

Re: F. 1.

McCULLOUGH, GOLDBERGER & STAUDT, LLP
ATTORNEYS AT LAW
1311 MAMARONECK AVENUE, SUITE 340
WHITE PLAINS, NEW YORK

FRANK S. McCULLOUGH, JR.
JAMES STAUDT
LINDA B. WHITEHEAD
SETH M. MANDELBAUM

JOANNA C. FELDMAN
DEBORAH A. GOLDBERGER
EDMUND C. GRAINGER, III
PATRICIA W. GURAHIAN
MEREDITH A. LEFF
RUTH F.L. POST
KEVIN E. STAUDT
STEVEN M. WRABEL

CHARLES A. GOLDBERGER
KEITH R. BETENSKY
COUNSEL

10605

(914) 949-6400

FAX (914) 949-2510

WWW.McCULLOUGHGOLDBERGER.COM

FRANK S. McCULLOUGH (1905-1998)
EVANS V. BREWSTER (1920-2005)

November 14, 2016

RECEIVED
CITY CLERK'S OFFICE
NEW ROCHELLE, N.Y.
2016 NOV 14 AM 10:58

BY HAND

Honorable Mayor Noam Bramson and Members of the City Council
of the City of New Rochelle
515 North Avenue
New Rochelle, New York 10801

Re: Amendment to Section 331-91 of City of New Rochelle's Zoning Code

Dear Mayor Bramson and City Council:

This firm represents Iona College ("the College" or "Iona") in connection with your proposed amendment to Section 331-91 of the City Zone Code. Iona believes that, if enacted, this law could substantially diminish its vested property rights, and we request that its enactment be postponed pending further discussion between the City and the College.

The College only became aware of this law recently, although it has apparently been pending for some months. Iona recognizes that the Council likely does not intend to negatively affect the College's property rights, but we believe this law will. Accordingly, we ask that this amendment to Section 331-91 be withdrawn from consideration at this time to give the College a reasonable period of time to discuss with the City the issues that have given rise to the law, and possible solutions that will not be so harmful to the College. In turn, the College agrees to withdraw any lot merger applications it has pending, and not to file any others while discussions are ongoing.

Stated in summary form, some of the issues the College has with the proposed amendment are as follows:

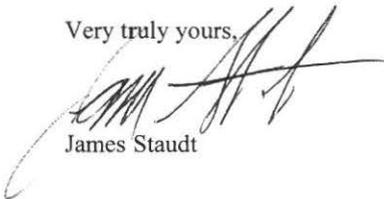
1. Some of the contiguous properties which have been used for years as part of the College, are held as separate tax lots. Under the proposed law, if the College decided to simply merge tax lots, it would be prohibited from continuing to use these lots for College purposes unless it

proved a set of criteria including, for example, that “no special permit shall be granted by the City Council unless the [College] can demonstrate that there is no reasonable alternative to location or expansion on the site proposed”. Thus, a right Iona now has to use its property could be denied because of a simple tax lot merger application. We cannot believe this is the City’s intent but this certainly needs to be discussed.

2. The specific language proposed to be deleted from the law is an acknowledgment of the legal right commonly referred to as “grandfathering”. Even if the exemption language were not in the ordinance, property in college use prior to the 2001 enactment (now being amended) would be legally grandfathered to continue that use as a non-conforming use. That vested property right cannot, and should not, be taken away retroactively. If for example, one has a grandfathered right to use their house for one family residential purposes, they cannot be required to now obtain a Special Permit to continue their use simply because they apply for a tax lot merger with an adjoining vacant lot.
3. The right of a property owner to continue a grandfathered zoning right cannot be diminished by cloaking it as a tax lot issue. A tax lot merger is just what its name says it is, and it should not be used as a way of taking away vested zoning rights.
4. The proposed amendment appears to be discriminatory as to colleges, as it sets up special rules applying only to colleges for them to obtain tax lot mergers. We are not aware of any other category of owner to whom such a rule applies.
5. This law is packaged with and characterized as being enacted to implement the provisions of the City’s Comprehensive Plan update. I have reviewed the Comprehensive Plan update, including the sections which specifically describe recommended zoning code changes, and there is nothing in the text of the Comprehensive Plan recommending this code change. In fact, to the contrary, the Comprehensive Plan specifically addresses the zoning where the College is located, and says nothing about proposing this law. Moreover, this is completely contrary to the spirit of the Comprehensive Plan which is replete with passages explaining why it is important for the City to encourage the College to flourish. There is a complete disconnect between this law and the Comprehensive Plan text it purports to grow out of.

For the reasons set forth above, Iona College urges the City to afford it the consideration of withdrawing this law from consideration at this time with the understanding that there will be future discussions between the City and the College of the issues which have given rise to the proposed amendment.

Very truly yours,



James Staudt

JS:ds

cc: Kathleen Gill, Esq.