

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: December 12, 2014

Enclosed with this memorandum are the following items:

- 12-9 Legal Department Update from the Corporation Counsel dated December 12, 2014.
- 12-10 Notice from Verizon regarding a FiOS® TV Channel and Programming change effective December 31, 2014.
- 12-11 Meeting notice for the week of December 15, 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: December 12, 2014

TAX CERTIORARI

CARROLL v. CITY OF RYE

Oral argument was held on Monday November 10, 2014 in front of the Appellate Division, 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 City's reply brief was served and filed. This matter is now fully submitted to the Appellate Division, Second Department. We are waiting for an oral argument date.

WESTCHESTER JOINT WATER WORKS v. CITY OF RYE

Opposition papers were served on November 14, 2014.

181 NEW ENGLAND SEAFOOD CORP. v. NOREEN WHITTY, et al

The City's Cross-Motion for Summary Judgment and papers in opposition to Petitioner's motion for summary judgment were filed and served. The return date for the motion is January 30, 2015.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

On December 1, 2014, the T/V of Harrison filed an appeal with respect to ALJ O'Connell's October 31, 2014 memorandum regarding the September 15, 2014 negative declaration. DEC staff has until December 5, 2014 to file its appeal/objections and ALJ O'Connell will issue a ruling during the week of December 15, 2014 or soon thereafter. Appeals from the December 15, 2014 ruling will be due on or about January 17, 2015 (assuming the ruling is served on or around December 15). Replies will be due on or about January 31, 2015.

CASPI v. CITY OF RYE

This case has been transferred to Hon. Rakoff, U.S.D.J, S.D.N.Y. sitting in Manhattan. The trial date is currently February 2, 2015.

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 co-defendant Calgi Construction has filed for bankruptcy. As a result, the trial has been adjourned.

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

Honorable Lester Adler, AJSC rendered a decision and order dated December 11, 2014: 1) granting American Leisure summary judgment on its breach of contract claim on the basis that the City failed to provide American Leisure an opportunity to cure, 2) granting the City summary judgment on its as to liability on its counterclaim for breach of contract; and 3) denying the City's counterclaim for indemnification. The parties are due back in court on January 6, 2015 to schedule a hearing on damages.

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 conference was held on September 12, 2014 in front of Judge Roman. The matter was referred to Magistrate Davison for all discovery. Plaintiffs' counsel has indicated that he would move for class certification by January 15, 2015.

GORDON and MARIA HARGRAVES v. CITY OF RYE ZONING BOARD OF APPEALS, WALTER & MARGARET NELSON, and Robert TALT

Based on Hon. Barry Warhit's Amended Decision and Order, the ZBA filed its Amended Supplemental Findings and Decision.

P. STEPHEN LAMONT v. KRISTEN K. WILSON, et al

Defendants served its Motion to Dismiss on P. Stephen Lamont. Lamont must serve his opposition, if any, prior to December 30, 2014. Defendants' reply must be served by January 14, 2015.

CHITTENDEN v. COMPAGNONE

I appeared at the preliminary conference to discuss the case and a potential scheduling order. Plaintiff Lucille Chittenden's attorney failed to make an appearance. After several attempts to contact Plaintiff's counsel, the nonappearance was noted and a new conference date was scheduled.

DOUGLAS E. LIMAN v. NICK EVERETT, MARTHA MONSERRATE, LAURA BRETT, BARBARA CUMMINGS, HUGH GREECHAN, PETER OLSEN, ALFRED VITIELLO, constituting the PLANNING COMMISSION OF THE CITY OF RYE, PANKAJ GUPTA and EMILY GUPTA, PAM McGUIRE and EUGENE McGUIRE

The City was served with an Article 78 proceeding seeking to vacate and nullify actions taken by the Planning Commission in approving a development project proposed by Applicants Pankaj and Emily Gupta. The petition seeks an Order annulling the Planning Commission's Resolution granting a Wetland and Watercourse Permit to the applicants.

JOHN CASTELHANO as President of the RYE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL 2029, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO v. CITY OF RYE BOARD OF FIRE WARDENS, PETER COTTER, MICHAEL BILLINGTON, RICHARD BARBER, JOSEPH CARLUCCI, JOHN FALLON, ARCADIO OCASIO, RICHARD CADIGAN, PETER ANFUSO, JAMES BURKE, JOHN ALFANO and

Wardens

A verified complaint has been served by the City's Professional Fire Fighters against the Board of Fire Wardens seeking reimbursement of their share of the 2013-2014 foreign fire insurance monies and the appointment of Local 2029 as the receiver of the monies payable under Section 9104 and 9105 of the Insurance Law.

CITY COURT

People v. Chittenden

Appellant's Brief and the Record on Appeal were served on the City.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/dfn



FiOS® TV Programming Changes

On or after December 31, 2014, channel 289, Juce TV, was removed from the FiOS® TV lineup.

The following applies to customers in the Albany area. On or after January 1, 2015, channel 467, WXXA Zuus County Music, changed to OTB TV, featuring in-home simulcasting of horse racing throughout the country and overseas.