

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,	:	
	:	AFFIDAVIT OF F. WARREN
Plaintiffs,	:	BENTON
	:	
-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 }

F. WARREN BENTON, being duly sworn, deposes and says:

1. I live at 149 Beach Avenue in Larchmont, New York, and have lived there since 1979. I have served as an active member of the Village of Larchmont Fire Department for the past ten years. I currently serve on the Village of Larchmont Fire Department Fire Council as the Warden of the Engine Company.

2. I also am the Chair of the Department of Public Management of John Jay College of Criminal Justice. My department includes the Division of Fire Science at the College, which includes five faculty members. Based on my work with the Fire Science Division I am familiar with the operations of many fire departments. As a Professor of Public Administration I am particularly familiar with issues of organization and governance.

3. I served as a Trustee of the Village of Larchmont for four years (1998-2002) and during that period I was annually appointed by Mayor Cheryl Lewy as the Village's Fire Commissioner.

4. On August 7, 2000, I was one of the Trustees who voted unanimously to approve the Bylaws of the Larchmont Fire Department as they presently exist.

5. It is my belief, based on the Bylaws of the Larchmont Fire Department and the New York State Village Law, that the current Chief of the Larchmont Fire Department is Chris Macdonald because the nomination of the candidate for Chief by the members of the Fire Department has not yet been acted upon by the Village Board. I believe that, in the event that Chris Macdonald should resign as Chief, that the Chief of the Department would be P.J. Abrahamsen who is currently the First Deputy Chief. Deputy Chief Abrahamsen was nominated by the Fire Department members and the nomination was approved by the Village Board.

6. Based on the Bylaws of the Larchmont Fire Department and the New York State Village Law, I do not recognize Richard Heine as Chief of the Larchmont Fire Department.

7. On Wednesday night May 16, 2007 at the meeting of the Larchmont Village Board, I informed the Board that it was my intention to resign from service as an active firefighter effective June 15, 2007. I timed my anticipated resignation to provide time for the Engine Company to elect a new Warden to represent the Company on the Fire Council.

8. I offered two reasons for this decision to the Board. One reason was that I believe that the conditions for firefighting will become unsafe due to insufficient trained firefighters responding to alarms. This will result from attrition in the numbers of trained and qualified

volunteers who are an essential part of the Larchmont's firefighting service.

9. The second reason was that I believe that the structure of the fire department resulting from the Village's resolution is illegal and unworkable.

10. Should the Court act to preserve the status quo, it is my intention to extend my period of service, because the conditions that would be the basis for my resignation would be deferred or avoided. Should the Village rescind its resolution appointing a paid chief, either on its own initiative or as a consequence of a finding by this Court that the resolution is not consistent with law, I would then continue to serve as a volunteer firefighter, because the conditions that would be the basis for my resignation would be avoided altogether.

11. As a member of the Fire Council concerned with the functioning of the Department I contacted members of the Department to assess the intentions of the volunteer members in response to the Board's resolution. My purpose in assessing the intentions of the volunteer members was to determine whether the Fire Council should take additional measures to ensure that members would continue to respond to alarms. It is my belief, based upon those conversations, that there are at least a dozen other volunteer firefighters who are considering resignation, and probably many more .

12. Preserving the status quo would retain volunteer firefighters, such as myself, while the Court considers the important issues raised in this case.

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.


F. WARREN BENTON, PH.D.

Sworn to before me this
2nd day of May, 2007


Notary Public

KATHERINE ZALANTIS
Notary Public, State of New York
No. 02ZA5067359
Qualified in Westchester County
Commission Expires 10/15/10