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May 19, 2010

City of Rye
Mayor Doug French
City Hall
1051 Boston Post Road
Rye, New York 10580

Re: Meeting of May 5th

Dear Mayor French,

Thank you for taking the time to meet with Mr. Pateman and myself Wednesday the 5th. I would like to reiterate some facts of our meeting and elaborate on a few of the issues we discussed.

It is important to me that you know that although the attorneys for Hen Island have portrayed me as a disgruntled ex- board member, I am in fact, a concerned resident, interested in protecting the health, safety and welfare of my family, the residents, and the guests of Hen Island as well as the environment of the Long Island Sound and the shoreline of Milton Harbor.

To exemplify the mentality of the Board of Directors for Hen Island, in 2001 they were still allowing residents to bury garbage in the rear of the island along the shores of Milton Harbor. Another example of the blatant disregard not only for the health and safety of its residents, but also for government officials, during the 2001 West Nile virus epidemic Board members instructed residents to bury dead birds rather than report them to the Health Department. The Board was fearful that the dead birds would attract too much unwanted attention to the Island due to the large mosquito infestation present.

After two years of the Otis Administration backed by Westchester County Deputy Health Commissioner Lenny Meyerson, who continually denied the existence of building, health and safety code violations, Frank Culross instructed City officials to inspect Hen Island. That inspection resulted in three pages of violations (Exhibit 1), and also required the residents to:

- 1) Remove over 16,000 pounds of illegally stored propane from the Island.
- 2) Repair serious structural foundation issues on a number of homes, never before required to meet code.
- 3) Cease and desist filling in wetlands along the shoreline of the Long Island Sound.
- 4) Conform to local ordinances prohibiting Mosquito infestations.

5) Remediate a multitude of maintenance issues throughout the Island.

In addition, the inspection and updating of electrical systems that were initially installed illegally in homes throughout the Island was mandated.

It should be noted that a Wetland Permit Application filed by Kuder Island Colony Inc. has recently been denied by the City Planning Commission. This application was related to the construction of a 16 foot high by 82 foot long seawall, by Kuder Island Colony without a Building Permit, engineered plans or the necessary inspections. The application was denied by the Planning Commission for the reason stated in their resolution, "the wall may threaten health and safety of the residents of Rye if it fails and does not meet the Planning Commission requirements necessary for the approval of the permit". Kuder Island Colony, Inc. has filed an Article 78 Proceeding in the State Supreme Court challenging the Planning Commission decision.

In July of 2007 Westchester County's Environmental Services Unit (ESU) and Officials from the City of Rye inspected Hen Island (Exhibit 2). That investigation revealed a multitude of problems ranging from "non-approved" "make shift septic systems" and non-filtered domestic water systems that "do not meet water quality standards", to a severe mosquito infestation, noting in the report "this inspector and other officials were severely bitten". Rye's building inspector Mr. V. Tamburro was among the Rye City Officials inspecting Hen Island that day and agreed with the findings of the ESU investigation in my presence. At one point a conversation ensued between Inspector Gatto and Mr. Tamburro to determine which department would write the violations. Mr. Tamburro's contention was that his office was not large enough to handle the number and magnitude of the violations. He felt that because "the County employed a much larger staff they should be the lead agency and should be responsible for issuing the violations."

Shortly after the ESU inspection/investigation of July 2007 Deputy Health Commissioner Meyerson was put in charge of the case. Commissioner Meyerson position from day one was the complete opposite. He stated multiple times that "no violations were found on Hen Island" Surprisingly Rye's City Manager at the time also backed Meyerson. In a New York Times article dated September 9, 2007 (exhibit 3), Mr. Shew "questioned the validity of Mr. Tartaglione's claims. Mr. Shew said no violations were found when Rye's building inspector, along with County health and environmental officials inspected the Island in July." However, in a letter dated June 17, 2009 (exhibit 4), Meyerson identifies an open sewage pit at cottage #18. In that same letter he also identifies two other sewage pit violations also referenced in an earlier letter of May 8, 2009 (exhibit 5), to Mr. Culross. It should be noted that the aforementioned sewage pits were also questioned during an investigation/inspection conducted on August 27, 2007 (Exhibit 6). At that time Commissioner Meyerson stated that the exact same sewage pits were not in violation. This deception played out in the Health Department over and over from 2007 until Meyerson's termination in 2009. It should also be noted, that I was advised by a high ranking official in the Spano administration, that Meyerson was terminated as a result of his handling of the Hen Island cover-up.

As I mentioned during our meeting, the City of Rye and the County Health Department under the direction of Commissioner Meyerson, allowed a home to be constructed in 2008 on Hen Island without requiring any Health Department approvals for sewage or potable water.

When questioned why, Commissioner Meyerson stated; "It is the building departments prerogative to verify that the information provided as to the basis of our no objection letter is accurate or to contest the information." In that same letter he also stated, "Until the local building department advises DOH that the information was incorrect there is no reason to revisit this office's letter of no objection."

I do understand that your administration has only been in place for four months. I also understand that this problem grew as a result of the previous administration's attempt to avoid dealing with a problem that they have allowed to continue unregulated for years. However the City's new position that, "this is regulated and enforced by the County Health Department and we have no jurisdiction" is absolutely incorrect, as you can see from the above statements. The City is and should be involved. Shared services are exactly as stated; the City of Rye and the County of Westchester working together to achieve a common goal, similar to the working arrangements of the County Police and the City of Rye Police. If a major crime occurs in the City of Rye, which calls for the involvement of the County Police, the Rye Police Department does not relinquish their responsibility to the County Police. It would be a mutual effort to investigate, apprehend and prosecute the offenders. Though not as serious, the problems on Hen Island are nothing less than criminal. Certainly, the County Health Department has a responsibility here, but so does the City of Rye, as it is the City's Codes that are being violated. The previous administration failed to enforce health, safety and environmental codes on Hen Island but I am hopeful that the current administration will do what is necessary to right that wrong. Rye's acting city attorney Ms. Wilson's suggestion that Hen Island should not be required to meet current sewage code standards because they are seasonal dwellings is unequivocally incorrect.

I submit that these issues may be easily resolved if the City and the Health Department work together in the following ways:

Septic Issues:

As discussed at our meeting, we are requesting that the City of Rye enforce Chapter 161 and require Hen Island to report annually to the City of Rye on each and every private sewage disposal system along the shoreline of Milton Harbor. If any systems prove to be inadequate or failing, require remediation. There are a number of options available on Hen Island to deal with the inadequate sewage systems. They range from self composting or incinerating toilets to sealed holding tanks or connecting to the County trunk line as per Hen Island's utility easement in Greenhaven. It should be noted the County sewage line is approximately 450' away. All of the above mentioned remedies can and should be handled at no cost to the City and will only protect the public and the environment.

Potable Water:

Require proper procedures with regard to existing water collection systems such as drilling three separate community wells on Hen Island.

Mosquito Infestation:

Investigate solutions to the mosquito infestation issues on Hen Island and develop a program, in cooperation with the Westchester County Health Department, to mitigate this issue.

All of the above solutions could possibly be paid for by establishing a special tax district due to the unusual circumstances related to Hen Island.

You may have been informed that the Appellate Division recently dismissed my case against the Hen Island Board of Directors on a legal technicality (the business judgment rule of law). The Appellate Division decision simply stated that the Court will not intervene in the decisions of a private corporation unless it relates to egregious issues. I was not surprised by their decision but taking legal action was my only alternative, as the City of Rye Officials who were responsible for enforcing the City Codes had refused to do so. It should be noted, the Court did not make any decision with regard to pollution, potable water or a mosquito infestation on Hen Island. With that in mind, it now becomes more important than ever for the City to enforce its present laws requiring compliance in the aforementioned areas.

Again, I thank you for taking the time to discuss these issues with me. It is obvious that you care about the City of Rye, which you now govern and it gives me renewed hope for the future of Hen Island.

Very truly yours,

A handwritten signature in cursive script that reads "Ray Tartaglione". The signature is written in black ink and is positioned below the text "Very truly yours,".

Raymond J. Tartaglione

cc: Rob Astorino, Westchester County Executive
Kevin Plunkett Esq., Deputy Westchester County Executive
Mayor Doug French and Rye City Council
Frank Culross, Rye City Manager
Charles M. Pateman, Land Use Consultant for R. Tartaglione
Dr. Cheryl Archbald, Westchester County Health Commissioner
George Longworth Westchester County Commissioner of Public Safety
Ron Gatto, Westchester County Environmental Enforcement