



New York State Office of Parks, Recreation and Historic Preservation

Albany, New York 12238

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

September 23, 2013

Donald Reeb
5 Norwood Street
Guilderland, New York 12203

Re: Town of Guilderland Parkland

Dear Mr. Reeb:

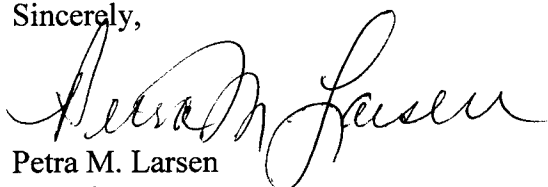
Your letter to Commissioner Harvey was referred to me for a response specifically to address the legal issues you raise in your letter.

As you indicate, the Office of Parks, Recreation and Historic Preservation entered into a contract with the Town of Guilderland for the development of a park, which was the former site of the McKownville Water District Reservoir. The map that you attached indicates what this office considers to be the park funded by an Environmental Protection Fund grant, which is outlined in dots and then underscored by yellow marker. One of the terms of the grant contract requires that the Town not sell or convey any facility acquired or developed under the contract or convert such facility to other than public park purpose without the express authority of an Act of the Legislature, which shall provide for the substitution of other lands of equal or greater value. Because of this term, should there be any encroachment into the area outlined on the map, this Office then would intercede as a contractual matter and work with the Town of Guilderland to resolve the matter by seeking replacement parcels. The contract does not give this Office the authority to make the municipality remove the encroachment if there is one or somehow legally void an easement. As of the date of this letter, we have no knowledge of any encroachments into the area indicated as parkland on the map, and it appears that the easements for parking granted by the Town fall outside the area identified on the map as parkland. The only authority this agency has over municipal alienations of parkland is through this contract language.

As far as your request to make what is in effect a declaratory ruling that an easement granted and duly recorded is null and void, the Office has no authority to do so. Nor does the Office have any statutory authority to undertake a review to examine possible alienations of parkland, other than those mapped parcels that received direct funding through OPRHP. While I know that this is not the response you were hoping to receive, in my opinion only a court with competent jurisdiction would be able to make a ruling that an alienation of parkland has or has not occurred and fashion an appropriate remedy.

In case you would like to pursue legal action, I am taking the liberty of sending you back the documents you attached to your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Petra M. Larsen". The signature is written in a cursive style with a large, looping initial "P".

Petra M. Larsen
Associate Attorney