

\$11M New Year's resolution seen in Killam case

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Barring unforeseen complications, it will be a very happy New Year indeed for the current students and recent graduates of Marblehead High School as well as patrons of the children's room at Abbot Public Library.

Salem attorneys Frank Muzio and Robert Welch will head into Salem Probate Court Jan. 5 to take one of the final procedural steps to approve a settlement reached with the children of the late Oliver Killam, one which will see the vast bulk of Killam's estate — some \$11 million — placed into the Oliver P. Killam Jr. Private Foundation, a charitable trust.

Under the provisions of Killam's will, 80 percent of the income on that trust will be used to create "substantial" scholarships for Marblehead High graduates attending four-year colleges. The remaining 20 percent will be used to supplement the Abbot Library children's room.

If the trust netted \$500,000 a year in income (around 5 percent interest, less administrative costs), it would mean \$400,000 in scholarships and \$100,000 for the children's room, annually and in perpetuity. Muzio noted that the \$400,000 would exceed the sum total of all of the other scholarships currently handed out at MHS graduation ceremonies combined.

Oliver Killam died Feb. 15, 2002, leaving a will, written in 1995, which bequeathed rental properties he owned at 263-269 Pleasant St. in Marblehead to his son, Roger Killam, and daughter, Patricia Eggermann. But the courts have since validated a reading of the will that Oliver Killam's "cash and securities," valued at the time of his death at approximately \$15 million, were to pass to a charitable trust to fund scholarships and "upkeep" of the children's room.

On the same day Oliver Killam wrote his will, he also conferred power of attorney to Eggermann to manage his affairs if he became incapacitated. On Oct. 15, 2001, with her father's health failing, Eggermann misused that power of attorney to "self deal," creating a separate trust of which she and Roger Killam were the sole trustees and would be the sole beneficiaries upon their father's death, according to the complaint Muzio and Welch filed in Salem Probate Court Sept. 30, 2002. Eggermann then transferred the millions of dollars worth of securities her father held to the new trust, continued the complaint.

Eggermann and Roger Killam even went so far as to conceal their father's death by not having Oliver Killam's obituary published in local newspapers, according to the complaint.

After the Essex County Probate Court determined that Oliver Killam's will was valid — a decision that has been upheld on subsequent appeals — Muzio and Welch spent the remainder of what has been a four-year legal battle negotiating settlements, not just with attorneys for Eggermann and Roger Killam but also the Internal Revenue Service to whom Eggermann and Roger Killam had paid some \$6 million in inheritance taxes on what the courts have since determined to be ill-gotten gains.

Given how rapidly the value of real estate has escalated over the past four years, Eggermann and Roger Killam will not be "left destitute" by the settlement, given that they will retain ownership of the Pleasant Street parcels, currently valued at approximately \$2.86 million, noted Welch.

"It's a win-win for everybody," he said.

The state attorney general's office, which oversees charitable trusts, has approved the settlement agreement, leaving the Probate Court as the primary remaining obstacle before the town can reap the rewards of Oliver Killam's generosity.

Muzio and Welch said that they have already spoken to Marblehead school officials about criteria for selecting the initial scholarship winners. Welch noted that the language in Killam's will dictates that, rather

than many smaller scholarships, a handful of "substantial" scholarships be created, which Welch envisions would be able to be renewed throughout a student's four-year college career.

Because charitable trusts are required to dispose of all of their income annually, Welch noted that in the scholarship fund's initial year, applications will be welcomed from Marblehead High graduates heading into their sophomore, junior and senior years in college, along with members of the Class of 2007. Awards for each recipient would then renew each year through his or her graduation. Welch said that he and fellow Oliver P. Killam Jr. Private Foundation trustee Scott MacAllister would sit on a committee that would choose the scholarship winners.

Muzio and Welch said that they had not yet met with the Abbot Library's board of trustees but planned to do so in the near future. Welch noted that, in his view, it was Killam's intent that the money be used to supplement, rather than replace, funding for the children's room in the town budget, a desire about which he pledged he and MacAllister would remain vigilant.

Library Director Bonnie Strong said that, while the staff and trustees aren't counting their (several million) pennies just yet, they have been abuzz about the possible windfall. Noting that the current children's room is prone to flooding and that parking can be problematic at the library, Strong said that one pie-in-the-sky plan that has been pitched is to put the children's room up on stilts and build parking underneath.

In reality, Strong said that she and the trustees would have to wait and see just how much money becomes available and what type of restrictions are placed on its use before batting around any serious plans.

If the annual amount approached or exceeded six figures, however, "it would be stunning," said Strong. "It would be very well received."