SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ESSEX

In the Matter of

SUZANNE CARRILLO KERN, HOWARD KERN, JEFFREY HAIDINGER, JOHN BRENNAN, JEAN BRENNAN, MARY ANN RANDALL, and CHRISTOPHER COHAN,

Index No.: CV21-0370

Petitioners-Plaintiffs,

For a Judgment Pursuant to Article 78
Of the Civil Practice Law and Rules
and for Declaratory Relief

-against-

ADIRONDACK PARK AGENCY, PAUL LEINWAND and MARIA CICARELLI,

Respondents-Defendants.

PETITIONERS-PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF VERIFIED PETITION AND COMPLAINT AND MOTION FOR A PRELIMINARY INJUNCTION

BRAYMER LAW, PLLC
Attorney for Petitioners-Plaintiffs
Claudia K. Braymer, Esq.
Benjamin M. Botelho, Esq.
PO Box 2369
Glens Falls, New York 12801
(518) 502-1213
claudia@braymerlaw.com

TABLE OF CONTENTS

ARGUMENT

Contrary to the respondents' answering papers, APA's actions were arbitrary and capricious. By issuing APA Permit # 1987-0074E ("Permit Amendment"), APA ignored its own rules and regulations that were put in place to protect the Adirondack Park's unique and delicate ecosystem. See generally Protect the Adirondacks! Inc. v. New York State Dep't of Env't Conservation, 37 N.Y.3d 73, 79 (2021). Although Petitioners[1] will be most directly harmed by and have standing to challenge the actions of Respondent APA, APA's actions alarmed over 100 families and organizations, including the Upper Saranac Foundation and the Adirondack Council, all of which informed APA of their concerns and were ignored. See Affidavit of Petitioner-Plaintiff Howard Kern ("Kern Affidavit"), ¶ 20, submitted simultaneously herewith.

In addition, Petitioners who are members of the Deerwood HOA seek a declaration that existing walking trails on Paul Leinwand's and Maria Cicarelli's ("Defendants" or "Applicants") property are open to use by those Petitioners, and that Applicants are prohibited from preventing use of the walking trails by HOA members or threatening claims of trespass against HOA members. See Petitioners' Amended Verified Petition and Complaint Fifth Cause of Action; Kern Affidavit ¶¶ 37-43; NYSCEF Doc. No. 87, pp. 362-363 (HOA document noting that "tennis courts roads and trails would be used by the owners" of the lots in the Deerwood subdivision).

Petitioners also request dismissal of the Defendants' Counterclaims pursuant to New York Civil Rights Law § 76-a. See Petitioners' Reply filed simultaneously herewith.

[1] To the extent that Defendants-Respondents claim that Petitioners John Brennan, Jean Brennan, and Mary Ann Randall have no interest in this proceeding, the affidavit of John Brennan ("Brennan Affidavit"), being submitted simultaneously herewith, establishes the interest of those Petitioners in this proceeding due to their ownership, use, and enjoyment of their neighboring property.

POINT I

APA'S PERMIT AMENDMENT GRANTING APPROVAL OF THE PROPOSED ONSITE WASTEWATER TREATMENT SYSTEM WAS ARBITRARY AND CAPRICIOUS AND UNLAWFUL

The Permit Amendment allowing the onsite wastewater treatment system must be annulled because it violates APA's own regulations. Additionally, the reversal of APA's prior prohibition against an onsite wastewater treatment system, as set forth in the Original Permit (Permit #87-74) is an arbitrary and capricious change in position that does not have a rational basis and for which no explanation was provided. APA broke from established precedent and regulatory interpretation when it issued the Permit Amendment, failing to abide by its own regulations and attempting to justify departure from those rules by citing to "guidance" that it has a track record of not following in the Adirondack Park and in this same subdivision. See Affidavit of Professional Engineer Thomas LaBombard ("LaBombard Affidavit"), ¶¶ 5-7, submitted simultaneously herewith; see also Kern Affidavit ¶¶ 21-22. Without the Court's intervention, APA's failure to enforce the Original Permit and its own regulations, and APA's willingness to provide accommodations to the Lot 9 developer without a complete evaluation of the long-term effects of these accommodations, will have lasting negative impacts to not only the residents of the Deerwood Subdivision, but the entire Adirondack Park due to the precedent that this case will set.

As conceded by APA in its Memorandum of Law (NYSCEF Doc. No 49), wastewater treatment systems designed to treat less than 1,000 gallons of effluent per day "shall be designed, installed and maintained in accordance with [New York State Department of Health ("DOH")] standards set forth in 10 NYCRR Appendix 75-A **and** with the additional [APA] regulations set forth in 9 NYCRR Appendix Q-4." NYSCEF Doc. No. 49, p. 3. DOH Regulations at 10 NYCRR Appendix 75-A contain general requirements for onsite wastewater treatment systems,

where APA Regulations at 9 NYCRR Appendix Q-4 ("Appendix Q-4") contain additional requirements for any onsite wastewater treatment systems to be installed within the Adirondack Park. Pursuant to APA Regulation Appendix Q-4, no onsite wastewater treatment systems are permitted within 200 feet of a lake, pond, river, or stream if the soil percolation rate is 0-3 minutes per inch. See 9 NYCRR Appendix Q-4(2). Here, it is undisputed that the percolation rate of the site of the proposed wastewater facility is less than three minutes per inch. See Affidavit of APA Staff Engineer Alicia Purzycki ("Purzycki Affidavit") (NYSCEF Doc. No. 45, ¶ 27). It is also undisputed that a stream is located less than 200 feet from the proposed wastewater facility. Purzycki Affidavit ¶ 34 (admitting that a stream is located less than 200 feet from the proposed location of the onsite wastewater treatment system).

Further, Appendix Q-4(1) requires onsite wastewater treatment systems to have "a minimum depth of four feet of usable soil above bedrock, impervious material, or maximum high seasonal groundwater." See 9 NYCRR Appendix Q-4(1). The site plans attached to the Permit Amendment indicates that a Deep Hole Test was completed by the Applicants' engineer on September 18, 2020. NYSCEF Doc. No. 3, pp. 6, 10. The results of the Deep Hole Test show a depth to "SHGW" (Seasonal High Groundwater) of 32". NYSCEF Doc. No. 3, pp. 6, 10. This means that the proposed onsite septic system will have a buffer of less than 3 feet between it and the SHGW level, in further violation of APA regulations. Thus, the proposed wastewater treatment system violates APA's own regulations at Appendix Q-4, both due to proximity to streams and an insufficient buffer between the system and seasonal high groundwater. It is well settled that agency regulations are "fixed, general principle[s] to be applied by an administrative agency without regard to other facts and circumstances relevant to the regulatory scheme of the statute it administers." New York State Association of Independent Schools v. Elia, 65 Misc. 3d 824 (Sup. Ct., Albany Co. 2019). In other words, Appendix Q-4 is a mandatory requirement that

is binding on the Agency. See Rovinsky v. Zucker, 167 A.D.3d 122 (3rd Dept. 2018). ("Generally, a duly promulgated regulation is binding on the agency and anyone else who may be affected…") APA's approval of the proposed wastewater treatment system violates the requirements set forth at Appendix Q-4.

APA attempts to justify ignoring the Appendix Q-4 mandate by claiming that certain agency "guidelines" allow it to do so, claiming that "while systems must typically adhere to the standards set forth in Appendices 75-A and Q-4, the Agency reserves the right to vary or depart from those standards as appropriate in individual permits."[2] APA Memorandum of Law – NYSCEF Doc. No. 49, p. 3. APA's assertion is unfounded, and indeed no authority is cited for the alleged "reserved right" to depart from mandatory regulatory standards relating to wastewater treatment systems within the Adirondack Park.

APA also submits the affidavit of staff engineer Alicia Purzycki ("Purzycki Affidavit" – NYSCEF Doc. No. 45) to support its claim that agency "guidance" allows for the departure of the regulatory requirements in Appendix Q-4. The "guidance" proffered in the Purzycki Affidavit is less strict than the requirements in Appendix Q-4 and cannot substitute or replace the requirements in Appendix Q-4, insofar as the latter is an actual regulation, and the former "guidance" is not binding and is in clear conflict with the language in the regulation. Appendix Q-4 does not differentiate between different types of absorption systems, nor does it allow "soil amendment" to get around the setback or groundwater buffer requirements. "[A]n agency's guidelines do not carry the same authoritative force as regulations. Indeed, if guidelines conflict with a regulation, the regulation prevails." Rovinsky v. Zucker, Id. at 126. See also New York

[2] Counsel for Applicants also claims that Appendix Q-4 gives APA authority to waive or depart from the standards in Appendix Q-4 (NYSCEF Doc. No. 83, p. 5). This assertion is incorrect. Appendix Q-4(3) only gives APA the authority to approve modifications to the standards established in DOH regulations at Appendix 75-A, *not* APA regulations at Appendix Q-4. Appendix Q-4 is absolute and does not provide APA the authority to waive or modify its requirements.

Coalition for Quality Assisted Living, Inc. v. MFY Legal Services, Inc., 17 N.Y.3d 886 (2011). Further, "[a]n agency, by law, is not allowed to 'legislate' by adding guidance requirements not expressly authorized by statute." Destiny USA Development v. NYSDEC, 63 A.D.3d 1568 (4th Dept. 2009).

Here, APA regulations establish setback and groundwater buffer requirements for onsite wastewater treatment systems in the Adirondack Park, and APA has attempted to improperly legislate by creating weaker standards through interpretation of its "guidance" documents. The requirements of Appendix Q-4 are absolute; there are no mechanisms that allow for "soil amendment" to eliminate the setback and groundwater buffer requirements. To the extent APA asks the Court to defer to its "guidance" documents as agency interpretation of its regulations, it is well established that "[a]lthough an agency's interpretation of its own regulation is entitled to deference, courts are not required to embrace a regulatory construction that conflicts with the plain meaning of the promulgated language" Mid Island Therapy Associates, LLC v. New York State Education Dept., 129 A.D.3d 1173 (3rd Dept. 2015) (internal citations and quotations omitted). Here, APA's "interpretation" of its own regulations is in clear conflict with the plain language of those regulations. Thus, APA's reliance on improper "guidance" is arbitrary and capricious, and its approval of the onsite wastewater treatment system should be annulled.

POINT II

APA'S FAILURE TO CONSIDER WETLANDS AND OTHER IMPACTS WHEN IT ISSUED THE COMPLIANCE LETTER AND PERMIT AMENDMENT WAS ARBITRARY AND CAPRICIOUS

APA claims that the record is clear that the proposed wastewater treatment system is "both compliant with all applicable design standards", is "far more effective than the system envisioned in the 1988 permit" and that it will "have no negative impact on water resources whatsoever." NYSCEF Doc. No. 49, p. 18. This conclusion is irrational and is belied by the fact that APA ignored numerous professional reports when it issued the Compliance Letter and Permit Amendment. APA has no justification for ignoring these reports, and has no contrary scientific evidence in the administrative record upon which the Court could rely to uphold APA's determination.

Initially, despite APA's contention to the contrary, the Compliance Letter and Permit Amendment did implicitly authorize tree cutting in the wetlands on the site. [3] The Compliance Letter (NYSCEF Doc. No. 33) and Permit Amendment approved a January 20, 2021 Site Plan prepared by Northwoods Engineering, PLLC. Although the Site Plan is not attached to the Compliance Letter, a copy of the plan is attached to and made part of the Permit Amendment. Sheet C-10 of the Site Plan clearly shows that the proposed "Limits of Minor Tree Clearing" are well within the "APA Wetland Boundary." See Permit Amendment (NYSCEF Doc. No. 34) p. 6. The impacts of the authorized tree clearing within the wetland boundaries were never

[3] APA also argues that the Compliance Letter was "nonfinal" and that it "merely advises the landowners of their obligations under the existing permit. APA Memorandum of Law – NYSCEF Doc. No. 49, fn 5. This argument fails to acknowledge that the Original Subdivision Permit requires "agency approval of site specific plans" for Lots 6-10 prior to construction or other land disturbance. See Original Subdivision Permit, Condition 5 (NYSCEF Doc. No. 35.) The Compliance Letter approved the Site Plans submitted by the Applicants in response to Condition 5 and is therefore a final approval as required by the Original Subdivision Permit. Otherwise, APA is admitting that the terms of the Original Permit, requiring approval of construction plans, have not been met and there is no approval for the Applicants to proceed with their proposed project on Lot 9.

analyzed by APA. Apparently, it is APA's position that it has not authorized tree clearing within the wetland boundaries as shown on the site plan that it approved via the Compliance Letter and Permit Amendment. APA Memorandum of Law (NYSCEF Doc. No. 49), fn. 6. Because of this inconsistency between what was approved and what APA says it approved, Petitioners request a declaration from the Court that the Applicants are prohibited from cutting trees within the wetlands, or otherwise disturbing the wetlands, on the Project site.

Additionally, APA claims that "because APA and DOH standards are conservatively crafted to prevent contamination of wetlands, waterbodies, or wells and because APA staff field-confirmed that the proposed system would comply with all applicable setbacks before amending the permit, the Agency could rationally conclude that the system would not adversely impact nearby water resources." NYSCEF Doc. No. 49, p. 19. This assertion is meritless and is disproven by APA's admission that it abandoned its own onsite wastewater system standards in Appendix Q-4 and approved a system that failed to comply with applicable setback requirements without the authority to do so. Similarly, APA's reliance on "amendment of soils" as a rationale for approving the wastewater system is misguided and lacks statutory or regulatory authority. See LaBombard Aff. ¶¶ 3-7. Moreover, there could hardly be "field-confirmation" of setbacks from wetlands and streams if those wetlands and streams were never delineated and shown on the current site plan maps. See Petitioners' Memorandum of Law (NYSCEF Doc. No. 40, p. 18.); see also Letter from Joe Garso to Paul Leinwand, R142 (NYSCEF Doc. No 86, p. 142) (Applicants' own engineer admitting he is not a wetlands biologist yet claiming to approve historic wetland mapping).

APA also argues that its approval of the wastewater treatment system should be approved because there is "conflicting evidence" regarding impacts to wetlands from the system. NYSCEF Doc. No. 49, p. 20. Again, APA's argument is erroneous because there is no

conflicting evidence regarding impacts to wetlands and other water resources. As more fully explained in the Petitioners' Memorandum of Law (NYSCEF Doc. No. 40, pp. 16-19), Petitioners and other concerned members of the public submitted various professional reports prior to the APA's issuance of the Permit Amendment, including a report by a professional biologist proving that the wetlands on the site should be given a "Value 1" rating. APA failed to address these professional reports, and the Applicants failed to rebut them. Thus, APA's approval of the wastewater system, in light of the Agency ignoring professional reports proving that there would be adverse impacts associated with the system, was arbitrary and capricious. See Matter of Pyramid Co. of Watertown v. Planning Board of Town of Watertown 24 A.D.3d 1312, 1314 (4th Dep't 2005) (finding the actions of the Planning Board arbitrary and capricious where concerns regarding threats to wetlands were raised by the public and "essentially ignored" by the Respondent.)

Also indicative of the arbitrary nature of APA's issuance of the Permit Amendment is its refusal to consider a purported "vegetational inventory of the wetlands" of the project site. Said inventory was required by the Original Permit, and its absence was noted in several comments submitted to APA. However, it was never part of the Record and was never reviewed prior to APA issuing the Compliance Letter and Amended Permit. See NYSCEF Doc. No. 47 ("Tallent Affirmation"), pp. 2-3. It should also be noted that said inventory was never released pursuant to multiple Freedom of Information Law ("FOIL") requests, further suggesting that APA was not even aware of its existence until this lawsuit was filed. See Howard Aff. ¶¶ 6-12. APA's willingness to amend a permit to allow construction of an onsite wastewater treatment system – in direct contravention of the terms of the Original Permit – without ensuring that the other requirements of the Original Permit were satisfied, or that it considered all information relevant to the Original Permit (including high ground water levels, soil conditions, proximity of wetlands

and streams, and the value rating of wetlands on the site), proves that its approval process was arbitrary and capricious.

POINT III

APA'S FLAWED PROCEDURAL PROCESS REQUIRES ANNULMENT OF THE LETTER OF COMPLIANCE AND PERMIT AMENDMENT

As more fully explained in Petitioners' Memorandum of Law (NYSCEF Doc. No. 40), under APA regulations, only "the holder of an agency permit" may submit a "written request for amendment" of the permit. 9 NYCRR § 572.19. Here, the holder of the original agency permit is the Deerwood Homeowners Association, which originally owned all the lots in the Deerwood Subdivision and was the sole permittee of the Original Permit. As conceded by APA, the 1988 Original Permit binds the original permittee's heirs, successors, agents, and assigns. See APA Memorandum of Law (NYSCEF Doc. No. 49, p. 13). As the owners of only one of the lots in the Deerwood Subdivision, Paul Leinwand and Maria Cicarelli represent only a fraction of the holder of the Original Permit. Thus, the Permit Amendment should not have been issued without the consent of the other lot owners. See generally Zelanis v. New York State Adirondack Park Agency, 27 Misc. 3d 1229(A) (Sup. Ct. Essex Co. 2010) (remitting the matter because, among other reasons, APA issued a permit requiring a new wastewater system for a subdivision without putting the "other property owners in the subdivision . . . on notice of the [APA's] proceedings related to approval of that system"). APA fails to offer any rationale for why the agency considered this permit amendment request without consent of all affected parties.

Additionally, APA failed to follow proper procedure when processing the permit amendment. Under APA Regulations, only the "deputy director-regulatory programs shall have the authority to determine whether a request to amend a permit involves a material change." 9

NYCRR § 572.19. APA submits two affidavits to support its claim that the deputy director of regulatory programs – Robert Lore – did make such a determination. However, these affidavits are devoid of contemporaneous documentary evidence surrounding the "determination." In conclusory fashion, Robert Lore writes in his affidavit (the "Lore Affidavit") that he "discussed the matter" with John Burth, an Agency Environmental Program Specialist. Lore Affidavit (NYSCEF Doc. No. 42, p. 2). APA Environmental Program Specialist John Burth mimics these assertions in his affidavit ("Burth Affidavit" – NYSCEF Doc. No. 43), referencing an alleged site visit on April 7, 2021 and discussions with John Burth thereafter which culminated in Mr. Lore's supposed "determination" the next day. However, there is no documentary evidence regarding the supposed April 7, 2021 site visit[4] referenced in the Burth Affidavit, nor was there any written determination made by Lore or any other indication that formal findings or analyses from the "site visit" were ever considered by Lore.

APA's reversal of its prior prohibition against an onsite wastewater treatment system on Lot 9, as set forth in the Original Subdivision Permit, is an arbitrary change in position which does not have a rational basis in the Record. Although the Court may consider affidavits outside the administrative record to explain an agency's decision-making process (see Office Bldg. Associates, LLC v. Empire Zone Designation Bd., 95 A.D.3d 1402 (3rd Dept. 2012), such

[4] Notably, the only evidence of the April 7, 2021 site visit is in the Burth Affidavit and Purzycki Affidavit. In these affidavits, APA staff Alicia Purzycki and John Burth claim that APA engineer David Boese, wetland biologist Mary O'Dell, and Environmental Program Specialist 1 Milt Adams met with Paul Leinwand and Joe Garso, and "confirmed that the proposed on-site wastewater treatment system would be located at least 100 feet from wetlands and at least 150 feet from the nearest waterbody, an unnamed stream." Purzycki Affidavit ¶ 34, Burth Affidavit ¶ 45. Neither Alicia Purzykci nor John Burth claim to have attended the site visit, thus they lack personal knowledge of what took place during the visit and their affidavits – to the extent they purport to describe the site visit – should be disregarded by the Court as hearsay. See Jabs v. Jabs, 221 A.D.2d 704 (3rd Dept. 1995) (affidavit made without personal knowledge of the facts stated therein is "probatively valueless and without evidentiary significance.") See also Zuckerman v. City of New York, 49 N.Y.2d 557 (1980) (Rejecting affidavit from affiant who was not present during hearing at issue and was "total stranger" to the hearing, just as Alicia Purzycki and John Burth are total strangers to the April 7, 2021 site visit). Missing from the Record are affidavits or any other records from engineer David Boese, wetland biologist Mary O'Dell, or program specialist Milt Adams regarding the April 7 site visit and alleged "determination" of the location of wetlands or streams on the site.

affidavits may not be used to "supply the rationale otherwise missing from the [Agency's] determination" Id. at 1405). Also, "[b]ased upon the principle which obligates an administrative agency to follow the precedent established by its prior decisions or provide a rational explanation for its failure to do so…the rational explanation must be given at the agency level and **not for the first time in a judicial proceeding to review the agency determination**." Yelle v. Woodworth's Painting Co., 289 A.D.2d 758 (3rd Dept. 2001) (internal quotations and citations omitted). Here, no rational explanation of APA's reversal of its prior position in the Original Permit – that no onsite wastewater treatment system would be permitted on Lot 9 – was ever given at the agency level, and the Lore Affidavit, Burth Affidavit, and Purzycki Affidavit cannot provide such an explanation at this juncture.

Further, treating the Applicants' requested change to the Original Subdivision Permit as not a material change was arbitrary and capricious and an error of law. See APA Act § 809(8); 9 NYCRR § 572.19. The Original Subdivision Permit states that the project involved a "**common sewage area for Lots 9 and 10 away from the wetland**" on the site. Original Subdivision Permit p. 8. The Applicants' proposal to change the previously approved septic system, to allow an onsite wastewater treatment system for Lot 9, in contravention of the project approved by APA that required an offsite system (and in violation of setback requirements for onsite systems), is a change in the scope of activities originally approved by the 1988 Original Subdivision Permit. APA claims that it "rationally treated the permit amendment application as seeking a non-material amendment because the changes sought would, if approved, *better* protect wetlands and other water resources on or near Lot 9." APA Memorandum of Law (NYSCEF Doc. No. 49), p. 10. APA also claims that "the [wastewater treatment] system proposed in the permit amendment application was…far superior to the system envisioned in the original permit." APA Memorandum of Law p. 11. This is tantamount to an admission that the proposed

wastewater treatment system represents a "material change" in technology since the issuance of the 1988 Original Permit, which requires APA to consider the permit amendment request as an "application for a new permit" under APA Act 809(8)(b). APA's contradictory argument – that the proposed wastewater treatment system represented a "non-material" change to the terms of the original permit, but also represented a material change in technology – is untenable.

Although APA claims that it held a "public comment period on the proposal" (See Lore Affidavit, pp. 6,7), such public comment period was a farce, insofar as APA's decision had apparently been made already. See communications between Respondent Paul Leinwand and APA from late 2020 and early 2021, predating the supposed "public comment period." (NYSCEF Doc. No. 5, pp. 2-12); see also Lore Affidavit, ¶ 4: Mr. Lore admitted that he already determined on April 8, 2021 that the project would have no impacts on the environment (notably, this "determination" was made only a day after the alleged April 7 site visit and is not supported by any documentary evidence whatsoever). It is clear that APA had no intention of actually considering any public comment on this project.

POINT IV

APA'S COMPLIANCE LETTER IS CONTRARY TO THE TERMS OF THE ORIGINAL SUBDIVISION PERMIT BECAUSE APPLICANTS' SECOND PRINCIPAL BUILDING IS PROHIBITED

One condition of the Original Permit was that "not more than one principal building may be constructed or otherwise maintained" on the lots that were created by that subdivision approval because "of the extensive environmentally sensitive wetlands on the project site". Original Permit pp. 10-11. Contrary to APA's contention, the Compliance Letter did approve construction of a second principal building.

As admitted by APA Environmental Program Specialist 3, John Burth, in his affidavit (NYSCEF Doc. No. 43), the proposed "garage apartment would constitute a single family dwelling under the APA Act, and would therefore be a second principal building on the property." Burth Affidavit, ¶ 54. Despite knowing that the Applicants proposed to construct two principal buildings on the project site in direct violation of the terms of the Original Subdivision Permit, APA arbitrarily permitted such construction and relied on an unfounded good-faith belief that the Applicants would voluntarily bring the property back into compliance by removing the kitchen in the studio apartment. The condition of the Original Permit – that only one principal building may be constructed or maintained – was never amended by the Compliance Letter or Permit Amendment. Nonetheless, APA arbitrarily allowed the Applicants to violate that condition, apparently because it believed the violation would be temporary. Temporary violations are still violations. APA's endorsement of this violation of the Original Permit was arbitrary and capricious.

CONCLUSION

Petitioners respectfully request that this Court enter an order and judgment granting the relief sought in the Amended Verified Petition and Complaint in full, and enter an order granting the injunctive relief sought. Petitioners also request that this Court dismiss the Counterclaims by the Applicants.

Dated: October 15, 2021
Glens Falls, New York

BRAYMER LAW, PLLC

By: _____

Benjamin M. Botelho, Esq.
Claudia K. Braymer, Esq.
Attorneys for Petitioners-Plaintiffs
PO Box 2369
Glens Falls, New York 12801
(518) 502-1213
ben@braymerlaw.com

PRINTING SPECIFICATIONS STATEMENT

Pursuant to the Uniform Rules for Trial Courts 22 NYCRR § 202.8-b, I certify that the total number of words in this brief, inclusive of point headings and footnotes and exclusive of pages containing the caption, table of contents, and signature block, is: 4,200.

BRAYMER LAW, PLLC

By: _____

Benjamin M. Botelho, Esq.
Claudia K. Braymer, Esq.
Attorneys for Petitioners-Plaintiffs
PO Box 2369
Glens Falls, New York 12801
(518) 502-1213
ben@braymerlaw.com