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MEMORANDUM

TO: Tammy Sciavillo, Clerk of the Legislature

FROM: Edward I. Kaplan, Esq., County Attorney *EK*

DATE: March 31, 2021

SUBJECT: 2020 County Attorney's Annual Report

Enclosed please find one (1) copy of my Annual Report for the year 2020
which has also been transmitted electronically to you.

EIK/gms
Enclosure

COUNTY ATTORNEY ANNUAL REPORT FOR 2020

This summary of legal services rendered last year to various branches of the County government is once again general in nature principally for reasons of confidentiality.

As General Counsel for Greene County it is my goal to minimize all liabilities associated with operations and administration of County Government while at the same time seeking to maximize all assets and identify recoverable leakage. I strive to reduce costs to taxpayers and to maximize all current and potential assets. I personally represent the County in all civil litigations which are not defended by indemnity carriers; as to those defenses, my office works hand in hand with the County's assigned defense counsel. I personally handle all collection matters for County departments and associated litigation; realizing significant revenue without tarnishing the County's reputation.

Notwithstanding the above, it remains my goal, first and foremost, to avoid litigation wherever and whenever possible. In furtherance of that objective, I work with each and every department researching, when necessary, and training personnel relative to compliance with all controlling rules, regulations and/or laws.

It is my department's mission to interface with all County departments and assist procedurally to insure continuing compliance with State and Federal mandates; in a continuing effort to reduce claims against the County of Greene. My office maintains an open door policy with all department heads, supervisors and employees in an effort to address procedures, policies and law and avoid potential litigation. My office pays close attention and legal review of all Freedom of Information Law (FOIL) requests and responses, close participation with the Greene County Treasurer's Department, Economic Development, Tourism and Planning, Highway, Public Health, Department of Social Services, County Clerk, Mental Health, District Attorney, Human Services, Probation, Weights and Measures and the Sheriff's Department, inclusive of Corrections. I am responsible for reviewing all County contracts from all departments and approve same, where appropriate, as to form. I do so with an eye towards content and accuracy.

The above stated efforts have resulted in (a) substantially reduced claims; (b) fewer lawsuits; (c) substantial reduction of losses; (d) de minimis outside legal fees; (e) zero collections fees; and importantly, (f) decreasing insurance premiums.

Greene County has been chosen to be awarded with NYMIR'S Risk Management Award for 2020.

This office strives to reduce the County's exposure to loss and liability whenever and wherever possible. Whether defending lawsuits or prosecuting them, this office remains dedicated to expanding the County's revenues.

The year 2020, and continuing into 2021, saw many new challenges related to the COVID-19 pandemic which swept across the continents, the states and the municipalities leaving no one unaffected. The Office of the Greene County Attorney engaged in COVID related matters commencing in February, 2020, assisted in creating necessary declarations of emergency and Emergency Orders and all extensions thereof. The Office of the County Attorney has been engaged in creating policy and procedure necessary to safeguard the health and welfare of all County employees and residents. The Office of the Greene County Attorney has tracked and summarized each and every Executive Order issued by the Governor of the State of New York and has remained educated on all Federal COVID related Legislation, Rules and Regulations.

As an early victim of the Novel Coronavirus, I, and my staff, gained an objective understanding as to the difficulties and challenges faced by individuals who are affected by COVID-19.

The Office of the Greene County Attorney performs a myriad of legal services for Greene County, including, without limitation, legal research and provision of legal advice, collection actions, negotiating PILOT agreements, Real Property Tax Services Land Use advice, Civil Service compliance, personnel matters, real estate transactions, investigation of harassment/discrimination complaints, Batavia Kill Watershed Dam reports review and analysis, Greene County Soil and Water Conservation representation, Ethics Board advisory, claims processing, In Rem Tax Foreclosure proceedings, Assistant Outpatient Treatment proceedings, Freedom of Information Law (FOIL) Officer, Economic Development Corporation Loan closings, loan buyouts, mortgage satisfactions, UCC releases, DMV lien releases and contract preparation. This office reviews, and opposes, where applicable, Poor Persons' applications made to the Supreme Court, Appellate Division and Court of Appeals in the standard course of business. By this opposition, the County has defeated scores of meritless lawsuits.

This office is also instrumental in negotiating settlements and remedies related to contract disputes, and other matters, saving the County thousands of dollars. In 2020, the Office of the Greene County Attorney was instrumental in collecting checks totaling the amount of \$749,208.73 from the owners of the Friar Tuck Resort and delivering same to Greene County Treasurer. Our office also generated payment to the County in the amount of \$20,000.00 from the NYS Department of Environmental Protection; \$6,000.00 from the Association of Property Owners of Sleepy Hollow Lake, Inc. and \$1,500.00 from South Equine Facility. Additionally, based upon the efforts of this office, Greene County taxpayers are not responsible for the education costs relative to certain children in the foster care system.

These figures do not include the value of income received from providing FOIL and medical record requests which totaled \$1,054.09 in the year 2020.

As General Counsel for the County, I often field questions and draft opinion letters for department heads lending direction at legal crossroads.

The following general legal services rendered to all departments include without limitation:

1. Representation in litigation either as plaintiff or defendant (The Annual Audit Report, updated May 19, 2020, is an Attorney/Client privileged document, provided to the Legislature under separate cover);
2. Analysis and response to 165 FOIL requests, approximately 15 subpoenas, related motion and appeals and 72 Mental Health records requests;
3. Legal research and legal advice;
4. Supervision of and collaboration with insurance company assigned counsel;
5. Contracts: preparation, review as to form, content and mathematical accuracy, negotiation and attention to appropriate insurance coverages related to 182 agreements;
6. Participation at virtual meetings of the New York State Association of Counties (NYSAC) and County Attorneys' Association of the State of New York (CAASNY);
7. Attention to bankruptcy matters protecting the County's interests;
8. President of Greene Tobacco Asset Securitization Corporation (TASC) which includes preparation of documents, compliance oversight relative to Public Authorities Accountability Act (PAAA) issues, scheduling and attendance at the annual meeting;
9. Legal research and advice to all departments as requested;

10. Review and process all incident/accident reports (40 in 2020);
Coordinated the training of all County personnel as to Federally mandated annual Workplace Violence Prevention Program;

11. Resubmission of Greene County's Title VI Amended and Updated NYS Department of State Department of Transportation for 2020 to meet new standards;

12. Conduct Workplace Violence Incident Report investigations;

13. Conduct Workplace Violence Prevention Program Hazard Mitigation Team meetings;

14. Review and direct compliance with or draft opposition to all subpoenas served on Greene County;

- To Batavia Kill Watershed District: Review all Batavia Kill Watershed District bi-annual dam inspections conducted by New York State Department of Environmental Conservation and Natural Resources Conservation Service (NRCS); reports and interface, if necessary, with Batavia Kill Watershed district officials; etc.

- To County Clerk: Review and respond to FOIL requests; legal research, interpretation of Civil Practice Law and Rules (CPLR) and Court Rules; review various documents submitted for filing, upon request; consult as to fee disputes; review litigation and court documents and advise as to indices adjustment; general legal research and advice to County Clerk and Deputy; assist in the adoption and implementation of New York State Electronic Filing System in all respects.

- To District Attorney: Consistent collaboration on criminal matters which overlap civil claims against Greene County; attention and assistance to FOIL requests; represent the District Attorney's office in civil lawsuit, writs, and oppose to poor persons' applications relative to appeals.

- To Economic Development, Tourism & Planning: Review and approve of all contracts, including insurance requirement compliance; attend Economic Development Corporation meetings when new loan applications are pending; close Economic Development Corporation loans and/or grants; draft loan modifications, mortgages, mortgage satisfactions, and mortgage subordination agreements. Prosecute collections actions. Preparation of all legal documents for Economic Development Corporation loan closings, including Loan Agreements, Security Agreements, Mortgages, Notes and Personal Guaranties; ex officio member of

Economic Development Corporation Committee; attend Economic Development Corporation Loan and Advisory Council Committee meetings; consultation and legal advice to the Director re: all County projects; prepare UCC-1 and UCC-3 filings.

- To Board of Elections: Legal advice; approval of contracts; assist in compilation and production of FOIL materials; draft and file answer, summons and complaints in representation of Greene County Board of Elections; virtual Court appearances at Election Law hearings representing the Greene County Board of Elections; assist in FOIL responses.

- To Board of Ethics: Advise and guide the Board of Ethics; conduct and attend Board of Ethics meetings, etc.

- To Emergency Services: Review of all contracts; prepare annual EMS paramedics agreements with municipalities; review and respond to FOIL requests; review and respond to subpoenas, etc.

- On Family Court Matters: Weekly appearance of Assistant County Attorney on Juvenile Delinquency (JD) petitions and hearings; as needed; interface and coordinating anticipated diversions and/or prosecutions; attention to continuing emerging Raise the Age (RTA) amendments, rules and regulations.

- To Family Planning: General legal services; attention to contract review and opinions; review and satisfy Early Intervention medical requests; general legal counseling; etc.

- To Highway Department: Attention to personnel matters; contract review; attention to various claims for property damage; collection actions; review and respond to FOIL requests; legal research; real property title research, assist outside counsel in eminent domain proceedings, etc.

- To Human Resources: Attention to all harassment complaints; review and investigate all proposed harassment/discrimination complaints and generate investigative report(s); legal advice regarding various employee complaints; coordinate Workplace Violence Prevention Program training of all Greene County employees; respond to all Americans with Disabilities Act (ADA) requests for accommodations; Americans with Disabilities Act research; review and defense of unemployment compensation claims; etc.

- To Human Services: General legal services; contract review; contract language advice; review lease agreements for senior centers as necessary; review of insurance certificates; investigate harassment complaints filed by department personnel, etc.

- On Insurance Matters: Research claim submission, attention to securing appropriate legal representation for County, confirming the assignment of legal representation to all claims; track interposition of responsive documents, Court dates, motion dates, return dates and assist outside counsel on all claims and lawsuits; legal research; review of all insurance coverage; negotiate claim settlement(s); telephonic conferences with Marshall & Sterling and NYMIR regarding defense and indemnification of current litigation; review all professional subcontractors' professional liability insurance policies; etc.

- To The Legislature: Attend monthly committee and Legislative meetings; attend miscellaneous committee meetings when requested; legal research as requested; research and advice as to Public Officer's Law, Robert's Rules of Order and Open Meetings Law, and Rules of Legislature; monitor Simmons Hanly law firm as to the opioid litigation lawsuit against pharmaceutical manufacturers of prescription opiates; read and monitor bankruptcy filing re: pharmaceutical litigation; monitor and review documents re: generic drug lawsuit; provide Napoli Skolnick with generic drug disclosure documents; comply with document demands re: generic drug lawsuit; review of all contracts signed by County; interpret insurance documents; review resolutions; draft resolutions; continuing review of General Municipal Law, Public Officer's Law, Real Property Tax Law, Local Finance Law, Executive Law and Municipal Home Rule as required on an ongoing basis; attention to lease renewals; legal research and advice re: employment matters, departmental policies and procedures; document retention; attention to Americans with Disabilities Act (ADA) requests for accommodations; investigate discrimination and/or misconduct complaints; attention to Greene Tobacco Asset Securitization Corporation (TASC) issues including Public Authorities Accountability Act (PAAA) compliance; legal research relative to all claims against the County and assessment of risk, including correspondence and communication with insurance companies and the investigation and settlement of minor claims; attention to taxpayers complaints; attention to Notices of Claim for personal injuries; appear at 50-h hearings; prepare 2020 Cost Allocation Summary for Venesky & Company, auditors; prepare annual litigation audit; prepare annual contracts for Greene County with:

1. Community Action of Greene County, Inc.
2. Greene County Historical Society
3. Greene County Libraries Association

4. Greene County Soil & Water Conservation
5. Greene County Federation of Sportsmen Clubs
6. Greene County Agricultural Society
7. Twin County Recovery Services, Inc.
8. The ARC of Mid-Hudson
9. Greene County Council on the Arts;

Assist all insurance-appointed attorneys defending and representing Greene County, coordinate the training of all County employees and volunteers relative to Greene County's Workplace Violence Prevention Program as mandated by New York State Department of Labor; review and update policy statement and program; review of Greene Tobacco Asset Securitization Corporation (TASC) bond performance, including scheduling and attendance at annual meeting, electronic filing of required financial reports pursuant to Public Authorities Accountability Act (PAAA); conduct Greene County Workplace Violence Hazard Reduction Team meeting(s); provide legal research as requested or required to Administration and County departments; respond to general correspondence as required; preparation of 2019/2020 Litigation Report/Annual Audit; review unemployment benefit applications and oppose where appropriate; ongoing legal research re: FOIL exceptions, review requests for proposals, bids and quotes for various departments; interface with County Administrator relative to all aspects of proposed or current County projects; research and provide legal opinions to Legislature and County Administrator as necessary or as requested, etc.

- To Mental Health: Attention to medical records, whether by release, Court Order or subpoena; legal representation of Jason Fredenberg, Director of Community Services, with regard to Assisted Outpatient Treatment (AOT) proceedings (12 in 2020), prepare Assisted Outpatient Treatment (AOT) documents; Assisted Outpatient Treatment (AOT) court filings; attend Assisted Outpatient Treatment (AOT) hearings; attention to legal issues regarding production of documents, reports and subpoenas in accordance with Health Insurance Portability and Accountability Act (HIPAA) regulations; petitions and hearings; legal research and memoranda regarding release of all patient file materials under Health Insurance Portability and Accountability Act (HIPAA); prepare contracts for independent contractors; respond to Mental Health records requests (72 in 2020); legal research and advice as to third party deposition subpoenas; prepared subpoenaed witnesses for trial; appearances, review and advice on

subpoenas; attend meetings, provide Health Insurance Portability and Accountability Act (HIPAA) training to new employees; train all Mental Health providers as to Court testimony under subpoena; assist with personnel matters.

- To NYS Department of Motor Vehicles: General legal services, as requested; etc.
- To Probation: Prosecute Juvenile Delinquent and Persons in Need of Supervision (PINS) in Family Court; legal research and advise on numerous legal matters; review department policies at the request of the director for compliance with the law; interface with personnel matters; review and respond to FOIL requests; etc.
- To Public Defender's Office: Attention to subpoenas and FOIL requests; conflict advice, etc.
- To Public Health Department: This was an extremely busy year for Greene County Public Health and the Office of the Greene County Attorney was called upon frequently for legal and strategic advice relative to Emergency Orders, Executive Orders, emergency rules, related to the COVID-19 pandemic. The office of the County Attorney continues to review all contracts, provide HIPAA training; review and advise as to proper insurance documentation; miscellaneous legal research; records retention; review and respond to all requests for Public Health records; miscellaneous advice as requested; review and respond to FOIL requests; research and draft quarantine orders, etc.
- To Real Property Tax Services: Review PILOT agreements with the director of Real Property Tax Services; review bankruptcies; review list of delinquent taxes, review ongoing litigation which may relate to County properties; research and respond to legal issues as necessary, preparation of In Rem foreclosure documents.
- To Sheriff's Department: Legal advice to Sheriff's Department on a regular and ongoing basis; review of contracts; general legal research; attention to any and all civil matters which may arise; handle vehicle insurance claims; handle property damage claims; review all claims against the Sheriff's Department and/or personnel; accept calls from the field 7 days a week, 24 hours of the day, to provide legal advice as to any questions or matters arising from the Sheriff and/or his deputies; research and respond to all information requests; oversight of indemnity representation of Sheriff Department; general advice to Sheriff, Undersheriff and supervisory personnel, as requested; review and respond to FOIL requests.

- To Department of Social Services: Meet with DSS Commissioner regarding social services liens and mortgages; contract review and approval; insurance review and approval; review subpoenas and move to quash, if necessary; review and accommodate ADA requests; provide representation to DSS in School District Supreme Court litigation.

- To Solid Waste Management: Collection letters and collections; contract review and approval; insurance compliance review; attention to refuse removal agreements with various contractors; etc.

- To The Treasurer's Office: Interface with Director of Taxes with regard to tax liens; continuing negotiations regarding lot options at Sleepy Hollow Lake; serve as Greene Tobacco Asset Securitization Corporation (TASC) President; review and execute all agreements and audits, attend annual Greene Tobacco Asset Securitization Corporation (TASC) meetings; review and respond to FOIL request, etc.

- To Soil & Water Conservation District: General legal advice; contract review and approval, etc.

- To Veteran's Service Agency: Contract review and approval, etc.

- To Weights and Measures: Collection of delinquent accounts and fines, etc.