

**In the Matter**  
**- of -**  
**Town Law Article Five Petition for Division of the**  
**Town of Monroe, County of Orange, State of New York**

To: Honorable Members of the Orange County Legislature

I, **Jean M. Ramppen**, Clerk of the Orange County Legislature of the County of Orange, New York **DO HEREBY CERTIFY** as follows:

A petition for division of the Town of Monroe to create the new Town of North Monroe, (or other suitable name identified by the County Legislature) and Town of Monroe was filed with the undersigned on September 12, 2016.

The petition purports to consist of the following:

- 183 sheets, containing approximately 2,420 signatures acknowledged, or proved or authenticated by subscribing witnesses;
- Exhibit "A" - The Town of North Monroe Common Boundary Description;
- Exhibit "B" - Maps: a map entitled "Annexation Map From the Town of Monroe to the Village of Kiryas Joel Orange County, New York Annexation Petition Exhibit "B" and a map entitled "Overall Map of the Town of Monroe and the Proposed Town of North Monroe, Orange County, New York";
- Exhibit "C" - "Statement of all Town of Monroe Indebtedness for Fiscal Year Ended December 31, 2010";

"Statement of Town of Monroe Indebtedness for Fiscal Year ended December 31, 2014," was filed with this Office via email on September 28, 2016 and by hard copy on September 28, 2016;

- Exhibit "D" – Statement of Reasons for Change.

The Orange County Board of Elections' calculation of the 5% required for a referendum vote and/or Independent Nominating Petitions following the 2014 Gubernatorial Election for the Town Monroe equals 541. (See Exhibit 1- Bahren email dated September 12, 2016).

The petition contains 2,420 signatures (See Exhibit 2 Bradley memo dated September 20, 2016).

No specific or general objections were filed with regard to the number and authentication of signatures on the petition.

On October 6, 2016, the Orange County Legislature received via email a letter dated October 6, 2016 from the Law Firm of Zarin & Steinmetz, representing Preserve Hudson Valley setting forth objections to the Petition. (See Exhibit 3)

**IN WITNESS WHEREOF**, the undersigned has caused this certificate to be executed this 11th day of October, 2016.

  
Jean M. Ramppen, Clerk  
Orange County Legislature

**Reed, Antoinette**

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**From:** Bahren, Susan  
**Sent:** Monday, September 12, 2016 4:06 PM  
**To:** Reed, Antoinette; Green, David  
**Cc:** Chapman, Langdon; Worthy, Sharon  
**Subject:** RE: Town Law Section 81.4.

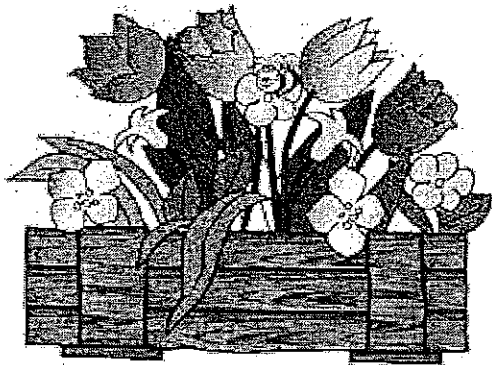
Antoinette:

In reference to your request: the Board of Elections calculation of the 5% required for a referendum vote and/or Independent Nominating Petitions following the 2014 Gubernatorial Election for the Town Monroe was calculated in the following manner

Total Votes Cast - (minus)	Blank and Void	Total Vote	x 5%
13, 132	2,321	10,811	540.5 = 541

Please contact us should you have any questions.

*Susan Bahren, Commissioner  
Orange County Board of Elections  
75 Webster Ave  
PO Box 30  
Goshen NY 10924  
845-360-6504  
Fax 845-291-2437*





# County Legislature

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L. Stephen Brescia, Chairman  
Jean M. Ramppen, Clerk

15 Matthews Street – Suite 203  
Goshen, NY 10924

Tel: (845) 291-4800 ☎ Fax: (845) 291-4809

## EXHIBIT 2

To: Jean M. Ramppen, Clerk  
From: Kelly A. Bradley, Deputy Clerk *KAB*  
Date: September 20, 2016  
Re: Petition for Division filed September 12, 2016

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Please be advised that the Petition for Division filed on September 12, 2016 by duly qualified electors of the Town of Monroe petitioning for the submission of a proposition for the division of the Town of Monroe into the Town of Monroe and Town of North Monroe has 2,420 signatures.



David J. Cooper  
 Jody T. Cross •  
 Michael J. Cunningham •  
 Marsha Rubin Goldstein  
 Helen Collier Mauch •  
 Zachary R. Mintz •  
 Matthew R. Pisciotta •  
 Daniel M. Richmond  
 Kate Roberts  
 Brad K. Schwartz  
 Lisa F. Smith •  
 David S. Steinmetz •  
 Michael D. Zarin

October 6, 2016

Chairman L. Stephen Brescia  
 and the Honorable County Legislators of the  
 County of Orange  
 15 Matthews Street  
 Goshen, NY 10924

• Also admitted in D.C.  
 • Also admitted in CT  
 • Also admitted in NJ

**Re: Petition for Division of the Town of Monroe  
Filed on Behalf of the Village of Kiryas Joel**

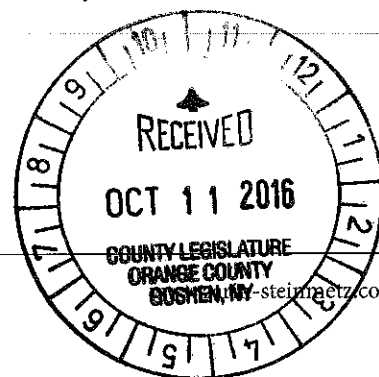
Dear Chairman Brescia and the Honorable County Legislators:

This firm represents Preserve Hudson Valley's ("PHV") interests and concerns with respect to the above-referenced Petition for Division. Preserve Hudson Valley is comprised of concerned residents who are united in their desire to preserve and protect Orange County and the surrounding area from unsustainable overdevelopment.

While the Village of Kiryas Joel's (the "Village") Petition to separate the Village from the rest of the Town of Monroe (the "Town") offers, in concept, the benefit of allowing the residents of each municipality to control their own destinies, the price of nearly 400 acres of Town territory is far too high to reasonably consider. The instant Petition is otherwise flawed for a number of reasons, and should not be advanced at this time.

**A. The Petition for Division Would Circumvent Land Use Law, The Courts, And The Lawful Authority Of The Affected Municipalities**

The Petition for Division purportedly seeks to obtain Village control of nearly 400 of the 500 acres the Village seeks in its annexation efforts. In doing so, the Petition improperly seeks to circumvent State, County, and local land use regulations and review processes, the Town's government, and the Court system, where litigation concerning the Village's annexation efforts now resides. It is important to remember that the County Legislature authorized a legal challenge to the Village's efforts to annex Town territory, in significant part because of inadequate environmental review and failure to consider impacts to County residents in the area. The instant Petition offers no basis for the County to change course.



## B. SEQRA Requires Rational Environmental Review

Again, the County is a Petitioner to an Article 78 legal challenge to the Village's efforts to annex Town territory, in which the County and others allege that the environmental review conducted for the proposed annexation "failed to meet the requirements of [the State Environmental Quality Review Act ("SEQRA")." See Village of South Blooming Grove, et al. v. Village of Kiryas Joel Board of Trustees, et al., Index No. 7410/2015, slip. op. at 5-6 (Sup. Ct. Orange Co. Env'tl. Claims Part Nov. 5, 2015) (Decision & Order on Preliminary Injunction Motion). This matter is now fully briefed, and is awaiting a decision from the Court.

The instant Petition purports to seek much of the same territory that was sought in the Village's annexation effort. (See map annexed as Exhibit "B" to the Petition for Division.) As such, the County's position that there is no rational basis for assessing the environmental implications of the Village's assumption of jurisdiction over this territory remains very apt.

The Petition for Annexation is a discretionary determination requiring SEQRA review. See Inc. Village of Atlantic Beach v. Gavalas, 81 N.Y.2d 322, 599 N.Y.S.2d 218, 220 (1993) (holding that the "pivotal inquiry" in determining whether an action requires SEQRA compliance "is whether the information contained in an [environmental impact statement ("EIS")] may "form the basis for a decision whether or not to undertake or approve such action'" (citation omitted). Here, the determination by the County Legislature to grant the instant Petition must be based on all evidence presented at the requisite Public Hearing. See N.Y. Town Law § 73(3). Thus, rather than being circumscribed by a "narrow set of criteria which do not bear any relationship to the environmental concerns that may be raised in an [environmental impact statement]," the County Legislature's purview is wide-ranging, and necessarily involves the policy issues raised at a Public Hearing and vetted in an EIS. See Inc. Village of Atlantic Beach, 599 N.Y.S.2d at 220.<sup>1</sup> As such, SEQRA compliance is required.<sup>2</sup>

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<sup>1</sup> The procedure for the formation of a Town contrasts sharply with the procedure for incorporating a Village. In the village incorporation procedure, the public hearing is narrowly circumscribed to hearing evidence relating to the sufficiency of the petition, and the town supervisor only determines whether the petition complies with the technical requirements of the law. See N.Y. Village L. §§ 2-206 & 2-208.

<sup>2</sup> Any suggestion that the Petition for Division should be exempt from SEQRA because it simply involves line drawing would ignore well-settled caselaw establishing that SEQRA review frequently must occur long before any actual physical project is proposed. See City Council of Watervliet v. Town Board of Colonie, 3 N.Y.3d 508, 789 N.Y.S.2d 88, 92-93 (2004) (affirming that SEQRA review is required for proposed annexations because "[a]nnexations are often the first step toward the development of real property and may involve a change in municipal services or land use regulation," and, affirming that "a principal goal of SEQRA is 'to incorporate environmental considerations into the decisionmaking process at the earliest opportunity'" (citation omitted)).

**C. Lack of Common Certainty Of Territory At Issue  
Precludes Consideration Of The Petition For Division**

The Petition for Division appears to be facially invalid because it fails to identify the territory to be proposed for the new town with “common certainty.” C.f. Barnard v. St. Lawrence, 44 A.D.3d 1037 (2d Dept. 2007) (upholding determination by Town Supervisor in connection with proposed Village incorporation that petition was not legally sufficient, in part, because “the petitioners failed to attach a description of the territory’s boundary that would enable the territory to be identified with ‘common certainty.’”). Here, the total amount of additional land sought by the Village is unclear.

Exhibit “A” to the Petition for Division declares that “[i]f there is any discrepancy between [the map included in Exhibit “B”] and th[e] metes and bounds provided in Exhibit “A”], the Map shall control.” The first map included in Exhibit “B,” labelled “Annexation Map,” indicates that the total land to be added to the Village would be approximately 314 acres. This contrasts with other representations that the Village is seeking herein an additional approximately 382 acres. (See, e.g., map, labeled “Formation of Town of North Monroe, included within Exhibit “D”). In the absence of a clear recitation of the territory at issue here, respectfully, no action can be taken on the Petition because there is no “common certainty” on what territory is at issue.

**D. Prior Jurisdiction Rule Precludes Consideration Of Petition**

Respectfully, the County Legislature lacks jurisdiction over the Petition for Division by virtue of the “Prior Jurisdiction Rule,” which establishes that “once the municipal annexation process has commenced by filing of a petition for annexation, the affected municipalities shall have exclusive jurisdiction over any annexation of the territory at issue until the annexation process is finally concluded.” See Commandeer Realty Assocs. Inc. v. Allegro, 49 Misc.3d 891, 915, 17 N.Y.S.3d 391 (Sup. Ct. Orange Cty. 2015). The Petition for Division implicates the same territory as is the subject of the Village’s annexation efforts, as well as a petition filed by Town residents for annexation into the Town and Village of Blooming Grove. Because this territory is already subject to annexation petitions, the affected municipalities should have exclusive jurisdiction until all of the annexation petitions are resolved.

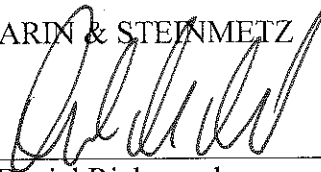
**CONCLUSION**

This is not a complete recitation of each and every major objection that Preserve Hudson Valley has to the Petition for Division. Preserve Hudson would be happy to expand its analysis of any the issues discussed herein at the County’s request.

Please feel free to contact us should you have any questions.

Respectfully submitted,

ZARIN & STEINMETZ



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Daniel Richmond

Kate Roberts

cc: United Monroe  
Michael Sterthous, Esq.