

MURPHY, LAMERE & MURPHY, P.C.

Attorneys at Law

Michelle Allaire McNulty	Nancy J. Company
Paige L. Tobin	Peter C. Summers
Caitlin Leach Mulrooney	Elizabeth F. Toner
Joshua R. Coleman	Marianne M. Peters

Matthew R. Tobin (1967-2019)

Via Email and First-Class Mail

March 17, 2021

Mr. Alex Elvin, General Planner
Martha's Vineyard Commission
PO Box 1447
Oak Bluffs, MA 02557
elvin@mvcommission.org

Re: Martha's Vineyard Regional High School – Athletic Field Improvements
(Amended DRI # 352)

Dear Mr. Elvin:

This office serves as legal counsel to the Martha's Vineyard Regional High School Committee (the Committee) and, in that capacity, I have been asked to send this letter in response to certain questions posed by the Martha's Vineyard Commission (MVC) to the school district in relation to the MVRHS athletics fields project application. The MVC's questions and my responses are included below.

3. One of the things the MVC looks at is the availability of suitable alternatives, which would include the possibility of all-grass fields. In this regard, what specific issues were unable to be resolved with the Field Fund a few years ago which led to the termination of discussions? If the general sticking point was the terms of a license agreement, what aspects of that agreement were unable to be agreed?

With respect to grass fields, because they will not support the District's field usage for its school extracurricular programs, they are not a suitable alternative. The Committee paid for a feasibility study on its athletic fields to determine its needs independent of the mission of any outside third party. The Committee engaged a number of experts and professionals in the areas of field design and maintenance and toxicology to analyze the District's needs and develop a plan for its athletic facilities. Through these processes, the Committee learned a great deal about its options and determined, among other things, that a synthetic playing surface using organic and non-PFAS products could be safely installed and maintained and would meet the needs of the District's student-athletes and others in the school community who use the field. Moreover, the Committee learned that a grass field in the same location would not support the school district's usage needs. Based on the Committee's careful consideration of the educational and budgetary benefits of a synthetic playing surface, the Committee voted to submit an application, created after extensive consideration by and at significant cost to the District, that includes a synthetic playing

surface. The school district and its representatives have further explained these issues in great detail over many hours of public hearings and in voluminous documents and written submissions provided to the Commission.

The application before the MVC was approved by the binding vote of the Committee, after the extensive review set forth above which concluded that this is the correct project for the school district's needs. Chapter 71 of the Massachusetts General Laws and the District's Regional Agreement grant exclusive authority over the school district's budgetary and educational policy decisions to the Regional High School Committee, including the construction and maintenance of school facilities, and the Committee's members are elected to exercise that authority. Throughout its consideration of this project, the Committee's focus has been to provide facilities to meet the needs of its students in a responsible and cost-effective manner, consistent with the Committee's lawful authority. The Committee has submitted an application that reflects the Committee's decisions and embodies those purposes, and the synthetic playing surface is integral to this project.

Notwithstanding the above, the MVC asks for information about the Committee's long-since concluded discussions with the Field Fund, a private entity. It is neither appropriate nor in the best interests of the regional school district for the Committee to engage in a public negotiation with any private entity through the DRI process. With respect to the Field Fund specifically, the Committee previously engaged in good faith in extensive discussions with the Field Fund and thoroughly evaluated the Committee's options in that regard, but ultimately the parties were unable to reach an agreement that the Committee considered compliant with Massachusetts law. Discussions between the Committee and the Field Fund were formally terminated by the Field Fund on or about August 29, 2017 through a letter to the Superintendent stating that "All previous offers, proposals or understandings of The Field Fund, Inc. are hereby revoked and withdrawn." Subsequently, in March 2018, the Field Fund's attorney sent to District officials a "litigation hold" demanding that the District preserve documents related to our discussions, and alluding to the threat of "future demands" through which it may obtain "relevant, discoverable information" regarding the same. As this is a clear threat of a lawsuit and associated discovery by the Field Fund against the school district, on the advice of legal counsel, the District will not engage in further discussions in this forum regarding any past, current, or future discussions or negotiations with the Field Fund.

6. Please provide the minutes of all MVRHS School Committee (or subcommittee) meetings at which the athletic fields project has been discussed.

Discussions of improvements to the District's athletic fields began in 2012, and it is unclear to us which, if any, of the minutes would be relevant to the MVC's review under Sections 14 and 15 of the Martha's Vineyard Commission Act. Please specify which minutes you are seeking for purposes of your review process so we may compile and provide them in a timely manner.

Martha's Vineyard Commission
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**MURPHY, LAMERE
& MURPHY, P.C.**
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Thank you for your time and attention to this letter.

Very truly yours,

Peter C. Sumners



Peter C. Sumners

cc: MVRHS Committee