

REFERENDUM CERTIFICATION

STATE OF NEW YORK)
 (ss:
COUNTY OF SULLIVAN)

MARILEE J. CALHOUN, being duly sworn, deposes and says:

1. I am the duly elected Town Clerk of the Town of Thompson and, as such, am required to report on the receipt of Permissive Referendum Petitions when received.

2. On January 4, 2023, the Town Board of the Town of Thompson passed Resolution #78 of 2023, preliminarily approving Extension #2 of the Consolidated Rock Hill-Emerald Green Sewer District, subject to a Permissive Referendum.

3. Pursuant to Town Law, within thirty (30) days of said approval, property owners within the sewer district, or proposed extended sewer district, could file a Petition for a Referendum on the extension. The preliminary approval was posted and published in the Sullivan County Democrat, as required by Town Law.

4. On February 1, 2023, my office received and filed a document from Leonard Bernardo, containing 73 pages of Petitions for a Permissive Referendum upon the issue of Extension #2 of the Consolidated Rock Hill-Emerald Green Sewer District. Said Petition contained 73 pages and indicated same has 298 signatures. A copy of the filed Petition is attached hereto as Exhibit "1".

5. A five (5) page document entitled "In the Matter of Objection of Glen Wild Land Company...." containing Objections to the aforesaid filed Petition was received by the Town Clerk's Office from Robert Berman on February 6, 2023.

6. Copies of the Objections received and filed were provided to Leonard Bernardo, representative of the group who submitted the original Petition at the Town Board Meeting on February 7, 2023. To date, Petitioners have not provided any response to the filed Objections.

7. Accordingly I, as the Town Clerk of the Town of Thompson, make the following Findings, as related to the Permissive Referendum Petitions and Objections thereto:

FINDINGS

8. The filing of the Permissive Referendum Petitions were within thirty (30) days of the Town's Board preliminary approval of the Sewer District extension, and are deemed timely filed pursuant to Town Law.

9. Pursuant to Town Law §209-e(3) "A petition requesting a referendum shall be sufficient if signed and acknowledged, or proved in the same manner prescribed by the election law for the authentication of nominating petitions, by the owners of taxable real property situate in the proposed district or proposed extended district as shown upon the latest completed assessment roll of said town, in number equal to at least five (5) percent of the total of such owners, or by one hundred (100) of such owners, whichever is the lesser."

10. The Consolidated Rock Hill-Emerald Green Sewer District has 2,058 different property owners within the description of the Consolidated Sewer District as contained on the most recent Town of Thompson Assessment Rolls (a copy of which is attached hereto as Exhibit "2") and, as such, shall require 100 valid signatures on the Petitions to be sufficient pursuant to Town Law Article 12-A, §209-e(3) to force a referendum on the extension.

11. The Petitions presented are generally in a form that would be acceptable for the authentication of nominating petitions, as prescribed by the Election Law. There is an omission in the initial paragraph and the Statement of Witness acknowledgment that the Acknowledger is a "duly qualified" voter of the State of New York and elector of the Town of Thompson and DOES not make reference to the fact that they are a property owner of taxable real property situated in the proposed district or extended district as shown on the latest completed assessment rolls. This office will accept the substance of the Petition over the form of same as long as the witness themselves can be confirmed through the most recent Assessment Rolls of the Town of Thompson that they are property owners within the Sewer District and the signatories are also property owners within the district.

12. From the 73 Petitions submitted, there were 25 Petitions witnessed by parties that were not property owners of taxable real property within the Consolidated Rock Hill-Emerald Green Sewer District, which included these specific Petitions and all signatures thereon. The INVALID Petitions were by:

- (a) Chester Smith: Fourteen (14) Petitions - #'s 2, 5, 18, 28, 33, 40, 43, 54, 55, 63, 68, 69, 72 and 73;
- (b) Janet Newberg: Five (5) Petitions - #'s 13, 24, 30, 39 and 42;
- (c) Christina Wallace: Two (2) Petitions - #'s 60 and 70;
- (d) Frank Ryzuto: One (1) Petition - #10;
- (e) Jane Bloom: One (1) Petition - #48;
- (f) Emily Kegler: One (1) Petition - #14, and;
- (g) Richard Beickert: One (1) Petition - #62.

These invalid Petitions contained ninety-one (91) signatures which will not be included in the final count of sufficient signatures.

13. From the remaining 48 Petitions, there were numerous signatures contained therein from parties that were not property owners of taxable real property within the Consolidated Rock Hill-Emerald Green Sewer District, which was broken down as follows:

- (a) Petition #1 - 2 invalid signatures
- (b) Petition #4 - 1 invalid signature
- (c) Petition #7 - 3 invalid signatures;
- (d) Petition #8 - 2 invalid signatures;
- (e) Petition #12 - 1 invalid signature;
- (f) Petition #15 - 2 invalid signatures;
- (g) Petition #16 - 2 invalid signatures;
- (h) Petition #17 - 1 invalid signature;
- (i) Petition #19 - 4 invalid signatures;
- (j) Petition #21 - 2 invalid signatures;
- (k) Petition #22 - 5 invalid signatures;
- (l) Petition #23 - 2 invalid signatures;
- (m) Petition #25 - 5 invalid signatures;
- (n) Petition #26 - 1 invalid signature;
- (o) Petition #27 - 5 invalid signatures;

- (p) Petition #29 - 2 invalid signatures;
- (q) Petition #31 - 3 invalid signatures;
- (r) Petition #35 - 5 invalid signatures;
- (s) Petition #36 - 2 invalid signatures;
- (t) Petition #37 - 5 invalid signatures;
- (u) Petition #38 - 2 invalid signatures;
- (v) Petition #41 - 2 invalid signatures;
- (w) Petition #44 - 1 invalid signature;
- (x) Petition #45 - 5 invalid signatures;
- (y) Petition #47 - 2 invalid signatures;
- (z) Petition #49 - 3 invalid signatures;
- (aa) Petition #50 - 1 invalid signature;
- (bb) Petition #51 - 5 invalid signatures;
- (cc) Petition #53 - 2 invalid signatures;
- (dd) Petition #56 - 2 invalid signatures;
- (ee) Petition #57 - 3 invalid signatures;
- (ff) Petition #58 - 1 invalid signature;
- (gg) Petition #59 - 3 invalid signatures;
- (hh) Petition #61 - 5 invalid signatures;
- (ii) Petition #64 - 4 invalid signatures;
- (jj) Petition #65 - 3 invalid signatures;
- (kk) Petition #66 - 1 invalid signature;
- (ll) Petition #67 - 4 invalid signatures, and;
- (mm) Petition #70 - 2 invalid signatures.

These invalid signatures were by people who are not owners of taxable real property within the Consolidated Rock Hill-Emerald Green Sewer District as contained in the most recent Assessment Rolls of the Town of Thompson, total 106 signatures which will not be included in the final count of

sufficient signatures. Copies of these 48 Petitions marked up to reflect invalid signatures are attached hereto as Exhibit "3".

14. There were two (2) Petitions that had 1 blank signature line, which will not be included in the final count of sufficient signatures as follows:

- (a) Petition #6 (Line #3)
- (b) Petition #52 (Line #5)

These Petitions contained 2 signatures that will not be included in the final count of sufficient signatures.

15. There are three (3) Petitions that had signatures by individuals who are Trustees of Trusts that own taxable real property within the Consolidated Rock Hill-Emerald Green Sewer District. These signatures were presented as individuals and were not labeled as Trustees. Furthermore, two (2) of these signatures are Trustees from the same Trust (Brad Wild & Martha Greenberg) and ownership of a property in a trust, like corporation or partnership under Town Law §209-e(3) where a corporate owner shall only be considered one owner for the purpose of a petition requesting a referendum. Thus, one of the two Trustees from the same property will be invalid regardless of the status of whether they signed as Trustees or not. These signatures are being held to the side, pending further action. The signatures are as follows:

- (a) Petition #21 - Line 1 - Martha Greenberg
- (b) Petition #38 - Line 1 - Brad Wild
- (c) Petition #52 - Carol Ann Caccioppoli

These three (3) signatures have been objected to by Robert Berman and shall be held out of the final count pending further determination by the Supreme Court. If no further action is taken by the Objector then only two (2) of the three (3) signatures shall be included in the final count of sufficient signatures.

16. There are fifteen (15) Petitions that were acknowledged/witnessed by individuals who are not taxable real property owners within the Consolidated Rock Hill-Emerald Green Sewer District but are Trustees of a Trust which owns taxable real property within the Consolidated Rock Hill-Emerald Green Sewer District. The witness/acknowledgment signatures DO NOT indicate their status

as Trustees, only as individuals who are electors within the Town of Thompson. The Petition numbers are as follows:

	Petition #	Witness	Potentially valid signatures
(a)	Petition #4	Brad Wild	3
(b)	Petition #9	Martha J. Greenberg	5
(c)	Petition #11	Martha J. Greenberg	2
(d)	Petition #12	Martha J. Greenberg	4
(e)	Petition #21	Brad Wild	2
(f)	Petition #23	Martha J. Greenberg	3
(g)	Petition #26	Martha J. Greenberg	4
(h)	Petition #29	Martha J. Greenberg	3
(i)	Petition #32	Martha J. Greenberg	5
(j)	Petition #34	Martha J. Greenberg	4
(k)	Petition #36	Martha J. Greenberg	3
(l)	Petition #38	Martha J. Greenberg	2
(m)	Petition #46	Martha J. Greenberg	5
(n)	Petition #57	Martha J. Greenberg	2
(o)	Petition #65	Martha J. Greenberg	2

It is further noted that Martha J. Greenberg and Brad Wild, which both list the owned property as 27 Scarborough Circle, Rock Hill, NY that the property is listed on the Town of Thompson Assessment Rolls as being owned by the Bradley & Martha Wild Living Trust, listed Trustees are Bradley Wild and Martha Wild. For purposes of this certification, it is acknowledged that Martha J. Greenberg is the same person as Martha Wild. It is also acknowledged that both Brad Wild and Martha J. Greenberg witnessed the aforementioned Petitions in an individual capacity and make no reference to the Bradley & Martha Wild Living Trust nor to their capacity as Trustees of the Trust. Currently there are objections to these Petitions by Robert Berman. For our purposes, the Town is counting the valid signatures of all 15 of these Petitions subject to further determination of the Supreme Court. If no further action is taken by the Objector, all 49 of the valid signatures will be included in the final count.

17. After the initial review there are currently exactly 96 potentially valid signatures contained on the submitted Petitions. Of those 49 are objected to based on the question of whether an individual can sign and witness Petitions when their property is owned by a Trust. There are three (3) signatures on Petitions by individuals whose property is owned by a Trust. Two (2) of those signatures are by individuals referencing the same property ownership. None of these individuals are listed on the current Town Assessment Rolls as owning property individually and are referenced only as Trustees. These three (3) signatures are also objected to as improper signatures since they do not reference their ownership on behalf of the Trust. There are 199 invalid signatures of which 106 were from people who did not own taxable real property within the Sewer District and 91 on Petitions witnessed/acknowledged by persons who did not own taxable real property within the Sewer District as well 2 lines that did not have a signature.

18. The Town will include, at most, 51 of the 52 objected to signatures from the Trustees Petitions unless there is further direction from a Court of competent jurisdiction. It is acknowledged that Trusts may be relegated to be counted in the same manner that corporations and partnerships are counted and in that case, only one of the Trustees from the Bradley & Martha Wild Living Trust could sign a Petition and/or carry a Petition. Should the Town count the signatures of the Trustees, only one shall count since a property owned by a Trust is akin to property owned by a corporation or partnership and is allowed one vote per Town Law §209-e(3).

19. Accordingly, it is the finding of the Town Clerk that the Petition filed for a Permissive Referendum has 47 sufficient signatures of taxable real property owners, witnessed/acknowledged by taxable real property owners, as well as 49 signatures from taxable real property owners, witnessed and acknowledged by persons in their individual capacity although the property is owned by a Trust and they are the named trustees, along with 3 signatures from individuals whose property is owned by a Trust and the individuals are Trustees of the same which, at best, shall count as 2 signatures.

20. The Town Clerk shall give all interested persons five (5) business days from the filing of this Certification to bring appropriate action in the Supreme Court to challenge this determination. If no challenge is brought, then the Town will accept 51 of the 52 objected to signatures which will

equal 98 of the 100 signatures needed to move forward with the Referendum, which is two (2) signatures short of the required amount to move the Referendum forward. Accordingly, the Permissive Referendum will fail as the Petitioners were, at best, two (2) signatures short of having the requisite amount of sufficient signatures to force a referendum. If a challenge is brought, the matter shall be stayed until a final determination is made on any objection brought before the Court.

Marilee J. Calhoun
MARILEE J. CALHOUN

Sworn to before me this 14th
day of February, 2023.


NOTARY PUBLIC

MICHAEL B. MEDNICK
Notary Public-State of New York
Sullivan County Clerk's #2385
Qualified in Sullivan County
Commission Expires Dec. 18, 2025