

MAINE STATE LEGISLATURE

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August 12, 1958

Mr. Galen Veayo
Superintendent of Schools
Westbrook, Maine

Dear Mr. Veayo:

I have your letter of July 30, 1958, regarding the meeting at Westbrook High School. Since that date I have met with you regarding your heating problem.

You will note that Article 8 of the lease agreement provides:

"When such revenue bonds or revenue refunding bonds shall have been paid or a sufficient amount shall have been so set aside for the payment of such bonds and the interest thereon, the Project will be conveyed by the Authority to the Town and the obligations of the Town under the provisions of this Lease Agreement shall thereupon terminate."

Under similar circumstances, to wit, upon retirement of bonds the entire property is conveyed to the lessee, the Supreme Judicial Court held in Opinion of the Justices 146 Me. 183 at 188:

"The so-called lease is not in legal effect a lease, it is a contract of purchase. The so-called rental is not true rent, to wit, payment for the use of property. The total amount of so-called rental is the purchase price the State is to pay for the property."

In looking at the terms of the lease as set out above, it is my opinion that the purported lease is not a true lease but a contract to purchase by installment payments. I merely point this out to establish the proper relationship between Westbrook and the Maine School Building Authority.

Mr. Galen Veayo

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August 12, 1958

At the present time, based on such evidence as is in my possession, I feel there is no basis for a suit against the contractor. I am still of the opinion that the contractor followed the instructions of the plans and specifications.

In regard to raising money for the repairs or replacements, may I call your attention to Article 10 of the lease Agreement, which provides that the City will make repairs, renewals and replacements from current revenues and other available funds.

The Maine School Building Authority has hired the Stewart Associates of Kennebunk to perform a survey regarding the heating system in Westbrook for approximately one thousand dollars. The results of this survey has been placed in our hands. The results of our investigations have been turned over to the Town of Westbrook.

I assume from your letter that the negotiations and offer which have been arrived at with counsel for the architect are not acceptable. Therefore, I shall notify them of your refusal to accept the money, plans and specifications and supervision as a compromise settlement. As you know, the plans, specifications and supervision have a cash value which was undoubtedly taken into account in arriving at your decision not to accept the settlement figure.

I will make my report to the Maine School Building Authority as to what has transpired to date.

Very truly yours,

George A. Wathen
Assistant Attorney General

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