

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Marcus Serrano, City Manager

SUBJECT: Enclosures - Council Packet

DATE: January 15, 2016

Enclosed with this memorandum are the following items:

- 1-4 Notice from the New York State Public Service Commission regarding Public Statement hearings to be held in January and February, 2016 regarding the Joint Petition by Altice and Cablevision seeking Commission approval for Cablevision to transfer certain telephone and cable systems to Altice.
- 1-5 Legal Department Update from the Corporation Counsel dated January 15, 2016.
- 1-6 Notice from Verizon Fios[®] TV that Estrella TV will move from channel 462 to channel 8 on or around April 20, 2016.
- 1-7 Meeting notice for the week of January 19, 2016 is available on the City website www.ryeny.gov under Calendar.



Department of Public Service

Public Service Commission
Audrey Zibelman
Chair

Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman
Commissioners

Kimberly A. Harriman
General Counsel
Kathleen H. Burgess
Secretary

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3 Empire State Plaza, Albany, NY 12223-1350
90 Church Street, 4th Floor, New York, NY 10007-2929
295 Main Street, Suite 1050, Buffalo, NY 14203-2508
125 East Bethpage Road, Plainview, NY 11803

www.dps.ny.gov

January 5, 2016

Dear Community Leader/Elected Official:

The New York State Public Service Commission is sponsoring a series of regional information sessions and public statement hearings regarding a proceeding currently before the Commission. In November 2015, Altice N.V. and Cablevision filed a Joint Petition seeking Commission approval for Cablevision to transfer certain telephone and cable systems to Altice.

To ensure full public participation, the Commission will hold public statement hearings to solicit input and comments from your community on the proposal. At the information session, Department of Public Service Staff will explain the procedure for reviewing the petition and will be available to answer questions. The information session will be immediately followed by a formal public statement hearing where the public is invited to participate and comment on the proceeding. Information received at the public statement hearings will be transcribed and will be included in the case record. The public comments will be considered by the Commission in deciding this case.

The enclosed fact sheet provides detailed information on how to participate in the public statement hearings and available options to submit comments on the proceedings. A copy of the Joint Petition, as well as additional information about the proposed transaction can be found at www.dps.ny.gov web site.

I would appreciate your assistance informing your constituents about the public meetings and encouraging them to provide comments. It is the Commission's intent to facilitate and encourage active and meaningful participation throughout all of its proceedings. We hope you will consider joining us at one of these meetings.

Sincerely,

Michael Corso
Consumer Advocate and Director,
Office of Consumer Services

Enc.



**Proposed Transfer of Control Between
Altice N.V. and Cablevision Systems Corp.
Case 15-M-0647**

On November 4, 2015, Altice N.V. (Altice) and Cablevision Systems Corporation (Cablevision) filed a Joint Petition with the New York State Public Service Commission (Commission) seeking approval for Cablevision to transfer certain telephone and cable systems, franchises and assets to Altice. Under the proposed transaction, Altice will acquire Cablevision and its New York operating subsidiaries. Altice plans to retain all of Cablevision's existing assets in New York.

If the transaction is approved, Altice will own and/or manage cable systems serving approximately 220 communities throughout the Hudson Valley, Long Island and the boroughs of the Bronx and Brooklyn. According to the petition, the proposed transaction will occur solely at the holding company level and does not seek changes to customers' rates, terms or conditions, nor will it result in the discontinuance, reduction, loss or impairment of service to any customer.

A copy of the petition may be reviewed online at the Commission's www.dps.ny.gov website under Case 15-M-0647.

Information Sessions and Public Statement Hearings

The Commission is seeking public comment on the Joint Petition filed by Altice and Cablevision. Interested members of the public are invited to attend a series of public statement hearings and provide comments before an Administrative Law Judge. The hearings *will be preceded by an information session, during which* staff from the New York State Department of Public Service (DPS) will provide an overview of the procedure for review of the petition. The presentation will be followed by an opportunity for members of the public to ask questions about the proposed transaction.

In order to speak at the hearing, it is not necessary to make an appointment in advance or to present written material. All comments given at the hearings will be transcribed and become part of the Commission's formal record. The hearings will remain open until everyone wishing to speak has been heard or other reasonable arrangements have been made.

Disabled persons requiring special accommodations should contact the DPS Human Resources Management Office at (518) 474-2520 as soon as possible. TDD users may request a sign language interpreter by placing a call through the New York Relay Service at 711 to reach the Human Resource number. Individuals with difficulty understanding or reading English are encouraged to call the Commission at 1-800-342-3377 for free language assistance services regarding this factsheet.

Please join us at the following locations:

Date: January 26, 2016

Location: City of Peekskill
Council Chambers
840 Main Street
Peekskill, NY 10566

Times: 2:00 pm information session
3:00 pm hearing begins

6:00 pm information session
7:00 pm hearing begins

Date: January 27, 2016

Location: Bronx Supreme Court
Court Room 600
851 Grand Concourse
Bronx, NY 10451

Times: 2:00 pm information session
3:00 pm hearing begins

6:00 pm information session
7:00 pm hearing begins

Date: February 2, 2016

Location: Nassau Co Legislative Bldg
Council Chambers
1550 Franklin Avenue
Mineola, NY 11501

Times: 1:00 pm information session
2:00 pm hearing begins

Date: February 2, 2016

Location: W. H. Rogers Legislative Bldg
Rose Y. Caracappa Auditorium
725 Veterans Memorial Highway
Smithtown, NY 11787

Times: 6:00 pm information session
7:00 pm hearing begins

Additional Methods for Commenting on the Case

- **Via the Internet or In Writing:** Submit comments electronically to Kathleen H. Burgess, Secretary, at secretary@dps.ny.gov or by mail or delivery to Secretary Burgess at the Department of Public Service, Three Empire State Plaza, Albany, New York 12223-1350. Comments may also be entered directly into the case by locating the case via the home page of the Commission's website, www.dps.ny.gov, by clicking on "Search," and entering 15-M-0647 in the "Search by Case Number" field. After clicking to open the case, enter comments in the "Post Comments" section located at the top of the page.
- **Toll-Free Opinion Line:** Individuals may choose to submit comments by calling the Commission's toll-free Opinion Line at 1-800-335-2120. This line is set up to receive in-state calls 24-hours a day. Callers should press "1" to leave comments about "Case 15-M-0647 Joint Petition of Altice and Cablevision". Comments received via the Opinion Line are not transcribed, but a summary is provided to the Commission for their consideration.

All comments will become part of the record considered by the Commission. Comments will be accepted at any point while this proceeding is pending, but are requested by March 4, 2016.

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: January 15, 2016

CLAIMS

No new claims were filed this week.

TAX CERTIORARI

MICHAEL ROTH v. CITY OF RYE

Petitioner has served a Notice of Verified Petition and Petition against the City of Rye challenging the Decision of J.H.O. Maher's dated February 20, 2015 which upheld the City Assessor's original assessment. Petitioner alleges that J.H.O Maher's decision is irrational. The City is in receipt of Petitioner's reply papers. The return date was September 14, 2015. Last week, I appeared in front of Judge Tolbert's law clerk along with Brendan Conroy to discuss the merits of the Article 78 proceeding.

THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE

Oral argument took place in front of the following judges: Mastro, J.P., Skelos, Dickerson and LaSalle. We are still waiting for a decision.

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

I appeared at a court conference with Judge Tolbert and his law clerk on April 21, 2015. Motions for summary judgment are still pending.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

The DEC Commissioner rendered a decision in which he partially upheld and partially reversed the ALJ's interim decision. The DEC Commissioner upheld the ALJ's decision finding that the negative declaration was rational and based on the record before it. In addition, the Commissioner reversed the ALJ's decision and found that Harrison's application did meet the standards under the Freshwater Wetland Act.

BOARD OF MANAGERS OF THE IVES AT RYE v. CITY OF RYE

The City has served its Answer with Affirmative Defenses.

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

The Rule 23 Motion is fully submitted and we are waiting for a decision on same.

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

Judge Cacace dismissed Petitioners' Petition finding that the Respondent ZBA acted reasonably, properly considered the statutory criteria that must be met in order for a variance to be granted and relied on substantial evidence in the record. Notice of Entry was served on October 21, 2015. Petitioners filed a Notice of Appeal.

CHITTENDEN v. COMPAGNONE

The non-party deposition of Sergeant Charlie Hunter took place on August 14, 2015. Additional non-party depositions and other outstanding discovery will take place over the next several weeks. Another compliance conference was held this week and Plaintiff still owes Defendant outstanding discovery documents. I attended the Conference on October 21, 2015 and Plaintiff's counsel stated that, despite his prior statements, he was not going to file a lawsuit in federal court. Plaintiff has filed an Amended Note of Issue. **Defendant filed a motion for summary judgment.**

CITY OF RYE v. TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

The City served its Complaint on Travelers. Travelers has answered the Complaint and discovery is taking place. An initial conference was held before Judge Seibel and a short discovery schedule was set, with fact discovery to be completed by January 15, 2016. **The deposition of Scott Pickup took place on Monday January 11, 2016.**

NOTICE OF DANGEROUS CONDITION

The City received a copy of a "Notice of Dangerous Condition" regarding any future bow and arrow or other permitted deer hunting.

CHITTENDEN v. WILSON, ET AL.

Mr. Chittenden commenced an Article 78 Proceeding against Kristen Wilson, Marcus Serrano and others alleging violations of the Public Officers Law. Petitioner has filed and served his opposition papers. Defendants filed its sur-reply earlier this week and the matter is now fully submitted. Judge Neary responded to a letter I sent regarding ex parte communications made by Petitioner to the Court after the return date of this proceeding and the Court confirmed that any submissions by Plaintiff after December 9, 2015 would not be considered.

BALLANTONI v. CITY OF RYE, CONSOLIDATED EDISON, and PERSICO CONTRACTING AND TRUCKING, INC.

Plaintiffs served the City of Rye, Consolidated Edison and Persico Contracting with a Summons and Verified Complaint alleging that the City was negligent in performing construction work in and around 81 High Street and created a dangerous condition. Plaintiff fell and sustained injuries. The matter is venued in Westchester County Supreme Court.

LINDA COLLINS v. CITY OF RYE and CONSOLIDATED EDISON

Plaintiff served the City of Rye and Consolidated Edison with a Summons and Complaint alleging personal injuries when she fell crossing the street in the area of Purchase Street and Smith Street on July 26, 2014. The matter is venued in Westchester County Supreme Court.

AGUIRRE and SANCHEZ v. COUNTY OF WESTCHESTER, ET AL.

Plaintiffs commenced a federal lawsuit in the Eastern District of New York alleging violations of their civil rights under the Constitutions of the United States and New York State. Plaintiffs were arrested in Queens and subsequently indicted in Westchester County Supreme Court for Assault in the Second Degree and Robbery in the Second Degree. On November 26, 2012, Westchester County Court Judge Hubert issued a decision and order dismissing the indictment. The matter has been forwarded to the City's insurance carrier for a coverage determination. Judge Ross has granted Defendants' request to file a motion to change venue. **Judge Ross denied the Defendants' motion to change venue and the case will remain in the Eastern District of New York.**

CONNECTICUT FUND FOR THE ENVIRONMENT D/B/A SAVE THE SOUND v. WESTCHESTER COUNTY, ET AL.

Save the Sound commenced a federal action alleging violations of the Clean Water Act in the United States District Court for the Southern District of New York against the County of Westchester, the City of Rye, and numerous other municipalities. Save the Sound is alleging violations of the Clean Water Act for exceeding effluent limits under the City's SPDES permit and in violation of its MS4 permit. I submitted this matter to the City's insurance carrier for a coverage determination. Save the Sound has consented to a sixty day (60) adjournment in order to allow the defendants time to answer or otherwise submit a request for permission to file a motion to dismiss. Judge Seibel has "so ordered" the new schedule.

JEANETTE v. VERILLE

On December 3, 2015, Judge Mary Smith rendered a decision vacating the arbitrator's decision in its entirety and found that Arbitrator Barone committed misconduct pursuant to CPLR 7511. Plaintiffs filed a notice of appeal and they have six months to perfect the appeal.

RYE CITY COURT

A separate calendar was held on Monday January 11, 2016 to address several building and fire code violations that were connected to landlord/tenant proceedings. Numerous fire, safety and building violations have been issued to two properties – 73 Maple Avenue and 80-82 Purchase Street.

Respectfully submitted,

Kristen K. Wilson

Kristen K. Wilson
Corporation Counsel

KKW/kkw



Fios® TV Programming Change

On or after April 20, 2016, Estrella TV will move from channel 462 to channel 8.