



THOMPSON BOWIE & HATCH LLC  
Counselors At Law

Hillary J. Bouchard x  
James M. Bowie  
Twain Braden ^ x  
Paul C. Catsos ^ x  
Rebecca H. Farnum  
Dale L. Gavin ^ x  
Sarah Yantakosol Gayer  
Robert C. Hatch  
Brendan R. O'Rourke ^  
Hanni H. Pastinen  
Benjamin J. Wahrer  
Matthew S. Wahrer x  
Rosie M. Williams

February 2, 2022

**Of Counsel**  
Leonard W. Langer  
Elizabeth Knox Peck

**Retired**  
Roy E. Thompson, Jr.

**Admitted in**  
^ New Hampshire  
x Massachusetts

**VIA HAND DELIVERY**

Chairman Daniel T. Haley, Jr.  
Harbor Commission for the Port of Portland  
2 Portland Fish Pier, Suite 105  
Portland, Maine 04101

Dear Chairman Haley and Members of the Harbor Commission:

As you know, this office represents Portland Pilots, Inc., as to its recent request to increase the pilot unit rate and the capital construction fee applicable to compulsory-pilotage vessels in the Port of Portland. The purpose of this letter is to supplement the record with additional information you requested following our initial submission to the Harbor Commission on January 14, 2022.

Accordingly, we enclose two documents, one for public review, marked Exhibit "Q-1 PUBLIC" and the other submitted under seal for *in camera* review by the Harbor Commission, marked Exhibit "G-1 CONFIDENTIAL," since it contains confidential "trade secret" information pursuant to the Maine Uniform Trade Secrets Act (10 M.R.S. § 1542) and otherwise not discoverable under the Freedom of Access Act ("FOAA"). *See also Bryant v. Town of Wiscasset*, 2016 Me. Super. LEXIS 306, \*20 ("[W]here the public has had full and fair opportunity to comment on an application, a municipal agency does not violate due process by permitting the applicant to submit additional ex parte comments to the municipal agency without providing further opportunity to the public to comment." Citing *Duffy v. Town of Berwick*, 2013 ME 105, ¶ 1, 82 A.3d 148, 151 ("ex parte communication between the [town's] Planning Board and permit applicant did not require the Court to vacate the Board's decision") and *Cunningham v. Kittery Planning Bd.*, 400 A.2d 1070, 1073-79 (Me. 1979).

Exhibit G-1 contains a port-to-port comparison of specific ships and their current respective pilotage rates if the ships would call upon other ports in the Northeast. At your request, we updated the prior spreadsheet (Exhibit "G") to include the additional ports of New York / New Jersey; Penobscot Bay and Frenchman Bay, Maine; and Portsmouth, N.H. The other ("Q-1 PUBLIC") is for public dissemination and contains the same information but labels the ships as *Small*, *Medium*, and *Large*. As you can see,

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Portland Pilots' proposed rate increase would still result in Portland's average pilotage rate being lower than other the other ports.

We trust this information satisfies your request. If you have further questions, however, please do not hesitate to let me know. Meanwhile, we look forward to seeing you at the Workshop on February 25<sup>th</sup>.

Respectfully,

Thompson Bowie & Hatch, LLC

By: 

Twain Braden, Esq.

Encl.

cc: Mary Costigan, Esq. (hand delivery, w/ encl.)  
Portland Pilots, Inc. (US Mail, w/ encl.)