

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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JAMES E. SWEENEY, F. WARREN BENTON, SAM :
ORANS, BRIAN PAYNE, RAY MALDONADO, DAN :
HEUBEL, PAUL J. ABRAHAMSEN, CHRISTOPHER :
MACDONALD, and MICHAEL WEINER, :
:

Plaintiffs, :

-against- :

ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, :
Trustee, ANNE McANDREWS, Trustee, JIM :
MILLSTEIN, Trustee, RICHARD WARD, Trustee, :
constituting the Village of Larchmont Board of Trustees :
and RICHARD HEINE, "Chief" of the Fire Department of :
the Village of Larchmont, :

Defendants. :

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STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PAUL J. ABRAHAMSEN, being duly sworn, deposes and says:

1. I am Paul J. Abrahamsen and I live at 2 Harrison Drive in Larchmont, New York. I have been a member of the Larchmont Fire Department for more than ten years. I was elected by the members as Second Deputy Chief in April 2004, 2005, and 2006, and as First Deputy Chief in April 2007. In each year I was subsequently appointed by the Village Board, which followed the process specified in Village Law and in the Department Bylaws.

2. My understanding of state law and the Larchmont Fire Department Bylaws is that until a new Chief is sworn in, the old Chief remains in office. On April 5, 2007, the Fire Department members elected Tom Broderick as Chief. However, the Board of Trustees has not acted on his election yet, and therefore, according to the Department Bylaws, Christopher MacDonald is the Chief of the Larchmont Fire Department.

3. I am aware that the Village Board passed two resolutions on May 16, 2007.

**AFFIDAVIT OF PAUL J.
ABRAHAMSEN**

Resolution #1 purported to appoint Richard Heine as Chief of the Larchmont Fire Department. Resolution #2 purported to a) abolish the position of elected volunteer chief in the Department, b) abolish the process of electing a chief by the members, c) abolish the Fire Council as it is in the Bylaws and substitute a new arrangement that would be worked out in discussions between the Chief and the members of the old Fire Council, and then recommended to the Village Board for approval.

4. Both resolutions are inconsistent with the Department Bylaws.

5. I consider the current situation to be dangerous, because I am aware that most of the volunteer members of the department are not responding to the orders or instructions of Richard Heine. For example, I am aware that Heine attempted to organize a training drill on Monday evening May 21, 2007, and very few members attended.

6. I am also aware that very few members are currently responding to alarms.

7. I have attempted to be cooperative with Richard Heine so as to not make the situation any worse than it is.

8. Today, May 28, 2007, Chris MacDonald is away from Larchmont. According to the Bylaws, as First Deputy Chief I assume the powers and responsibilities of Chief. I am not, however, responding to alarms because of the potential for conflict, confusion and disruption. I am monitoring alarms and would respond to a working fire, but I would still be concerned in the event of such an incident about conflict, confusion and disruption.

9. The Fire Council members have maintained information about the status of volunteer membership in the Department. For example, based on information developed and maintained by Fire Council members, Chief MacDonald provided a report to the Mayor and Trustees on May 24, 2007, presenting the communications received by Fire Council by the members.

10. That report stated the following: *"You have 30 members resigning from the Department as active members (these responding to alarms) as of June 19, 2007. You have 10 members who have not stated their intentions, of those 10, 1 is an active member (15% attendance or higher). You have 10 members remaining in the Department, 5 are active, (making 15% attendance or better, based on year to date totals). I hope this information is helpful to you in accessing the level of fire protection you wish to provide for the residents in the immediate future, after June 19."*

10. The Chief's report was based, in part, on a report which is attached as Exhibit A. I am today aware of two additional members, not included in the MacDonald report, who have subsequently reported to Council that they intend to resign from active firefighter as of June 17th.

11. Most of the resignations are by interior firefighters who have the highest levels of attendance. Many of the remaining firefighters are qualified for exterior or support roles and many have very low levels of attendance.

12. The normal way that a firefighter resigns is to inform an officer or inform the Fire Council. There is no requirement, expectation or practice that a member must write a letter to the Mayor or the Board of Trustees.

13. I am aware that Plaintiff Benton submitted an affidavit on May 18 stating (See paragraph 11) that he believed that there were "at least a dozen other volunteer firefighters who are considering resignation" in addition to himself. He may have been accurate as of May 18, but as of today the situation has worsened considerably: 32 volunteer firefighters have formally communicated to the Fire Council their intention to resign.

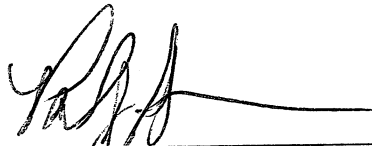
14. It is my belief, based on regular communications with the members, that if the Village would withdraw their resolutions and return the department to the organization that has previously existed, or if the Court entered an order which had this effect, that many of the volunteer firefighters would not resign.

15. I also believe that, unless the Board withdraws its resolutions, the majority of the active firefighters will not cease firefighting. They will join the other nearby fire departments where volunteer governance structures remain in place. Trained and experienced volunteer firefighters are in demand.

16. I consider this situation to be very dangerous for the Village. The Larchmont Fire Department is a combination volunteer/paid department. To respond to an alarm, particularly a potential working fire, we need the three or four paid firefighters typically on duty, as well as nine or more volunteers, in order to initiate fire suppression operations. With the number of volunteers remaining, the Department will not be able to engage in fire suppression without a high level of assistance from nearby fire departments. Assistance from nearby fire departments will take longer to arrive in the critical first minutes when a fire progresses in a structure. In time the nearby departments will object to providing essential fire services for Larchmont - services which Larchmont should provide for itself.

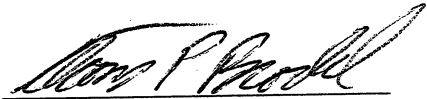
17. I also consider the situation to be dangerous because neither the Mayor, nor the other Board members, nor Richard Heine seem to recognize the actual situation that we face. Situation awareness is the key to effective emergency management. Larchmont faces a dangerous emergency, but the Mayor, Trustees and Richard Heine seem to be unwilling to recognize the situation.

WHEREFORE, it is respectfully requested that this Court grant Plaintiffs' application in its entirety together with such other and further relief as this Court deems just and proper.



PAUL J. ABRAHAMSEN

Sworn to before me this
29th day of May, 2007



Notary Public

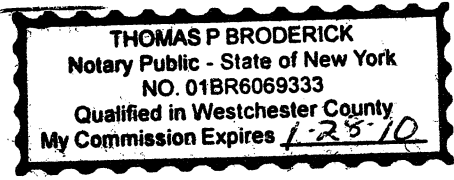


Exhibit A

Membership Status Report as of May 24, 2007

Grey = Resign Active Firefighting by end of June
Bold = Stay and continue as before

Total Alarms/Functions for March **32** Average Vols per Event: 11.8
Total Alarms/Functions LFD Year **441** Average Vols per Event: 10.0
Estimated Ave Vols/Event if all undecideds remain in FD 2.6

	# Month	% Month	# YTD	% YTD	Designation	
1	HIBBARD, G	23	72%	327	74%	Interior
2	BRODERICK, T	15	47%	246	56%	Interior
3	MACDONALD, C	15	47%	240	54%	Interior
4	ABRAHAMSEN, P	11	34%	230	52%	Interior
5	MANCINO, A	13	41%	202	46%	Interior
6	CARR-SMITH, B	18	56%	191	43%	Interior
7	SWEENEY, J	15	47%	178	40%	Interior
8	VIAZZO, E	10	31%	178	40%	Interior
9	HEUBEL, D	9	28%	168	38%	Interior
10	PORTILLO, M	0	0%	161	37%	Interior
11	DELBORGO, D	0	0%	157	36%	Interior
12	KAPLAN, G	6	19%	154	35%	Interior
13	PAYNE, B	11	34%	150	34%	Interior
14	HUDDERS, C	16	50%	144	33%	Interior
15	ARMINIO, F	11	34%	140	32%	Interior
16	WIENER, M	14	44%	120	27%	Interior
17	BENTON, N	11	34%	105	24%	Interior
18	WILLIAMS, M	13	41%	102	23%	Interior
19	GALLIN, R	10	31%	98	22%	Interior
20	MALDONADO, R	6	19%	84	19%	Interior
21	RYAN, S	12	38%	84	19%	Interior
22	CARRARA, J	7	22%	82	19%	Interior
23	ROBINSON, G	5	16%	82	19%	Interior
24	SEITZ, R	6	19%	80	18%	Interior
25	DUELL, H	13	41%	73	17%	Exterior
26	ORANS, S	9	28%	72	16%	Interior
27	DUGGAN, M	24	75%	65	15%	Interior
28	GONZALEZ, S	26	81%	60	14%	Interior
29	JACKSON, P	6	19%	59	13%	Support
30	CACCIOLA, C	1	3%	54	12%	Interior
31	YEE, D	3	9%	40	9%	Exterior
32	RAHMAN, R	1	3%	39	9%	Interior
33	CLIFTON, J	10	31%	34	8%	Interior
34	HOLDEN, R	0	0%	30	7%	Support
35	BUDETTI, E	1	3%	29	7%	Interior
36	KECK, D	3	9%	28	6%	Exterior
37	KOMAR, J	7	22%	28	6%	Interior
38	CARNEY, J	11	34%	21	5%	Interior
39	STACKPOLE, J	2	6%	15	3%	Interior
40	MANNIX, M	0	0%	14	3%	Interior
41	RANDALL, R	0	0%	12	3%	Exterior
42	MCGINLEY, K	1	3%	10	2%	Interior
43	JOSEPH, M	1	3%	6	1%	Interior
44	DUFORT, R	0	0%	4	1%	Support
45	WHITTEMORE, J	1	3%	4	1%	Interior
46	SIEGEL, W	0	0%	3	1%	Interior
47	CONNELL, T	1	3%	2	0%	Support
48	RASHKOVER, D	0	0%	2	0%	exterior
49	STEIGERWALD, J	0	0%	2	0%	Exterior
50	GIUNTA, C	1	3%	1	0%	Exterior
51	ROBB, W	0	0%	1	0%	Support
52	PRYOR, J	0	0%	0	0%	Exterior