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TO: Mayor McFadden and Members of the Board  
DATE: November 18, 2020  
RE: Litigation Report

Below is a current update to all litigation matters which this office represents the Village of Tuxedo Park:

**King-Duchin v. Village ZBA, Ledwith, et al.**

(Orange County Supreme, Index No. EF005221/2020)

Adjournment was granted and return date was adjourned to December 1, 2020.

~~Article 78/ TRO request filed by King-Duchins' appeal from the determination of Building Inspector concerning the seasonal use of residence at 47 Clubhouse Road. Adjournment to answer/move was granted until 11/6/20; return date is 11/13/20. However, the Court since adjourned this to December 1, 2020. However, Petitioners have agreed to vacate the residence from November 21<sup>st</sup> through at least the December 1, 2020 return date as all parties had consented if the TRO is denied, Plaintiffs would have up to 11/20/20 to vacate premises. Our office represents John Ledwith and Attorney Alyse Terhune represents the Village BZA.~~

**Miller v. Village**

(Orange County Supreme, Index No. 000704-2020)

Ongoing litigation being defended by insurance carrier assigned attorney, Michael Cook (Cook, Netter, Kurtz and Murphy). Litigation brought by Millers against the Village and a neighbor Ms. Hess due to drainage damages to Miller's property (driveway) as a result of neighboring driveway being in disrepair and poor design. Answer to Cross Claim filed on behalf of Village on 7/8/20. This litigation is in discovery phase and further details would need to come from Mr. Cook.

**Madden v. Village**

(Article 78 concerning FOIL requests and Appeal, Docket No. 2018-08105.)

This litigation has been fully submitted to the Appellate Division since 2019. We are awaiting a decision from the Appellate Division. No oral argument was held as both parties agreed to submit on the briefs.



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**PERB: Matter of Part-Time Police Officer Petition for Certification (Teamsters Local 445)**  
(PERB Case No. C-6597)

A conference call was held with ALJ Sergeant on October 29, 2020. ALJ Sergeant denied the Union's request and suggested that an appropriate bargaining unit would consist of full and part-time officers. ALJ Sergeant advised the Teamsters Union to file a new Petition to seek decertification of the Tuxedo Park PBA Union and establish a new bargaining unit consisting of full and part-time police officers. This matter was placed on a 30 day hold for Attorney Kern to withdraw and/or file a new Petition. The previously scheduled December conference and January 2021 hearing have been adjourned without a new date.

**Taback v. Village of Tuxedo Park**  
(Orange County Sup., Index EF004179/2020)

A Notice of Appeal was filed on October 28, 2020. The appeal must be perfected before April 28, 2021 (6 months from the filing of the Appeal).

**Yacknowitz v. Taback & Village**  
(1983 Civil Action brought for excessive force/false arrest - S.D.N.Y. Docket No. 19 cv-02774) **\*(Insurance carrier handling)**

Settled. Order of Discontinuance was filed 9-9-20; General Release signed 9-3-20.

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