

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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.

Index No.: 9480/07

**AFFIDAVIT OF
VILLAGE OF LARCHMONT
CHIEF OF POLICE
STEPHEN D. RUBEO
IN OPPOSITION TO
APPLICATION FOR
PRELIMINARY INJUNCTION**

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

STEPHEN D. RUBEO, being duly sworn, deposes and says:

1. I am the Chief of the Police Department and the Emergency Coordinator of the Village of Larchmont (the "Village") and as such I have personal knowledge of the facts contained herein. I submit this Affidavit in opposition to plaintiffs' application seeking to enjoin the Village from implementing the two resolutions adopted by Village Board of Trustees on May 16, 2007 which, among other things, provisionally appointed defendant Richard Heine as the paid Fire Chief of the Village Fire Department, and provided him with the authority over all Village Fire Department personnel, both paid and volunteer, apparatus and equipment.

2. I joined the Village Police Department in 1982. I was promoted to Sergeant in 1989 and Lieutenant in 1992. In April 2002 I became the Chief of Police. I am also an attorney, admitted to practice law in the State of New York.

3. I participate regularly in training courses on topics including emergency services coordination, hurricane preparedness, school sieges, terrorist attacks, and incident command. I also teach advanced courses as an Instructor in the Westchester County Multi-jurisdictional Police Academy and have served as an Adjunct Professor for area colleges, including the John Jay College of Criminal Justice, the Westchester County Community College, and the Port Authority of New York / New Jersey Police Academy.

4. As Chief of Police I am responsible for, among other things, the safety of the members of the Village Police Department. In addition, in my capacity as the Village Emergency Coordinator, it is my responsibility to conduct and evaluate emergency preparedness drills, to coordinate the emergency services within the Village and to secure the safety of the residents and members of the community. I wholeheartedly support the Village Board's resolutions appointing Richard Heine as the full time paid Chief of the Fire Department personnel, both paid and volunteer, and giving him charge of all apparatus and equipment of the Fire Department.

5. I have personally known Chief Heine for over 25 years and have the utmost confidence in him as Chief. He is mature, responsible, and has the respect of both the career and volunteer firefighters, the members of the Village Police Department and the community.

6. Based on my experience providing emergency services to the Village, it is clear that the position of Fire Chief in the Village is no longer a part-time position. The position requires the full time attention of a professional to provide accountability to the Village, to coordinate with the Chief of Police and emergency service providers in neighboring communities, and to properly organize, train and manage the combined paid and volunteer staff.

7. Nevertheless, past volunteer chiefs have consistently been part-timers with other full-time jobs. Because of their limited presence at the firehouse and despite their best intentions, they have had trouble organizing their Department, been difficult to communicate and work with and impossible to obtain information from.

8. In the short time since Richard Heine has been Chief I have already observed a notable difference in the organization of the Department, the availability of information and access to the information that I need from the Fire Chief. Indeed, we are already working together to establish an emergency communications command center.

9. Moreover, to my knowledge there is no confusion within the Police Department or elsewhere as to Heine's status as chief and he has the full support of my entire department.

10. Finally, I am not concerned by the resignations threatened by some of the volunteer firefighters. I am confident that, notwithstanding these resignations, the provision of emergency fire services to the Village will not be affected and that there will be no additional risk to the community.

11. It has been my experience that Village Police Officers are usually first to arrive on the scene of a fire alarm because they are frequently in vehicles within the Village. Next on the scene are the career firefighters, apparatus and equipment and then volunteers and/or Mutual Aid support from neighboring communities arrive. Police Officers regularly assist with evacuation and rescue efforts and then, as necessary, with firefighting operations such as laying hose. Police assistance is especially necessary on weekdays during the hours of 8:00 a.m. and 6 p.m. when many volunteers are at work outside of the Village and unable to respond to fire calls. Sometimes, no volunteers respond at all.

12. Although I value the contributions made over the years by the volunteers, I do not believe their resignations will have a material impact on the provision of emergency fire services to the Village nor do I believe that there will be any increased risk to the community. The Police Department will continue to assist the Fire Department, and for larger fires and high life hazard situations, the Village will continue to rely on Mutual Aid as it always has.

13. In short, I stand fully in support of the Village Board's resolutions appointing Richard Heine as the paid Fire Chief of the Village Fire Department, and providing him with the authority over all Village Fire Department personnel, both paid and volunteer, apparatus and equipment. I am confident that, notwithstanding the threatened resignations of many of the volunteer firefighters, the Village remains well protected with Richard Heine as the Chief of the Fire Department.


STEPHEN D. RUBEO

Sworn to before me this
5 day of June, 2007


Notary Public

EILEEN A. FINN
Notary Public, State of New York
No. 4987093
Qualified in Westchester County
Commission Expires Oct. 7, 2009

PLEASE take notice that the within is a (*certified*) true copy of duly entered in the office of the clerk of the within named court on.

Dated,

Yours, etc.

McCULLOUGH, GOLDBERGER & STAUDT, LLP

Attorneys for

Office and Post Office Address

1311 Mamaroneck Avenue, Suite 340

White Plains, New York 10605

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Defendants.

NOTICE OF SETTLEMENT
PLEASE take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on

, 20

at

M.

Dated,

Yours, etc.

McCULLOUGH, GOLDBERGER & STAUDT, LLP

Attorneys for

Office and Post Office Address

1311 Mamaroneck Avenue, Suite 340

White Plains, New York 10605

**AFFIDAVIT OF STEPHEN D. RUBEO
IN OPPOSITION TO APPLICATION
FOR PRELIMINARY INJUNCTION**

McCULLOUGH, GOLDBERGER & STAUDT, LLP

Attorneys for Defendants

Office and Post Office Address, Telephone

1311 Mamaroneck Avenue, Suite 340

White Plains, New York 10605

(914) 949-6400

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for