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PLEASE REPLY TO WESTPORT OFFICE

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Hon. Adam Dunsby, First Selectman EASTON TOWN HALL 225 Center Road P.O. Box 61 Easton, CT 06612-0061

Re: South Park Parcel

Dear Mr. Dunsby:

You have asked me the following question: Does the Town of Easton referendum vote of June 17, 2008, to acquire the 30 acre South Park property ("Property"), now preclude the Town from selling, leasing or using the Property for development purposes? The answer is no.

My opinion is based upon the following:

- 1. The ballot itself called for acquisition of the Property for "preservation, conservation and land use control purposes." Placing that phrase in the context of the time, "preservation" referred to the Town "preserving" the Property from the affordable housing development pending in court. Similarly, "land use control" expressed the same intent—to "control" the Property as the Town saw fit. At the time of this referendum, the affordable housing appeal filed by Running Brook Farms was pending in court. The purchase of the Property by the Town thwarted this affordable housing development, "preserved" the Property, and "controlled" it for the Town's future uses.
- 2. The Special Town Meeting Minutes of June 9, 2008, reflecting the Town Meeting just before the referendum vote, make clear that the Property was not being purchased for open space. The minutes state

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expressly as follows: "This was not a proposal to buy the land for open space." Indeed, simultaneous with the purchase of the Property by the Town was a proposed lease/purchase option between the Town and the New England Prayer Center (NEPC) providing for various financial payments and an option for NEPC to purchase the Property and build a permanent prayer center facility on the Property. Subsequent to the referendum, NEPC filed with the Planning & Zoning Commission an application for a new prayer facility. Ultimately, NEPC was unable to exercise the purchase. Notably, the minutes from the Special Town Meeting on June 9, 2008 expressly state the following from former First Selectman Tom Herrmann: "If they [NEPC] do not [purchase], then the Town can do what it wants with the property." Further, the minutes also indicate that if the lease/purchase made available to NEPC was not exercised, "the town could sell 14 one-acre lots to cover the cost of the purchase and retain the remainder of the land as open space." [emphasis added] Clearly, the minutes of the Special Town Meeting make clear that there was no intent to preserve all of the Property as open space and, in fact, it was fully intended that some or all of the Property would be developed or sold.

3. If the Town intended in the referendum to retain the Property permanently as open space, that would have and should have been stated expressly in the ballot question. In fact, it was not so stated.

In sum, the referendum does not prevent the Town from selling, leasing, or developing the Property, in whole or in part, subject of course to appropriate municipal review and zoning regulations.

Sincerely,

Ira W. Bloom

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IWB/kae