

Resolution offered by Mayor Tenke and seconded by: _____

WHEREAS, an Article 78 proceeding has been commenced by Roni Epstein against the Planning Board of the City of Glen Cove, City Council of the City of Glen Cove, 135 Glen Cove Ave. Corp., Livingston Development Corp., Gaspare Tumminello, and Gregory Kalnitsky (Nassau County Sup. Ct. Index No. 615029/2020) seeking to (1) vacate, annul and set aside the planning board’s resolution dated November 20, 2020 approving the amended site plan application of Livingston Development Corp and 135 Glen Cove Ave Corp to permit a 176-unit residential apartment complex including the supplemental findings statement pursuant to SEQRA adopted in connection therewith with respect to the property located at 135 Glen Cove Avenue in the City and to (2) reverse a denial of Marsha Silverman and Roni Epstein’s FOIL appeal dated December 23, 2020 and ordering the city clerk to produce such records and awarding reasonable attorney fees and costs associated with such denial (the “Proceeding”); and

WHEREAS, by letter retainer agreement dated December 16, 2020, the City of Glen Cove City Council retained Chase, Rathkopf & Chase, LLP (“CRC”) to serve as special counsel to the City of Glen Cove and its boards, agencies, officers and departments (collectively the “City”) with respect to land use matters in the City for the one-year period commencing January 1, 2021 and ending on December 31, 2021 (the “CRC Retainer Agreement”); and

WHEREAS, pursuant to the CRC Retainer Agreement, CRC was also retained to represent “the City, the Boards and their members in any civil litigation including, but not limited to, Article 78 proceedings brought to review any actions of the City Council or the Boards.....”; and

WHEREAS, Leventhal, Mullaney & Blinkoff, LLP (“LMB”) has submitted a proposed letter of engagement to represent the City Respondents in the Proceeding; and

WHEREAS, the City hereby finds and determines that it is in the best interests of the Planning Board of the City of Glen Cove, City Council of the City of Glen Cove, Gaspare Tumminello, and Gregory Kalnitsky (the “City Respondents”) if CRC and LMB were authorized to represent all such named parties (in their official capacities) in regard to the Proceeding in that the interests of all such City Respondents in the Proceeding are consistent with each other, and none of those City named parties are adverse to any other such City party; and

WHEREAS, the City further finds and determines that it is in the best interests of the City Respondents if CRC and LMB were able to share with each of those named City persons all relevant information with respect to the legal services provided by CRC and LMB with respect to the Proceeding.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the Mayor to retain CRC and LMB to provide such legal services as may be necessary and required for the defense of the Proceeding on behalf of the City Respondents on the terms and conditions specially set forth in the Retainer Agreement and Letter of Engagement, to wit: the firms shall be paid for legal services based on the time spent and at the hourly rate of \$300 for an attorney and reimbursed for its out of pocket costs and expenses in the performance of the legal services with respect to the Proceeding; and

BE IT FURTHER RESOLVED that CRC and LMB are hereby further authorized to disclose to and share with the City Respondents any confidential client information resulting from their past, present or future special services to the City in relation to the Proceeding.

Resolution 6-A



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January 28, 2020

Hon. Tim Tenke, Mayor
City of Gen Cove
9 Glen Street
Glen Cove, NY 11542

Re: Engagement Letter
Epstein v. City of Glen Cove Planning Board, et al.
Nassau County Supreme Court Index No. 0615029/2020

Dear Mayor Tenke:

This is written to confirm the terms and conditions upon which we would be pleased to provide legal services to the City of Glen Cove in the matter referenced above.

I will serve as co-counsel for the City of Glen Cove Planning Board, the City Council of Glen Cove and related respondents in this matter. In that capacity, I will provide such services as may be requested or approved by Corporation Counsel or by lead counsel. I will be assisted by one or both of my law partners, if necessary. We will bill monthly for our services at the rate of \$300.00/hour.

If we incur costs or disbursements, they will be itemized on our monthly statements and payable together with our fees for legal services. Either you or we may terminate this engagement at any time, in which case we will be entitled to payment of the fees that we earned, and reimbursement of the costs and expenses that we incurred prior to termination.

Please be advised that Rule 137 of the Rules of the Chief Administrator of the Courts provides a procedure for the arbitration (and in some cases mediation) of fee disputes between attorneys and clients in civil matters. We are prohibited from bringing an action in court to collect our legal fees unless we first provide you with written notice of your right to resolve the dispute by arbitration, and provide you with a form that you may use to request arbitration. If we have a dispute about our fees, and you elect to resolve the dispute by arbitration, you must file a request for arbitration within 30 days of receiving our written notice. In that case, we will be required to participate in the arbitration. The arbitration will be final and binding on both you and us, unless you or we reject the arbitrator's decision and commence a court action within 30 days. A dispute involving less than \$1,000.00 or more than \$50,000.00 will not subject to

arbitration, unless you and we both consent. More information about fee arbitration is available at: <http://www.nycourts.gov/admin/feedispute> or by calling (877) FEES 137.

We recognize our obligation to the ultimate client – the City of Glen Cove taxpayers – to control the cost of legal services. We intend to discharge our duties responsibly. Thank you for this opportunity to represent the City of Glen Cove.

Very truly yours,

Steven G. Leventhal

Steven G. Leventhal

Agreed to and accepted:

Hon. Tim Tenke, Mayor