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July 22, 2009

J. Adam Matlawski, Esquire
McNichol, Byrne & Matlawski, PC
606 E. Baltimore Pike
Media, PA 19063

**Re: Borough of Media vs. County of Delaware and the Media Swimming
and Rowing Club**

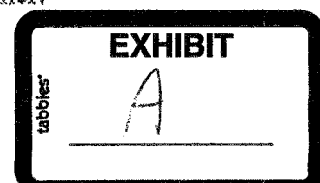
Dear Adam:

I have your letter dated July 15th. I understand what the settlement offer was that John McBlane offered at our most recent meeting, but I thought I made it clear that the Borough Council absolutely, positively and unanimously rejected any suggestion that the Borough should assume long-term responsibility for the maintenance and repair of the dam.

The Borough stands by its willingness to participate and make available, the Federal and State funding that is available for the current rebuild of this dam. The Borough also stands ready to assist in a similar fashion, thirty, forty, fifty, one hundred years from now, if similar work needs to be done to this dam. What the Borough will not do is be in a position where it is their responsibility to repair the dam in the future if other funding is not available.

I gave you a heads up last week on the fact that the Borough has decided that it will abandon 3rd Street. The Borough Council unanimously authorized the Borough Solicitor to go forward with the steps necessary to abandon this roadway. As we view this, the Borough has a prescriptive easement to use the surface of your clients' dam for a roadway. We recognize that it is your client's suggestion that we own the entire dam, but I think that there is very little possibility that a court would say that someone who is not claiming adverse possession of something can be forced to have adversely possessed property.

The entire issue of the 3rd Street dam is about to reach one of those critical moments when the roadway is abandoned and the funding to repair your dam suddenly vaporizes. When that happens, we don't want anyone pointing the finger saying that there was not adequate ability to see this project through to completion. All the Borough has ever asked for is for the County to admit that it is their property, and sign the documents that indicate that they are an owner.




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We intend to continue with the litigation in front of Judge Pagano, but what I suggest that we do now is try to reach an agreed statement of the facts. This case really should not be tried. There is really no dispute as to what the facts are, and even though the time for filing a summary judgment motion may have passed, this matter should be submitted to the Judge on a case stated basis because facts are really not the issue. The law is the issue.

I am going to begin drafting a statement of facts, and I will share it with you and Gene and we will see where that goes.

Very truly yours,



James S. Dupitza

JST:dww

Cc: Frank Daly, Esquire
Eugene Bonner, Esquire