

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: December 19, 2013

Enclosed with this memorandum are the following items:

- 12-9 Legal Department Update from the Corporation Counsel dated December 19, 2013.
- 12-10 Meeting notice for the week of December 23, 2013 is available on the City website [www.ryeny.gov](http://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 19, 2013

**TAX CERTIORARI**  
**CARROLL v. CITY OF RYE**

This matter is fully submitted before the Second Department.

**THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE**

A Notice of Appeal has been filed in connection with this matter.

**WESTCHESTER JOINT WATER WORKS v. CITY OF RYE**

The City of Rye has filed its brief with the Appellate Division, Second Department

**LITIGATION**

**BEAVER SWAMP BROOK – (DEC Administrative proceeding)**

A mediation session will be held on January 9, 2014 in Harrison between ALJ Richard Wissler and the parties.

**BASSETT v. CITY OF RYE**

The Appellate Division, Second Department issued a decision reversing the lower court decision of Judge Berliner that set aside the jury verdict and remitted the matter back to him to consider whether a new trial should be granted.

**CASPI v. CITY OF RYE**

Motions for summary judgment were denied without prejudice and will be refiled at the completion of briefing as part of the bundling rule. As a result, once the motion is fully briefed, all papers will be submitted to the Court for review at one time.

**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.

**PANETTA v. PLANNING COMMISSION (declaratory judgment/42 U.S.C. 1983 claim)**

I attended a settlement conference on July 18, 2013. A trial date has been calendared for February 4, 2014.

BUTLER v. PLANNING COMMISSION

Oral arguments were held in the Appellate Division, Second Department. The bench was very interested in the timing of the decisions from lower court Justices Lorenzo and Lefkowitz. It appeared that all four judges understood the City's arguments. Judge Cohen, who has a municipal background, took the lead.

BOARD OF MANAGERS OF THE IVES AT RYE v. CITY OF RYE

The City has served its Answer with Affirmative Defenses.

OMNI CONTRACTING V. CITY OF RYE

The trial date has been calendared for March 3, 2014.

AMERICAN LEISURE ACTIVITIES OF NEW YORK CITY INC. v. CITY OF RYE

In August I reported to you that a notice of claim had been served on the City claiming breach of contract on the part of the City. A summons and complaint was served by plaintiff seeking judgment in the amount of \$42,239.96.

WILBOURN CONSTRUCTION, LLC v. ELQ INDUSTRIES, INC., FIDELITY AND DEPOSIT COMPANY OF MARYLAND, AND CITY OF RYE

The papers have been forwarded to our insurance carrier and our carrier denied coverage. I have filed a notice of appearance and requested an enlargement of time to answer until December 24, 2013. The request was granted.

CITY COURT

People v. Chittenden

The trial in this matter has been adjourned to January 16<sup>th</sup> or 17<sup>th</sup>.

Respectfully submitted,



Kristen K. Wilson  
Corporation Counsel

KKW/dfn