

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: January 31, 2014

Enclosed with this memorandum are the following items:

- 1-22 Legal Department Update from the Corporation Counsel dated January 31, 2014.
- 1-23 Meeting notice for the week of February 3, 2014 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: January 31, 2014

CLAIMS

A notice of claim has been filed by James Billingsley of 15 Thistle Lane. The notice states that two tires on his automobile were damaged when he hit a pothole on the Boston Post Road. The claim has been forwarded to our insurance carrier.

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

The Assessor and the Board of Assessment Review filed their Appellate Brief and record on appeal with the Appellate Division, Second Department on January 23rd.

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 site walk with Administrative Law Judge Wissler (serving as mediator), DEC permit and wetland staff, DEC counsel, and intervening parties took part in a site walk on January 9, 2014. After the site walk, a confidential mediation session took place at Harrison Town Hall. Another mediation session is tentatively scheduled for mid February.

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)

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

Omni's counsel filed an Order to Show Cause asking to be relieved as counsel due to nonpayment of legal bills totaling close to \$50,000. Currently, the trial is still 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.

RVIN REYES, et al v. CITY OF RYE, RYE GOLF CLUB, RM STAFFING & EVENTS, INC., MORRIS YACHT AND BEACH CLUB, INC. and SCOTT YANDRASEVICH, Jointly and Severally

A summons and complaint has been filed on behalf of current and former staff at Whitby Castle pursuant to the Fair Labor Standards Act and the New York Labor Law. The papers have been forwarded to our insurance carrier.

CITY COURT

People v. Chittenden

A Decision After Trial was issued this week by Judge Brian Hansbury that found the defendant guilty of eight of nine traffic infractions. Fines and surcharges totaling \$1,140 were imposed. They are to be paid on or before February 28, 2014. There will also be 15 points added to Mr. Chittenden's license.

Respectfully submitted,

Kristen K. Wilson

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