

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

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MAYOR AND BOARD OF TRUSTEES OF
THE VILLAGE OF TARRYTOWN and the
VILLAGE OF TARRYTOWN,

Petitioners-Appellants,

-against-

MAYOR AND BOARD OF TRUSTEES OF
THE VILLAGE OF SLEEPY HOLLOW and
GENERAL MOTORS LLC a/k/a/ GENERAL
MOTORS COMPANY, LLC,

Respondents-Respondents.
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**AFFIDAVIT IN
OPPOSITION**

Docket No.: 2012-09032

Westchester Index No.: 11630/11

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

JOEL H. SACHS, being duly sworn, deposes and says as follows:

1. I am a member for the law firm of Keane & Beane, P.C., attorney for Respondents-Respondents Mayor and Board of Trustees of the Village of Sleepy Hollow (hereinafter "Respondent Sleepy Hollow"). I am fully familiar with the facts and circumstances of this litigation. I make the within Affidavit in Opposition to the motion of Petitioner-Appellants, Mayor and Board of Trustees of the Village of Tarrytown and the Village of Tarrytown (hereinafter "Appellant Tarrytown") for a further extension of their time to perfect the instant appeal.

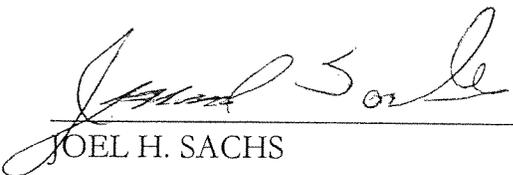
2. Appellant Tarrytown filed a Notice of Appeal on or about September 27, 2012 from the Decision and Order of the Westchester County Supreme Court (Hubert, J.) filed on or about September 7, 2012. In the lower court's decision, which is annexed to the

moving papers of the Appellant Tarrytown, the lower court, in a detailed 24 page Decision rejected each and every legal argument raised by Appellant Tarrytown which sought to overturn certain environmental and land use approvals granted by Respondent Sleepy Hollow to Respondent General Motors LLC a/k/a General Motors Company LLC (hereafter “Respondent General Motors”).

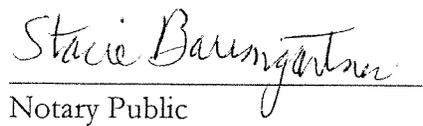
3. Although the litigation commenced by Appellant Tarrytown in the Westchester County Supreme Court was baseless, Appellant Tarrytown nevertheless persists. Appellant Tarrytown has already received two extensions of time to perfect their appeal and are presently seeking a third extension. The pendency of this appeal is causing serious injury to Respondents herein in that it is preventing Respondent General Motors from obtaining a redeveloper which will proceed with the redevelopment of the subject hundred plus acre riverfront site in the Respondent Sleepy Hollow. The redevelopment of this site will bring significant taxes and jobs to Westchester County and will be a win-win situation for Respondent Sleepy Hollow, Respondent General Motors and even for Appellant Tarrytown.

4. Under the circumstances, Respondent Sleepy Hollow must oppose any further attempts to adjourn the perfecting of the instant appeal. Even if settlement discussions are underway, the instant lawsuit should never have been brought by Appellant Tarrytown in the first instance. After it was brought and decided against Appellant Tarrytown, there was no plausible reason for Appellant Tarrytown to attempt to tie up redevelopment of this important site for over another year by filing a Notice of Appeal.

WHEREFORE, the motion of Appellant Village of Tarrytown to extend its time to perfect its appeal of the lower court's decision should be denied.


JOEL H. SACHS

Sworn to before me this
18th day of June, 2013


Notary Public

STACIE BAUMGARTNER
Notary Public, State of New York
No. 01CA5044591
Qualified in Westchester County
Commission Expires ~~May 30, 2014~~
July 21, 2015

Stacie Baumgartner
Stacie Baumgartner

Sworn to before me this
18th day of June, 2013

Monique M. Mascunana
Notary Public

MONIQUE M. MASCUNANA
Notary Public, State of New York
No. 01MA6003807
Qualified in Westchester County
Commission Expires March 09, 2014

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

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MAYOR AND BOARD OF TRUSTEES OF THE
VILLAGE OF TARRYTOWN and the VILLAGE
OF TARRYTOWN,

AFFIRMATION

Petitioners-Appellants,

Appellate Division
Docket No. 2012-09032

-against-

Supreme Court
Index No. 11630/11

MAYOR AND BOARD OF TRUSTEES OF THE
VILLAGE OF SLEEPY HOLLOW and GENERAL
MOTORS LLC a/k/a GENERAL MOTORS
COMPANY, LLC,

Respondents-Respondents.
-----X

JOSHUA E. KIMERLING, an attorney duly admitted to practice law before the courts of the State of New York, affirms under penalties of perjury, as follows:

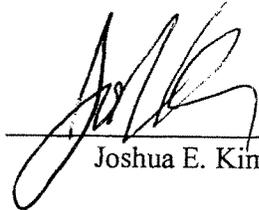
1. I am a member of Cuddy & Feder LLP, counsel for Respondent General Motors in connection with the above-referenced matter, in which the Village of Tarrytown has filed an appeal to this Court. Tarrytown has now filed a Motion to extend, for the third time, its time to perfect its appeal in this matter.
2. As Tarrytown's motion concedes, Tarrytown's original time to perfect its appeal expired in March 2013.
3. Tarrytown has previously adjourned its time to perfect the appeal on two prior occasions, first obtaining a sixty (60) day adjournment in March, 2013, and then obtaining an additional thirty (30) day adjournment in May, 2013. Thus, in total, Tarrytown has obtained three months of additional time to perfect its appeal in this matter.

4. While it is true that settlement discussions are ongoing, the existence of those discussions do not warrant a further indefinite adjournment of Tarrytown's deadline to perfect its appeal.

5. Accordingly, it is respectfully submitted that any additional adjournment be limited to thirty (30) days. With an additional thirty (30) days, Tarrytown will have been given four (4) additional months (on top of the original six (6) months pursuant to statute) to perfect its appeal.

6. It is respectfully submitted that ten (10) months is more than sufficient time to perfect an appeal.

Dated: June 20, 2013



Joshua E. Kimerling