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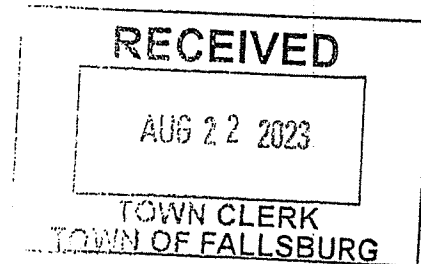
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August 22, 2023

VIA HAND DELIVERY & ELECTRONIC MAIL

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Supervisor Katherine Rappaport
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Re: Village Incorporation – Response to Public Objections

Dear Supervisor Rieber and Supervisor Rappaport:

As you know, this firm has been retained by the group of property owners related to the Village of Ateres Incorporation Petition (the “Petition”). We respectfully submit this letter to address the written objections submitted by members of the public in opposition to the Petition. After thoroughly reviewing the written objections in conjunction with the New York State Village Law (the “Village Law”), we have concluded, as set forth below, that there is no basis to deny the legal sufficiency of the Petition.

Pursuant to New York State Law, the legal sufficiency of the Petition can only be challenged on the grounds set forth in Village Law § 2-206. Many of the written objections submitted do not fall under, nor claim to fall under, any of the permitted objections. The written objections that do claim to fall under one or more of the permitted objections are baseless as set forth below.

I. Village Law § 2-206 (a): That A Person Signing Such Petition Was Not Qualified Therefor.

Several residents raised objections stating that the persons signing the Petition were not qualified to sign the Petition. Specifically, several residents raised objections that many of the

signatories were not on the “voter rolls,” that the signatories were not registered to vote, or that their addresses listed on the Petition were different from those listed on the “voter list,” and were thus not eligible to sign. These objections are meritless.

There is no requirement in the Village Law that states that signatories to the Petition must be listed on “voter rolls” or on the “Board of Election list,” or that a signatory’s address on the voter roll must match the address on the Petition. Nor is there a requirement that the signatories to the Petition be registered to vote. Rather, the requirement is that a petition must be signed by “twenty per cent of the residents of such territory *qualified to vote.*”¹ Pursuant to New York State Law and the New York State Board of Elections, to be qualified to vote a person must be: a U.S. citizen; 18 years or older; a resident of the state/county/city/town/village; not be in prison for a felony conviction; not be adjudged mentally incompetent; and not claim the right to vote elsewhere. As all of the signatories to the Petition met the requirements to be a qualified voter, these objections must fail.

II. Village Law § 2-206 (b): If it is alleged that the petition is submitted on the basis that the persons signing such petition constitute twenty per cent of the residents in such territory qualified to vote for officers of a town in which all or part of such territory is located, that such allegation is false.

Several residents raised objections stating that the Petition was not signed by twenty per cent of the residents in such territory qualified to vote. The basis for these objections, apart from those addressed in Section I herein, focused on the legibility of several of the signatures on the Petition. One resident raised an objection that thirteen (13) signatures were “illegible and questionable.” Even if all thirteen (13) signatures were illegible, which they are not, the Petition would still meet the 20% requirement. Another resident raised an objection regarding one page of the Petition signature pages which, in the authenticating affidavit, did not include the number of signatures to that particular page. Even if these five (5) signatures are to be invalidated, and the thirteen (13) alleged illegible signatures are also invalidated, the Petition would still meet the 20% requirement. As such, there is no basis to deny the legal sufficiency of the Petition under Village Law § 2-206 (b).

III. Village Law § 2-206 (f): That such territory does not contain a population of at least five hundred regular inhabitants

The fact that the proposed territory contains at least five hundred (500) regular inhabitants, as set forth in **Exhibit C** to the Petition, is beyond dispute. One resident raised an objection that because the Petition did not contain “an allegation that none of the voting age persons listed in the Appendix maintain a residence, outside of the territory, which is used as an address for the purpose of voting,” that the Petition is somehow deficient. This objection has no basis in law. The same resident also states that the resident list includes “267” names that have the same address at 168 Yeshiva Road. As set forth in **Exhibit C** to the Petition, none of the residents listed have this address. Thus, any objections to the population requirement must be dismissed.

¹ *Village Law § 2-202.* (Emphasis added).

IV. *That the petition in any other specified respect does not conform to the requirements of this article.*

Many residents objected to the Petition on the basis that the signatures were somehow invalid, but no explanation as to how or why such signatures are legally invalid has been provided. People sign their name in a variety of ways, and those objecting to the form of a signatory's signature merely make conclusory statements that such signatures are "invalid" or "incorrect" without providing any explanation or reason. One resident raised an objection that nine (9) signatures should be invalidated because the signatures did not match the exact signature from the Sullivan County Board of Election Poll Book. However, there is no requirement under the Village Law that the signatures on the Petition must match those in the Election Poll Book. Thus, these objections must be dismissed.

Several residents raised objections that the Petition should be invalidated because it does not have page numbers. This objection is based on the *State Board of Elections Rules For Filing Designating And Nominating Petitions Section 6215.1*. However, the residents make no effort to explain how or why the regulations of the *State Board of Elections Rules For Filing Designating And Nominating Petitions*, which apply only to petitions for election to an elected office, would apply to, or somehow supersede, the requirements set forth in the Village Law. The Village Law does not require that petitions comply with *Section 6215.1*. Thus, this objection is meritless and must be dismissed.

Residents also raised objections regarding environmental concerns related to the New York State Environmental Quality Review Act ("SEQRA"). New York State courts have made it clear that environmental concerns, including those related to SEQRA, are not grounds for objections under the Village Law.² Thus, such objections have no basis in law and must be dismissed.

In addition, residents raised objections concerning the notice requirements under the Village Law. It is beyond dispute that the notice requirements, which are the responsibility of the Town Supervisors, have been complied with, and proof of such compliance is readily available. Thus, these objections are meritless and must be dismissed.

Lastly, residents raised objections concerning the map of the proposed territory. Pursuant to Village Law § 2-202, a petition is required to contain a "description of such territory sufficient to identify the location and extent of such territory with common certainty." The description of the proposed territory can be made in one of three ways or a combination of the three. One such way is by a metes and bounds description and another way is by a map. Standing alone, the metes and bounds description provided in the Petition is sufficient and thus complies with the Village Law.³ In addition, residents raised objections that the Tax Map parcel list included in the Petition contained errors. Again, the metes and bounds description, pursuant to the Village Law, is what determines the location of the proposed territory, not the list of Tax Map parcels. And the petition

² See *Defreestville Area Neighborhood Ass'n, Inc. v. Tazbir*, 23 A.D.3d 70, 78, (2005) ("As a final matter, we conclude that the State Environmental Quality Review Act is not applicable to a village incorporation process.")

³ See *Rose v. Barraud*, 61 Misc. 2d 377 (Sup. Ct. 1969), *aff'd* 36 A.D.2d 1025 (1971) ("The petition in this case contained a sufficient description by metes and bounds; hence it was immaterial that the annexed map" contained an error in its legend.)

particularly states that “in the event of any inconsistency between the Metes and Bounds Description and the Village Map, the Metes and Bounds Description shall govern” (Petition, ¶ 10).

The objections raised by the residents of Thompson and Fallsburg have no legal merit and must be dismissed. As such, there is no basis to deny the legal sufficiency of the Petition. If you would like any clarification, or if you have any questions, please feel free to contact me at 518-487-7600 or via email at rrosborough@woh.com.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert S. Rosborough, IV". The signature is written in a cursive style with a large, stylized initial "R".

Robert S. Rosborough, IV

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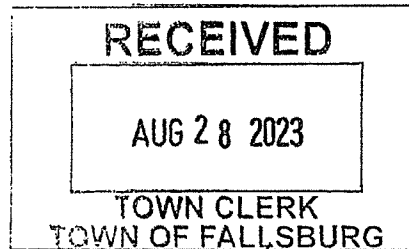
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August 28, 2023

VIA ELECTRONIC MAIL

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Re: **Village Incorporation – 2nd Response to Public Objections**

Dear Supervisor Rieber and Supervisor Rappaport:

As you know, this firm has been retained by the group of property owners related to the Village of Ateres Incorporation Petition (the "Petition"). This letter shall serve as a supplement to the letter delivered to you, dated August 22, 2023, (the "First Response to Objections") to address the written objections submitted by members of the public on August 22 and 23, 2023. After thoroughly reviewing the most recent written objections in conjunction with the New York State Village Law (the "Village Law"), we have concluded, as set forth below, that there is no basis to deny the legal sufficiency of the Petition.

While our First Response to Objections addresses the majority of the objections recently submitted, this letter shall address the objections to the signatures of the Petition as set forth in that certain letter and accompanying exhibits submitted by Paul Hoeffel on August 22, 2023. In his letter, Mr. Hoeffel objects to twenty-three (23) signatures, of which seventeen (17) were not specifically addressed in our First Response to Objections. It should be noted that even if all twenty-three (23) signatures are found to be invalid, which they are not, the Petition would still have the required number of signatures. Each of Mr. Hoeffel's relevant objections are listed in bold below starting with his third objection, and our response follows.

Objection 3: On page 4 of Section 2, the signature section of Exhibit C, signatory 2, page 6 signatory 3 and page 10 of Section 2 signatories 3, 4, 5 show the same handwriting. Thus it can be concluded that one person signed them all.

No explanation is given as to how Mr. Hoeffel determined, or how he is qualified to determine, that the signatures listed “show the same handwriting.” Nevertheless, a plain reading of the signatures shows that the handwriting of each signature varies. A comparison of the common letters in each signature clearly shows that such letters are written in a variety of ways. Thus, this objection has no merit.

Objection 4: page 4 of Section 2, the signature section of Exhibit C, signatory 4: the name printed does not match the signature name. (Meze - Mesli).

Mr. Hoeffel has misread both the signature and the printed name of Shmuel Mezei, and he has failed to read the letter “i” at the end of the printed name in question. How a person writes the letter “e” or the letter “i,” within reason, is not a legal basis for an objection.

Objection 5: page 8 of Section 2, the signature section of Exhibit C, signatory 5: the last name and the signature are illegible. Based on the way it is written it cannot be verified if such person lives at the address provided.

Yissocher D. Lowin does indeed live at the address provided. How a person writes the letter “i” or the letter “n,” within reason, is not a legal basis for an objection. As stated in our First Response to Objections, people sign their names in a variety of ways, and there is no legal basis to object to the petition based on Yissocher Lowin’s signature.

Objection 7: Also on page 10 of Section 2, the signature section of Exhibit C, signatory 4: last name does not match the last name in the signature. Which further presents the question of who really signed.

Yisroel Rottenberg is the signatory in question for this objection. The last name in the signature and the printed name match. It is not readily apparent how Mr. Hoeffel came to his conclusion in this objection, nor does he attempt to explain what specific aspects do not match. This objection has no merit.

Objection 8: On page 12 of Section 2, the signature section of Exhibit C, signatory 1 provided non-existent address: 18 Falldman.

Lieb Katz is the signatory in question for this objection, and Lieb’s address is 18 Feldman Circle. The misspelling of Lieb’s address, when the true spelling of Lieb’s address is readily apparent, does not support invalidating Lieb’s signature.

Objection 9: page 12 of Section 2, the signature section of Exhibit C, signatory 4, Zev Fisch, living at 16 Silver Terrace is actually listed in the provided list of regular inhabitants as a minor on page 18 of said list. (Section 1).

Zev Fisch is over the age of 18. The column marked "Minor" in the resident spreadsheet was mistakenly marked to indicate that Zev is a minor. This was an oversight. Given that the column marked "Minor" was included for convenience, and is not required by the Village Law, this objection has no merit. If need be, proof of Zev's age can be provided.

Objection 10: On page 12 of Section 2, the signature section of Exhibit C, is also flawed because none of the signatories provided a proper signature date: the year is missing on all five signatures.

There is no requirement under the Village Law that states that a signature must be followed by a date consisting of the day, month, and year. This objection has no merit.

Objection 11: On page 13 of Section 2, the signature section of Exhibit C, signatory 4: illegible name and cannot be compared to the signature.

Yaakov Steinmetz is the signatory in question for this objection. Aside from the fact that one is able to read Yaakov's printed name, how a person chooses to sign their name is not a legal basis for an objection.

Objection 12: On page 15 of Section 2 of the signature section of Exhibit C, signatory 2 Weisberger J does not provide a first name and at the provided address, 11 Gafen Ln, according to the list of regular inhabitants (pg. 12 Section 1) the only person listed with last name Weisberger and first name starting with "J" is a minor (Weisberger, Josef).

Juda Weisberger is the signatory in question, and the "J" stands for "Juda." On the resident list, Juda's name is listed as "Yehuda" which is the Hebrew name and spelling for the name "Juda." Juda Weisberger is over the age of 18. Thus, this objection has no merit.

Objection 13: Also on page 15 of Section 2, the signature section of Exhibit C, signatory 3 Katz living at 190 Barnes Blvd does not provide a first name and furthermore there is no one with that name at the address provided (page 3 of Section 1 list with regular inhabitants).

Laizer Katz is the signatory in question for this objection, and Laizer does live at 190 Barnes Blvd. Laizer printed his name as "L Katz" and provided his correct address. Setting aside the fact that the Village Law does not require the signature page to contain the printed name of the signatory, when read in conjunction with the resident list, it is clear that Laizer Katz is the signatory in question.

Objection 14: On page 16 of Section 2, the signature section of Exhibit C, signatory 3: Illegible.

The signatory in question for this objection is Lazer Grunbaum. Setting aside the fact that the Village Law does not require the signature page to contain the printed name of the signatory, when read in conjunction with the resident list, it is clear that Lazer Grunbaum is the signatory in question. Again, how a person signs their name, and the interpretation one resident has as to the legibility of such a signature, is not grounds for invalidation. Thus, this objection has no merit.

Objection 15: On page 17 of Section 2, the signature section of Exhibit C, signatory 1 Nuchem Hass does not live at the provided address 4 Feldman Cir. (page 5 of Section 1 list with regular inhabitants).

Nuchem Hass currently lives at 4 Feldman Circle. Nuchem previously lived at 4 Silver Terrace, as shown on the resident list. Nuchem moved and currently lives at 4 Feldman Circle. Thus, this objection has no merit.

Objection 16: page 17 of Section 2, the signature section of Exhibit C, signatory 2: name is illegible as well as 138 Barnes Blvd does not exist as valid address.

A plain reading of the signature and printed name shows that Yoel Einhorn is the signatory in question for this objection. Mr. Hoeffel has misread the house number as "138" instead of "178." 178 Barnes Blvd is a valid address.

Objection 18: On page 21 of Section 2, the signature section of Exhibit C, signatory 1: no first name provided/unclear first name.

The signatory in question for this objection is Mrs. Gittel Lebovits. Setting aside the fact that the Village Law does not require the signature page to contain the printed name of the signatory, when read in conjunction with the resident list, it is clear that Mrs. Gittel Lebovits is the signatory in question. The fact that she signs her name as "Mrs. G. Lebovits" is not grounds for invalidation of her signature.

The objections raised by the residents of Thompson and Fallsburg have no legal merit and must be dismissed. As such, there is no basis to deny the legal sufficiency of the Petition. If you would like any clarification, or if you have any questions, please feel free to contact me at 518-487-7600 or via email at rrosborough@woh.com.

Respectfully,



Robert S. Rosborough, IV