

SHEBITZ BERMAN COHEN & DELFORTE, P.C.

ATTORNEYS-AT-LAW

1325 AVENUE OF THE AMERICAS, 27TH FLOOR

NEW YORK, NEW YORK 10019

TEL: (212) 832-2797

FAX: (212) 832-2782—NOT FOR SERVICE

<http://www.shebitzlaw.com>

E-mail: info@shebitzlaw.com

GEORGE SHEBITZ (1947-2006)

FREDERICK J. BERMAN

JULIA R. COHEN†

MATTHEW J. DELFORTE

†(ALSO ADMITTED IN DC)

April 23, 2015

**BY EMAIL (tmiller@timmillerassociates.com)
and **FEDERAL EXPRESS****

Tim Miller, AICP
President
Tim Miller Associates, Inc.
10 North Street
Cold Spring, NY 10516

Re: Monroe-Woodbury Community School District's March 10, 2015 letter

Dear Mr. Miller:

We are counsel to the Board of Education of the Kiryas Joel Union Free School District ("KJUFSD"). As you are aware, KJUFSD is an interested agency under the State Environmental Quality Review Act ("SEQRA") as it relates to the pending petitions for the annexation of certain land from the Town of Monroe to the Village of Kiryas Joel. I am writing to address comments contained in the letter to you from Monroe-Woodbury Central School District's ("MWCSO") counsel, dated March 10, 2015, signed by Judith Crelin Mayle, Esq., of the law firm Thomas, Drohan, Waxman, Petigrow & Mayle, LLP.

This letter addresses only the inaccuracies in the March 10, 2015 letter concerning the draft scoping document, and, in particular § 1(d) (at page 4) entitled "Impact to School Districts" in MWCSO's letter. There, MWCSO states:

The alteration of the Village boundary lines will trigger a required concurrent action by both MWCSO and the Village of Kiryas Joel Union Free School District ("KJUFSD") and potentially the State Legislature to address the impact of the annexation on its school district boundary pursuant to Education Law §1504.

This statement is wrong both factually and legally. N.Y. Education Law § 1504 sets forth the grounds upon which "a new school district may be formed out of the territory of one or more

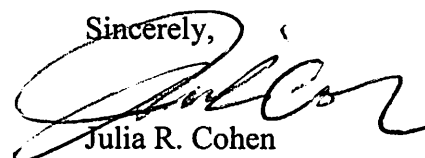
SHEBITZ BERMAN COHEN & DELFORTE, P.C.
ATTORNEYS-AT-LAW

Tim Miller, AICP
April 23, 2015
Page 2 of 3

school districts which are wholly within the geographic areas served by his [sic] board of cooperative educational service, whenever the educational interests of the community require it.” Education Law §1504(1). The KJUFSD was formed and exists today pursuant to those statutory provisions. Under §1504, once a school district is created (“formed” using the language of the statute), the school district is not affected if the boundaries or geographic areas of the municipality in which it exists expand or change. In other words, it is of no consequence to the existence of the KJUFSD if the Village of Kiryas Joel expands or change, whether by the proposed annexation or otherwise. There is nothing in the plain language of Education Law § 1504 to support MWCS D’s assertion that the proposed annexation will trigger any required concurrent action by the two school districts or that the State Legislature has any role to address the impact of annexation on either school district’s boundaries. Where, as here, the “words of the statute are free from ambiguity and express plainly, clearly and distinctly the legislative intent, resort may not be had to other means of interpretation” N.Y. Statutes, § 76. But, even if the plain language of Education Law § 1504 was ambiguous, which it is not, there is nothing in the legislative history to suggest that MWCS D’s assertion is correct.

Finally, it should be noted that the primary purpose of the SEQRA process “is to inject environmental considerations directly into governmental decision” including “social, economic and environmental factors” that concern the affected municipalities. *City Council of the City of Watervliet v. Town Board of the Town of Colonie*, 3 N.Y.3d 508, 515, 789 N.Y.S.2d 88, 91 (2004). The SEQRA process does not involve an examination into possible effects on school districts unrelated to pedagogy within those municipalities because decisions about reorganization of school districts are left to the administrators of and/or voters within affected school districts by other statutory provisions such as Education Law §1506, *et seq.* MWCS D’s comments, even if correct, which they are not, go far beyond the appropriate scope of such interests (*i.e.*, generic vs. site specific environmental impact statements, segmentation, approvals, land use and zoning, demographics and economics, community services and facilities, traffic and transportation, water and sewer, natural resources, and the like). As such, MWCS D’s commentary is irrelevant, inappropriate and you should not consider them in your evaluation.

Thank you for your attention to this matter. As an interested agency entitled to notification of all matters related to this process, please direct all correspondence and other materials to Joel Petlin, Superintendent, Kiryas Joel UFSD, 48 Bakertown Road, Suite 401, Monroe, NY 10950.

Sincerely,

Julia R. Cohen

JRC:jp

SHEBITZ BERMAN COHEN & DELFORTE, P.C.

ATTORNEYS-AT-LAW

Tim Miller, AICP

April 23, 2015

Page 3 of 3

cc: Kiryas Joel Union Free School District Board of Education
Joel Petlin, Superintendent of the Kiryas Joel UFSD
Elsie Rodriguez, Superintendent of the
Monroe-Woodbury CSD (by Federal Express only)
Judith Crelin Mayle, Esq. (by Federal Express only)