

# (RePAC)

## Rehoboth Public Access Corp. Inc

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Rehoboth, MA 02769-2600  
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REHOBOTH, MA

November 8, 2011

Jeffrey Ritter, Town Administrator  
Town of Rehoboth  
148 Peck Street  
Rehoboth, MA 02769  
Certified Mail: 7010 1670 0001 4564 3151

Kathleen Conti, Town Clerk  
Town of Rehoboth  
148 Peck Street  
Rehoboth, MA 02769  
Hand-Delivered

Re.: Letter From Jeffrey Ritter, dated September 13, 2011, to Rehoboth Public Access Corporation ("RePAC") Notice of Finding of Violations & Demand for Cure, etc.; Ritter's Certified Mail 7010 1670 0001 4564 5414.

This notice constitutes a timely 60-day response for cure of Board of Selectmen's ("BOS") September 13, 2011 (Certified Mail 7010 1670 0001 4564 5414) assertions that are promulgated under Section 17 of the Agreement between Town of Rehoboth ("Rehoboth") and RePAC, effective April 3, 2008 (the "Contract"). Clearly, RePAC has always scheduled, operated, managed, and maintained the three PEG Access Channels 9, 15, and 98, the facilities, the equipment, and all funding within the scope of its authority and mandates of the Contract. Therefore, RePAC has not breached any terms of the Contract.

Recall, in *Rehoboth Public Access Corporation v. Town of Rehoboth, et al.*, BRCV2011-00824-B, RePAC seeks judicial determination of contract rights of the Contract *vis-a-vis* the Cable Television Renewal License between Rehoboth and Comcast of Massachusetts I, Inc. ("Comcast"), effective on April 10, 2004 (the "License"). More particularly, RePAC seeks declaratory determination of specific terms of the Contract and the License, including:

- a. Section 3 of the Contract mandates that RePAC shall provide PEG access programming, services, facilities, and equipment to Rehoboth in accordance with RePAC's status as a tax-exempt corporation under 26 U.S.C. §501(c)(3);
- b. Section 3(a) of the Contract authorizes RePAC to schedule, operate, and maintain the three PEG Access Channels 9, 15, and 98 in accordance with the provisions of Section 6.1(a) of the License;
- c. Section 3(b) of the Contract authorizes RePAC to manage the annual funding provided by Comcast to RePAC pursuant to Section 6.3 of the License;
- d. Section 3(c) of the Contract authorizes RePAC to manage the funding provided to RePAC by Comcast as mandated in Section 8(a) of the Contract;

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- e. Section 8(a) of the Contract mandates that RePAC shall receive all funding and equipment required to be paid and provided to RePAC by Comcast pursuant to Sections 6.3 and 6.4 of the License;
- e. Section 3(g) of the Contract authorizes RePAC to establish rules, procedures, and guidelines for use of the three PEG Access Channels, facilities, and equipment;
- g. Sections 3(i) and 3(m) of the Contract authorizes RePAC to accomplish such other tasks relating to the operation, scheduling, and/or management of the three Public Access Channels, facility, and equipment as appropriate and necessary;
- f. Section 12 of the Contract establishes that RePAC is an independent contractor and that there exists no principal/agent or employer/employee relationship between RePAC and Rehoboth; and
- g. Section 12 of the Contract establishes that Rehoboth shall have no right or authority over RePAC's employment practices and guidelines of third persons.

and the relevant terms of the License, comprising:

- a. Section 6.2 of the License causes RePAC to be established as a nonprofit and tax-exempt corporation for the purpose of operating PEG programming for Access Channels 9, 15, and 98;
- b. Section 6.2(1) of the License mandates that RePAC shall have the authority to schedule, operate, and maintain the three Public Access Channels;
- c. Section 6.2(2) of the License mandates that RePAC shall have the authority to manage the annual funding pursuant to Section 6.3 of the License;
- d. Section 6.2(6) of the License mandates that RePAC shall have the authority to establish rules, procedures, and guidelines for use of the three Public Access Channels;
- e. Section 6.2(8) of the License mandates that RePAC shall have the authority to accomplish each other task relating to the operation, scheduling, and/or management of the three Public Access Channels, facilities and equipment as appropriate and necessary;
- f. Section 6.3(a) of the License mandates that Comcast shall provide an annual payment payable to RePAC and that such payment shall be made to RePAC on a quarterly basis;
- g. Section 6.9 of the License mandates that the editorial discretion and the content of programming on the three Public Access Channels, and any liability therefore, shall reside solely with, and be the sole responsibility of, RePAC; and
- h. Section 6.10 of the License mandates that neither Rehoboth nor Comcast shall engage in any program censorship or any other control of the content of the three PEG Access Programming on the Cable System, except as otherwise required or permitted by applicable law.

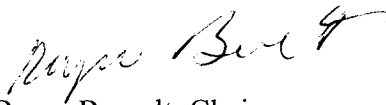
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The allegations of the September 13, 2011 (Ritter's Certified Mail 7010 1670 0001 4564 5414) BOS's demand for cure were submitted to RePAC without any supporting documents and things that could assist RePAC in finding the relevant and material facts of the matter. Therefore, RePAC sought discovery, pursuant to Mass.R.Civ.P. 33 and 34 in BRCV2011-00824-B, to establish the underlying facts related to said assertions. To date, Rehoboth, BOS, and Kopelman & Paige, PC ("Kopelman") have chosen not to respond to RePAC's discovery requests.

RePAC shall supplement its herein answer for cure once Rehoboth, BOS, and Kopelman comply with RePAC's discovery requests. Nevertheless, in light of the Superior Court's original jurisdiction for declaratory determination (G.L.c. 231A) of the contract rights of all parties as to the Contract and the License, RePAC shall further respond to BOS's administrative demand for cure accordingly.

Respectfully submitted on behalf of Plaintiff Rehoboth Public Access Corporation  
by its Board of Directors,

Date: November 8<sup>th</sup>, 2011

  
Roger Breault, Chairperson