



Michael McGovern <michael.mcgovern@capeelizabeth.org>

FW: Cape Elizabeth FOAA

Tom Leahy <TLeahy@monaghanleahy.com>

Wed, Sep 2, 2015 at 3:51 PM

To: "retbank@maine.rr.com" <retbank@maine.rr.com>

Cc: Michael McGovern <michael.mcgovern@capeelizabeth.org>, Debra Lane <debra.lane@capeelizabeth.org>, "jkatsiaficas@perkinsthompson.com" <jkatsiaficas@perkinsthompson.com>, "Kielty, Brenda" <Brenda.Kielty@maine.gov>

Kathy,

Here is the letter from Brenda Kielty, Assistant Attorney General and Public Access Ombudsman. I agree with Brenda that not all informal communications between board members are prohibited and believe our Memorandum reflects this view. In our view, it is the nature and context of the discussion that may, in some cases, amount to the transactions of a board's function and should occur in a public meeting.

Further, to be clear, we have never suggested a FOAA violation occurs when a public official makes a factual inquiry of Town staff, or other parties, except that we do have a concern if done in connection with a pending permit application or other adjudicatory function, and such gathered facts are not shared with other members or the applicant, but used in the decision process. This is really a due process issue, not a FOAA issue, in our view.

Tom

From: Kielty, Brenda [mailto:Brenda.Kielty@maine.gov]

Sent: Wednesday, September 02, 2015 3:17 PM

To: Tom Leahy

Cc: jkatsiaficas@perkinsthompson.com

Subject: Cape Elizabeth FOAA

Tom,

Please forward the attached letter to the Town Council in preparation for their September 9th workshop.

Let me know if you have any questions.

Thank you,

Brenda

Brenda L. Kielty

Assistant Attorney General

Public Access Ombudsman

6 State House Station | Augusta, ME 04333

[207.626.8577](tel:207.626.8577) (direct) | [207.287.3145](tel:207.287.3145) (fax)

brenda.kielty@maine.gov | www.maine.gov/foaa

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