

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: December 19, 2014

Enclosed with this memorandum are the following items:

- 12-12 Legal Department Update from the Corporation Counsel dated December 12, 2014.
- 12-13 Notice from Verizon regarding a FiOS® TV regarding an increase in rates on or after March 1, 2015.
- 12-14 Meeting notice for the week of December 22, 2014 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, 2014

**CLAIMS**

A notice of claim was filed by Suzanne Mechem of 135 Maple Avenue. The notice states that Ms. Mechem's automobile was damaged when a City of Rye tree fell on it. The claim has been forwarded to our insurance carrier.

**TAX CERTIORARI**

**CARROLL v. CITY OF RYE**

In a Decision and Order issued this week, the Appellate Division reversed the lower court's Judgment, denied Carroll's Petitions and dismissed the proceedings. The Appellate Division also awarded costs to the City. The Decision and Order validates the Assessor's assessment of Carroll's property, as well as her methodology for the assessment of new homes. The Appellate Division determined that Carroll failed to establish that (1) there was an unconstitutional selective reassessment of his property; (2) the City assessed newly constructed property at a higher percentage of market value than existing property; and (3) the Assessor overvalued his property. In order to pursue the matter further, Carroll would have to seek review by the Court of Appeals.

**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)**

Last week, ALJ O'Connell issued a ruling finding that DEC's department staff's negative declaration on the revised application. He found that the DEC's decision was "rational and not otherwise affected by an error of law." Appeals from this ruling will be due on January 16, 2015. Replies will be due on or about January 30, 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

**Judge Adler rendered a decision and granted summary judgment for both American Leisure and the City of Rye. A settlement conference is calendared for January 6, 2015.**

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

I appeared before Hon. Barry Warhit on Wednesday October 29, 2014 per the Decision and Order. Judge Warhit subsequently amended his Decision and Order to be more specific and clear in that he intended to remand the ZBA's findings and decision back to the Board to be more specific and detail its findings based on the record before it.

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 BRIAN GILMARTIN in their individual capacities as members of the City of Rye Board of Fire 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**

Routine calendar with no unusual dispositions.

Respectfully submitted,



Kristen K. Wilson  
Corporation Counsel

KKW/dfn



## **FiOS® TV Rate Increase**

In order to continue to bring you quality service, at times we need to raise our rates. On or after 30 days from the date of this bill, the base monthly rate for your FiOS® Bundle, FiOS® TV, or FiOS® Internet plan will increase by \$8. If you would like to keep your current service as is, no action is required and any credits or discounts remain in effect until their original expiration date.

If you have recently signed up for a new 2-year bundle agreement, you may disregard this notice. We offer many other bundle options that can help you get the most for your money. Just call and a FiOS® rep will help find the best value for you. You may even be eligible for a special offer when you switch to a new FiOS bundle with a two-year agreement and two-year price guarantee. Call 1-888-896-7044 (Mon.–Fri., 8am–9pm; Sat., 9am–5pm) or go to [verizon.com/fios/6kv](http://verizon.com/fios/6kv) for more information. Be sure to have your Verizon bill handy for reference.