

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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In the Matter of Application of

410-416 MAMARONECK AVENUE, LLC,

Ind. No.

Petitioner-Plaintiff,

For a Judgment Pursuant to Article 78 of the CPLR

**NOTICE OF  
VERIFIED PETITION**

-against-

FRANK TAVOLACCI, INSPECTOR OF BUILDINGS  
OF THE VILLAGE OF MAMARONECK, and  
VILLAGE OF MAMARONECK,

Respondents-Defendants.

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**PLEASE TAKE NOTICE** that upon the annexed Verified Petition of 410-416 MAMARONECK AVENUE, LLC, verified on January 5, 2022, along with all documents and exhibits annexed thereto, Petitioner, 410-416 MAMARONECK AVE, LLC, the undersigned, will make an application to this Court, in the Courthouse located at 111 Dr. Martin Luther King Boulevard, White Plains, New York, 10601, on February 7, 2022 at 9:30 a.m. or as soon thereafter as counsel may be heard, for an Order and Judgment pursuant to Article 78 of the New York Civil Practice Law and Rules and CPLR § 3001:

- i. Holding that the subject Vacate Orders dated September 5, 2021 were improperly issued for failure to properly notify Petitioner of the conditions that rendered Petitioner's Properties "unsafe", or in the alternative, holding that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- ii. Compelling Respondents to issue a written decision, and/or other official memorialization providing that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- iii. Compelling Respondents to conduct all inspections it claims are required no later than 5 days of the date of an Order/Judgment is entered in this Action;
- iv. Directing Respondents to close all permits and other open matters at the DOB in connection with Petitioner's Properties;
- v. Compelling Respondents to provide Petitioners with all written reports concerning Petitioner's Properties being maintained by the DOB;

- vi. Awarding Petitioner incidental monetary damages pursuant to CPLR § 7806 in an amount to be determined at trial;
- vii. Declare that the Vacate Orders were annulled, removed, rescinded and revoked as of September 27, 2021, and based on said declaration, awarding Petitioner all compensatory, consequential and other damages resulting from Respondents' failure so recognize and declare in writing in an amount to be determined at trial; and
- viii. Granting such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE THAT** pursuant to CPLR § 7804(c), respondent's answer and supporting affidavits, and any other papers in opposition to the above special proceeding, if any, are required to be served upon the undersigned no less than five (5) days before the above return date.

Dated: January 5, 2022  
New York, New York

ADAM MICHAEL LEVY, P.C.  
*Attorneys for Petitioner*

By: s/ Adam Michael Levy  
Adam Michael Levy  
11 Broadway, Suite 615  
New York, NY 10004  
T: (646) 389-5854  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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In the Matter of Application of

Ind. No.

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Petitioner, 410-416 MAMARONECK AVENUE, LLC (“Petitioner”), by and through its attorneys, Adam Michael Levy, P.C., as and for its Verified Petition, alleges as follows:

**NATURE OF THE ACTION**

1. This is a hybrid proceeding seeking (primarily) relief pursuant to Article 78 of New York’s Civil Practice Laws and Rules to rectify the unauthorized, improper and prejudicial actions taken by the Respondents that have sought to effectively shut down the Petitioner’s commercial properties for the last 4 months. Despite Respondent Frank Tivolacci’s oral declaration to Petitioner’s representatives that the subject Vacate Orders issued (albeit improperly) on September 5, 2021 were rescinded as of September 27, 2021, his direction to remove the Vacate Orders from their posted positions on the properties, his instructions to Con Edison to restore power to the properties, and Mr. Tivolacci’s representation that a written decision memorializing the rescission would be issued, Respondents have seemingly reversed course and have, since that time,

persistently and improperly engage in multiple instances of misconduct for the purpose of ascribing *post facto* bases to the Vacate Orders in order to improperly preserve them.

2. Since this clearly exceeds any notion of due process or lawful procedure, and otherwise constitutes clear abuses of any discretion Respondents may still retain, Respondents must be compelled to perform those duties enjoined upon them by law and at the very least, acknowledge, in writing, that the subject Vacate Orders were annulled as of September 27, 2021. This Court should also issue a judicial declaration that September 27, 2021, was the date that the Vacate Orders were annulled, removed and rescinded, so as to fully and finally resolve this dispute.

### **PARTIES**

3. At all relevant times, Petitioner was and is a limited liability company maintaining a business address in the Village of Mamaroneck, County of Westchester, State of New York. Petitioner owns the properties located at 410-412 Mamaroneck Avenue, Mamaroneck, New York - Tax ID No. 9-7-61 otherwise known as Parcel Number ID Section/Block/Lot 9-18-9B (the “410-12 Property”), and 414-416 Mamaroneck Avenue, Mamaroneck, New York (Tax ID No. 9/7/59) (the “414-416 Property”) (the 410-12 Property and 414-416 Property, collectively, “Petitioner’s Properties”). A copy of the Village of Mamaroneck tax map reflecting the location of Petitioner’s Properties is annexed hereto as Exhibit “A”.

4. Upon information and belief, and at all relevant times, Frank Tavoracci, Inspector of Buildings of the Village of Mamaroneck (“Tavoracci”), was and is the Inspector of Buildings for the Village of Mamaroneck (the “Village”) maintaining decision-making authority over the administration and enforcement of the Village’s building code on behalf of the Village and its Building Department (“DOB”). The DOB/Tavoracci maintain offices located at 123 Mamaroneck Avenue, Mamaroneck, New York 10543.



5. Upon information and belief, and at all relevant times, the Village of Mamaroneck (the “Village”) is an incorporated village located in the County of Westchester, State of New York, which employs Tavalacci and maintains and supervises the DOB.

**BACKGROUND FACTS APPLICABLE TO ALL CAUSES OF ACTION**

6. Petitioner’s Properties consist of two, adjacent, 2-story buildings with the basements and first floors rented to retail tenants, and the second floors consisting of office space reserved to Petitioner.

7. On or around September 1, 2021, Hurricane Ida dumped historic amounts of rainwater in, on and around the Village, causing widespread flooding throughout. Only the basements of Petitioner’s Properties sustained flooding as a result thereof.

8. On or after September 5, 2021, the Village – via the DOB and under Tavalacci’s authority – posted a notice upon the Petitioner’s Properties in which they declared that the Petitioner’s Properties:

has been inspected by a [DOB] Official and has been determined to be unsafe. This property may not be occupied until repairs have been made.

(the “Vacate Orders” or individually, “Vacate Order”). A copy of the Vacate Order that was posted on the 414-416 Property along with an accompanying document is annexed hereto as Exhibit “B”. A Vacate Order was also posted on the 410-412 Property bearing the same language, though that Vacate Order identified the 410-412 Property.

9. As shown, the Vacate Orders quoted the black letter language of NYS Property Maintenance Code Section 107.1.1 and declared:

You are required to vacate the property until the property has received a new certificate of occupancy from the [DOB].

\*\*\*

Please call our office at (914)777-7735 to discuss the next steps toward repairing the damage.

See id.

10. Except for the foregoing, no further instructions, directions or clarification was provided in the Vacate Orders concerning the precise nature of the “unsafe” conditions of Plaintiffs’ Properties, the bases for finding that the structures were “unsafe”, or exactly what repairs, maintenance and/or remediation was required to render the “unsafe” conditions safe again so as to warrant re-occupancy.

11. At or around the date of the posting of the Vacate Orders, the power supply to Petitioner’s Properties – which is provided by Con Edison – was discontinued and turned off at the direction of the DOB.

12. The flood water drained from the basements and shortly thereafter, Petitioner retained duly licensed electricians to, among other things, replace certain electrical circuit panels and breakers in the basements of both Petitioners Properties that had become wet due to the flooding. These contractors did, in fact, perform this work prior to September 27, 2021. Copies of the Certificate of Compliance reflecting the proper completion of the work by Petitioner’s electrical contractors are annexed hereto as Exhibit “C”.

13. On September 10, 2021, Petitioner also retained duly licensed environmental consultants to address a petroleum (i.e., oil) odor that had been complained-of at the 416 Premises. The environmental consultants determined, after conducting an indoor air quality assessment, that the areas of concern “did not indicate any product or condition that could cause a ‘petroleum odor’ and further, that they did not detect “any presence of [Volatile Organic Compounds] – readings of 0.0 parts per million (ppm).” They then concluded that based on these results, the areas of concern

“were acceptable for occupancy....” A copy of the Environmental Maintenance Contractors Inc. assessment providing for the foregoing is annexed hereto as Exhibit “D”.

14. After obtaining these results, Petitioner provided the available documentation to the DOB and invited the DOB to attend and inspect Petitioner’s Properties to confirm that the conditions subject to the Vacate Orders which allegedly rendered Petitioner’s Properties “unsafe” had been remediated and satisfied.

15. On September 27, 2021, Tavalacci inspected Petitioner’s Properties, declared them to be safe, informed Petitioner’s agents (i.e., Philip Ruth, Josh Ruth and Lee Ruth) that occupancy of Petitioner’s Properties could be resumed, and perhaps most significantly, directed Petitioner’s agents to remove the Vacate Orders from their posted locations on Petitioner’s Properties. Tavalacci also said he or another agent within the DOB would inform Con Edison to restore power to the Premises. When Petitioner requested a more formal, written document memorializing Tavalacci declarations and representations, Mr. Tavalacci advised that one would be forthcoming.

16. Upon information and belief, the DOB further instructed Con Edison – which supplies power to Petitioner’s Properties – to then restore the power to Petitioner’s Properties, further evidencing that Petitioner had remedied the alleged “unsafe” conditions subject to the Vacate Orders. Power to the 416 Property was restored on September 30, 2021.

17. Thereafter, on October 4, 2021, and in justifiable reliance upon Mr. Tavalacci’s/the DOB’s declarations and instructions, Petitioner apprised the tenants that they could safely resume occupancy thereof. A copy of one of notices is annexed hereto as Exhibit “E”.

18. Upon information and belief, on or around October 7, 2021 – approximately 10 days after Mr. Tavalacci’s inspection - a Complaint was filed with the DOB (presumably by tenant of the 414-416 Property, ABC Cakes LLC (“ABC”)) alleging an “illegal discharge” at the 416

Property. Petitioner scheduled a date/time for the DOB's agent, Mallory DeLanoy of Arcadis U.S. Inc., to inspect the 416 Property in connection with the Complaint.

19. The DOB's agent did, in fact, appear at the 414-416 Property, but due to their own internal mistakes, they had scheduled the inspection for the 410-412 Property. They then left the 414-416 Property stating that they first needed to correct the mistake internally and that they would return to the 414-416 Property thereafter. They never returned.

20. On October 11, 2021, counsel to ABC wrote that his client has been in contact with the DOB and they had told her that the Vacate Order had not been removed/rescinded and was still in full force and effect. Based on Tavalacci's prior representations, however, Petitioner understood that ABC's counsel's representations were incorrect.

21. Subsequently, and in response to a "Fourteen (14) Day Notice of Default and Demand to Cure" served by Petitioner upon ABC, which demanded that ABC pay outstanding rent due and owing under their lease, ABC commenced a proceeding in the Westchester County Supreme Court seeking, among other things, a Yellowstone Injunction/Preliminary Injunction prohibiting Petitioner from holding ABC in default under the parties' lease based on allegations that the Vacate Order was still in effect and as a result, ABC is not required to pay rent. See ABC Cakes v. 410-416 Mamaroneck Avenue, LLC, Ind. No. 66062/2021 (Sup. Ct. Westchester Cty 2021) (the "Landlord Tenant Proceedings"). Though that motion was denied by the Hon. Damaris E. Torrent by Order dated December 14, 2021, the underlying dispute is ongoing, with the representations of Tavalacci concerning the Vacate Orders still at issue. See id. at Docket No. 39.

22. Also, on or around October 12, 2021 – more than 2 weeks after Mr. Tavalacci's/the DOB's declarations to Petitioner's representatives - a Complaint was filed with the DOB (presumably by Petitioner's tenant at the 410-412 Property) alleging that there was mold growing

in the basement of the 410 Property, resulting in “unsanitary interior surfaces.” A copy of the Code Enforcement Appearance Ticket reflecting a violation of Section 305.3 of the Building Code in connection with the 410 Property and notifying Petitioner of a Court Appearance on November 2, 2021, is annexed hereto as Exhibit “F”. That appearance was thereafter subsequently adjourned and is now scheduled for January 11, 2022, to the extent an appearance is still required (more on this below).

23. As a result, Petitioner (while reserving all rights to seek to recover the costs from its tenants) remediated the conditions by having a mold and asbestos remediation company perform the work. As of the date of this Petition, the work has been completed. Copies of the reports and analyses from Petitioner’s contractors confirming the foregoing and which were submitted to the DOB are collectively annexed hereto as Exhibit “G”.

24. On December 10, 2021, DOB Code Enforcement Officer Charlotte A Mountain, of the DOB, expressly declared the matter to be “Closed”. Attached as Exhibit “H” is an email from Officer Mountain expressing that determination.

25. On December 21, 2021, and due to the DOB’s disregard of Petitioner’s multiple requests for written confirmation that the Vacate Order had been rescinded and removed on and after September 27, 2021 (the date Mr. Tavalacci previously declared its rescission and removal), Petitioner, via counsel, wrote to the DOB and once again demanded a final and formal written disposition of the Vacate Order as of September 27, 2021. A copy of the December 21, 2021 letter to the DOB (Mr. Tavalacci and Ms. Mountain) requesting this along with a request for all other documents within the DOB’s files concerning the 414-416 Property is annexed as Exhibit “I”.

26. In response, Mr. Tavalacci wrote as follows:

The property has an illegal discharge violation regarding storm water discharging into the sanitary sewer. Please contact Mallory

DeLanoy our consulting engineer for EIT, CDT 44 South Broadway  
Suite 1200 White Plains ,NY. 914 641 2406

The property also has an open electrical permit number 211268E  
which has never received the certification from a third party  
inspector.

When these items are addressed we can consider removing the  
vacate order from this property. The owners have been well aware  
of the above.

A copy of Tavalocci's December 21, 2021 response is annexed hereto as Exhibit "J".

27. Critically, Tavalocci did not respond to that portion of the December 21<sup>st</sup> Letter  
referencing the fact that he had previously rescinded the Vacate Order on September 27, 2021 –  
effectively conceding it.

28. Petitioner therefore responded to Mr. Tavalocci's latest demands, via counsel, with  
the following, in pertinent part:

Regarding the items themselves, attached please find copies of email  
exchanges between Alan Bonistall Electrical Contracting and the  
DOB concerning the issuance and closure of the electrical permits.  
As you can see, several attempts were made to resolve the issue with  
the DOB since October, but the DOB was not responsive, which  
inhibited my client's ability to close the permit. Nevertheless,  
attached are Certificates of Compliance confirming the work has  
been completed and as such, the permits (i.e., EP:21-1268-BP:0 and  
EP:21-0928-BP:0) should be closed. Please do so.

As for the "illegal discharge violation" that was issued on October  
7, 2021 (i.e., more than a month after the Vacate Order was issued,  
and more than a week after it was removed per your  
representations), that violation apparently concerns the property  
located at 414 Mamaroneck Avenue (S/B/L 9-7-59). An inspection  
was originally scheduled for October 26<sup>th</sup> with Arcadis but I  
understand that upon their arrival, and due to someone else's error,  
the inspection was scheduled for the wrong building (i.e., 410  
Mamaroneck Avenue) and they never returned. Moreover, this  
violation in no way concerns the property located at 410  
Mamaroneck Avenue (S/B/L 9-7-61). Attached are copies of my  
client's tax bills further reflecting the distinction between these  
properties. Accordingly, if the Vacate Order continues to be

reflected in the DOB's records as active against 410 Mamaroneck Avenue, please acknowledge, in writing, that it has been removed.

The bottom line is that considerable confusion has arisen as a result of the DOB's failure to memorialize your prior representations to my client that the Vacate Order had already been removed. We therefore require the DOB to memorialize all of its decisions and demands in writing and without ambiguity. Surely, that you intend "to consider removing the Vacate Order from this property" does not provide us with the certainty or notice that is required by both my client and the law. So, please be clear as to what else you are requiring in order to fully resolve these issues and remove the Vacate Order to the extent it remains active. My client and I will continue to make ourselves available at any time to discuss this further should you request it

A copy of the December 23, 2021 letter (the "December 23<sup>rd</sup> Letter") and the accompanying documents is annexed hereto as Exhibit "K".

29. As of the date of this Petition, no written response to the December 23<sup>rd</sup> Letter has been received from the DOB/Tavolacci.

30. Moreover, on December 22, 2021 when Petitioner sought to comply with Tavolacci's latest demands and schedule a new inspection with the DOB's designated agent, Arcadis U.S., Inc. ("Arcadis") regarding the alleged "illegal discharge" violation, Petitioner was informed on December 27, 2021 that they "will not be scheduling inspections in the near future." A copy of the December 27, 2021 correspondence from Arcadis U.S., Inc. to Petitioner's principal is annexed to Exhibit "L".

31. Thus, on January 4, 2022, Petitioner, via counsel, informed Tavolacci and the DOB of Arcadis' communication and demanded, among other things, that the DOB schedule an immediate inspection of the 416 Property. A copy of January 4, 2021 correspondence to Tavolacci is annexed hereto as Exhibit "M"

32. As of the date of this Petition, no response has been received from the DOB to the January 4<sup>th</sup> Letter and if past is precedent, no appropriate response is expected.

**As and For a First Cause of Action**

33. Petitioner realleges and reasserts the allegations set forth in the preceding paragraphs as though more fully set forth herein in their entirety.

34. Chapter 126 of the Village of Mamaroneck Village Code (“Village Code”), entitled “Building Code Administration and Enforcement”, vests Tavolacci with authority and obligation to duly administer and enforce the New York State Building Code (“NYS Building Code”) and Village Code within the Village, including authority to issue and revoke Vacate Orders (where appropriate), investigate complaints, issue violations and compliance orders, and keep/maintain official records of all transactions and activities conducted by the Building Department. See also 19 NYCRR § 1203 *et seq.*

35. With respect to “Unsafe Buildings and Structures”, the Village Code incorporates the provisions of the NYS Building Code. See Village Code § 126-9.

36. The NYS Building Code expressly prohibits any authority from administering or enforcing it “in a manner that deprives any person or entity of due process of law” and expressly requires all owners or occupants being removed from buildings because they are declared “unsafe” to be provided with “notice and an opportunity to be heard.” NYS Building Code § 103.2 and 103.2.1.

37. Section 107 of the NYS Building Code governs “Unsafe Structures and Equipment”. It more particularly requires the “authority having jurisdiction” (here, Respondents) to “exercise its powers in due and proper manner” after determining that a building is “unsafe”



and constitutes a “Clear and imminent threat to human life, safety or health”. NYS Building Code § 107-1.

An unsafe structure is one that is found to be dangerous to life, health. Property or safety of the public or the occupants of the structure by not provided minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

NYS Building Code § 107-1.1, upon which the Vacate Orders here are based.

The DOB/Tavolacci is also charged with removing posted Vacate Orders only when the alleged offending conditions have been remediated.

The placard shall not be removed until the defect or defects upon which the condemnation and placarding action were based have been eliminated.

Id. at § 107.5.

Moreover, Tavolacci is required to specify and file a written report on the “unsafe” conditions at the premises.

The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

Id. at § 107.7.

38. Pursuant to CPLR §§ 7803(1), (2) and (3), and Chapter 126 of the Village Code and the NYS Building Code, Respondents have failed to perform the foregoing and those other duties enjoined upon them by law, have proceeded, is proceeding or is about to proceed without, or in excess of jurisdiction, and/or have made a determination in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including

abuse of discretion as to the measure or mode of penalty or discipline imposed by, among other things:

- Exercising their authority in a manner that deprives Petitioner of due process of law and their right to lawfully occupy Petitioner's Properties;
- Issuing the Vacate Orders without stating any lawful or justifiable basis for doing so, nor stating the reasons why the Petitioner's Properties are "unsafe";
- Refusing to issue a written documentation and/or reports annulling, rescinding, revoking, vacating and/or otherwise removing the Vacate Order as of September 27, 2021;
- Refusing to conduct appropriate Inspections to address alleged violative conditions;
- Issuing violations based on unfounded and baseless complaints;
- Refusing to credit and/or otherwise accept documents duly demonstrating that alleged conditions forming the basis of violations have been properly addressed and should therefore be closed; and
- Refusing to provide written documentation and report maintained by the DOB concerning Petitioner's Properties.

39. Respondents' actions and decisions in connection with the foregoing are erroneous, unreasonable, illegal, discriminatory, unjust, and arbitrary.

40. Petitioner's requested actions of the Respondents, including but limited to, the issuance of a written memorialization of Tavalacci's prior determination that the Vacate Orders were removed as of September 27, 2021, are ministerial, and do not involve the exercise of Tavalacci's or anyone else's discretion.

41. Respondents' treatment of this entire matter is drastic, undeserved, and an abuse of discretion.

42. Accordingly, Respondents have violated those duties imposed upon it by CPLR §§ 7803(1), (2) and (3).

43. There is no additional administrative action which can be taken by Petitioner to address these matters with Respondents.

44. Petitioner is suffering irreparable harm as a result of Respondents' malfeasance/nonfeasance, including but not limited to, the loss of Petitioner's beneficial, use, possession and enjoyment of Petitioner's Properties.

45. The balance of equities weighs heavily in favor of the Petitioner.

46. Petitioner does not have an adequate remedy at law.

47. As a result of the foregoing, an Order and Judgment must be entered pursuant to CPLR § 7806:

- i. Holding that the Vacate Orders were improperly issued for failure to properly notify Petitioner of the conditions that rendered Petitioner's Properties "unsafe", or in the alternative, holding that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- ii. Compelling Respondents to issue a written decision, and/or other official memorialization providing that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- iii. Compelling Respondents to conduct all inspections it claims are required no later than 5 days of the date of this Order; and
- iv. Directing Respondents to close all permits and other open matters at the DOB in connection with Petitioner's Properties.

48. Additionally, Petitioner is entitled to incidental monetary damages pursuant to CPLR § 7806, including all costs, expenses, fee (including reasonable attorneys' fees) incurred by Petitioner in connection with Respondents' improper actions and this dispute, as well as those

additional damages incurred in connection with Petitioners' Properties and Petitioner's tenants as a result of the improper issuance and/or maintenance of the Vacate Orders, in an amount to be determined at trial.

**As and For a Second Cause of Action**

49. Petitioner realleges and reasserts the allegations set forth in the preceding paragraphs as though more fully set forth herein in their entirety.

50. A justiciable controversy exists between the parties who all have stakes in the outcome.

51. Respondents are apparently taking the position, contrary to their prior representations and conduct, that the Vacate Orders remain in effect against Petitioner's Properties.

52. As a result of Tavolacci's statements and representations to Petitioner on September 27, 2021, the actions taken by Tavolacci and the DOB in furtherance of such representations – including directing Petitioner to remove Vacate Orders from Petitioner's Properties and directing the Con Edison to restore power to Petitioner's Properties, Petitioner's justifiable reliance on Tavolacci's/the DOB's statements and conduct, Respondents are estopped from denying, and have ratified that, the Vacate Orders were annulled, revoked, rescinded and removed as of September 27, 2021.

53. As such, and pursuant to CPLR § 3001, this Court must declare that the Vacate Orders were annulled, removed, rescinded and revoked as of September 27, 2021, and based on said declaration, awarding Petitioner all compensatory, consequential and other damages resulting from Respondents' failure so recognize and declare in writing.

WHEREFORE, Petitioner respectfully requests that this Petition be granted in its entirety and enter judgment:

- i. Holding that the Vacate Orders were improperly issued for failure to properly notify Petitioner of the conditions that rendered Petitioner's Properties "unsafe", or in the alternative, holding that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- ii. Compelling Respondents to issue a written decision, and/or other official memorialization providing that the Vacate Orders were annulled, revoked, rescinded and/or removed as of September 27, 2021;
- iii. Compelling Respondents to conduct all inspections it claims are required no later than 5 days of the date of an Order/Judgment is entered in this Action;
- iv. Directing Respondents to close all permits and other open matters at the DOB in connection with Petitioner's Properties;
- v. Compelling Respondents to provide Petitioners with all written reports concerning Petitioner's Properties being maintained by the DOB;
- vi. Awarding Petitioner incidental monetary damages pursuant to CPLR § 7806 in an amount to be determined at trial;
- vii. Declare that the Vacate Orders were annulled, removed, rescinded and revoked as of September 27, 2021, and based on said declaration, awarding Petitioner all compensatory, consequential and other damages resulting from Respondents' failure so recognize and declare in writing in an amount to be determined at trial; and
- viii. Granting such other and further relief as this Court deems just and proper.

Dated: New York, New York  
January 5, 2022

ADAM MICHAEL LEVY, P.C.  
*Attorneys for Petitioner*

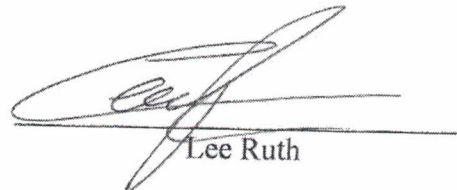
By: s/ Adam Michael Levy  
Adam Michael Levy  
11 Broadway, Suite 615  
New York, NY 10004  
T: (646) 389-5854  
F: (866) 321-6366  
E: adam@adammmichaellevypc.com

Verification

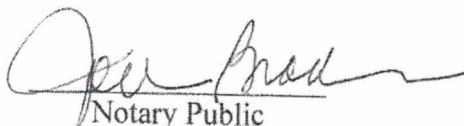
STATE OF NEW YORK                    )  
  )ss.:  
COUNTY OF WESTCHESTER         )

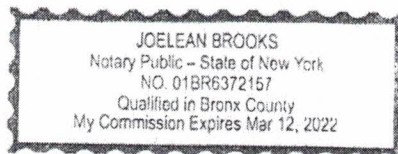
Lee Ruth, being duly sworn, deposes and says:

I am an authorized agent of A. Ruth & Sons, which is the managing agent for 410-416 Mamaroneck Ave, LLC and the properties located at 410, 412, 414 and 416 Mamaroneck Avenue, Mamaroneck, New York. I have read the annexed Verified Petition, and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief and that as to those matters, I believe them to be true. The grounds of my beliefs are the documents submitted along with the Petition, the inferences to be drawn therefrom, the history of my and Petitioner's interactions with the Respondents, and my common sense.

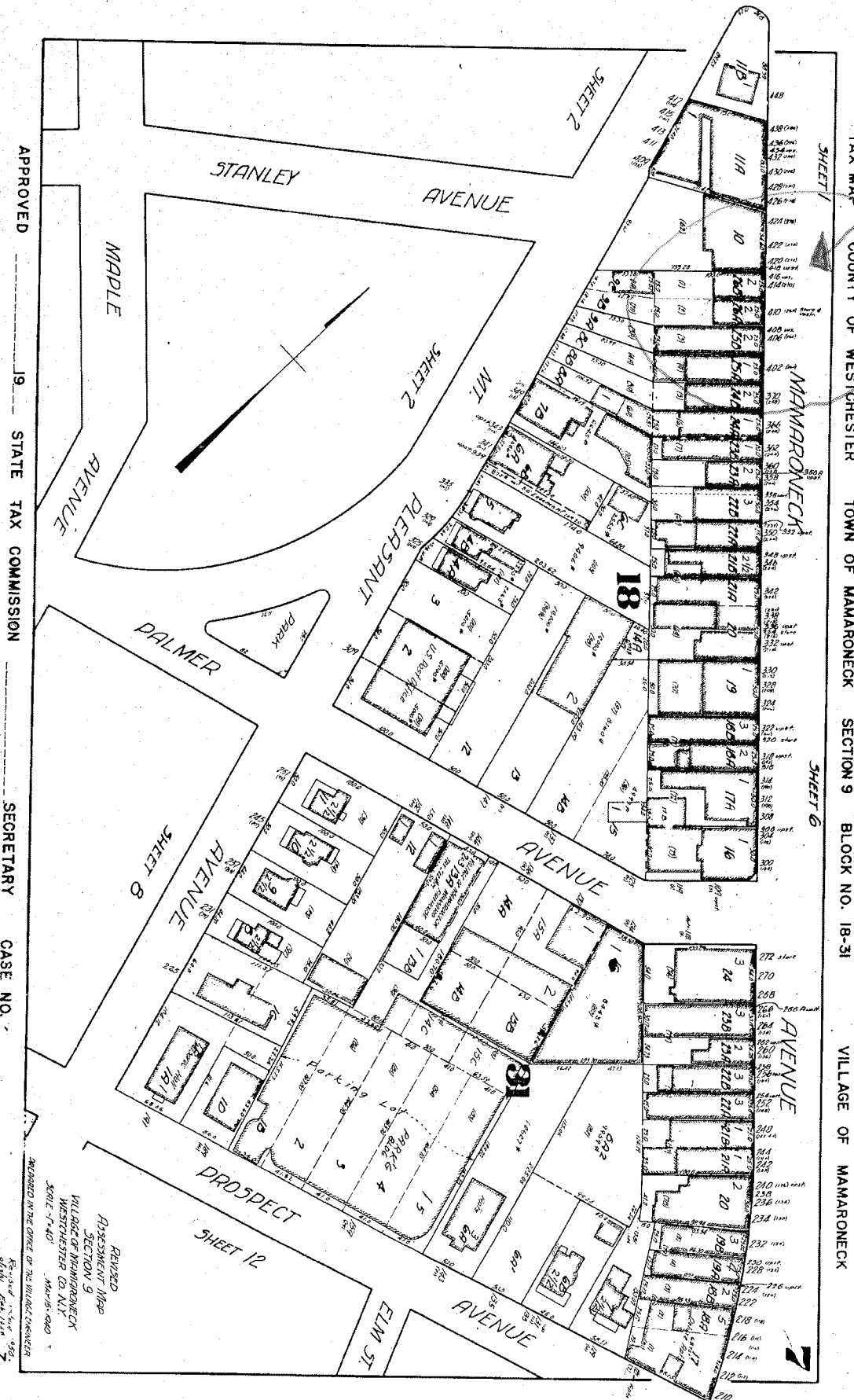
  
Lee Ruth

Sworn to before me this 5th  
day of January, 2021

  
Notary Public



**EXHIBIT “A”**





**EXHIBIT “B”**

## VILLAGE OF



MAMARONECK

OFFICE OF THE  
BUILDING DEPARTMENTVillage Hall  
Mamaroneck, N.Y. 10541TELEPHONE  
(914) 777-1227FAX  
(914) 777-1767Address Reply to:  
Building Department  
169 Mt. Pleasant Avenue

September 5, 2021

Dear Sir or Madam,

Your property at 416 Mamaroneck Ave

has been inspected by the Building Department Official and has been determined to be unsafe. This property may not be occupied until repairs have been made.

The Property Maintenance Code states:

**107.1.1 Unsafe Structures**

An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

You are required to vacate the property until the property has received a new certificate of occupancy from the Building Department.

We do understand that this is a great inconvenience and will do everything that we can to assist you in obtaining all necessary permits to make repairs.

Please call our office at (914) 777-7755 to discuss the next steps toward repairing the damage.

Please call 1-(800) 733-2767 for the Red Cross. They will be able to help you to find shelter.

**This Structure Is Unsafe and Its  
Occupancy Has Been Prohibited by  
the Code Enforcement Official.**

NYS Property Maintenance Code §107.1.1c

It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

*[Signature]*  
NYSCEF DOC. NO. 3

*[Signature]*  
NYSCEF DOC. NO. 3

**EXHIBIT “C”**



BY THIS CERTIFICATE OF COMPLIANCE THE

**Westchester Rockland Electrical Inspection Services**

43 North Lawn Ave, Elmsford, NY 10523

914-347-3595 (Office) | 914-347-3596 (Fax)

**CERTIFIES THAT****Upon the application of:**Alan Bonistall Electrical Contracting  
53 Purdy Street  
NY, Harrison 10528**Upon premises owned by:**

410-416 Mamaroneck Ave LLC

**Located at:** 414 Mamaroneck Ave Mamaroneck, NY 10543**Certificate Number:** 1030720**Section:** 9**Block:** 18**Lot:** 9B**BDC:****Permit Number:** EP:21-1268-BP:0

A visual inspection of the electrical system at this premise described as a Commercial occupancy, wherein the premises electrical system consisting of electrical devices and wiring, described below, located in/on the premises at: 414 Mamaroneck Ave Mamaroneck, NY 10543

☒ Basement ☐ 1st Floor ☐ 2nd Floor ☐ 3rd Floor ☐ Garage ☐ Attic ☐ Outside

Other:

Inspection was conducted in accordance with the NYS and NFPA 70-2017 International Electrical Code and detail of the installation, as set forth below, was found to be in compliance therewith on 12/22/21

Name	Type	Quantity
Replace Meter Pan	-----	1
Replace Circuit Distribution Panel	-----	1
Disconnect Switch	-----	1

**This Certificate has been approved by Westchester Rockland Electrical Inspection Services.**

This certificate may not be altered in any way.

This certificate is valid for work performed before date of inspection only.



BY THIS CERTIFICATE OF COMPLIANCE THE

**Westchester Rockland Electrical Inspection Services**

43 North Lawn Ave, Elmsford, NY 10523

914-347-3595 (Office) | 914-347-3596 (Fax)

**CERTIFIES THAT****Upon the application of:**Alan Bonistall Electrical Contracting  
53 Purdy Street  
NY, Harrison 10528**Upon premises owned by:**

410-416 Mamaroneck Av LLC

**Located at:** 410 Mamaroneck Ave Mamaroneck, NY 10543**Certificate Number:** 1030719**Section:** 9**Block:** 18**Lot:** 9B**BDC:****Permit Number:** EP:21-0928-BP:0

A visual inspection of the electrical system at this premise described as a Commercial occupancy, wherein the premises electrical system consisting of electrical devices and wiring, described below, located in/on the premises at: 410 Mamaroneck Ave Mamaroneck, NY 10543

☒ Basement    ☐ 1st Floor    ☐ 2nd Floor    ☐ 3rd Floor    ☐ Garage    ☐ Attic    ☐ Outside  
Other:

Inspection was conducted in accordance with the NYS and NFPA 70-2017 International Electrical Code and detail of the installation, as set forth below, was found to be in compliance therewith on 09/21/21

Name	Type	Quantity
Replace Circuit Distribution Panel	-----	1
Replace Meter Pan	-----	1
Disconnect Switch	-----	1

This Certificate has been approved by Westchester Rockland Electrical Inspection Services.

This certificate may not be altered in any way.

This certificate is valid for work performed before date of inspection only.

**EXHIBIT “D”**

Established in 1995  
NYS DOL Asbestos Handling License #28535  
NYS DOL Mold Assessor & Remedial Contractor License #00178  
EPA Lead Paint Certification #LP-62470-2  
NYS DEC Waste Transporter Permit #3A-812

Richard Stumbo  
President

## **ENVIRONMENTAL MAINTENANCE CONTRACTORS, INC.**

*Environmental Consulting, Testing, Reporting and Remedial / Abatement Services*

September 13, 2021

Attn: Lee Ruth  
**A. Ruth & Sons Real Estate**  
412 Mamaroneck Avenue  
P.O. Box 563  
Mamaroneck, NY 10543

Phone: (914) 777-3800  
Email: [Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)

Fax: (914) 777-3801

**Re: Limited Indoor Air Quality (IAQ) Screening Services**  
**Basement Areas of 410 – 416 Mamaroneck Avenue, Mamaroneck, NY**

Environmental Maintenance Contractors, Inc. (EMC) has completed the Limited Indoor Air Quality (IAQ) Screening Services within the Basement of the building(s) located at 410 – 416 Mamaroneck Avenue, Mamaroneck, NY (hereafter referred to as the "areas of concern").

The Limited IAQ Screening Services were performed in response to a concern regarding a "petroleum" odor in the areas of concern. EMC dispatched an Environmental Technician to perform the inspection and screening as part of the Limited IAQ Screening Services provided as detailed below.

On September 10, 2021, EMC mobilized an Environmental Technician to perform the Limited IAQ Screening Services within the areas of concern. The Limited IAQ Screening Services included performing a site inspection of the areas of concern to determine if any product or condition was producing a petroleum odor and performing screening for elevated concentrations of Volatile Organic Compounds (VOC's) using a handheld screening device (Multi-gas meter with Photo Ionization Detected (PID) .

The results of the visual inspection by EMC's Environmental Technician, within the areas of concern, during the time of the Limited IAQ Screening Services, did not indicate any product or condition that could cause a "petroleum" odor. The results of the screening via handheld screening device by EMC's Environmental Technician, within the area of concern, during the time of the Limited IAQ Screening Services, did not indicate any presence airborne VOC's – readings of 0.0 parts per million (ppm).

Based on the results of the visual inspection and field screening performed, the areas of concern were acceptable for occupancy during the time of the Limited IAQ Screening Services. Should you have any questions or require additional information please do not hesitate to contact me @ 914-232-7355.

Sincerely,  
**Environmental Maintenance Contractors, Inc.**  
Richard Stumbo  
President

EMC, Inc. 5 Anderson Lane Goldens Bridge, New York 10526 Tel: 914-232-7355, Fax: 914-232-7357  
email: [rstumbo@enviromain.com](mailto:rstumbo@enviromain.com)



**EXHIBIT “E”**

## A. RUTH &amp; SONS

412 MAMARONECK AVENUE, PO BOX 563  
MAMARONECK, NEW YORK 10543  
TELEPHONE (914) 777-3800  
FAX NO. (914) 777-3801

*Real Estate*

October 4, 2021

Via Overnight Mail; Electronic Mail

ABC Cakes LLC  
414 Mamaroneck Avenue  
Mamaroneck, NY 10543  
duran@abccakesny.com

Re: 414 Mamaroneck Avenue, Grade Store  
Mamaroneck, NY 10543 the "Premises")

Dear Tenant:

As you know, A. Ruth & Sons manages the above-referenced Premises on behalf of your landlord, 410-416 Mamaroneck Avenue LLC, successor in Interests to the Rights of Payson Estates, Inc.

PLEASE TAKE NOTICE that on Monday September 27, 2021 Frank Tavalacci - the Village of Mamaroneck Building Inspector - inspected the Premises, along with all of the basements of the buildings located at 410-416 Mamaroneck Avenue, and declared the Premises and the buildings to be safe for use and occupancy in their entirety. On Friday September 30, 2021 Con Edison fully restored power to the Premises and the buildings. Accordingly, you may return to full use and occupancy of the Premises as of September 30, 2021.

Very truly yours,

Josh Ruth

**EXHIBIT “F”**



Village of Mamaroneck  
169 Mt. Pleasant Ave  
Mamaroneck, New York 10543  
914-777-7731

10/22/2021  
Docket #: 21-0902

## Code Enforcement Appearance Ticket Village Justice Court, Village of Mamaroneck, N.Y.

Name 410-416 MAMARONECK AV LLC

Property Address 410 MAMARONECK AV

Mailing Address 412 MAMARONECK AVE PO BOX 563,  
MAMARONECK, NY 10543

Date of Court Appearance 9:30 AM on 11/2/2021

VILLAGE OF MAMARONECK

AGAINST

410-416 MAMARONECK AV LLC

People

Defendant

In that the same said defendant allowed or caused to allow:

First Count: That on 10/12/2021 at approximately 03:24 PM, and prior to and continuing thereafter Defendant 410-416 MAMARONECK AV LLC did allow or caused to allow a violation of 305.3 Interior surfaces. of the 2020 PROPERTY MAINTENANCE CODE OF NEW YORK STATE.

AT THE PROPERTY 410 MAMARONECK AV P.K.A Section-Block-Lot 9-18-9B

I observed that on 10/12/2021 at 03:24 PM: there is mold within the interior stairwells at the location. This condition is detrimental to all occupants and is in violation of the code. You must remove all mold and unsanitary surface immediately or you must vacate the structures by the date below.

In violation of: 305.3 Interior surfaces.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.



Village of Mamaroneck  
169 Mt. Pleasant Ave  
Mamaroneck, New York 10543  
914-777-7731

10/22/2021

Docket #: 21-0902

## Code Enforcement Appearance Ticket Village Justice Court, Village of Mamaroneck, N.Y.

Name 410-416 MAMARONECK AV LLC

Property Address 410 MAMARONECK AV

Mailing Address 412 MAMARONECK AVE PO BOX 563,  
MAMARONECK, NY 10543

Date of Court Appearance 9:30 AM on 11/2/2021

VILLAGE OF MAMARONECK AGAINST 410-416 MAMARONECK AV LLC  
People Defendant

The foregoing is based upon information contained in the files of the Building Department of the Village of Mamaroneck, N.Y. FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR UNDER SECTION 210.45 OF THE PENAL LAW.

Frank Tavalacci

Building Inspector

Issued

Friday, October 22, 2021

Building Department, Village of Mamaroneck, N.Y.

THIS APPEARANCE TICKET REQUIRES PERSONAL APPEARANCE. PLEASE BRING THIS  
TICKET WITH YOU. FAILURE TO APPEAR IN COURT ON RETURN DATE WILL RESULT IN  
THE ISSUANCE OF A WARRANT FOR YOUR ARREST

**EXHIBIT “G”**

## NICHE ANALYSIS, INC.

399 Knollwood Road, Suite 208

White Plains, NY 10603

TEL: (914) 288-0805

FAX: (914) 288-0807

CLIENT:

A Ruth &amp; Sons

PROJECT:

410-146 Mamamonek ave

ABATED (ACM):

Wall Board

LOCATION:

Basement

ADDRESS:

TECHNICIAN: E. Glover

DATE: 11-18-21

NICHE ID

21-27637

CLIENT ID

CONTRACT ID

PCM - NIOSH 7400

ANALYSIS:

TEM - AHERA

(CHECK ONE)

AAS-NIOSH 7082 Pb

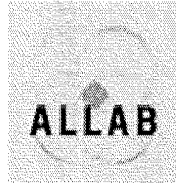
## AIR MONITORING LOG / CHAIN-OF-CUSTODY

PAGE 1 of 1

SAMPLE ID #	TYPE / PHASE II	SAMPLE DESCRIPTION/LOCATION	PUMP ID	TIME (min)		FLOW RATE (liter/min)		VOLUME (liters)	NOTE (f/cc)
				ON/OFF	TOTAL	START/END	AVG.		
1	5	IWA P. Decon		930	1130	120	15	15	1800
2		IWA W. Decon		931	1131		15	15	
3		IWA Exhaust		932	1132		15	15	
4		IWA Entrance		933	1133		15	15	
5		IWA H. Work Area		934	1134		15	15	
6		IWA E		935	1135		15	15	
7	✓	IWA S		936	1136	✓	15	15	✓
8		IWA FIB							
9		IWA FIB							
		IWA							
		IWA							
		IWA							
		IWA							
		IWA							
		IWA							

RESULTS TAT		RESULTS CONTACT TO	
RUSH	24 HR	NAME	E. Glover
48 HR	>72 HR	PHONE/FAX/E-MAIL	
RELINQUISHED BY:	E. Glover	DATE:	11-18-21
SIGNATURE:		TIME:	
RECEIVED BY:		DATE:	
SIGNATURE:		TIME:	NOV 18 2021
RELINQUISHED BY:	AIC	DATE:	11-18-21
SIGNATURE:	Analyzed	TIME:	19:00
RECEIVED BY:	By: Lican	DATE:	11/18/21
SIGNATURE:		TIME:	20:00

LAB NAME:		
CASSETTE LOT #	CALIBRATION	ROTOMETER ID.
	CF =	CAL DATE.
SAMPLE TYPE	ICR 56 - PHASE II	
1 - Pre-Abate / Background	A - Work Area Prep & Enclosure Construction	
2 - During Preparation	B - ACM Abate, Initial Cleans & Waste Removal	
3 - During Abate	C - Final Cleaning & Clearance Air Sampling	
4 - During Cleanup	D - Final Waste Removal from Site	
5 - Post Abate (Final Clearance)	ABRAVIATION	
6 - Personal (OSHA)	IWA - Inside Work Area	
7 - Other ( )	OWA - Outside Work Area	



REC.

**REPORT OF AIR MONITORING**  
**(PHASE CONTRAST MICROSCOPY ANALYSES OF AIR FILTERS)**

1544 EAST 13 STREET,  
BROOKLYN, NY 11230  
TEL: 718-864-3666  
EMAIL: [allaberu@gmail.com](mailto:allaberu@gmail.com)  
NYS DOH ELAP # 12118

**Client:** Niche Analysis, Inc.  
**Address:** 410-416 Mamoroneck Avenue  
**Work** Basement

NICHE ID 21-27037

Date Collected: 11/18/2021

Report ID: 211118-51

[illegible]

Sampling Technician: E.Glover

Rotometer:

## Background

### Pre-Abatement

During

## Ambient

## Post

**Analyst:**

Date Analyzed: 11/18/2021

**Lab Manager:**

## A Barengolts

The samples listed above are analyzed by Phase Contrast Microscopy (PCM) as per NIOSH Issue 3 dated 14 June 2019. The detection limit of this method is 7 f/mm2 or 5.5 f/100 f.

The results relate only to the items calibrated or tested. The certificate of report shall not be reproduced without approval of the laboratory.

RSD: Low 0.23, Med 0.22, High 0.20

Microscope Olympus # 004121



## NICHE ANALYSIS, INC.

399 Knollwood Road, Suite 208

White Plains, NY 10603

TEL: (914) 288-0805

FAX: (914) 288-0807

CLIENT:

PROJECT:

ABATED (ACM)

LOCATION:

ADDRESS:

TECHNICIAN: E. Glover

DATE: 11-18-21

NICHE ID	21-27837
CLIENT ID	
CONTRACT ID	
ANALYSIS:	PCM - NIOSH 7400
(CHECK ONE)	TEM - AHERA
	AAS-NIOSH 7082 Pb

## AIR MONITORING LOG / CHAIN-OF-CUSTODY

PAGE 21118-52 of

SAMPLE ID #	TYPE / PHASE II	SAMPLE DESCRIPTION/LOCATION	PUMP ID	TIME (min)		FLOW RATE (liter/min)		VOLUME (liters)	NOTE (f/cc)
				ON/OFF	TOTAL	START/END	AVG.		
1	2+3	IWA P. Decon OWA		1100 530	630	7 7	7	4410	
2		IWA W. Decon OWA		1101 531		7 7			
3		IWA Entrance OWA		1102 532		7 7			
4	✓	IWA Exhaust OWA		1103 533	✓	7 7	✓	✓	
5		IWA FIB OWA							
6		IWA FIB OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							
		IWA OWA							

RESULTS TAT		RESULTS CONTACT TO	
RUSH	24 HR	NAME	E. Glover
48 HR	>72 HR	PHONE/FAX/E-MAIL	
RELINQUISHED BY:		DATE:	11-18-21
SIGNATURE:		TIME:	
RECEIVED BY:		DATE:	
SIGNATURE:		TIME:	NOV 18 2021
RELINQUISHED BY:		DATE:	11-18-21
SIGNATURE:		TIME:	19:00
RECEIVED BY:	Analyzed by	DATE:	11/18/21
SIGNATURE:	h104	TIME:	23:30

LAB NAME:		
CASSETTE LOT #	CALIBRATION	ROTOMETER ID:
	CF =	CAL DATE:
SAMPLE TYPE	ICR 56 - PHASE II	
1 - Pre-Abate / Background	A - Work Area Prep & Enclosure Construction	
2 - During Preparation	B - ACM Abate, Initial Cleans & Waste Removal	
3 - During Abate	C - Final Cleaning & Clearance Air Sampling	
4 - During Cleanup	D - Final Waste Removal from Site	
5 - Post Abate (Final Clearance)	ABRAVIATION	
6 - Personal (OSHA)	IWA - Inside Work Area	
7 - Other ( )	OWA - Outside Work Area	



Established in 1995  
NYS DOL Asbestos Handling License #28535  
NYS DOL Mold Assessor & Remedial Contractor License #00178  
EPA Lead Paint Certification #LBP-62470-2  
NYS DEC Waste Transporter Permit #3A-812

Richard Stumbo  
President

**ENVIRONMENTAL MAINTENANCE CONTRACTORS, INC.**  
*Environmental Consulting, Testing, Reporting and Remedial / Abatement Services*

---

November 23, 2021

Attn: Lee Ruth  
**A. Ruth & Sons Real Estate**  
412 Mamaroneck Avenue  
P.O. Box 563  
Mamaroneck, NY 10543

Phone: (914) 777-3800  
Email: [Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)

Fax: (914) 777-3801

**Re: 410 Mamaroneck Avenue, Mamaroneck, NY**  
**Staircase (South Wall and Behind Step Landing) within the Garage Mold Remediation**

Dear Lee,

Environmental Maintenance Contractors, Inc. (EMC) has completed the within the Basement of 410 Mamaroneck Avenue, Mamaroneck, NY as per our proposal for the Staircase (South Wall and Behind Step Landing) within the Garage Mold Remediation, dated November 4, 2021. All work was performed in accordance with all applicable Federal, State and Local requirements.

Attached please find a copy EMC's New York State Department of Labor (NYS DOL) Mold Remediator Company License.

Should you have any questions or require additional information please do not hesitate to contact me.

Sincerely,  
**Environmental Maintenance Contractors, Inc.**

  
Richard Stumbo, President

Established in 1995  
NYS DOL Asbestos Handling License #28535  
NYS DOL Mold Assessor & Remedial Contractor License #00178  
EPA Lead Paint Certification #LBP-62470-2  
NYS DEC Waste Transporter Permit #3A-812

Richard Stumbo  
President

**ENVIRONMENTAL MAINTENANCE CONTRACTORS, INC.**  
*Environmental Consulting, Testing, Reporting and Remedial / Abatement Services*

---

November 23, 2021

Attn: Lee Ruth  
**A. Ruth & Sons Real Estate**  
412 Mamaroneck Avenue  
P.O. Box 563  
Mamaroneck, NY 10543

Phone: (914) 777-3800  
Email: [Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)

Fax: (914) 777-3801

**Re: Environmental Services @ 416 Mamaroneck Avenue, Mamaroneck, NY**  
**ACM Boiler and Pipe Insulation Abate**

Dear Lee,

Environmental Maintenance Contractors, Inc. (EMC) has completed the within the Basement of 416 Mamaroneck Avenue, Mamaroneck, NY as per our proposal for the ACM Boiler and Pipe Insulation Abate, dated November 1, 2021. All work was performed in accordance with all applicable Federal, State and Local requirements.

Attached please find a copy EMC's New York State Department of Labor (NYS DOL) Asbestos Handling License.

Should you have any questions or require additional information please do not hesitate to contact me.

Sincerely,  
**Environmental Maintenance Contractors, Inc.**

Richard Stumbo, President



Established in 1995  
NYS DOL Asbestos Handling License #28535  
NYS DOL Mold Assessor & Remedial Contractor License #00178  
EPA Lead Paint Certification #LBP-62470-2  
NYS DEC Waste Transporter Permit #3A-812

Richard Stumbo  
President

**ENVIRONMENTAL MAINTENANCE CONTRACTORS, INC.**  
*Environmental Consulting, Testing, Reporting and Remedial / Abatement Services*

---

November 23, 2021

Attn: Lee Ruth  
**A. Ruth & Sons Real Estate**  
412 Mamaroneck Avenue  
P.O. Box 563  
Mamaroneck, NY 10543

Phone: (914) 777-3800  
Email: [Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)

Fax: (914) 777-3801

**Re: Environmental Services @ 416 Mamaroneck Avenue, Mamaroneck, NY**  
**ACM Transite Panel Board Abate and Mold Remediation**

Dear Lee,

Environmental Maintenance Contractors, Inc. (EMC) has completed the within the Basement of 416 Mamaroneck Avenue, Mamaroneck, NY as per our proposal for the ACM Transite Panel Board Abate and Mold Remediation, dated November 4, 2021. All work was performed in accordance with all applicable Federal, State and Local requirements.

Attached please find a copy EMC's New York State Department of Labor (NYS DOL) Asbestos Handling and Mold Remediator Company Licenses.

Should you have any questions or require additional information please do not hesitate to contact me.

Sincerely,  
**Environmental Maintenance Contractors, Inc.**

  
Richard Stumbo, President

**EMC, Inc. 5 Anderson Lane Goldens Bridge, New York 10526 Tel: 914-232-7355, Fax: 914-232-7357**  
**email: [rstumbo@enviromain.com](mailto:rstumbo@enviromain.com)**

Established in 1995  
NYS DOL Asbestos Handling License #28535  
NYS DOL Mold Assessor & Remedial Contractor License #00178  
EPA Lead Paint Certification #LBP-62470-2  
NYS DEC Waste Transporter Permit #3A-812

Richard Stumbo  
President

**ENVIRONMENTAL MAINTENANCE CONTRACTORS, INC.**  
*Environmental Consulting, Testing, Reporting and Remedial / Abatement Services*

---

September 13, 2021

Attn: Lee Ruth  
**A. Ruth & Sons Real Estate**  
412 Mamaroneck Avenue  
P.O. Box 563  
Mamaroneck, NY 10543

Phone: (914) 777-3800  
Email: [Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)

Fax: (914) 777-3801

**Re: Limited Indoor Air Quality (IAQ) Screening Services**  
**Basement Areas of 410 – 416 Mamaroneck Avenue, Mamaroneck, NY**

Environmental Maintenance Contractors, Inc. (EMC) has completed the Limited Indoor Air Quality (IAQ) Screening Services within the Basement of the building(s) located at 410 – 416 Mamaroneck Avenue, Mamaroneck, NY (hereafter referred to as the "areas of concern").

The Limited IAQ Screening Services were performed in response to a concern regarding a "petroleum" odor in the areas of concern. EMC dispatched an Environmental Technician to perform the inspection and screening as part of the Limited IAQ Screening Services provided as detailed below.

On September 10, 2021, EMC mobilized an Environmental Technician to perform the Limited IAQ Screening Services within the areas of concern. The Limited IAQ Screening Services included performing a site inspection of the areas of concern to determine if any product or condition was producing a petroleum odor and performing screening for elevated concentrations of Volatile Organic Compounds (VOC's) using a handheld screening device (Multi-gas meter with Photo Ionization Detected (PID) .

The results of the visual inspection by EMC's Environmental Technician, within the areas of concern, during the time of the Limited IAQ Screening Services, did not indicate any product or condition that could cause a "petroleum" odor. The results of the screening via handheld screening device by EMC's Environmental Technician, within the area of concern, during the time of the Limited IAQ Screening Services, did not indicate any presence airborne VOC's – readings of 0.0 parts per million (ppm).

Based on the results of the visual inspection and field screening performed, the areas of concern were acceptable for occupancy during the time of the Limited IAQ Screening Services. Should you have any questions or require additional information please do not hesitate to contact me @ 914-232-7355.

Sincerely,  
**Environmental Maintenance Contractors, Inc.**  
Richard Stumbo  
President

**EMC, Inc. 5 Anderson Lane Goldens Bridge, New York 10526 Tel: 914-232-7355, Fax: 914-232-7357**  
**email: [rstumbo@enviromain.com](mailto:rstumbo@enviromain.com)**

**NEW YORK STATE - DEPARTMENT OF LABOR**

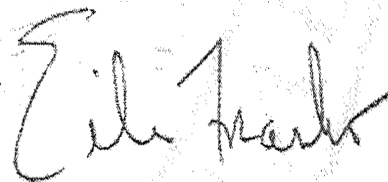
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
STATE CAMPUS BUILDING 12

**Mold Remediator Company License**

Environmental Maintenance Contractors  
5 Anderson Lane  
GOLDENS BRIDGE, NY 10526

LICENSE NUMBER 00178  
DATE OF ISSUE: 11/26/2019  
EXPIRATION DATE 1/31/2022

This license is valid only for the contractor named above.



Eileen Franko, Director  
FOR THE COMMISSIONER OF LABOR

**Exhibit “H”**





Adam Levy &lt;adam@adammichaellevypc.com&gt;

---

## Parcel History

---

**Charlotte Mountain** <cmountain@vomny.org>

Fri, Dec 10, 2021 at 3:00 PM

To: Adam Levy &lt;adam@adammichaellevypc.com&gt;, Lee Ruth &lt;Lee@aruthandsons.com&gt;

This is the parcel history for 410-416 Mamaroneck Ave. The matter is noted as closed.

Be well,

Charlotte A. Mountain

Code Enforcement Officer

VILLAGE OF MAMARONECK

BUILDING DEPARTMENT

169 Mt. Pleasant Ave

Mamaroneck, NY 10543

(914) 825-8714 DIRECT

(914) 777-7731 MAIN OFFICE

---

**Parcel\_History.pdf**  
50K

**Exhibit “I”**

**Adam Michael Levy, P.C.**

11 Broadway, Suite 615  
New York, New York 10004  
t: (646) 389-5854  
f: (866) 321-6366  
e: adam@adammichaellevypc.com.com  
www.adammichaellevypc.com

December 21, 2021

Via First Class Mail; Electronic Mail

Village of Mamaroneck Building Department

123 Mamaroneck Avenue

Mamaroneck, New York 10543

Attn: Frank Tavalacci, Building Inspector

Charlotte Mountain, Code Enforcement Officer

Re: Vacate Order dated September 5, 2021 ("Vacate Order") for the property known as 416 Mamaroneck Avenue, Mamaroneck, New York (the "Premises")

Mr. Tavalacci and Ms. Mountain:

As you know by now, this law firm represents 410-416 Mamaroneck Avenue, LLC ("Owner"), the owner of the Premises in connection with the above-referenced Vacate Order – a copy of which is attached. We write, yet again, to demand and procure a final, written disposition of the Vacate Order after several prior attempts to do so have gone unanswered by the Building Department. Kindly direct all future correspondences concerning this matter through this office.

My client's principals have been requesting a formal, written disposition of the Vacate Order since September of 2021. Most recently, in a December 10, 2021 email to Ms. Mountain, I wrote:

After complying with Mr. Tavalacci's requests concerning replacing electrical circuit panels and my client's submission of the air quality report, he told my clients that they could simply remove the Vacate Order from the property and resume occupancy of the building upon his inspection on September 27th. He also said that a more formal written document memorializing this would be forthcoming at some point, but it was never received.

Accordingly, we need something in writing from the DOB stating that the Vacate Order is no longer in effect (and has not been since September 27, 2021), that no new "Certificate of Occupancy" is needed and that the DOB has no objection to the building being occupied. Thank you.

Despite my request, Ms. Mountain never responded to the December 10<sup>th</sup> email. As a result, on December 14, 2021, I again wrote to Ms. Mountain:

Kindly provide me with the information requested in my December 10th email as soon as possible. Our tenants are making claims that the vacate order is still in effect (contrary to Mr. Tavalacci's prior representations) and they are withholding their rent as a result of it. Accordingly, time is of the essence. Thank you

Once again, no response was given.

In short, the Building Department appears to be deliberately ignoring, and is otherwise derelict in responding to, these reasonable requests - which is unacceptable. My client has duly addressed all of the Building Department's concerns over the last several months that arose as a result of Hurricane Ida and despite their earnest compliance, the Building Department has seemingly chosen to deliberately disregard providing a simple, written ministerial acknowledgement of what Mr. Tavalacci already declared months ago: that the Vacate Order is no longer in effect. Again, the Owner's tenants continue to claim that the Vacate Order is still in effect and are refusing to pay their rent as a result of this. The uncertainty being unnecessarily created by the Building Department not only detrimentally impacts the Owner, but also the Tenant's own businesses.

Accordingly, we are left with no choice but to make this final demand: If, within 5 business days of the date of this letter, the Building Department fails to issue a written memorialization that the Vacate Order was revoked on September 27, 2021, and is no longer in effect, we have been authorized to commence proceedings under Article 78 of New York's CPLR to compel such a declaration. Also enclosed is a filled-out "Request to View a File" form seeking all documents maintained in connection with the Premises.

We thank you in advance for your urgent attention to this matter. This is sent without waiving and while reserving all rights and remedies herein. Nothing herein shall constitute, or be construed to constitute, a complete expression of my client's rights or remedies.

Yours truly,

*s/ Adam M. Levy*

Adam M. Levy

cc. Village of Mamaroneck Building Department  
169 Mt. Pleasant Avenue  
Mamaroneck, New York 10543



Adam Levy &lt;adam@adammichaellevypc.com&gt;

---

**RE: 416 Mamaroneck Avenue, Mamaroneck NY**

---

**Frank Tavalacci** <ftavalacci@vomny.org>

Tue, Dec 21, 2021 at 1:36 PM

To: Adam Levy &lt;adam@adammichaellevypc.com&gt;, Charlotte Mountain &lt;cmountain@vomny.org&gt;

Cc: Jerry Barberio &lt;jbarberio@vomny.org&gt;

Mr. Levy In response to your email of December 21 2021 please be advised as follows:

The property has an illegal discharge violation regarding storm water discharging into the sanitary sewer. Please contact Mallory DeLanoy our consulting engineer for EIT, CDT 44 South Broadway Suite 1200 White Plains ,NY. 914 641 2406

The property also has an open electrical permit number 211268E which has never received the certification from a third party inspector.

When these items are addressed we can consider removing the vacate order from this property. The owners have been well aware of the above.

Frank Tavalacci

Building Inspector

---

**From:** Adam Levy <adam@adammichaellevypc.com>

**Sent:** Tuesday, December 21, 2021 11:18 AM

**To:** Charlotte Mountain <cmountain@vomny.org>; Frank Tavalacci <ftavalacci@vomny.org>

**Subject:** 416 Mamaroneck Avenue, Mamaroneck NY

Mr. Tavalacci and Ms. Mountain:

Please see the attached letter.

Adam M. Levy  
Adam Michael Levy, P.C.

Sent via Mobile Phone

**Exhibit “J”**

**Exhibit “K”**

**Adam Michael Levy, P.C.**

11 Broadway, Suite 615  
New York, New York 10004  
t: (646) 389-5854  
f: (866) 321-6366  
e: adam@adammmichaellevypc.com.com  
www.adammichaellevypc.com

December 23, 2021

Via First Class Mail; Electronic Mail

Village of Mamaroneck Building Department  
123 Mamaroneck Avenue  
Mamaroneck, New York 10543  
Attn: Frank Tivolacci, Building Inspector  
Charlotte Mountain, Code Enforcement Officer

Re: Vacate Order dated September 5, 2021 ("Vacate Order") for the  
property known as 416 Mamaroneck Avenue, Mamaroneck, New  
York (the "Premises")

Mr. Tivolacci:

I am in receipt of your December 21<sup>st</sup> email. Although you reference alleged outstanding items and state that "When these items are addressed we can consider removing the Vacate Order from this property," you omit any reference to your prior statements to my client's principals on September 27<sup>th</sup> that the Vacate Order was no longer in effect – upon which my client has been relying for the past 3 months. We are therefore left even more confused than ever as to the original basis for the Vacate Order, whether it persists against the Premises to this day, and if so, what exactly is required in order to remove it.

Regarding the items themselves, attached please find copies of email exchanges between Alan Bonistall Electrical Contracting and the DOB concerning the issuance and closure of the electrical permits. As you can see, several attempts were made to resolve the issue with the DOB since October, but the DOB was not responsive, which inhibited my client's ability to close the permit. Nevertheless, attached are Certificates of Compliance confirming the work has been completed and as such, the permits (i.e., EP:21-1268-BP:0 and EP:21-0928-BP:0) should be closed. Please do so.

As for the "illegal discharge violation" that was issued on October 7, 2021 (i.e., more than a month after the Vacate Order was issued, and more than a week after it was removed per your representations), that violation apparently concerns the property located at 414 Mamaroneck Avenue (S/B/L 9-7-59). An inspection was originally scheduled for October 26<sup>th</sup> with Arcadis but I understand that upon their arrival, and due to someone else's error, the inspection was scheduled for the wrong building (i.e., 410 Mamaroneck Avenue) and they never returned. Moreover, this violation in no way concerns the property located at 410 Mamaroneck Avenue (S/B/L 9-7-61).



Attached are copies of my client's tax bills further reflecting the distinction between these properties. Accordingly, if the Vacate Order continues to be reflected in the DOB's records as active against 410 Mamaroneck Avenue, please acknowledge, in writing, that it has been removed.

The bottom line is that considerable confusion has arisen as a result of the DOB's failure to memorialize your prior representations to my client that the Vacate Order had already been removed. We therefore require the DOB to memorialize all of its decisions and demands in writing and without ambiguity. Surely, that you intend "to consider removing the Vacate Order from this property" does not provide us with the certainty or notice that is required by both my client and the law. So, please be clear as to what else you are requiring in order to fully resolve these issues and remove the Vacate Order to the extent it remains active. My client and I will continue to make ourselves available at any time to discuss this further should you request it.

This is sent without waiving and while reserving all rights and remedies herein. Nothing herein shall constitute, or be construed to constitute, a complete expression of my client's rights or remedies.

Yours truly,

*s/ Adam M. Levy*

Adam M. Levy

cc. Village of Mamaroneck Building Department  
169 Mt. Pleasant Avenue  
Mamaroneck, New York 10543

---

**From:** Bonistall Electric <bonistallelectric@gmail.com>  
**Date:** December 22, 2021 at 11:53:22 AM EST  
**To:** Kathy Guadagnolo <kguadagnolo@vomny.org>  
**Cc:** Lee Ruth <Lee@aruthandsons.com>, marissa@westrockelectricalinspections.com  
**Subject:** Fwd: Request for Village of Mamaroneck

Hi Kathy,

I am following up on my email from October and November and have included Lee Ruth on this email about 414 Mamaroneck Ave. The inspection was completed, however, the electrical permit was never received from the Village as I mentioned in my email. WREIS is waiting for the paperwork so that they can issue the certificate.

Please advise.

Doreen

----- Forwarded message -----

**From:** Bonistall Electric <bonistallelectric@gmail.com>  
**Date:** Tue, Nov 9, 2021 at 1:34 PM  
**Subject:** Re: Request for Village of Mamaroneck  
**To:** Kathy Guadagnolo <kguadagnolo@vomny.org>

Hi Kathy,

Just checking on the refunds for the above properties.

Doreen

On Thu, Oct 28, 2021 at 11:18 AM Bonistall Electric <bonistallelectric@gmail.com> wrote:  
Hi Kathy,

Per our telephone conversation, you asked that I email you my requests.

Before the Village of Mamaroneck decided to waive the application fees due to the storm we paid the application fees for the following properties:

Ck#1390 Dated 9/7/2021 \$102.00 for 410 Mamaroneck Ave - CLEARED

CK#1391 Dated 9/7/2021 \$119.00 for 414 Mamaroneck Ave - CLEARED

We are requesting a refund for these properties due to the waived fees.

Also, we only received 1 Electrical Permit #21-0928-E for 410 Mamaroneck Ave. Please check to see what happened to the Electrical Permit for 414 Mamaroneck Ave.

Thanks for your help!

Doreen

--

**ALAN BONISTALL ELECTRICAL CONTRACTING, INC.**

53 Purdy Street  
Harrison, NY 10528  
PH: (914) 835-5659  
bonistallelectric@gmail.com  
www.bonistallelectric.com

--

**ALAN BONISTALL ELECTRICAL CONTRACTING, INC.**

53 Purdy Street  
Harrison, NY 10528  
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53 Purdy Street  
Harrison, NY 10528  
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bonistallelectric@gmail.com  
www.bonistallelectric.com



BY THIS CERTIFICATE OF COMPLIANCE THE

**Westchester Rockland Electrical Inspection Services**

43 North Lawn Ave, Elmsford, NY 10523

914-347-3595 (Office) | 914-347-3596 (Fax)

**CERTIFIES THAT****Upon the application of:**Alan Bonistall Electrical Contracting  
53 Purdy Street  
NY, Harrison 10528**Upon premises owned by:**

410-416 Mamaroneck Ave LLC

**Located at:** 414 Mamaroneck Ave Mamaroneck, NY 10543**Certificate Number:** 1030720**Section:** 9**Block:** 1B**Lot:** 9B**BDC:****Permit Number:** EP-21-1268-BP-0

A visual inspection of the electrical system at this premise described as a Commercial occupancy, wherein the premises electrical system consisting of electrical devices and wiring, described below, located in/on the premises at: 414 Mamaroneck Ave Mamaroneck, NY 10543

☒ Basement ☐ 1st Floor ☐ 2nd Floor ☐ 3rd Floor ☐ Garage ☐ Attic ☐ Outside

Other:

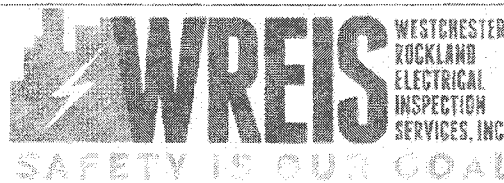
Inspection was conducted in accordance with the NYS and NFPA 70-2017 International Electrical Code and detail of the installation, as set forth below, was found to be in compliance therewith on 12/22/21

Name	Type	Quantity
Replace Meter Pan	-----	1
Replace Circuit Distribution Panel	-----	1
Disconnect Switch	-----	1

**This Certificate has been approved by Westchester Rockland Electrical Inspection Services.**

This certificate may not be altered in any way.

This certificate is valid for work performed before date of inspection only.



BY THIS CERTIFICATE OF COMPLIANCE THE

**Westchester Rockland Electrical Inspection Services**

43 North Lawn Ave, Elmsford, NY 10523

914-347-3595 (Office) | 914-347-3596 (Fax)

**CERTIFIES THAT****Upon the application of:**Alan Bonistall Electrical Contracting  
53 Purdy Street  
NY, Harrison 10528**Upon premises owned by:**

410-416 Mamaroneck Av LLC

**Located at:** 410 Mamaroneck Ave Mamaroneck, NY 10543**Certificate Number:** 1030719**Section:** 9**Block:** 18**Lot:** 9B**BDC:****Permit Number:** EP:21-0928-BP:0

A visual inspection of the electrical system at this premise described as a Commercial occupancy, wherein the premises electrical system consisting of electrical devices and wiring, described below, located in/on the premises at: 410 Mamaroneck Ave Mamaroneck, NY 10543

☒ Basement    ☐ 1st Floor    ☐ 2nd Floor    ☐ 3rd Floor    ☐ Garage    ☐ Attic    ☐ Outside  
Other:

Inspection was conducted in accordance with the NYS and NFPA 70-2017 International Electrical Code and detail of the installation, as set forth below, was found to be in compliance therewith on 09/21/21

Name	Type	Quantity
Replace Circuit Distribution Panel	-----	1
Replace Meter Pan	-----	1
Disconnect Switch	-----	1

This Certificate has been approved by Westchester Rockland Electrical Inspection Services.

This certificate may not be altered in any way.

This certificate is valid for work performed before date of inspection only.

VILLAGE OF MAMARONECK  
123 MAMARONECK AVE.  
MAMARONECK, NEW YORK 10543

Phone: (914) 777-7722

## 2020 VILLAGE OF MAMARONECK TAX BILL

\* For Fiscal Year 06/01/2020 To 05/31/2021

\* Warrant Date 4/27/2020

## MAKE CHECKS PAYABLE TO:

## TO PAY IN PERSON

Village of Mamaroneck

NO IN PERSON OR CASH

## REMIT TO:

PAYMENTS WILL BE

Village of Mamaroneck Dept 117214

ACCEPTED UNTIL FURTHER

P.O. Box 5270

NOTICE

Binghamton, NY 13902-5270

\*\*MUST INCLUDE THE STUB(S) BELOW TO BE PROCESSED\*\*

410-416 MAMARONECK AVE LLC  
PO BOX 563  
MAMARONECK NY 10543

## PROPERTY ADDRESS &amp; LEGAL DESCRIPTION

Address: 414 MAMARONECK AVE

Section/Block/Lot 9.-7-59

State Roll Section 1

Bank Code:

Account No.: 626700

Bill No. 1520

Estimated State Aid: 149,682

off 15th Oct  
MR  
6-8-20  
Payson

## PROPERTY VALUATION

The assessor estimates the Full Market Value of this property is: \$ 570,000.

The Uniform Percentage of Value used to establish assessment was: 100 %

Total assessed value of property: \$ 570,000.00

If you feel your property is overvalued, please see the instructions in the booklet "How to File a Complaint on Your Assessment".

To obtain a copy of this booklet, contact your assessors office.

## EXEMPTION

## VALUE

## EXEMPTION

## VALUE

## PROPERTY TAXES

## LEVY DESCRIPTION

TOTAL  
TAX LEVY% CHANGE FROM  
PRIOR YEARTAXABLE  
ASSESSED VALUERATES  
PER \$1,000

## TAX AMOUNT

Library District

2,848,890

1.00

570,000.00

0.6653

379.24

Village Tax

26,203,313

1.32

570,000.00

6.1195

3,488.13

TOTAL TAXES DUE \$ 3,867.37

IMPORTANT - THIS IS THE ONLY BILL YOU WILL RECEIVE

RETURN BOTH PORTIONS IF PAYING IN FULL - DO NOT FOLD, STAPLE OR MUTILATE

PAYSON ESTATES, INC.

12/21/20

Village of Mamaroneck Dept 117214

29177

Date

Type

Reference

12/20/2020

Bill

2020VILLAGE 414#2

Original Amt.

1,933.68

Balance Due

1,933.68

12/20/2020

Discount

Payment

1,933.68

Check Amount

1,933.68

Chase  
\* Cleared 1/4/21

Chase Analysis Bus Che 2020 Village Taxes - 414 Mamaroneck Ave #626700

PRODUCT BULK 104

8/20/20

USE WITH 91663 ENVELOPE

Deluxe Corporation 1-800-328-0004 or www.deluxe.com/shop

1,933.68

## VILLAGE OF MAMARONECK

128 MAMARONECK AVE.

MAMARONECK, NEW YORK 10543

Phone: (914) 777-7722

## 2020 VILLAGE OF MAMARONECK TAX BILL

\* For Fiscal Year 06/01/2020 To 05/31/2021

\* Warrant Date 4/27/2020

## MAKE CHECKS PAYABLE TO:

## TO PAY IN PERSON

Village of Mamaroneck

NO IN PERSON OR CASH

## REMIT TO:

PAYMENTS WILL BE

Village of Mamaroneck Dept 117214

ACCEPTED UNTIL FURTHER

P.O. Box 5270

NOTICE

Binghamton, NY 13902-5270

\*\*MUST INCLUDE THE STUB(S) BELOW TO BE PROCESSED\*\*

## PROPERTY ADDRESS &amp; LEGAL DESCRIPTION

Address: 410 MAMARONECK AVE

Section/Block/Lot 9-7-61

State Roll Section 1

Bank Code:

Account No.: 626800

Bill No. 1521

Estimated State Aid: 149,682

410-418 MAMARONECK AVE LLC

PO BOX 563

MAMARONECK NY 10543

## PROPERTY VALUATION

The assessor estimates the Full Market Value of this property is: \$ 430,000

The Uniform Percentage of Value used to establish assessment was: 100 %

Total assessed value of property: \$ 430,000.00

If you feel your property is overvalued, please see the instructions in the booklet "How to File a Complaint on Your Assessment".

To obtain a copy of this booklet, contact your assessors office.

## EXEMPTION

## VALUE

## EXEMPTION

## VALUE

## PROPERTY TAXES

## LEVY DESCRIPTION

TOTAL  
TAX LEVY% CHANGE FROM  
PRIOR YEARTAXABLE  
ASSESSED VALUERATES  
PER \$1,000

## TAX AMOUNT

Library District

2,848,890

1.00

430,000.00

0.6653

286.09

Village Tax

26,203,313

1.32

430,000.00

6.1195

2,631.39

TOTAL TAXES DUE \$ 2,917.48

IMPORTANT - THIS IS THE ONLY BILL YOU WILL RECEIVE

RETURN BOTH PORTIONS IF PAYING IN FULL - DO NOT FOLD, STAPLE OR MUTILATE

PAYSON ESTATES, INC.

12/21/20

Village of Mamaroneck Dept 117214

291

Date

Type

Reference

Original Amt.

Balance Due

12/20/2020

Discount

Payment

12/20/2020

Bill

2020 VILLAGE 410#2

1,458.73

1,458.73

Check Amount

1,458.73

1,458.73

Chase Analysis Bus Che 2020 Village Taxes - 410 Mamaroneck Ave #626800

PRODUCT 01104

USE WITH #1063 ENVELOPE

Deluxe Corporation 1-800-328-0304 or www.deluxe.com/phone

1,458.73

**Exhibit “L”**



**From:** "DeLanoy, Mallory" <Mallory.DeLanoy@arcadis.com>  
**Subject:** RE: Inspection Form - 414/416 Mamaroneck Ave  
**Date:** December 27, 2021 at 12:46:38 PM EST  
**To:** "Lee@ARuthandSons.com" <Lee@ARuthandSons.com>, Office <office@ARuthandSons.com>  
**Cc:** "Hogan, Kevin" <Kevin.Hogan@arcadis.com>

Hi Lee,

Apologies for the delay. We will not be scheduling inspections in the near future. The Village can complete this, or we can inspect later in the new year.

Thank you,  
Mallory

**Mallory DeLanoy (she/her)** EIT, CDT  
Water Engineer II  
Arcadis U.S., Inc.  
44 S. Broadway, Suite 1200 | White Plains, NY | 10601 | USA  
T +1 914 641 2406  
[www.arcadis.com](http://www.arcadis.com)

**From:** Lee Ruth <Lee@ARuthandSons.com>  
**Sent:** Monday, December 27, 2021 8:55 AM  
**To:** DeLanoy, Mallory <Mallory.DeLanoy@arcadis.com>; Office <office@ARuthandSons.com>  
**Cc:** Hogan, Kevin <Kevin.Hogan@arcadis.com>  
**Subject:** Re: Inspection Form - 414/416 Mamaroneck Ave

Some people who received this message don't often get email from [lee@aruthandsons.com](mailto:lee@aruthandsons.com). [Learn why this is important](#)

Hi Mallory,

Following up on this again. Please let me know some dates and times to schedule this inspection.

Thanks  
Lee

Lee Ruth  
A. Ruth & Sons Real Estate  
412 Mamaroneck Ave.  
PO Box 563

Mamaroneck, NY 10543  
914.777.3800  
[aruthandsons.com](http://aruthandsons.com)

PLEASE NOTE OUR NEW EMAIL ADDRESS-

[OFFICE@ARUTHANDSONS.COM](mailto:OFFICE@ARUTHANDSONS.COM)

On Dec 22, 2021, at 3:04 PM, Lee Ruth <[Lee@ARuthandSons.com](mailto:Lee@ARuthandSons.com)> wrote:

OK. Thank you for sending over the report.

Please let me know a few dates and times that you are available for whatever inspection is needed as i need to give the tenant 24 hours notice for access.

Thank you  
Lee

Lee Ruth  
A. Ruth & Sons Real Estate  
412 Mamaroneck Ave.  
PO Box 563  
Mamaroneck, NY 10543  
914.777.3800  
[aruthandsons.com](http://aruthandsons.com)

PLEASE NOTE OUR NEW EMAIL ADDRESS-

**Exhibit “M”**

**Adam Michael Levy, P.C.**

11 Broadway, Suite 615  
New York, New York 10004  
t: (646) 389-5854  
f: (866) 321-6366  
e: adam@adammichaellevypc.com  
www.adammichaellevypc.com

January 4, 2022

Via First Class Mail; Electronic Mail

Village of Mamaroneck Building Department

123 Mamaroneck Avenue

Mamaroneck, New York 10543

Attn: Frank Tapolacci, Building Inspector

Charlotte Mountain, Code Enforcement Officer

Re: Vacate Order dated September 5, 2021 ("Vacate Order") for the  
property known as 416 Mamaroneck Avenue, Mamaroneck, New  
York (the "Premises")

Mr. Tapolacci:

As you know, this law firm represents 410-416 Mamaroneck Avenue, LLC ("Owner"), the owner of the Premises in connection with the above-referenced Vacate Order. We have not received any response from you to our December 23, 2021 letter, nor did anyone from the DOB respond to the "Request to View a File" form we submitted on December 21, 2021. Please respond immediately as this is continuing to cause confusion and uncertainty.

Also, as per your December 21<sup>st</sup> email, my client followed up with Malory DeLanoy of Arcadis U.S. Inc. in an attempt to, once again, procure an inspection to address the "illegal discharge" Complaint apparently filed on October 7, 2021. On December 27<sup>th</sup>, Ms. DeLanoy advised they "will not be scheduling inspections in the near future. The Village can complete this, or we can inspect later in the new year."

Accordingly, if the DOB continues to maintain that the Vacate Order was not rescinded in accordance with your prior representations, WE HEREBY DEMAND that the DOB conduct whatever inspections that it claims are required immediately so that my client obtains clarity as to the particulars of the alleged violative condition and the manner in which it needs to be addressed. To the extent that the DOB fails to do so, and the DOB otherwise fails to comply with the other demands made in the prior correspondences, we have been authorized to commence proceedings under Article 78 of the Civil Practice Law and Rules to compel the DOB's compliance. Be assured that this is my client's final request before commencing the action.

This is sent without waiving and while reserving all rights and remedies herein. Nothing herein shall constitute, or be construed to constitute, a complete expression of my client's rights or remedies.

Yours truly,

*s/ Adam M. Levy*

Adam M. Levy

cc. Village of Mamaroneck Building Department  
169 Mt. Pleasant Avenue  
Mamaroneck, New York 10543



# REQUEST FOR JUDICIAL INTERVENTION

Westchester Supreme COURT, COUNTY OF Westchester

Index No: \_\_\_\_\_ Date Index Issued: \_\_\_\_\_

**For Court Use Only:****CAPTION**

Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

410-416 Mamaroneck Avenue LLC

-against-

Frank Tavalacci, Village of Mamaroneck

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

IAS Entry Date

Judge Assigned

RJI Filed Date

**NATURE OF ACTION OR PROCEEDING:** Check only one box and specify where indicated.**COMMERCIAL**

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)  
☐ Contract  
☐ Insurance (where insurance company is a party, except arbitration)  
☐ UCC (includes sales and negotiable instruments)  
☐ Other Commercial (specify): \_\_\_\_\_

**NOTE:** For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the **COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)**.**REAL PROPERTY:** Specify how many properties the application includes: \_\_\_\_\_

- ☐ Condemnation  
☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial  
 Property Address: \_\_\_\_\_

**NOTE:** For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the **FORECLOSURE RJI ADDENDUM (UCS-840F)**.

- ☐ Tax Certiorari - Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
☐ Tax Foreclosure  
☐ Other Real Property (specify): \_\_\_\_\_

**OTHER MATTERS**

- ☐ Certificate of Incorporation/Dissolution [see **NOTE** in **COMMERCIAL** section]  
☐ Emergency Medical Treatment  
☐ Habeas Corpus  
☐ Local Court Appeal  
☐ Mechanic's Lien  
☐ Name Change/Sex Designation  
☐ Pistol Permit Revocation Hearing  
☐ Sale or Finance of Religious/Not-for-Profit Property  
☐ Other (specify): \_\_\_\_\_

**MATRIMONIAL**

- ☐ Contested  
**NOTE:** If there are children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum (UCS-840M)**.  
 For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (**UD-13**).

**TORTS**

- ☐ Asbestos  
☐ Child Victims Act  
☐ Environmental (specify): \_\_\_\_\_  
☐ Medical, Dental, or Podiatric Malpractice  
☐ Motor Vehicle  
☐ Products Liability (specify): \_\_\_\_\_  
☐ Other Negligence (specify): \_\_\_\_\_  
☐ Other Professional Malpractice (specify): \_\_\_\_\_  
☐ Other Tort (specify): \_\_\_\_\_

**SPECIAL PROCEEDINGS**

- ☐ CPLR Article 75 (Arbitration) [see **NOTE** in **COMMERCIAL** section]  
☒ CPLR Article 78 (Body or Officer)  
☐ Election Law  
☐ Extreme Risk Protection Order  
☐ MHL Article 9.60 (Kendra's Law)  
☐ MHL Article 10 (Sex Offender Confinement-Initial)  
☐ MHL Article 10 (Sex Offender Confinement-Review)  
☐ MHL Article 81 (Guardianship)  
☐ Other Mental Hygiene (specify): \_\_\_\_\_  
☐ Other Special Proceeding (specify): \_\_\_\_\_

**STATUS OF ACTION OR PROCEEDING:** Answer YES or NO for every question and enter additional information where indicated.

	YES	NO	
Has a summons and complaint or summons with notice been filed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, date filed: _____
Has a summons and complaint or summons with notice been served?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, date served: _____
Is this action/proceeding being filed post-judgment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, judgment date: _____

**NATURE OF JUDICIAL INTERVENTION:** Check one box only and enter additional information where indicated.

<input type="checkbox"/> Infant's Compromise		
<input type="checkbox"/> Extreme Risk Protection Order Application		
<input type="checkbox"/> Note of Issue/Certificate of Readiness		
<input type="checkbox"/> Notice of Medical, Dental, or Podiatric Malpractice	Date Issue Joined: _____	
<input type="checkbox"/> Notice of Motion	Relief Requested: _____	Return Date: _____
<input checked="" type="checkbox"/> Notice of Petition	Relief Requested: <u>Article 78 (Body or Officer)</u>	Return Date: <u>02/07/2022</u>
<input type="checkbox"/> Order to Show Cause	Relief Requested: _____	Return Date: _____
<input type="checkbox"/> Other Ex Parte Application	Relief Requested: _____	
<input type="checkbox"/> Poor Person Application		
<input type="checkbox"/> Request for Preliminary Conference		
<input type="checkbox"/> Residential Mortgage Foreclosure Settlement Conference		
<input type="checkbox"/> Writ of Habeas Corpus		
<input type="checkbox"/> Other (specify): _____		

**RELATED CASES:** List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

**PARTIES:** For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Un-Rep	Parties	Attorneys and/or Unrepresented Litigants	Issue Joined	Insurance
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant; 3 <sup>rd</sup> party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: 410-416 Mamaroneck Avenue LLC Role(s): Plaintiff/Petitioner	ADAM LEVY, Adam Michael Levy, P.C., 11 Broadway Ste 615, New York, NY 10004, 6463895854, adam@adammmichaellevypc.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Tavalacci, Frank Role(s): Defendant/Respondent	123 Mamaroneck Avenue, Mamaroneck , NY 10543	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Village of Mamaroneck Role(s): Defendant/Respondent	123 Mamaroneck Avenue, Mamaroneck , NY 10543	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

**I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.**

Dated: 01/05/2022

ADAM MICHAEL LEVY

Signature

4224978

ADAM MICHAEL LEVY

Print Name

Attorney Registration Number

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