

DRAFT
PECONIC BAY COMMUNITY PRESERVATION FUND
ADVISORY OPINONS BUREAU

Advisory Opinion 2013- 6

Opinion requested by: Town of Southampton

Issued: December 12, 2013

Town Law §64-e (3), (3)(a), (9-a)(c), (9-a)(e)

Community Preservation Funds may not be used to fund the payment of liability insurance premiums related to the Town’s ownership of real property acquired with monies from the Community Preservation Fund.

The Town of Southampton has requested an advisory opinion as to whether CPF monies may be used to pay the liability insurance premiums due from town ownership of real property acquired via the CPF. Section 3 of Town Law 64-e sets forth the exclusive purposes of the fund which does not include the payment of liability insurance costs to the Town as the owner of the real property. Nor can this category of payment be considered “preliminary and incidental costs in connection with the acquisition...” set out in section 3-a as this payment is due after the Town acquires the real property. **Nor can such payments be considered Stewardship under the terms in the statute.**

Finally, liability insurance for real property must be considered an “expense related to the customary operation and maintenance of acquired interests or rights in real property...” not unlike electrical payments, water service payments and therefore, is prohibited pursuant to section 9-a(c).

It is our opinion that the costs associated with a Town insuring real property acquired with CPF monies, cannot be expensed to the CPF and such costs associated with ownership of land are properly funded from the Town’s general fund.