

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: December 23, 2011

Enclosed with this memorandum are the following items:

- 12-17 Legal Department Update from the Corporation Counsel dated December 23, 2011.
- 12-18 Meeting notice for the week of December 27, 2011 is available on the City website www.ryeny.gov under Calendar.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: December 23, 2011

CLAIMS

Last week I reported to you that a notice of claim had been filed by Steven and Kim Abbott of 54 Harding Drive stating that their automobile was damaged when a branch from a City tree fell on it as a result of the snow storm in October. The claim has been denied by our insurance carrier.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

DEC staff filed a Reply to the City's Appeal of ALJ O'Connell's 2009 Issues Ruling and July 2011 Supplemental Rulings. The Town of Harrison did not file reply papers by the October 14th deadline.

BASSETT v. CITY OF RYE

The plaintiff has filed a notice of appeal of the decision of Judge Berliner to the Appellate Division, Second Department. The Notice of Appeal was filed within the required time after Notice of Entry was served.

CASPI v. CITY OF RYE

A Conference was held before Magistrate Judge Yanthis on October 27th. The discovery deadline was extended to February 24, 2012 and dates for the depositions of the individual officers have been scheduled. Defendants were notified that Plaintiff has requested the depositions of non-party police officers.

DELLI PAOLI V. ZONING BOARD OF APPEALS

The Board of Appeals reaffirmed the Board of Architectural Review's decision to deny the application at their May meeting.

SHEW v. CITY OF RYE

A Notice of Appeal to the Appellate Division, Second Department has been filed on behalf of Paul Shew seeking to overturn the Decision and Order rendered by Hon. Gerald E. Loehr in this case.

MOLLOY v. PLANNING COMMISSION

The Appellate Division, Second Department, has returned Petitioner/Appellant's letter request for an enlargement of time and has required Petitioner/Appellant to file a motion for such request. The Motion was filed Friday with the Appellate Division. Petitioner/Appellant is seeking additional time until January 6, 2012 to perfect her appeal.

PANETTA v. PLANNING COMMISSION

Petitioner has filed a Notice of Appeal in connection with the Decision and Order issued by Judge Colangelo on September 12th. Petitioner/Appellant has six months to perfect the appeal. Petitioner has requested a preliminary conference with the Supreme Court Judge to discuss his original petition/complaint.

RUNES v. BOARD OF ASSESSMENT REVIEW and CITY ASSESSOR

An Article 78 Petition has been filed by Richard Runes of 3 Kirby Lane North seeking to overturn the April 12, 2011 decision of the small claims hearing officer, JHO Luke M. Charde, Jr. who determined that the assessment on Mr. Runes' property was supported by the evidence put forth by the City.

BUTLER v. PLANNING COMMISSION

An Article 78 Proceeding was commenced by Robert and Paula Butler against the City Planning Commission, Daniel Mathisson and Helene Mathisson challenging the Planning Commission's resolution which modified the subdivision map for the Forest Harbor Subdivision. The Petition alleges that: 1) the Planning Commission was without authority to modify front yard setbacks set forth on the subdivision map; 2) the resolution is in violation of Article 1, Section 10, Clause 1 of the U.S. Constitution, and 3) the Planning Commission was arbitrary and capricious.

CITY COURT

Routine calendar with no unusual dispositions.

Respectfully submitted,

Kristen K. Wilson

Kristen K. Wilson
Corporation Counsel

KKW/dfn