

**CITY OF RYE  
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Frank J. Culross, City Manager

SUBJECT: Enclosures - Council Packet

DATE: February 13, 2015

Enclosed with this memorandum are the following items:

- 2-5 Legal Department Update from the Corporation Counsel dated February 13, 2015.
- 2-6 Meeting notice for the week of February 17, 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: February 13, 2015

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

Carroll has filed and served a “Notice of Combined Motion to Reargue, or, In the Alternative, For Leave to Appeal to The Court of Appeals.” The return date is February 20, 2015 and our opposition papers must be served 7 days prior.

**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**

This motion is fully submitted.

**LITIGATION**

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

The expedited appeals of ALJ O’Connell’s October and December decisions are fully submitted. A conference call was held and all parties agreed to hold the adjudicatory hearing in abeyance until the Commissioner renders a decision on the appeals from ALJ O’Connell’s interim decisions.

**CASPI v. CITY OF RYE**

Plaintiff must serve any motion papers on or before February 10, 2015 and Defendants must serve any opposition papers on or before February 17, 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 date for a hearing on damages was calendared for March 13, 2015. A Notice of Appeal has been filed appealing the decision on Summary Judgment.

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

Plaintiffs' counsel served a **second** amended complaint. **A new discovery schedule was discussed and agreed upon by the parties.**

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

A motion to dismiss was filed and served by Respondents asking the court to dismiss the Amended Notice of Petition/Petition commenced against the respondents based on the Supplemental Findings and Decision rendered by the Zoning Board of Appeals.

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

The Defendants' Motion to Dismiss is fully submitted.

CHITTENDEN v. COMPAGNONE

I appeared at the **second** 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

**The Preliminary Conference calendared for February 19, 2015 has been adjourned based on recent settlement discussions.**

ROBERT BUTLER AND PAULA BUTLER v. CITY OF RYE PLANNING COMMISSION, DANIEL MATHISSON AND HELENE MATHISSON

Petitioners have filed a Petitioner for a Writ of Certiorari with the United States Supreme Court presenting the following question: “Under the Contract Clause of the U.S. Constitution, Article I, Section 10, Clause 1, may a local legislative commission, for the individual benefit of the lot owner and not part of its general police power, modify a building set-back line embodied in a subdivision map considered a deed restriction that has been observed and relied upon by property owners in the subdivision for more than 40 years?”

**CITY COURT**

Routine calendar with no unusual dispositions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kristen K. Wilson".

Kristen K. Wilson  
Corporation Counsel

KKW/dfn