

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

x Index No. 20860/07

F. WARREN BENTON, MICHAEL P. WEINER, JANICE:
A. RING, FRANCES P. O'CONNOR, ANTHONY C. :
PAVIN, NORA J. CARLSON, and JOHN TROY :

Petitioners, :

-against- :

**AFFIRMATION IN SUPPORT
OF ORDER TO SHOW
CAUSE**

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 EILEEN A. FINN, Clerk of the Village of Larchmont, :

Respondents. :

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STEVEN M. SILVERBERG an attorney duly licensed to practice law in the
State of New York affirms under penalty of perjury as follows:

1. I am a member of the firm of Silverberg Zalantis LLP attorneys for the
petitioners F. WARREN BENTON, MICHAEL P. WEINER, JANICE A. RING,
FRANCES P. O'CONNOR, ANTHONY C. PAVIN, NORA J. CARLSON, and JOHN
TROY (collectively "Petitioners") herein and make this affirmation, upon information
and belief, based upon a review of the files maintained in my office.

2. I submit this affirmation in support of the application of Petitioners'
application brought by Order to Show Cause in accordance with Election Law section 16-
116, Articles 9 and 10 of the Village Law and Article 78 of the CPLR for an order against
respondents ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, Trustee, ANNE
McANDREWS, Trustee, JIM MILLSTEIN, Trustee, RICHARD WARD, Trustee,
constituting the Village of Larchmont Board of Trustees ("Village Board"), and EILEEN

A. FINN, Clerk of the Village of Larchmont (“Village Clerk”) (the Village Board and the Village Clerk are collectively referred to as “Respondents”) directing that: (1) the Respondents set an election on referenda within no less than ten (10) days and no more than sixty (60) days for the purpose of presenting the issues raised in the two sets of petitions filed with the Larchmont Village Clerk on June 13, 2007 and June 15, 2007 objecting to and seeking an election on referenda on two resolutions adopted on May 16, 2007 by the Respondent members of the Village Board of the Village of Larchmont concerning the Village of Larchmont Fire Department; (2) such election shall be conducted in the manner proscribed by law; and (3) the Respondents shall be bound by the results of such election in the governance of the Village of Larchmont Fire Department.

3. Petitioners timely filed two sets of petitions with the Village Clerk on June 13, 2007 and June 15, 2007 challenging two resolutions adopted by the Larchmont Village Board on May 16, 2007.

4. Upon information and belief, no objection was filed with the Village Clerk within five days of filing the two sets of petitions, as required by New York State Village Law § 9-902 (9)

5. No proceeding challenging the two sets of petitions was commenced in the Supreme Court as required by New York State Village Law § 9-902(9).

6. Village Law § 9-902 (5) requires that an election on petition take place within no less than 10 nor more than 60 days after filing of the petition.

7. No election on the issues raised in the two sets of petitions has been set by the Respondents.

8. Petitioners bring this proceeding seeking a judgment directing the Respondents to schedule and hold an election on referenda as is required by Election Law 16-116 and Village Law sections 9-900, 9-902 and 10-1020.

9. As there is no immediate election scheduled, it is requested that the court set a briefing schedule on this application that will permit appropriate briefing of the issues without also prolonging the outcome.

10. A previous action was commenced in the action entitled Sweeney v Feld, Westchester Index No. 9480/07 ("Sweeney Action") seeking an injunction against implementation of the resolutions objected to in the petitions which form the basis of this Election Law proceeding.

11. The Sweeney Action, which involved only some of the same parties, is still pending and a notice of appeal has been filed with respect to denial of a preliminary injunction seeking to bar implementation of the resolutions.

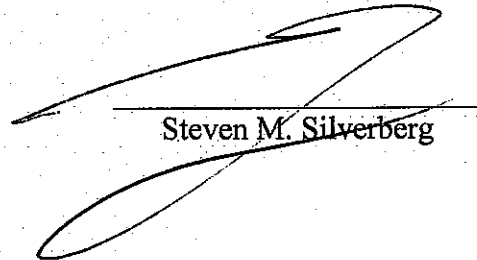
12. However the Sweeney Action seeking an injunction was commenced before the petitions seeking a referendum were filed and this proceeding seeks the specific and limited relief of directing that an election/referendum be held on each of the petitions filed subsequent to the commencement of the Sweeney Action.

13. As stated in the Verified Petition, the Petitioners are signatories to the petitions but only two of the Petitioners were involved in the Sweeney Action.

14. Therefore no prior request has been made for the specific relief sought herein.

WHEREFORE, it is respectfully requested that the within Order to show Cause be signed and that on the return date thereof this Court grant the relief requested by the Petitioners, along with such other and further relief as may be deemed just and proper.

Dated: White Plains, New York
October 11, 2007



Steven M. Silverberg

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STEVEN M. SILVERBERG

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AFFIRMATION IN SUPPORT OF ORDER TO SHOW CAUSE

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