



December 22, 2006

Mark Good  
Finance Director  
135 School St.  
Walpole, MA 02081

Re: Brownfields Abatement  
Our File No. EM2006-1072

Dear Mr. Good:

This is in reply to your e-mail about the possibility of a brownfields abatement agreement under GL Ch.59 §59A with a new owner of the property who has begun construction on the parcel. An evaluation by a licensed site professional in the mid 1990s had suggested that the parcel was contaminated, but a more recent evaluation found that the contamination problem had diminished sufficiently so that no remediation efforts would be necessary.

We think that no agreement to abate unpaid taxes under §59A could take effect for a parcel unless there were an official determination that there had been a release of oil or hazardous material that required remediation at the parcel. The purpose of abatements under §59A is to promote the rehabilitation of parcels that are burdened with a combination of environmental and tax obligations that make their rehabilitation financially unfeasible; such abatements are not a general-purpose economic redevelopment tool for municipalities. An agreement for abatement under §59A can only be made with an "eligible person" as defined in GL Ch.21E §2, and should provide for abatements only to the extent necessary to make rehabilitation of the parcel economically feasible. Granting abatements without an official determination of a parcel's Ch.21E status seems to us inconsistent with §59A's purpose and statutory language.

However, we see nothing in §59A that would prohibit the town, if its bylaw permits, from making an agreement to abate taxes on the parcel contingent upon an official finding that the parcel is subject to Ch.21E and that the new owner is an eligible person as defined in that chapter. Any such contingent agreement should be limited to some reasonable specified duration, and any abatement should be limited to the cost of remediation.

We hope this information proves helpful.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen Colleary".

Kathleen Colleary, Chief  
Bureau of Municipal Finance Law

KC/CH