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January 24, 2008

Hon. Roy Brown and Members of the Town Council  
Town of Germantown  
50 Palatine Park Road  
Germantown, NY 12526

Re: **Town Council Meeting January, 2008**

Dear Supervisor Brown and Town Council Members:

This is a follow up to my letter of September 17, 2007. In that letter, I urged the Town to take meaningful steps to fulfill the promise made in the April 24, 2007, letter of Town Attorney Jason Shaw, who expressed the purported concern of the Supervisor and the Board with the conduct of members of the police department toward Peter Davies at the March Town meeting, and promising that revisions to the police policy manual would be undertaken to prevent such behavior from being repeated. I conveyed in the same letter dismay that the Town Board at its August meeting had appeared to reverse itself by denying that there was any problem, or that any Police effort at intimidation had taken place. I made a request in that same letter for documents pursuant to the Freedom of Information Law, which was apparently never forwarded to the Town Records Access Officer for response.

After the Police Commissioner for over six months led the public to believe that the Town had submitted changes in the Police Code of Conduct for approval by the Columbia County Sheriff's Department, I am advised that the Commissioner revealed at the November Town meeting that the Sheriff's Department had simply given the Police Commissioner a model to work from, and that no changes to the manual were as yet even formulated. This revelation leads me to conclude that the Town does not take seriously the need to set appropriate guidelines for police conduct and that its previous representations were solely designed to sideline any remedial action by Mr. Davies himself.

I ask that the Town Board publicly read and enter this letter in the record of its January meeting, and that it place on the January meeting agenda and report to the public at that meeting exactly what steps are being taken to amend the Police Code of Conduct and to educate the members of the police force regarding their duties as public officers to respect the constitutional rights of the citizens. I am also submitting herewith, and this time also directly to the Town Clerk, a formal Freedom of Information Law request reiterating the requests of my September 17

letter as well as additional items that I request be produced expeditiously. For your convenience I have listed the requested items below.

I would hope that with a new year and partly reconstituted Town Board that these requests will this time be respectfully honored. The Board's failure to take the issue seriously, to take appropriate steps to control police misconduct, and to educate the police regarding citizens' rights, will only lead in the long run to further infringements and unnecessary costs to the Town and its taxpayers. All of Mr. Davies' rights are reserved.

Very truly yours,

Mark Scherzer

MS:

**BY FAX: 518.537.6001 AND REGULAR MAIL**

cc: Mr. Peter Davies (by pdf)

Jason Shaw, Esq. (by fax, 518.828.9719)

## APPENDIX

### DOCUMENTS REQUESTED PURSUANT TO THE FREEDOM OF INFORMATION LAW

1. copies of any document reflecting the creation of any committee charged with revising the police policy manual or other town rules governing police conduct (hereafter, "the Committee");
2. documents recording the appointees to the Committee;
3. a record of the dates of all meetings of the Committee;
4. minutes of each meeting of the Committee;
5. copies of all communications and records of communications between the Germantown Police Commissioner or any member of the Committee and the Columbia County Sheriff or any member of the Columbia County Sheriff's Department with respect to the Police Code of Conduct;
6. a copy of any model rules or code of police conduct provided by the Columbia County Sheriff or Sheriff's Department to the Committee or the Germantown Police Commissioner for use in revising the Germantown police code of conduct;
7. a copy of any draft changes to the police code of conduct submitted to the Columbia County Sheriff's Department;
8. Copies of documents reflecting the constitution of, appointees to, and minutes of the Germantown Board of Ethics since its creation to date.
8. Minutes of the Germantown Town Council meetings for the months of April through December, 2007.
9. Portions of the Germantown budget relating to the Police Department for the fiscal years which include March, 2007, and January, 2008.
10. The Police Code of Conduct as it currently exists.