

STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: RHODE ISLAND FAST FERRY, INC.

DOCKET No. D-13-51

**OBJECTION OF THE TOWN OF NEW SHOREHAM
TO RIFF'S MOTION TO MODIFY PROCEDURAL SCHEDULE TO ALLOW
LIMITED ADDITIONAL DISCOVERY FROM THE TOWN**

The motion to modify procedural schedule to allow discovery from the Town ("Discovery Motion") as filed by the Rhode Island Fast Ferry ("RIFF") clearly demonstrates that RIFF did not perform even the most basic investigation into the feasibility of building the docks referenced in RIFF's filing of September 11, 2015. Instead, RIFF is asking the Town to do its homework for it and is doing so *after* RIFF has made representations to the Division of Public Utilities and Carriers ("Division") concerning the feasibility of certain Old Harbor docking facilities for RIFF ferries.

In its filing of September 11, 2011, RIFF, through the Donadio and Filippi affidavits, purports to identify the docking facilities it intends to use in Old Harbor and to offer proof of their availability. The RIFF filing identified two potential sites and, in connection therewith, RIFF submitted a diagram showing the location of the two proposed docks. These docks are described as follows:

the Northerly Ell of the stone jetty at the Inner Basin ("Site 1"); and

the former location of the Mt. Hope Pier adjacent to the Easterly Breakwater (Site 2").

As to Site 1, RIFF in its Discovery Motion, appears to be surprised to learn that the right to "wharf out" at the Northerly Ell of the stone jetty at the Inner Basin is held by the Town through a fifty-year lease agreement dated April 1, 2013 between the Town and the Coastal

Resources Management Council ("CRMC"). Apparently, RIFF never determined the ownership of the stone jetty. Moreover, the Town has never received an inquiry from RIFF or any of its representatives regarding the ownership of the stone jetty at the Inner Basin and, apparently, RIFF has never made any such inquiry to CRMC. The CRMC lease was easily obtainable from CRMC or the Town through an Access to Public Records Act request. In addition, RIFF could have simply requested a copy from the Town Hall as did the *Block Island Times*. RIFF's application for a Certificate of Public Convenience and Necessity in this matter was filed in July of 2013. RIFF has had well over two years to conduct an investigation into the feasibility of constructing a dock at Site 1 and has evidently never done so.

As to Site 2, RIFF has also not done its homework. The diagram submitted by RIFF in support of its September 11, 2015 filing depicts a proposed ferry dock which is attached to another dock which is shown on the diagram as rectangular and white. RIFF, in its Discovery Motion, appears surprised to learn that the attached dock in the diagram is the Town's bait dock, further evidencing its failure to conduct an even basic investigation prior to making the representations to the Division as set forth in its September 11, 2015 filing. Moreover, RIFF also seems surprised to learn that it would have an access issue in getting passengers from Site 2 onto the land. With respect to Site 2, the only thing that the Town Manager pointed out and questioned in the *Block Island Times* article were issues which RIFF is supposed to already have answers for as the Town Manager stated: "The dock's got to be connected to something," and "How do people get from the dock to the land?" Incredibly, now RIFF wants to obtain discovery from the Town on such basic issues which RIFF has had over two years to explore. The fact that RIFF is asking for such discovery makes it clear that the September 11, 2015 filing was a hastily put together document submitted at the eleventh hour in order to buy time.

In addition to the foregoing, it is important to note at this juncture that any proposed discovery pertaining to Site 2 would be irrelevant and not reasonably calculated to lead to the discovery of admissible evidence because the availability of Site 2 for a ferry dock was taken off the table by Paul Filippi in his last filing with the Division. Specifically, the Filippi Motion to Quash Subpoena makes it clear that Bluewater has not acquired riparian rights from the owners of Plat 7, Lot 23 and Plat 6, Lot 159; rather, throughout the Motion to Quash, it is evident that the only riparian rights which Bluewater allegedly may have obtained are to Plat 6, Lot 158. Furthermore, the Filippi Motion goes on to state that the availability of Plat 6, Lot 158 is the only relevant issue. As indicated in the plat/lot map attached hereto, Site 2 is nowhere near Plat 6, Lot 158.

For the foregoing, reasons, the Town respectfully requests that RIFF's Discovery Motion be denied.

Town of New Shoreham,
by its Attorneys,
MEROLLA AND ACCETTURO

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CERTIFICATION

I hereby certify that, on October 5, 2015, I served this document via e-mail on the individuals listed on the attached service list.

/s/Katherine A. Merolla

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