

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

Index No. 9480107

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.

**AFFIDAVIT OF THOMAS P.
BRODERICK**

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

THOMAS P. BRODERICK, being duly sworn, deposes and says:

1. I am Thomas P. Broderick and I live at 6 Colonial Avenue Drive in Larchmont, New York.
2. I submit this affidavit to correct certain statements that have been made by the Defendants in these proceedings.
3. I have been a member of the Larchmont Fire Department since 1985. In the Larchmont Fire Department I have served 10 years as a Lieutenant or Captain and five years as a Deputy Chief. I have also served for four years in the Malta Ridge NY Volunteer Fire Company including 2 years as a Lieutenant.
4. I have completed the following NY State fire training courses: Essentials of Firefighting, Intermediate Firefighter, Advanced Firefighter, Firefighter Survival, Firefighter Assist and Search Team, Hazmat, Hazmat Incident Command, Decontamination Training, County Decontamination Trailer Training, Accident Vehicle Extrication Training, Emergency Vehicle Operator-Intersection Accident Reduction Course, Pump Operations, Ladder Operations, Preparing for Command, Fire Officer I,

Legal Issues of the Volunteer Fire Service, Fire Behavior and Arson Awareness, Cause & Origin Determination, Bus Rescue, Respiratory Protection Seminar (OSHA).

5. On 15 different occasions, the members of the Larchmont Fire Department have nominated me for a leadership position and the Village Board of Trustees has approved the appointment - as Lieutenant, captain, Second Deputy Chief and First Deputy Chief.

6. I am the same Tom Broderick who, on April 5, 2007, was elected by the Fire Department members to be Chief. However, the Board of Trustees has not acted on my election yet, and therefore, according to the Department Bylaws, Chris MacDonald is still the Chief of the Larchmont Fire Department.

5. For the past six years (2002-2007) I have been responsible for training of volunteer firefighters in the Larchmont Fire Department. During this period, volunteer firefighters have completed an average of 593.5 State-certified training hours per year. During the prior years (2000 and 2001) the average number of hours per year was 155.5.

6. In addition to the above training, the Department conducts two training drills each month, as well as specialized training for operation of the Tower Ladder, and specialized training for our FAST Team which is responsible for rescue operations. When our training involves apparatus, one or more career firefighters are involved.

7. The level of training of the volunteer members is an indicator of the quality of a fire department. I consider the Larchmont Fire Department to be well-trained.

8. Because I have been responsible for training I monitor attendance of members. Mayor Feld, in her Affidavit, stated that during the period that she has served as Trustee or Mayor that the number of volunteers has declined.

Year	Volunteer Firefighters		
	15%	25%	Total
2000-2001	11	12	23
2001-2002	11	13	24
2002-2003	9	16	25
2003-2004	9	17	26
2004-2005	8	17	25
2005-2006	8	19	27
2006-2007	11	16	27

The fact is that the number of active volunteers has been increasing steadily, as reflected in departmental attendance reports. The number of high-participating volunteers responding to 25% of alarms or more has also increased. The benefit of a high-participating volunteer is that the firefighter gains more experience.

9. By comparison, from April 2006-March 2007, the average LFD career firefighter responded to 20% of alarms. This stands to reasons, since a career firefighter's annual work schedule would account for about 20% of the hours during a year.

10. I have read the affidavit of Richard Heine, sworn on May 24, 2007 and submitted in these proceedings. Richard Heine stated in his Affidavit (paragraph 4) that he "conducted a training exercise with both volunteer and career firefighters without incident." I am aware that this exercise was attended by 4 or 5 volunteer firefighters.. This is a very low level of participation. Typically, our monthly drills are attended by 10-20 firefighters or more. It is rare for there to be fewer than 10 participants. The fact that so few members attended represents, to me, an "incident" of concern.

11. In the transcript for the hearing in this case which took place on May 18, 2007, on page 11 at line 23, defendants' attorney Toomey stated to the Court that "Practically all of the calls are responded to are by the paid firefighters not the volunteers."

12. Mr. Toomey's statement is also inaccurate. The fact is that there are, on average, significantly more volunteers responding to calls than paid firefighters. Larchmont is a combination volunteer/paid fire department, and it has 15 paid firefighters and schedules three of them to be on duty at any time, and sometimes a fourth paid firefighter is scheduled on some days. Thus, when there is a fire alarm, three paid firefighters respond in two pumpers and a tower ladder. But it takes more than three firefighters to initiate fire suppression.

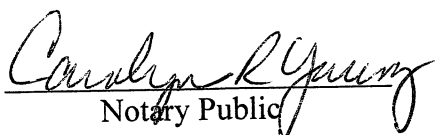
13. During the period from April 2006 through March 2007, an average of 10.2 volunteer firefighters responded to each fire alarm or related activity. At our most recent serious fire, on Friday morning May 4, 2007, 17 volunteers responded to the alarm and participated in suppression of the fire.

14. Without the volunteer firefighters, the Village of Larchmont does not have sufficient force for fire suppression, particularly in the first minutes which are a critical time in controlling an active fire. It takes both the volunteers and the paid firefighters to respond effectively to fires.

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.


THOMAS P. BRODERICK

Sworn to before me this
29 day of May, 2007


Notary Public

CAROLYN R. YOUNG
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN WESTCHESTER COUNTY
COMMISSION EXPIRES 03 08 20 11
REGISTRATION NO. 01YO6020942