

Guilderland motion on water district merger set

GUILDERLAND — The attorney for the town of Guilderland in the case of the merger of the Westmere and McKownville water districts has prepared a motion in opposition to a motion filed two weeks ago by the attorney for the Guilderland residents who sued — and beat — the town in state Supreme Court last year.

John Tabner, attorney for the town, said Thursday he has prepared a motion asking for a 30-day extension to

a 60-day period during which the town was supposed to have filed necessary papers with the Supreme Court's Appellate Division.

Two weeks ago, Jeffrey Stockholm, the attorney for three Guilderland residents who sued the town on the basis a referendum last August on the merger of the two districts was unconstitutional, filed a motion with the Appellate Division asking the town's appeal of last year's decision be dis-

missed because the town had not filed the necessary papers within the 60-day time limit.

But Tabner said the town was delayed in filing the necessary brief and record with the court because the case was transferred from the state Court of Appeals — the state's highest court — to the Appellate Division.

The controversy over the merger began after last August's referendum, at which non-property owners were

excluded from voting, was challenged in court by three town residents, John Esler, Daniel Gaffney and Mary Smith.

State Supreme Court ruled in favor of the residents, and the town appealed to the Court of Appeals. The Court of Appeals then refused to hear the case because it did not present solely a question of the constitutionality of a statute, and sent it to a lower court, the Appellate Division.

Stockholm was not available for comment Thursday.