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County Attorney Robert Meehan
Westchester County Attorney's Office
148 Martine Avenue
White Plains, New York 10601

Re: Rye Playland

Dear Mr. Meehan,

As you are aware, I represent the City of Rye (the "City") in connection with its concerns over the use of Rye Playland ("Playland"), which is located entirely within the City's borders. In 2014, the City sought the intervention of the New York State Department of Environmental Conservation ("DEC") regarding the State Environmental Quality Review Act ("SEQRA") process for which both the County and the City were seeking "lead agency" status in its review of the proposed new building and reinvention of Playland by Sustainable Playland. Since the agreement with Sustainable Playland did not move forward, the City asked the DEC Commissioner to hold off on rendering any decision until such time that the County was ready to move forward with Sustainable Playland or another entity.

I am writing today to express the City's unhappiness with respect to several actions by the County concerning Playland, and to convey the City's demands concerning them.

I. SEQRA violations

We understand that on May 2, 2016, the County Board of Legislators adopted a negative declaration under SEQRA with respect to several projects at Playland, and also declared that certain other projects are Type II and thus require no further SEQRA review. These actions were inappropriate for several reasons. Under DEC's SEQRA regulations, 6 NYCRR § 617.6(b)(3)(i), the County was required to transmit to the City (and any other interested agencies) Part 1 of the Environmental Assessment Form, together with a notification of proposed lead agency designation. The County was well aware as a result of our communications in 2014 that the City desired lead agency status for work at Playland, but it appears that the County unilaterally declared itself lead agency and purported to issue determinations of significance. The City has no record of

having received the required notice from the County in advance of the May 2 vote; had the City received such notice, it would have reactivated its request to DEC to resolve the lead agency dispute.

Since the County did not follow the required coordinated review procedure, the City is free under DEC's regulations, § 617.6(b)(3)(iii), to issue its own determination of significance for the subject actions, and it is considering doing so.

The County violated SEQRA in other respects as well. For example, the County was required by § 617.12(c)(1) to publish notice of its negative declaration in DEC's Environmental Notice Bulletin. No such notice has appeared. Additionally, the Environmental Assessment Form prepared by the County failed (in the list of required approvals on page 2) to identify the several City approvals required for the covered activities.

Moreover, regardless of the identity of the lead agency, the issuance of a negative declaration for some actions and Type II designations for others was inappropriate. All these actions are part of a common plan and thus should have been considered together. The separate consideration of these related actions constituted impermissible segmentation in violation of the DEC regulations. § § 617.2(ag), 617.3(g)(1).

Recently, the Board of Legislators considered the adoption of a resolution to amend the budget and to allow the County to issue bonds to pay for the demolition and filling in of the Playland Pool. This proposed resolution is invalid because of its reliance on these unlawful SEQRA determinations.

II. Failure to Consult With City on Playland Plans

I understand that in June the County entered into the Restated and Amended Playland Management Agreement (the "PMA") with Standard Amusements to take over the management, operations, repair, maintenance and improvement of Playland sometime in the fall of 2016. Although Standard Amusements has not officially started its independent operations and management of Playland, the PMA requires both the County and Standard Amusements to make significant investments into Playland, including but not limited to new construction on the Colonnades, Playland Structural System and other capital projects as set forth in Schedule K of the PMA. Despite the City's prior requests to be involved in any development plans at Playland, the County has recently made improvements without the knowledge of the City or even the courtesy of a call from the County. For example, the County recently constructed an 8 to 10-foot-high letter sign "PLAYLAND" (the "Playland Sign") without notifying the City or seeking any approvals or permits from the City. Under the City Code, the Playland Sign is considered a freestanding monument sign and requires a sign permit from the City's Board of Architectural Review (the "BAR"). In addition, the Playland Sign requires a building permit from the Building Department.

Currently, without knowing the exact dimensions of the Playland Sign, it appears that the County will need to apply to the City's Board of Appeals for a few area variances for the sign (height, square footage, etc.) prior to seeking final approval from the BAR. In addition, the lighting that the County has displayed on the Playland Sign is prohibited by our City Code. As you are aware, the City's position is that the County is subject to the City's land use and zoning laws and policies, including, but not limited to, the Zoning Code, the City's Master Plan, and Local Waterfront Redevelopment Plan.

Based on representations from the County Executive's office, it is the City's understanding that the County will be removing the Playland Sign at the end of the 2016 season. The City will hold off on issuing any notices of violation at this time; however, the decision to not issue a violation is not permission to continue to violate the City's Zoning Code or any other regulations or policies that are in place. Along the same lines, if the County fails to promptly remove the sign by September 19, 2016 (two weeks after the summer seasonal hours end), the City will reconsider issuing the violations.

III. Conclusions

The City hereby demands that the County rescind its designation of itself as SEQRA lead agency for the Playland projects; the negative declarations and Type II designations it issued; and any actions it took based on these SEQRA determinations, including the PMA with Standard Amusements. Unless the County responds affirmatively to these demands by July 28, the City may institute an Article 78 proceeding against the County with respect to these issues. (If you cannot reach me, please call my colleague Edward McTiernan at 212-715-1024.)

The City is willing to consider any ideas the County and/or Sustainable Playland may have in how we address issues related to the Playland Sign and other similar issues that may come up in the future as plans with Standard Amusements move forward, but the County's violations of SEQRA and its disregard of the City's permit requirements must be addressed. We look forward to hearing from you.

Sincerely,

Michael B. Gerrard CB

Michael B. Gerrard

cc: Hon. Joseph A. Sack and Members, City Council
City Manager