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TO: Mayor McFadden and Members of the Board
DATE: January 25, 2022
RE: Litigation Report

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

Madden v. Village

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

Matter was fully submitted to the Orange County Supreme Court in June of 2021 and is awaiting a decision.

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

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

This matter remains on appeal. The Village BZA (Alyse Terhune, Esq.) requested an extension to file the Reply Brief of the BZA. Our office joined in that request to allow the brief for John Ledwith to be submitted at the same time. Both Reply briefs will be due on February 10, 2022. Our office is also filing a motion to strike certain material that King-Duchin included in their brief that was outside the Appellate Record, including the determination of John Ledwith referring the matter to the BAR which is not a part of the appellate record.

Village of Tuxedo Park v. Tuxedo Park PBA (Taback)

(Orange County Supreme, Index No. EF00358-2021)

Decision rendered by Court on December 7, 2021. No arbitration of 207-c issues. Timeliness of hearing issue is arbitrable. The Orange County Supreme Court decision was previously provided to the Village Board members. Michael Taback has since retired and, as of today, the Union has not raised any issue or requested arbitration on the timeliness of the hearing request issue.

PERB – Improper Practice Charge (Separation of Service – Taback)

PERB Case No. C-37886

This case involved the Union claiming that the Village's separation of service policy was unilaterally imposed without negotiation. The case had been put on a "hold" by the PERB Administrative Law Judge back in August of 2021 when the parties were discussing settlement. The ALJ letter indicated that if no conference or hearing was requested by October 29, 2021, this matter would be deemed withdrawn and administratively closed. There was no request for a conference or hearing, so presumably the matter is closed. However, our office did not want to inquire with PERB at this point as it may only generate a letter inquiring if the Union wishes to pursue this matter. The more time that passes, the better.

Village of Tuxedo Park PBA v. Village of Tuxedo Park (Traffic Guards)

PERB Case No. U-35070 and U-35109

Decision rendered by PERB on January 13, 2022.