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March 9, 2017

By email troach@whiteplainsny.gov

Thomas M. Roach, Mayor

City of White Plains

City Hall

255 Main Street

White Plains, New York 10601

Re: French-American School of New York (“FASNY”) v. Mayor Thomas Roach and the
Common Council of the City of White Plains

Supreme Court of the State of New York, Westchester County

Index Number: 2067/2015

Hon. Joan B. Lefkowitz

Dear Mayor Roach:

As you know, this office represents The Gedney Association (hereinafter “the Association”) in connection with certain issues which have arisen in the context of the above-referenced lawsuit.

The purpose of this letter is to respond to a letter submitted to your office as well to Members of the Common Council of the City of White Plains (hereinafter “Common Council”) dated March 7, 2017 by Michael D. Zarin, Esq. on behalf of FASNY (hereinafter “Zarin letter”). In sum, the startling and outrageous positions set forth in the Zarin letter are deeply disconcerting to the Association and its membership.

The Zarin letter appears to suggest that a “secret deal” exists between FASNY and the Common Council which is not set forth in the Stipulation of Settlement entered into by the parties. In that regard, Mr. Zarin states that a failure by the Common Council to “delist” Parcel A as an Environmentally Sensitive Site or Feature (hereinafter “ESS”) as defined in §2.4 of the Zoning Ordinance of the City of White Plains (hereinafter “Zoning Ordinance”) and Chapter 3-5 of the City of White Plains Municipal Code (hereinafter “Municipal Code”) “would undermine one of the essential premises of the Stipulation of Settlement that FASNY’s limitation on its reduced Alternative School Plan to Parcel A would only require a majority vote”. By that statement, Mr. Zarin has taken the position that the Stipulation of Settlement requires (i) that the Common Council “delist” Parcel A as an ESS; and (ii) that it approve the Alternative Plan by a simple “majority vote”.

This assertion is particularly alarming because the Stipulation of Settlement sets forth no such “essential premise”. Instead, it states at paragraph 2(c) that the Common Council shall “determine whether the Alternative Plan is on, involves or affects any ‘Environmentally Sensitive Site or

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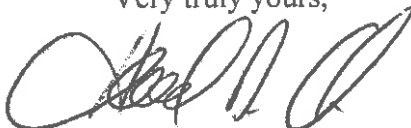
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Feature' as defined in Section 2.4 of the City Zoning Ordinance." It in no manner contains a directive that the Common Council "delist" Parcel A. Instead, it requires only that the Common Council consider the issue. Upon considering the issue, the Common Council can reach no conclusion other than that Parcel A was, is and remains an ESS by virtue of all applicable provisions and definitions set forth in both the Zoning Ordinance and Municipal Code. That is made abundantly clear by the detailed analysis of the issue set forth in the report prepared by Dr. Steven Danzer, Ph.D. dated November 29, 2016 and Dr. Danzer's supplemental letter dated February 2, 2017, both of which were previously furnished to you, the Members of the Common Council, and the City Clerk. Pejorative references to the watercourse located on the Westchester Hills Golf property as a "drainage ditch" cannot alter that inescapable conclusion. As set forth in my previous submissions and Dr. Danzer's submissions, it is clear that Mr. Zarin's attempt to delegitimize Parcel A as an ESS is simply wrong.

Further, as set forth in my February 6, 2017 letter, there is no "ambiguity" in the law as posited by Mr. Zarin. By definition, Parcel A is an ESS--period. That fact is indisputable. If Mr. Zarin and FASNY believe that the provisions regarding the designation of property as an ESS are too broad, they can petition the Common Council to modify them. However, as written, those provisions designate Parcel A as an ESS. Therefore, Mr. Zarin's contention that the Common Council has essentially agreed to violate the clear and unambiguous provisions of the Zoning Ordinance and Municipal Code by "delisting" Parcel A solely in order to avoid the super majority requirement to approve FASNY's application must be rejected out of hand.

To conclude, nothing in the Stipulation of Settlement in any manner alludes or refers to Mr. Zarin's "essential premise" that the determination of the FASNY application "would only require a majority vote". Mr. Zarin purports to create the impression that, notwithstanding the clear language of the Stipulation of Settlement, the Common Council is required to "delist" Parcel A as an ESS and then promptly vote to approve the FASNY alternative plan by a simple majority vote. The Zarin letter also purports to threaten the Common Council with litigation should it not accede to FASNY's demands. This cynical attempt to intimidate the Common Council is causing great consternation in the community. It is truly a sad circumstance that FASNY has now degraded the process to the point of attempting to bully the Common Council into approving its ill-conceived project.

Very truly yours,



Howard D. Avrutine

HDA/cr

cc: Hon. Nadine Hunt-Robinson (by email nhrobinson@whiteplainsny.gov)
Member of White Plains Common Council

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