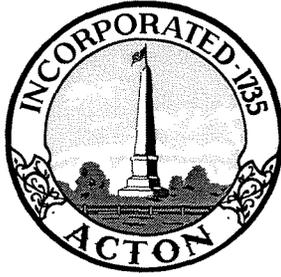
Attached is a draft of the Abatement Decision for 26 School Street. If it appears acceptable to you, please do the following:

- Have the Board execute it next Monday night.
- Provide a copy to the assessors and Tax Collector. They should adjust the bill accordingly.
- Mail a copy to the Owner (by certified mail, RRR). This must be done right away.
- Return the **original** to me in Cambridge. We will record it in the Registry. (I did not think you would want to rely on the Owner to do so.)

If you have any questions, let me know.

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TOWN OF ACTON
MIDDLE FORT POND BROOK SEWER BETTERMENT AREA

DECISION ON PETITION FOR ABATEMENT OF
FINAL SEWER BETTERMENT ASSESSMENT

Pursuant to Massachusetts General Law Chapters 80 and 83, Chapter 340 of the Acts of 2000, and the Town of Acton Sewer Assessment By-law and regulations promulgated pursuant thereto, the Town of Acton has issued an actual sewer betterment assessment to the Owner of the following land located in the Middle Fort Pond Brook Sewer Betterment Area, and has recorded or registered a lien therefor, as applicable:

Assessors Map and Parcel ID	H2A-46
Owner	Antonio M. DaCosta
Number and Street	26 School Street
Owner's Deed Reference	Book 11263, Page 71
Date of Owner's Deed	1/26/1966
Property Classification	101- Single Family
Latest Property Valuation	\$330,400.00
Actual Betterment Assessment	\$20,560.24

On June 29, 2005, within six months after notice of such assessment had been sent out by the Acton Collector of Taxes, the Owner filed with the Board of Selectmen as the Sewer Commissioners of the Town of Acton (the "Board") a petition for an abatement thereof (the "Petition").

On October 11, 2005, the Board held a duly noticed public hearing on the Petition. The Owner was in attendance.

On October 11, 2005, the Board deliberated this matter and on October 17, 2005, the Board issued the following Decision, a copy of which is being provided to the petitioner within ten days of this Decision as required by G. L. c. 80, § 5.

For the reasons set forth below, the Board grants the Petition to the extent that the Actual Betterment Assessment is abated by the amount of \$8,248.72 so that the Actual Betterment Assessment as abated shall be \$12,311.52. Pursuant to G. L. c. 80, § 5, the assessment as abated by the Board as so determined shall stand as the assessment upon the land.

The grounds for this Decision are as follows:

The initial Sewer Betterment Assessment assessed the Owner for 1.67 Sewer Betterment Units

on the belief that the property identified in the above table contained a two-unit multifamily dwelling. A representative of the Board of Health has since re-inspected the property and has determined that the dwelling is actually a single family dwelling. The Assessor's Office concurs with this determination. As a result, the assessment is being corrected so that the Owner is only assessed one (1) Sewer Betterment Unit.

This Decision relates only to the property identified in the above table. No abatement is granted hereby and no decision is made hereby with respect to any other land or property located within the Middle Fort Pond Brook Sewer Betterment Area. Further, sewer betterment assessments are subject to re-determination in accordance with General Laws Chapter 83 as now in force or hereafter amended, and this Decision does not preclude the Board's right to re-determine any such sewer betterment assessment whether or not abated hereby.

Pursuant to G. L. c. 80, § 7, a person who is aggrieved by the refusal of the Board to abate an assessment in whole or in part may within thirty days after notice of this decision appeal therefrom by filing a petition for the abatement of such assessment in the superior court for the county in which the land assessed is situated.

In addition, General Laws c. 80, § 10, provides as follows:

A person who is aggrieved by the refusal of a board of officers of a city, town or district to abate an assessment may, instead of pursuing the remedy provided by section seven, appeal within the time limited therein to the county commissioners of the county in which the land assessed is situated. The person so appealing shall, within ten days after the filing of said appeal, give written notice thereof to such city, town or district. Such notice may be given by mailing a copy of the appeal by registered mail, postage prepaid, to the board which made the assessment or to the clerk of such city, town or district. The county commissioners shall hear the parties, and shall have the same powers and duties with respect to the abatement of such assessment as the board by which it was assessed, and may make an order as to costs. The decision of the county commissioners shall be final.

Middlesex County has been dissolved. See 1997 Mass. Acts c. 48, § 1 and 1998 Mass. Acts c. 300, § 11. The statute concerning the abolition of county government (G.L. c. 34B) provides that "all functions...are hereby transferred from said county to the commonwealth," G.L. c. 34B, § 4, and that the "secretary of administration and finance...shall make such plans and arrangements as may be necessary to ensure the effective transfer of county functions to the commonwealth," G.L. c. 34B, § 21. In the event that a person who is aggrieved by the refusal of the Board to abate an assessment in whole or in part seeks to appeal to the county commissioners or their successor, the Board recommends that the person should contact counsel to determine whether and how to properly perfect that appeal.

IN WITNESS WHEREOF, the Board has caused this Decision to be moved, seconded, approved, and executed at an open meeting duly called and noticed for the purpose on this 17th day of October, 2005.

TOWN OF ACTON, MASSACHUSETTS,
By its Board of Selectmen acting as the
Board of Sewer Commissioners

Peter K. Ashton, Chairman

Walter M. Foster

Lauren Rosenzweig

F. Dore' Hunter, Clerk

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 17th day of October, 2005, before me, the undersigned Notary Public, personally appeared each of the foregoing named members of the Board of Selectmen of the Town of Acton acting as the Board of Sewer Commissioners, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding document, and acknowledged to me that each signed it voluntarily for its stated purpose as the foregoing named members of the Board of Selectmen of the Town of Acton, acting as the Board of Sewer Commissioners.

(official signature and seal of notary)

My commission expires _____