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DOCKET NUMBER 50-322-06  
COUNTY OF SUFFOLK PROD. & UTIL. FAC.



DOCKET NUMBER 50-322-063  
PROD. & UTIL. FAC.

DOCKET NUMBER 50-322-064  
PROD. & UTIL. FAC.

PETER F. COHALAN  
SUFFOLK COUNTY EXECUTIVE

DOCKETED  
USNRC

MARTIN BRADLEY ASHARE  
COUNTY ATTORNEY

DEPARTMENT OF LAW  
ADDRESS ALL COMMUNICATIONS  
IN THIS MATTER TO: 85 AUG 19 P1:53

OFFICE OF SUFFOLK  
DOCKETING & SERVICE  
BRANCH

August 16, 1985

Chairman Nunzio J. Palladino  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Dear Sir:

Please be advised that the Appellate Division ruled on August 13, 1985 that the Suffolk County Executive lawfully terminated the services of Kirkpatrick and Lockhart as counsel for Suffolk County in all Shoreham related proceedings (copy of decision enclosed). In short, the Appellate Division affirmed in all respects the decision of Judge Brown. Although the Appellate Division granted appellant's leave to appeal this determination, no stay of the enforcement of this decision was issued.

The County Legislature on this date did not vote to override a County Executive veto of a resolution purporting to retain Kirkpatrick and Lockhart as counsel for the County. The Legislature took the position that it was unnecessary to override the County Executive's veto of this resolution because, as they claimed, the County Executive did not have veto power over this question. It should be noted that the action of the County Legislature took place before the Appellate Divisions decision was released. In our opinion, Tuesday's decision by the Appellate Division renders this resolution a nullity. In short, to the extent the Legislature seeks by way of these resolutions to retain

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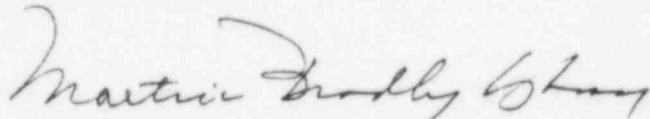
Nuclear Regulatory Commission  
August 15, 1985  
Page 2

Kirkpatrick and Lockhart as special counsel for Suffolk County in Shoreham related proceedings, the law is now clear that the County Legislature is without legal authority to do so. Enclosed is a copy of our opinion to the County Executive which was attached to the veto message.

The Appellate Division decision clearly holds that the County Attorney alone is vested with the authority either to represent Suffolk County or to select special counsel to do so with the approval of the County Executive.

We believe this decision resolves any doubts as to who is entitled to represent Suffolk County.

Very truly yours,

A handwritten signature in cursive script, reading "Martin Bradley Ashare".

MARTIN BRADLEY ASHARE  
Suffolk County Attorney

MBA/dag  
cc: service list

August 16, 1985

DOCKETED  
USNRC

CERTIFICATE OF SERVICE

'85 AUG 19 P1:53

In the Matter of  
LONG ISLAND LIGHTING COMPANY  
(Shoreham Nuclear Power Station, Unit 1)  
Docket No. 50-322 (OL)

I hereby certify that a copy of a letter to the Commissioner of the Nuclear Regulatory Commission dated August 16, 1985 was served on the following persons as indicated:

Chairman Nunzio J. Palladino  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner James K. Asselstine  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Frederick M. Bernthal  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Thomas M. Roberts  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Commissioner Lando W. Zech, Jr.  
United States Nuclear  
Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Alan S. Rosenthal, Chairman  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Fifth Floor (North Tower)  
East-West Towers  
4350 East-West Highway  
Bethesda, MD 20814

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Appeal Board  
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Secretary of the Commission  
United States Nuclear  
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Washington, D.C. 20555

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Chairman, Atomic Safety and  
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Judge Glenn O. Bright  
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Board,  
U.S.. Nuclear Regulatory Comm.  
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Oak Ridge National Laboratory  
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\*If being sent by Federal  
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Empire State Building  
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Mr. Martin Shubert  
c/o Congressman William Carney-  
1113 Longworth House Office  
Building  
Washington, D.C. 20515

Docketing and Service  
Branch (3)  
Office of the Secretary  
U.S. Nuclear Regulatory Comm.  
Washington, D.C. 20555

Hunton & Williams, Esqs.  
707 East Main Street  
Richmond, Virginia 23219

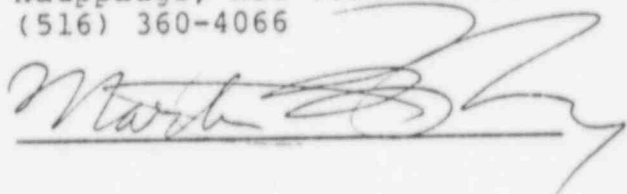
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing  
Appeal Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Cammer and Shapiro, P.C.  
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Kirkpatrick & Lockhart, Esq.  
1900 M Street M.W.  
Washington, D.C. 20036

MARTIN BRADLEY ASHARE  
SUFFOLK COUNTY ATTORNEY  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788  
(516) 360-4066

By: 

Sworn to before me this  
day of , 1985.

---

CHARON A. McKENNA  
Notary Public, State of New York  
No. 4636183  
Qualified in Suffolk County  
Commission Expires March 30, 1987

THE HONORABLE JUSTICE PRESIDING  
IN THE MATTER OF WAYNE PROSPECT CO. INC.  
vs. SUFFOLK COUNTY, SUFFOLK COUNTY  
vs. SUFFOLK COUNTY, SUFFOLK COUNTY  
vs. SUFFOLK COUNTY, SUFFOLK COUNTY  
vs. SUFFOLK COUNTY, SUFFOLK COUNTY  
vs. SUFFOLK COUNTY, SUFFOLK COUNTY

Appellants,

In the Matter of Wayne Prospect Co. Inc.,

Appellants,

vs. SUFFOLK COUNTY,

Respondent

Intervenor-Respondent,

v

Peter F. Conahan, County Executive of the  
County of Suffolk,

Respondent;

and

Long Island Lighting Company,

Intervenor-Respondent.

(and another title)

In the above entitled cause, the appellants having made an oral  
motion upon the arguments of the appeal from a judgment of the Supreme  
Court, Suffolk County, entered July 11, 1933, to continue, pending  
determination of the appeal, a stay of enforcement of said judgment  
granted by Associate Justice Lawrence on August 3, 1933;

Now, it is

ORDERED that the motion is hereby granted and stay continued  
pending determination of the appeal.

DEPUTY:

ROBERT L. SIMON

Clerk of Appellate Division

No. 5036

一、目的：本計畫旨在瞭解我國各縣市公共圖書館之發展現況，並探討其未來發展之方向。  
 二、範圍：本計畫之範圍包括各縣市公共圖書館之現況調查及未來發展之探討。  
 三、方法：本計畫之研究方法包括文獻分析法、問卷調查法、訪談法等。  
 四、步驟：本計畫之步驟包括資料蒐集、資料整理、資料分析、結論與建議等。  
 五、預期成果：本計畫之預期成果包括瞭解我國各縣市公共圖書館之發展現況，並提出未來發展之建議。

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and action by applicant, with upon the granting of the appeal from a judgment of the Supreme Court, Suffolk County, entered July 31, 1933, to continue, pending determination of the appeal, a writ of enforcement of said judgment issued by Honorable Justice Lawrence on August 3, 1933.

[illegible]
$$\begin{aligned} \frac{1}{2} \frac{d}{dt} \int_{\mathbb{R}^n} |u|^2 dx &= \int_{\mathbb{R}^n} u \frac{du}{dt} dx = \int_{\mathbb{R}^n} u \left( -\operatorname{div}(\nabla u) + \nabla u \cdot \nabla u \right) dx \\ &= \int_{\mathbb{R}^n} u \operatorname{div}(\nabla u) dx - \int_{\mathbb{R}^n} |\nabla u|^2 dx = \int_{\mathbb{R}^n} \operatorname{div}(u \nabla u) dx - \int_{\mathbb{R}^n} |\nabla u|^2 dx \\ &= \int_{\partial \mathbb{R}^n} u \nabla u \cdot \nu dx - \int_{\mathbb{R}^n} |\nabla u|^2 dx = 0 - \int_{\mathbb{R}^n} |\nabla u|^2 dx \leq 0. \end{aligned}$$

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0.85	0.60	0.60	0.60
0.90	0.60	0.60	0.60
0.95	0.60	0.60	0.60
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1998年 12月 10日 星期二 12:00:00  
 1998年 12月 10日 星期二 12:00:00

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James E. Bailey, Sr. and Foyland H. Gordon, Birmingham, Ala. and Herbert S. Williams, New York, N.Y. and Richmond, Va. (Lewis E. Harrison, E. Taylor Fowler III, R. Brown Allen and Harry D. E. Harrington as counsel), the respondents (the Federal Licensing Company (and its affiliates)).

Oral applications by applicants for leave to appeal to the Board of Appeals continue. Persons of law have been asked to continue with us in person.

2000年12月







COUNTY OF SUFFOLK



PETER F. COHALAN  
SUFFOLK COUNTY EXECUTIVE

MARTIN BRADLEY ASHARE  
COUNTY ATTORNEY

DEPARTMENT OF LAW  
ADDRESS ALL COMMUNICATIONS  
IN THIS MATTER TO:

PRIVILEGED-ATTORNEY WORKPRODUCT  
ATTORNEY-CLIENT COMMUNICATION NOT SUBJECT TO FOIL DISCLOSURE

MEMORANDUM

TO: PETER F. COHALAN  
Suffolk County Executive

FROM: MARTIN BRADLEY ASHARE  
Suffolk County Attorney

DATE: July 22, 1985

RE: I.R. No. 1618-85 (Retaining Kirkpatrick & Lockhart as  
Special Counsel to the County Legislature)

I.R. No. 1618-85 authorizes the retaining of Kirkpatrick & Lockhart by the County Legislature on behalf of the County. The County Legislature, however, is not authorized to hire counsel to represent the County. Pursuant to section 501(1) of the State's County Law and sections 1501 and 1502 of the Suffolk County Charter, only the County Attorney, when authorized by the County Executive, can retain special counsel to assist him in representing the County.

This view was reaffirmed by Justice Brown of the Suffolk County Supreme Court in a decision issued July 19, 1985 in which he upheld the termination of Kirkpatrick & Lockhart's services by the County Executive and the County Attorney. A copy of that decision is annexed. Justice Brown's decision is consistent with the opinion of the Appellate Division, in Davis Construction Corp. v. County of Suffolk, 95 App.Div.2d 819, 820 (2d Dept. 1983) in which the Appellate Division struck down a local law designating the District Attorney to represent the County in RICO actions, as being violative of Sections 1502 of the Suffolk County Charter and 501 of the County Law. Justice Brown held that only the County Attorney with the authority of the County Executive may hire outside counsel. Indeed, Justice Brown observed that, "... for

this Court to hold otherwise, would result in a clear usurpation by the Legislature of a function of executive branch." (Opinion, page 6). Since the County Attorney under section 1501 of the Charter is in charge of all of the legal business of the County, only he may hire outside counsel to assist him; any attempt to do so by the legislature is perforce illegal and ultra vires.

In addition, this resolution is procedurally defective. The County Legislature misinterpreted Rule 7(d) in voting on this resolution. A majority of the Legislature read Rule 7(d) as allowing a resolution on the agenda for their consideration if a Discharge Petition is signed by at least ten members. This would be clearly appropriate only if the Primary Committee took "no action" on the resolution, such as no motion being made in consideration of a resolution, or no second being made for a motion, or where the only action taken is a vote to approve which fails. But where action is taken and approved, such as tabling to a certain date, tabling subject to call, or tabling pending the outcome of a public hearing, then 7(d) requires "unanimous consent of the entire membership of the Legislature" in order to circumvent the action (as opposed to "no action") taken by the Primary Committee. This is the clear intent of 7(d) and this is the only logical interpretation of 7(d). Any other reading would be erroneous; any other reading would undermine the intent of this rule; and, any other reading would result in improper and unlawful actions being taken by the Legislature and would result in "absurd and unexpected consequences." See, Friedman-Kien v. City of New York, 92 App.Div.2d 827, 828, 460 N.Y.S.2d 547, 549 (1st Dept. 1983).

Here, the Primary Committee (Finance) did take action - they tabled this resolution subject to call. Thus, pursuant to Rule 7(d), this resolution could only be considered by the full Legislature if there was the "unanimous consent of the entire membership . . ."

In addition, it is well-established that,

The courts will not construe statutes, or rules and regulations of a government agency in such a manner as to thwart the obvious Legislative intent and reach absurd and unexpected consequences. Matter of Chatlos v. McGoldrick, 302 N.Y. 380, 387-388, 98 N.E.2d 567; McKinney's Statutes, §§92, 145, 147.

Id.

Accordingly, since I.R. No. 1618-85 has the unlawful effect of abrogating County Law section 501 and sections 1501 and 1502 of the Suffolk County Charter, and in addition, since it is procedurally defective, it is the position of the Law Department that this resolution be vetoed.

MEB/dls