

PUBLIC HEARING

on

Petition for the Annexation to the Village of Nyack, N. Y. of Territory Adjoining Said Village, in the Town of Clarkstown, Rockland County, New York.

April 24, 1957

Central Nyack Congregational Church,
Central Nyack, New York.

8:00 P.M.

Present: Supervisor Irvin F. Dillon
Councilman John H. Renken, Jr.
" Joseph Welchman
" Alastair D. Jeffrey

Supervisor Dillon opened the hearing explaining it had reference to a petition filed pursuant to Section 348 of Village Law, for Annexation to the Village of Nyack, N. Y. of Territory Adjoining said Village, in the Town of Clarkstown. He added that the purpose of the hearing was to have the Town Board determine if the petition represented a majority of resident taxpayers or assessed valuation as shown on the last preceding Town Assessment Roll of Clarkstown.

Aloysius J. Bryant, Esq. was present, representing the Village of Nyack as Attorney for said Village.

Daniel T. Brucker, Esq. appeared as Attorney for the petitioner, with Counsel Richard E. Sterns and Loring K. Manley.

John E. Boeggeman, Esq. appeared as Attorney for Objecting Resident Taxpayers.

Mr. Brucker addressed the Board and stated that he represented the petitioners and that he had filed with the Supervisor of Clarkstown a petition signed by a number of persons who own the majority of assessed valuation in the territory sought to be annexed to the Village of Nyack. He stated that the petition spoke for itself and unless controverted, the Town Board of Clarkstown should take the statements to be true.

Mr. Boeggeman addressed the Board and stated he represented objecting resident taxpayers and asked permission to file with the Board an objection, affidavits withdrawing names of two of the signers of the petition, his affidavit based on a search of records in the County Courthouse and Surrogate's Court which indicated that one of the signers, Clement DeSimone, was a tenant in common with two other persons and without authority to sign for them and a Memorandum of Law. He maintained that these withdrawals upset the majority claimed in the petition and asked that the petition be dismissed.

Mr. Brucker requested permission to file affidavits of Angeline Lieval and George Carrecht, 3rd, which stated they had signed the petition, had subsequently withdrawn their signatures and again wished to be considered signers of the petition and asked that the relief sought be granted.

Attorney Brucker referred to the third paragraph of Objections of Resident Taxpayers and Mr. Boeggeman's affidavit submitted in connection with the parcel listed as owned by Clement J. DeSimone, which he read aloud. He then asked Richard E. Sterns, Counsel for Clement DeSimone with reference to that property, to stand and answer a few questions.

Richard E. Sterns of Nyack, New York was then sworn by Supervisor Dillon.

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Upon questioning by Attorney Brucker, Mr. Sterns answered as follows:

- Q. Mr. Sterns, you are an attorney and counsellor-at-law?
- A. Yes.
- Q. You are associated with me in the practice of law at our offices located at 21 North Broadway, Nyack, New York?
- A. I am.
- Q. I ask you if you are familiar with the parcel of land situate in the Town of Clarkstown allegedly owned by Clement DeSimone, one of the petitioners of this proceeding?
- A. I am.
- Q. And that parcel is known as Lot 32 Block A Tax Map 134 and is assessed for \$3500.00?
- A. It is.
- Q. I ask you, do you know who was the owner of that parcel of land on March 12, 1957?
- A. I do. Clement DeSimone.
- Q. Is there any other person who has an interest in the ownership of that parcel?
- A. The parcel is owned only by Clement DeSimone.
- Q. Will you explain to this Board how Clement DeSimone acquired title to this property?
- A. Yes, I will. As Mr. Boeggeman stated, the title to the property was originally in Clement DeSimone, Sr., who died some three or four years ago. The property through Will, descended to Clement DeSimone and two sisters. By deed dated March 12, 1956, Nancy D. Mills and Beatrice May Drake conveyed all their right, title and interest in and to said property to Clement DeSimone. This is a Torrens title. I have the original deed in my hand, delivered to me by Mr. DeSimone by hand. As a matter of fact, I had to get the deed back from Inter-County Title Company today. I had sent it to them for filing in order to have a title insurance policy issued to Mr. DeSimone.

Upon questioning by Town Attorney Edward G. Roepe, Mr. Sterns answered as follows:

- Q. Your testimony is predicated upon public records in the County Courthouse and Surrogate's Court, except for the last deed intended to be filed, the original of which you have just placed in Mr. Boeggeman's hand?
- A. Yes, it is.
- Q. How long have you had the deed?
- A. That deed has been in my possession for the last three or four months.

Supervisor Irvin F. Dillon inquired whether Mr. Boeggeman had any questions.

Attorney Boeggeman then addressed Mr. Sterns as follows:

As I understand it from your testimony, this is part of the residuary estate of Clement J. DeSimone. As a matter of fact, that was a contested Will under Section 18 of the Decedents Estate Law.

Town Attorney Roepe then questioned Mr. Sterns, who answered as follows:

- Q. To your knowledge there has never been a decree entered in the Surrogate's Court?
- A. I cannot specifically answer that question, not having been connected with the estate in any manner.
- Q. To your knowledge was there a final adjudication to the widow?
- A. I do not know.

Attorney Brucker stated the petition spoke for itself unless controverted and added that the points of objection had been overcome by the fact that the two people who had withdrawn from the petition had asked to be reinstated. He went on to say that the testimony of Mr. Sterns had cleared up the picture so that there did not seem to be any point in question with respect to the three-point ownership. Mr. Brucker stated that those in favor of annexation represented approximately 62% or 63% of assessed valuation and submitted that he had complied with Section 348 of Village Law, asking the Board to grant the petition and relief as sought therein.

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Town Attorney Roepe suggested that perhaps Mr. Boeggeman might like to pursue the matter of an election under Section 18 of the Decedents Estate Law and that it might possibly affect the deed of Mr. DeSimone.

Mr. Boeggeman stated that from the record on file in Court he could only take the presumption that the owner is a tenant in common. What transaction was gone into without any deed or note made or question under widow's rights in this matter, he said he had no idea, as far as that parcel was concerned. He had only ascertained from the record that there was a tenancy in common.

Mr. Dillon stated that he did not contest the fact that the deed "should have been filed before this time" but agreed with Mr. Roepe that it was okey. Mr. Roepe having suggested that the recording of the deed was regarded as immaterial here. Mr. Dillon said he felt that Mr. Boeggeman should have an opportunity to look into the estate of Clement DeSimone and the fact of releases and that that was all the Board needed.

Mr. Brucker asked if the Board wished the deed to Mr. DeSimone filed then and there. Mr. Boeggeman stated he had looked at the deed and it was apparently good on its face, so he would not object to not filing it and it would be just as good if filed in the Courthouse.

Town Attorney Roepe stated Mr. Boeggeman would be given the opportunity to check on widow's rights.

Supervisor Dillon advised that filing of affidavits would be permitted to May 2nd, 1957. Mr. Boeggeman, in connection with widow's rights, was given permission to file to May 1st, 1957, and submit a copy to Mr. Brucker by that date. Mr. Brucker was given permission to file to May 2nd, 1957.

All persons having had the opportunity of testifying, Supervisor Dillon adjourned the hearing at 9:30 P.M., Eastern Standard Time.

Respectfully submitted,

Mildred F. Maguire
Town Clerk of Clarkstown