

Law & Major Contracts Meeting Agenda



Committee Chair: Damon Maher

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, October 24, 2022

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations committee.

Please note: This meeting will be held in person at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 in the McPoland Conference Room #824 and also remotely via WebEx. Legislators may participate in person or via videoconferencing through WebEx. Members of the public are invited to attend the meeting in person at any of its locations or view it online at the Westchester Legislators website: <https://westchestercountyny.legistar.com/Calendar.aspx>. This website also has links to the Agenda Packets containing documents to be discussed at the meeting.

Chairwoman Catherine Borgia will be participating remotely from Clear View School and Day Treatment Center, 480 Albany Post Road, Briarcliff, NY 10510.

MINUTES APPROVAL

Wednesday, September 28, 2022 at 10:00 a.m.

I. ITEMS FOR DISCUSSION

[2022-508](#) ACT - Action to Eject from Certain County Real Property

AN ACT authorizing the County Attorney to commence an action, if necessary, on behalf of the County against Bronxville Scout Committee, Inc., (the "BSC") and/or any other necessary and appropriate parties, to eject the BSC and/or any other said parties, from County real property comprised of a cabin, and a designated land area immediately surrounding it.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, LAW & MAJOR CONTRACTS AND PARKS & RECREATION

Guest: Law Dept.: County Attorney John Nonna

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

October 11, 2022

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601

Re: Legislation authorizing the County of Westchester (the "County") to commence an action, if necessary, against the Bronxville Scout Committee, Inc. (the "BSC") and/or any other necessary and appropriate parties, to eject it and/or any other said parties, from possession of certain County real property, which includes a cabin and a designated land area immediately surrounding it.

Dear Honorable Members of the Board:

This request, if enacted, would authorize the County, to commence an action, if necessary, against the BSC and/or any other necessary and appropriate parties, to eject it and/or any other said parties, from possession of certain County real property, which includes a cabin and a designated land area immediately surrounding it (the "subject premises").

The subject premises exists within a larger portion of County real property lying in the City of Yonkers and comprising part of the Bronx River Land Reservation informally known as Scout Field. The County real property within which the subject premises is located, has a City of Yonkers tax parcel designation of Section 1.9; Block 9005, Lot 50.

The County and the BSC have no written agreements between them regarding the cabin or any other part of the subject premises.

By letter from the County to the BSC dated June 3, 2020, the County informed the BSC that the County owned Scout Field, and that the BSC was only a licensee of the subject premises.

The County informed the BSC that its actions impinged on the County's rights as Scout Field's owner, and interfered with, if not damaged, other areas within Scout Field by violating the licensed area's conditions of use; specifically, that the BSC violated County Ordinance No. 5 by performing construction work without a permit, and erecting private property signs.

Michaelian Office Building
148 Martine Avenue, 6th Floor
White Plains, New York 10601

Telephone: 914-995-3630

Fax: 914-995-3132*

*Please be advised that service by facsimile is not accepted.



The County demanded that the BSC remove the private property signs, and schedule a fire and safety inspection with it, and that the BSC correct any identified code violations, and “remove and/or remedy any improvements and conditions posing an increased risk to the County and park patrons.”

By letter from the BSC to the County dated June 16, 2020, the BSC claimed ownership in perpetuity of the subject premises. The BSC objected to the County’s demands, and asserted that the County could not unilaterally impose restrictions on its past and continued use of the subject premises.

On December 23, 2021, the BSC commenced an action against the County in the Supreme Court of the State of New York, County of Westchester, titled *Bronxville Scout Committee v. County of Westchester* [*BSC v. County*] Index No. 67854 / 2021, seeking a determination that it owned the subject premises, and enjoining the County from entering it, or interfering with the BSC’s possession, use and enjoyment of it.

By Decision and Order dated July 29, 2022, and entered August 1, 2022 [Zuckerman, J.], the Court dismissed the BSC’s action in its entirety.

By letter from the County to the BSC dated August 5, 2022, the County informed the BSC that it was willing to negotiate a written license agreement for the BSC’s continued use of the cabin, which is located within the subject premises.

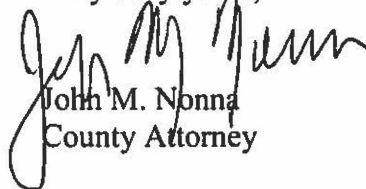
On August 12, 2022, the BSC filed a Notice of Appeal in the *BSC v. County* action, and to date, has not responded to the County’s August 5, 2022 letter.

By letter from the County to the BSC dated September 20, 2022, the County notified the BSC that it was an unlawful occupant of the subject premises, and demanded that it vacate the subject premises, and remove all of its personal property therefrom, by October 20, 2022. To date, the BSC has failed to vacate, or remove its personal property from the subject premises.

As the County is the owner in fee of the subject premises, the County is entitled to immediate possession of it.

In order to protect the County’s real property interests, and upon the recommendation of Katherine O’Connor, Commissioner of the Department of Parks, Recreation and Conservation, authority to initiate legal action, if necessary, against the BSC and/or any other necessary and appropriate parties, is requested.

Very truly yours,


John M. Nonna
County Attorney

JMN/cji

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would authorize the County of Westchester (the “County”), to commence an action, if necessary, against the BSC and/or any other necessary and appropriate parties, to eject it and/or any other said parties, from possession of certain County real property, which includes a cabin and a designated land area immediately surrounding it (the “subject premises”).

The subject premises exists within a larger portion of County real property lying in the City of Yonkers and comprising part of the Bronx River Land Reservation informally known as Scout Field. The County real property within which the subject premises is located, has a City of Yonkers tax parcel designation of Section 1.9; Block 9005, Lot 50.

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The County demanded that the BSC remove the private property signs, and schedule a fire and safety inspection with it, and that the BSC correct any identified code violations, and “remove and/or remedy any improvements and conditions posing an increased risk to the County and park patrons.”

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In order to protect the County's real property interests, and upon the recommendation of Katherine O'Connor, Commissioner of the Department of Parks, Recreation and Conservation, authority to initiate legal action, if necessary, against the BSC and/or any other necessary and appropriate parties, is requested.

Your Committee has carefully considered the subject matter and the accompanying Act, and recommends authorizing the County to commence an action, if necessary, against the BSC and/or any other necessary and appropriate parties.

Dated: White Plains, New York
October , 2022

l:cji

COMMITTEE ON

ACT NO.

- 2022

AN ACT authorizing the County Attorney to commence an action, if necessary, on behalf of the County against the Bronxville Scout Committee, Inc., (the "BSC") and/or any other necessary and appropriate parties, to eject the BSC and/or any other said parties, from County real property comprised of a cabin, and a designated land area immediately surrounding it.

BE IT ENACTED by the Board of Legislators of the County of Westchester, as follows:

Section 1. The County Attorney is hereby authorized on behalf of the County to initiate legal action, if necessary, against the BSC, and/or any other necessary and appropriate parties, to eject the BSC and/or any other said parties, from possession of certain County real property, which includes a cabin, and a designated land area immediately surrounding it.

Section 2. The County Attorney or his duly designated representative is hereby authorized to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Action to Eject from Certain County Real Property

☒ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) ☐ GENERAL FUND ☐ AIRPORT ☐ SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0

Source of Funds (check one): ☐ Current Appropriations

☐ Transfer of Existing Appropriations ☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ 0

Describe: _____

Potential Related Revenues: Annual Amount \$ 0

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: Risk of County Liability will be Mitigated

Next Four years: Same as Above

Prepared by: Christopher J. Inzero

Title: Senior Assistant County Attorney

Department: Law

Reviewed By: _____

Budget Department

10/11/02

If you need more space, please attach additional sheets.