

WHITEMAN  
OSTERMAN  
& HANNA LLP

Attorneys at Law  
www.woh.com

One Commerce Plaza  
Albany, New York 12260  
518.487.7600 phone  
518.487.7777 fax

Michael G. Sterthous  
Partner  
518.487.7420 phone  
msterthous@woh.com

August 3, 2015

**Via Electronic and Overnight Mail**

Steven Barshov  
Sive, Paget & Riesel, P.C.  
460 Park Avenue  
New York, New York 10022

**Re: *Proposed Annexations Town of Monroe to Village of Kiryas Joel  
Request for Additional Information***

Dear Steven:

As you are aware, this firm serves as special counsel to the Village of Kiryas Joel ("Village") with respect to the 507 acre and 164 acre annexations. The Village's Board of Trustees and its consultants have commenced their review of the proposed annexation action(s). As part of this review, we have closely scrutinized the 507 Petition and 164 Petition for sufficiency purposes. We have also received and reviewed public comments directed to the sufficiency of the Petitions. An outline of the petition sufficiency issues raised by the written comment letters is attached. In order to facilitate the completion of its review, the Village Board respectfully requests that the Petitioners provide the following supplemental information:

**1. INFORMATION REQUEST 1:**

Are the parcels described in the Annexation Petition Exhibit A (metes and bounds description with SBL Nos.) consistent with parcels listed in Petition Exhibits B (Annexation Map) and Exhibit C (Assessor Certification and list of Annexation Parcels)? If not, please provide an updated list of all parcels (by SBL number) which constitute the Annexation Territory as well as a map depicting the same. The updated list should include (1) parcel SBL; (2) name of record owner(s); (3) total assessed value of parcel; (4) whether record owner signed the Petition with citations thereto.

**2. INFORMATION REQUEST 2:**

Does a change in ownership to an Annexation Parcel between the time the Petitions were submitted to the date of the Joint Hearing (June 10, 2015) require an update to the Petition? If yes, please provide updated information either separately or as part of Request 1, above. If no, please provide reasoning and citations to any controlling authority.

**3. INFORMATION REQUEST 3:**

Does a change in Annexation Parcel assessed value between the time the Petitions were submitted to the date of the Joint Hearing (June 10, 2015) require an update to the Petition? If yes, please provide updated information either separately or as part of Request 1, above. If no, please provide reasoning and citations to any controlling authority.

**4. INFORMATION REQUEST 4:**

Does a change in an Annexation Parcel SBL number (by lot line adjustment or subdivision) between the time the Petitions were submitted to the date of the Joint Hearing (June 10, 2015) require an update to the Petition? If so, please provide updated information as either separately or as part of Request 1, above. If no, please provide reasoning and citations to any controlling authority.

**5. INFORMATION REQUEST 5:**

Does a person signing the Annexation Petition on behalf of a company or individual need to submit documentation that he or she has authority to sign? If yes, please provide proof of authority to sign for the list of Annexation Parcels identified in **Exhibit 1**. If no, please provide reasoning and citations to any controlling authority.

**6. INFORMATION REQUEST 6:**

If the assessed values stated in the Annexation Petition as certified by the county assessor are inconsistent with County records maintained on the County's website, must the Petition values be corrected? If yes, please provide corrected information as either

separately or as part of Request 1, above. If no, please provide reasoning and citations to any controlling authority.

**7. INFORMATION REQUEST 7:**

Where a parcel has multiple owners, are all record owners required to sign the Annexation Petition in order for parcel to be included in Annexation Territory? If yes, please provide consent of all record owners for parcels identified in **Exhibit 1**. If no, please provide reasoning and citations to any controlling authority.

**8. INFORMATION REQUEST 8:**

Is a corporate entity (or limited liability company) that owns an Annexation Parcel required to be an active entity under the New York State Department of State records in order to sign the Annexation Petition? If yes, please provide corporate status of the record owners for parcels identified in **the attached outline**. If no, please provide reasoning and citations to any controlling authority.

**9. INFORMATION REQUEST 9:**

Are scrivener's errors (owner names, SBL numbers, number of signatures witnessed) sufficient to invalidate the Petition? If yes, please provide updated information for parcels identified in **the attached outline** either separately or as part of Request 1, above. If no, please provide reasoning and citations to any controlling authority.

**10. INFORMATION REQUEST 10:**

Please provide information as to the date when the Annexation Petition was signed by the Petitioners and the date when the signatures were authenticated by the witness? If different, please explain the discrepancy and provide reasoning and citations to any controlling authority.

**11. INFORMATION REQUEST 11:**

Do hand written alterations to Petition signature lines (to clarify signature names) require authentication that said alterations were authorized by the individual signing the Petition? If yes, please provide proof of authentication to add the signature names to the Petition

for parcels identified in **the attached outline**. If no, please provide reasoning and citations to any controlling authority.

**12. INFORMATION REQUEST 12:**

May an individual signing the Annexation Petition also act as witness to the signature? If no, please provide proof of authentication for the signature(s) identified in **the attached outline**. If yes, provide reasoning and citations to any controlling authority.

Please send any responses to my attention. If you believe any of this information has already been provided to the Village, kindly refer us to that documentation. Please contact me if you have any questions.

Sincerely,



Michal G. Sterthous

- c. G. Szegedin (via email)  
M. Donnelly (via email)

# **RFI EXHIBIT 1**

## RFI EXHIBIT 1

### Summary of Petition Deficiency Comments

---

124 comments received and reviewed. Six of the comments contained substantive issues with on petition deficiencies. These comments are:

- A. Comment # 1- John Furst (Town of Woodbury)
- B. Comment # 2- Steve Neuhaus (Orange County)
- C. Comment # 4- Dan Richmond (United Monroe)
- D. Comment # 29- Mary Bingham
- E. Comment # 63- Judith Mayle (MWCSO BOE)
- F. Comment # 77- Noelle Wolfson (Town of Blooming Grove)

#### Comment Details

##### **A. Comment # 1- John Furst (Town of Woodbury)**

###### a. 507 Petition

- i. some of the information needs to be updated because a few of the signatories do not match the records provided on the website for the Orange County (see exhibit A to letter)
- ii. entire petition is stale given the passage of time
- iii. corporate resolutions or other authorizations should be produced to confirm the signatories were authorized to sign on behalf of other individuals
- iv. assessed values for all the proposed parcels to be annexed should be updated to reflect the assessment roll for 2015
- v. discrepancies between the assessed values stated in the petition and the 2013 records maintained on the County's Website(see exhibit B)
- vi. whether the persons signing the petition represent the owners of a majority in assessed value of the proposed area to be annexed
- vii. parcels proposed to be annexed are not included in the description in "Exhibit A" of the petition, but are included in the map attached as "Exhibit B" to the petition (17 parcels inadequately described in Exhibit C)
- viii. Specific deficiencies:
  - 1. Incorrect name spelling-
    - a. Ex. A ¶¶ 1, 3, 11, 13, 14
  - 2. purported land owners listed in petition do not match county records-
    - a. 1-1-26.1: C- Ernes 1, LLC, P: Isador Landau
    - b. 1-2-8.222: C- Beth Freund, P: Leopold Freund

- c. 1-2-8.11: C- Pincus J. Strulovitch, P: Joseph Strulovitch
  - d. 1-2-13: C- Resi Mittelman, P: Akiva Klein (unsigned)
  - e. 66-1-1.-1: C- 282 Mountainville Drive LLC, P: Joel Reisman
  - f. 66-1-1.-2: C- 282 Mountainville Drive LLC, P: Joel Reisman
3. Different name, same signature
- a. 1-3-12, 1-2-8.11
4. Multiple record owner, but not all sign
- a. 1-3-14.21: C- Amazon Realty & Burdock Realty
  - b. 1-3-15: C- Amazon Realty & Burdock Realty
  - c. 1-3-40: C- Amazon Realty & Burdock Realty
  - d. 43-5-3.2: C- Henry Weinstock & Chana Weinstock, P: Henry Weinstock
  - e. 65-1-25: Joel Brach & Helen Brach, P: Joel Brach
5. Authorization of signor to sign on behalf of company
- a. 1-3-14.21: C- Amazon Realty & Burdock Realty
  - b. 1-3-15: C- Amazon Realty & Burdock Realty
  - c. 1-3-40: C- Amazon Realty & Burdock Realty
  - d. 66-1-1.-1: 282 Mountainville Drive LLC, P: Joel Reisman
  - e. 66-1-1.-2: 282 Mountainville Drive LLC, P: Joel Reisman
6. Incorrect Assessment Values
- a. 1-1-16: P- 20.7K, C-20.4K
  - b. 1-1-20: P- 100K, C- 95.4K
  - c. 1-2-11.12: P-57K, C- 11.2K
  - d. 1-2-32.11: P-69.3K, C: 84K
  - e. 1-2-32.211: P-61.1K, C-64.2K
  - f. 1-3-12: P- 69.5K, C-82.6K
  - g. 1-3-17.1: P- 71.4K, C- 14K
  - h. 43-1-2: P-22K, C: 72.1K
  - i. 43-5-6: P-61.1K, C: 64.3K
  - j. 1-2-30.51: P- 61.1K, 70.8K
7. Parcels included in Petition Exhibit B/C but not A:
- a. 1-1-11.22
  - b. 43-1-13
  - c. 43-1-14
  - d. 43-3-6
  - e. 43-4-1
  - f. 43-4-3
  - g. 43-4-4

- h. 43-5-10
- i. 43-5-11
- j. 1-1-11.21
- k. 1-1-4.2
- l. 1-1-4.32
- m. 43-1-15
- n. 59-2-1.-1
- o. 59-2-2.-2
- p. 59-2-1.-3
- q. 65-1-32

8. Creation of Island Parcels

- a. 1-1-4.1
- b. 1-1-15
- c. 1-1-25.1
- d. 1-1-40
- e. 1-2-30.2
- f. 1-2-30.3
- g. 1-2-30.4
- h. 1-2-30.9
- i. 1-2-32.3
- j. 2-1-2.4
- k. 2-1-4.3
- l. 2-1-5.221
- m. 43-1-3
- n. 43-1-4
- o. 43-1-5
- p. 43-5-12
- q. 59-1-1.1
- r. 59-1-1.-2
- s. 2-1-2.4
- t. 2-1-27
- u. 2-1-26.222

b. 164 Petition

- i. corporate resolutions or other authorizations should be produced to confirm the signatories were authorized to sign on behalf of other individuals (See exhibit d)
- ii. the total sum of the assessed values listed in the petition is inaccurate. assessed values for all the proposed parcels to be annexed should be



updated to reflect the assessment roll for 2015 since the annexation proceeding is likely to extend beyond July 1, 2015

iii. Specific deficiencies:

1. Multiple record owner, but not all sign
  - a. 1-3-14.21: C- Amazon Realty & Burdock Realty
  - b. 1-3-15: C- Amazon Realty & Burdock Realty
  - c. 1-3-40: C- Amazon Realty & Burdock Realty
  - d. 1-2-8.11: C: 2 owners, P- Pincus J. Strulovitch
  - e. 1-3-1.3: 4 record owners, 3 have signed
2. Authorization of signor to sign on behalf of record owner
  - a. 1-3-14.21: C- Amazon Realty & Burdock Realty
  - b. 1-3-15: C- Amazon Realty & Burdock Realty
  - c. 1-3-40: C- Amazon Realty & Burdock Realty
  - d. 1-3-1.3: C-4 record owners, P- 3 have signed
  - e. 1-2-8.222: C- Beth Freund, P- Leopold Freund
3. Creation of Island Parcels
  - a. 1-3-16.1
  - b. 1-3-16.2
  - c. 2-1-4.31
  - d. 2-1-5.221
  - e. 2-1-24
  - f. 2-1-27
  - g. 2-1-26.222

**B. Comment # 2- Steve Neuhaus (Orange County)**

- a. SBLs listed in Petition do not match current County records (due to subsequent subdivisions)
  - i. P: 43-3-1, C: 59-2-1.-1, 59-2-1.-2, 59-2-1.-3
- b. Parcels included in Petition Exhibit C but not A:
  - i. See Letter Ex. A
- c. No notice to County for Gonzaga Park
  - i. 1-1-5

**C. Comment # 4- Dan Richmond (United Monroe)**

- a. 507 Petition
  - i. Unqualified signatures
    1. Corporate Signatures from invalid corporations

- a. Konitz Estates (1-2-30.7)
  - b. Congregation Lanzut (1-1-47.232)
  - c. Bias Yisroel Congregation (1-2-32.12)
  - d. Atkins Brothers Inc. (43-1-12)
2. Multiple record owners, but not all sign
    - a. ~~1-3-14.21: C Amazon Realty & Burdock Realty<sup>1</sup>~~
    - b. ~~1-3-15: C Amazon Realty & Burdock Realty~~
    - c. ~~1-3-40: C Amazon Realty & Burdock Realty~~
  3. Authorization of signer to sign o.b.o. company
    - a. ~~1-3-14.21: C Amazon Realty & Burdock Realty~~
    - b. ~~1-3-15: C Amazon Realty & Burdock Realty~~
    - c. ~~1-3-40: C Amazon Realty & Burdock Realty~~
- ii. Territory Description deficiencies
1. Petition Ex. B and C have 177 parcels, but Ex. A has 164. In B/C but not A:
    - a. 1.1-4.2
    - b. 1-1-4.32
    - c. 1-1-11.21
    - d. 1-1-11.22
    - e. 43-1-1
    - f. 43-1-13
    - g. 43-1-14
    - h. 43-1-15
    - i. 43-3-6
    - j. 43-4-1
    - k. 43-4-3
    - l. 43-4-4
    - m. 43-5-10
    - n. 43-5-11
  2. Parcels in A but not C
    - a. 43-1-11
  3. Parcels improperly identified in both Ex. A and C
    - a. 1-2-1
    - b. 1-2-3.3
    - c. 59-2-1.1
    - d. 56-1-1.1
    - e. 56-1-1.2

---

<sup>1</sup> Strikethrough font indicates deficiency was raised in a prior written comment.

- f. 61-1-1.1
- g. 61-1-1.2
- h. 62-1-1.1
- i. 62-1-1.2
- j. 63-1-1.1
- k. 63-1-1.2
- l. 65-1-27
- m. 65-1-5
- n. 65-1-6
- o. 66-1-1.1
- p. 66-1-1.2

b. 164 Petition

i. Unqualified signatures

1. Corporate Signatures from invalid corporation

- a. Upscale 4 Homes Corp. (65-1-32) (not active)
- b. Bakertown Realty (1-3-1.3) (record owner = HES 11-07 trust)

2. Multiple record owners, but not all sign

- ~~a. 1-3-14.21: C Amazon Realty & Burdock Realty~~
- ~~b. 1-3-15: C Amazon Realty & Burdock Realty~~
- ~~c. 1-3-40: C Amazon Realty & Burdock Realty~~

~~3. Authorization of signer to sign o.b.o. company~~

- ~~a. 1-3-14.21: C Amazon Realty & Burdock Realty~~
- ~~b. 1-3-15: C Amazon Realty & Burdock Realty~~
- ~~c. 1-3-40: C Amazon Realty & Burdock Realty~~

ii. Territory Description deficiencies

1. Petition Ex. A has 72 parcels, but Ex. C has 71. In A, but not C:

- a. 1-2-1

2. Parcels improperly identified in both Ex. A and C

- ~~a. 61-1-1.1~~
- ~~b. 61-1-1.2~~

**D. Comment # 29- Mary Bingham**

a. 507 Petition

- i. Petition (Appx. D at 45) includes 2 properties w/o SBL# (Bakertown Realty, Jacob Bandua Trust)

1. need SBLs
2. Need assessed values,
3. amend affirmation showing 8 signatures

**E. Comment # 63- Judith Mayle (MWCSD BOE)**

a. 507 Petition

i. general deficiencies:

1. 177 petitions signing on same day seems suspicious
2. signatures not authenticated until 4 days later is improper

ii. written alterations to petition w/o authentication

1. 2-1-9.1
2. 2-1-4.21
3. 1-1-39
4. 45-1-6
5. 43-2-5
6. 43-5-6
7. 1-2-8.11
8. 1-2-8.21
9. 1-2-27
10. 1-1-49
11. 1-1-22.1
12. 1-1-25.4
13. 1-2-31.1
14. 1-2-6
15. 1-1-23
16. 1-3-14.2
17. 1-3-15
18. 1-3-40
19. 2-1-1
20. 43-1-12
21. 1-1-25.2
22. 1-2-32.12
23. 1-1-25.3
24. 65-1-27
25. 65-1-28

iii. Multiple record owners, but not all sign:

- ~~1. 43-5-3.2~~
- ~~2. 65-1-25~~
3. 1-2-30.1

~~4. 1-3-14.21~~

~~5. 1-3-15~~

- iv. Lack of authorization to sign obo record owner
  - 1. 1-2-8.11
  - 2. 1-3-12
  
- v. no assessed value
  - 1. 1-1-52
  
- vi. Petition signor is same as witness
  - 1. 56-1-1.1
  
- vii. Incorrect number of signatures witnessed
  - 1. Appx D at 11
  - 2. Appx D at 20
  
- viii. Incorrect property owner
  - 1. 1-2-32.12
  - 2. 43-3-1
  
- ix. Incorrect territory description
  - 1. Parcels in A but not C
    - a. ~~43-1-11~~
  - 2. Parcels improperly identified in both Ex. A and C
    - a. ~~1-1-4.2~~
    - b. ~~1-1-4.32~~
    - e. ~~1-1-11.21~~
    - d. ~~1-1-11.22~~
    - e. ~~43-1-13~~
    - f. ~~43-1-14~~
    - g. 43-1-15
    - h. ~~43-3-6~~
    - i. ~~43-4-1~~
    - j. ~~43-4-3~~
    - k. ~~43-4-4~~
    - l. ~~43-5-10~~
    - m. ~~43-5-11~~

b. 164 Petition

- i. general deficiencies:

1. all petitioner signing on same day seems suspicious
  2. signatures not authenticated until 4 days later is improper
  3. handwritten alterations to signature pages
- ii. Incorrect number of signatures witnessed
1. Appx D at 45
- iii. same signature for different people
- ~~1. 1-2-8-11~~
  - ~~2. 1-3-12~~
- iv. Multiple record owners, but not all sign:
- ~~1. 1-3-1.3~~
- v. SBL does not exist
1. 65-1-32
- vi. Parcels included in Petition Exhibit A but not B/C:
- ~~1. 1-2-1~~

**F. Comment # 77- Noelle Wolfson (Town of Blooming Grove)**

- a. Owners of street right of way not accounted for
- b. discrepancy between zoning map and annexation map boundaries