

**Sean Madden  
64 Tower Hill Loop  
Tuxedo Park, NY 10987**

June 11, 2017

Re: Lawsuit Against Trustee Guazzoni and the Village

Dear Neighbors:

I write to share with you why I filed a lawsuit against trustee Guazzoni and the Village for their violations of New York's Freedom of Information Law (FOIL). This is the first lawsuit I have ever brought (and hopefully the last); I do so reluctantly but determined to expose trustee Guazzoni's contempt for his legal and fiduciary obligations as a public official in a position of trust. The citizens of Tuxedo Park deserve better from their elected representatives. I urge the mayor to step up and do the right thing by terminating trustee Guazzoni's appointment as deputy mayor, effective immediately, and by disavowing her public support for trustee Guazzoni's candidacy for reelection.

By way of background, we have been in Tuxedo Park since 2005 when we rented a house for the summer, fell in love with this community and bought an historic home, which we have meticulously restored and improved in the years since. As weekenders, Tuxedo Park has been our oasis for rest and relaxation, and we had not paid much attention to local politics. Our blissful ignorance was shattered, however, when we experienced the secrecy, arbitrariness, vindictiveness and impulsiveness of mayor Guinchard in what should have been a straightforward application to connect our newly purchased boat house to the electric grid, which unsurprisingly is our right under New York law. I have documented the shameful abuses mayor Guinchard orchestrated to frustrate and delay our attempts to obtain power, like every other boathouse on the lake enjoys, the first step in restoring a dilapidated eyesore not worthy of its place on the shore of our special lake. I will spare you the gory details (they are available upon request), other than to observe that the episode cost us time, money, aggravation and, importantly, our trust in mayor Guinchard and her stewardship of the Village. Many people in our position would have sued the Village and won, but we elected to settle with the Village and move on.

From that point forward, I began to pay more attention to Village government, and I was increasingly troubled by what I saw. The Committee on Open Government recently confirmed the pattern of violations of New York's Open Meetings Law I documented, and for which I was subjected to personal attacks from the deputy mayor in his official capacity from his official Village email account. (As for his supposed apology, any parent would have sent their child back to the drawing board if she proffered such a non-apology.) These abuses of the use of executive session, coupled with the mayor's penchant for secrecy, have deprived of us of the transparency New York's sunshine laws are designed to guarantee. I have also documented what I believe are ethical lapses by the mayor's hand-picked deputy, which are now before the Orange County Board of Ethics.

I was so concerned about the conduct and direction of the Village's governance that I was determined to share with the community the substance of my concerns, in accordance with our proud tradition of citizen activism that is enshrined in our First Amendment. I have done so using the tools provided under state law in an open, transparent, and fact-based manner. To that end, in February, I submitted a request pursuant to FOIL to the Village records access officer for "an electronic file with all of the names and email addresses of Tuxedo Park residents that are in the

records of the Village for whatever purpose.” I explained that I intended "to use such records only to further public discourse on matters of public importance and concern in the Village, and I hereby certify that I will not use such information for solicitation, fundraising or any other commercial purpose.” I knew from reviewing relevant FOIL case law that I was entitled to such email records.

I will spare you the details of the repeated delay and obfuscation trustee Guazzoni has perpetrated since February because the upshot is simple, as the Village attorney concluded in ruling on my FOIL appeal: “Based upon a review of current law, the recipient email addresses utilized by Trustees of the Village for the purpose of sending communications to residents and other parties interested in Village business do not fall within any stated exemption under Section 87 of the New York State Public Officers Law and should therefore be disclosed in response to the request. Accordingly, to the extent that a Trustee is in possession of a list of recipient email addresses that is used for the purpose of communication with such recipients concerning Village business, such email addresses should be disclosed.” Frankly, this is a win for democracy in the Village; let all the candidates for Village office and concerned citizens communicate directly with the community via the electronic format people use in our modern society.

Based on this clear directive, together with FOIL’s requirement that records be produced electronically to the extent practicable, I then received two sets of responses from the Village: (1) trustee McFadden produced detailed Excel spreadsheets with his email distribution list despite the fact that he had not been on notice that such lists were subject to my initial FOIL request; and (2) trustee Guazzoni, despite being on notice for months, produced scanned copies of the St. Mary’s and Tuxedo Club directories instead, which was both under-inclusive (it excludes emails that he has for Tuxedo residents but has not produced) and over-inclusive (it includes pages of irrelevant emails of non-residents). This farcical response by trustee Guazzoni exemplifies his contempt for his obligations under New York law. Trustee Guazzoni has used electronic communications with the citizens of Tuxedo Park repeatedly in recent weeks in support of his reelection campaign. Why has he refused to comply? Trustee Guazzoni continues to flout FOIL and the clear directive of the Village attorney by withholding his resident email distribution list, thereby causing the Village to be in violation of FOIL.

I could not sit idly by as one of our elected officials willfully violated his legal obligations to deprive me of a mechanism by which I would vigorously oppose his candidacy. Through no fault of anyone except trustee Guazzoni, the Village has violated FOIL due to trustee Guazzoni’s brazen disregard of a clear directive from the Village attorney and his repeated violations of his obligations under New York law to timely produce Village records in his possession. Frankly, this is a very simple case given the clear facts and will almost certainly entitle me to reimbursement of my legal fees as provided by FOIL. Thus, the Village is in jeopardy of paying two sets of legal fees for trustee Guazzoni’s wrongdoing. I expect that you are as outraged as I am that trustee Guazzoni’s patently illegal behavior has put Village taxpayers at risk for these potentially substantial sums of money. I am specifically requesting that the court use its equitable powers to compel trustee Guazzoni to cover my legal fees and expenses in lieu of the Village, but there are no guarantees that this remedy will be granted.

I have no desire to see the Village waste taxpayer money on a lawsuit that never should have been allowed to happen. Our community deserves much better for its tax dollars. As I have done at every juncture in this matter, I have extended yet another olive branch, offering the Village a settlement proposal whereby we would agree to jointly request that the court compel trustee Guazzoni to (a) produce his current resident email distribution list in electronic format; and (b) reimburse me for attorney’s fees and expenses in lieu of the Village making such payments. If the

court declines (b), I would pay half of my legal fees, which would save the Village half the fees it would otherwise be required to reimburse me for pursuant to FOIL. A settlement on such terms could dramatically reduce the total amount spent on legal fees while simplifying and focusing the case for expeditious resolution by the court.

Mayor Guinchard has sat by silently during this whole episode as her deputy mayor appointee flouts New York law and the directive of the Village attorney. Why hasn't she called for a resolution urging trustee Guazzoni to comply with the law and condemning him if he does not? How can she support the candidacy of a trustee who won't comply with New York law? Why doesn't she revoke his appointment as deputy mayor? Trustee Guazzoni and Mayor Guinchard owe the taxpayers of Tuxedo Park some explanations.

Respectfully yours,

Sean P. Madden