

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: January 2, 2015

Enclosed with this memorandum are the following items:

- 1-1 Legal Department Update from the Corporation Counsel dated January 2, 2015.
- 1-2 Notice from the Westchester County Department of Health regarding a change in hours and additional services for 2015 at the County clinics.
- 1-3 Meeting notice for the week of January 5, 2015 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: January 2, 2015

**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)**

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

A settlement conference was held on November 17, 2014.

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**

**People v. Chittenden**

**This week the City filed and served its Opposition Brief with the Second Department, Appellate term.**

Respectfully submitted,



Kristen K. Wilson  
Corporation Counsel

KKW/dfn



Robert P. Astorino, Westchester County Executive

---

## NEWS RELEASE

Sherlita Amler, MD, Commissioner, Department of Health

Ned McCormack, Communications Director

Contact: Caren Halbfinger (914) 813-5013 / after hours: 813-5000

**FOR IMMEDIATE RELEASE: December 31, 2014**

### **HEALTH DEPARTMENT CLINICS CHANGE HOURS AND ADD SERVICES**

Westchester County Health Department clinics will offer new, more convenient hours in the new year. Starting on Monday, Jan. 5, residents will find that the busiest clinics now offer extended hours to serve more clients at popular times.

“The new schedule is an example of how Westchester County government is being more responsive to the needs of residents,” said County Executive Robert P. Astorino.

The health department analyzed clinic usage, tracked the time patients spent waiting and adjusted staffing and hours to better meet the needs of residents. As always, no one will be turned away from any health department clinics for inability to pay.

New in 2015, uninsured residents who need a TB skin test to start a new job or enter college or graduate school can schedule an appointment at the health department clinics in White Plains or Yonkers.

“We often receive calls from residents who need the test to begin a new career or a course of study, so we are adding this service for residents,” said Sherlita Amler, MD, commissioner of health. “By doing so, we hope to reduce barriers to higher education and identify residents who could benefit from preventive treatment.”

Residents can walk in with no appointment needed for sexually transmitted disease and HIV testing in Yonkers on Mondays and Fridays from 9 a.m. to 3 p.m. and in White Plains on Wednesdays, from 11 a.m. to 6 p.m. Starting in December, the clinics began offering rapid Hepatitis C testing to residents born between 1945 and 1965, because more than 75 percent of infected adults are baby boomers, as well as to those with other risk factors. People who test positive receive follow up confirmatory testing and are connected to medical providers for treatment.

The clinics also offer rapid HIV tests and tests for chlamydia, gonorrhea, HIV, syphilis and trichomoniasis (trich).

**More**

Also starting in January, the health department will extend the hours of its by-appointment immunization clinics. At these clinics, children up to age 19 who are uninsured or who lack a primary care provider routinely receive vaccines and through the health department's Navigators, are linked to health insurance and are referred to primary care providers. Immunization clinics also offer some immunizations for adults and college students.

By-appointment tuberculosis clinics also have new hours, based on clinic usage. In White Plains, testing and treatment will be available monthly on the first Thursday, from 1 p.m. to 4 p.m. and on the second, third and fourth Thursdays, from 11 a.m. to 6 p.m. In Yonkers, the same services will be available Tuesdays, from 11 a.m. to 6 p.m.

For more health information, like us on Facebook at [www.facebook.com/wchealthdept](http://www.facebook.com/wchealthdept), follow us on Twitter @wchealthdept or visit our website at [www.westchestergov.com/health](http://www.westchestergov.com/health), where the clinic schedule is posted.