

KENDALL, HARRIENGER & BURROWS
Interoffice Memorandum

TO: FILE

FROM: KHB

DATE: December 2024

RE: T/Watertown
Lettiere Tract Fact Sheet

Under the New York Town Law, there are multiple ways for a Town Water District to be created. Under Town Law Article 12, an improvement district may be established or extended by petition. Alternatively, under Town Law Article 12-A, the Town Board may initiate establishing or extending a district by motion.

In February 2023, James V. Lettiere approached the Town of Watertown Town Board regarding the fact that Mr. Lettiere wanted the Town to purchase his 60-year-old water system for \$500,000.00. At that time, the Town turned down Mr. Lettiere's request, as the Town Board was concerned that the system was too old and was not worth the amount requested by Mr. Lettiere. The Town Board opted not to move forward with efforts to create a Water District under Article 12-A by Town Board motion. Despite the costs associated, the Town Board agreed to consider an Article 12 petition if submitted by the residents of the Lettiere Tract.

In order to be statutorily sufficient, an Article 12 Petition must describe the boundaries of the proposed district and/or extension in a manner sufficient to identify the lands included therein as in a deed of conveyance. The Petition must also state the maximum amount proposed to be expended for the proposed district and/or extension. The Petition shall be signed by the owners of taxable real property situate in the proposed district (or extension) owning in the aggregate at least one-half of the assessed valuation of all taxable real property of the proposed district, as shown upon the latest completed assessment-roll of the Town, AND must also be signed by at least one-half of the resident owners within the proposed district. The signatures on the Petition must be acknowledged or proved in the same manner as a deed to be recorded. Importantly, an Engineering Report with appropriate maps and plans must accompany every petition for the establishment or extension of a water district.

What are the specifics regarding the proposed water district?

1. Equivalent Dwelling Unit

An Equivalent Dwelling Unit or "EDU" is a measurement which represents the amount of water used by one single-family, residential dwelling unit of water per year. Each residence represents a separate EDU. There are 130 residences within the proposed district and thus, 130 EDUs within the proposed district. The 17 vacant parcels in the proposed district will not be considered for purposes of an EDU and instead, will be assessed at an Annual Capital Cost of \$300.00 per vacant parcel. The cost per EDU is a combination of annual water costs and annual capital costs.

The water costs are calculated by the Town Engineers as follows: We generally assume that 1 EDU within the proposed district will be equal to 175 Gallons Per Day ("GPD"), or approximately 63,875 Gallons Per Year ("GPY"). We know that the water cost for 1,000 gallons of water is \$8.02. If we multiply these figures, we end up at approximately \$512.00 in annual water costs per EDU.

The capital costs are calculated by the Town Engineers as follows: The total cost of the project (\$1,263,000.00) is multiplied by 0.0544 (which is representative of a 3.5% interest rate on a 30 year loan). This results in a capital cost of \$489.00 per EDU.

The cost per EDU is a combination of annual water costs and annual capital costs. Here, the annual water cost is projected to be \$512.00 per EDU and the annual capital cost is projected to be \$489.00 per EDU. Thus, the anticipated cost per EDU is \$1,001.00.

2. Money Being Spent

The construction costs for the project are anticipated to be \$763,000.00. The amount of money being paid to James Lettiere for the existing aged infrastructure by the residents in the district is \$500,000.00. This results in a total cost of \$1,263,000.00. It is anticipated that this total cost will be financed at 3.5% for 30 years.

When and where will the petition be available?

The Town has provided assistance and resources to the residents in the proposed district. This has resulted in a petition being prepared on behalf of the residents, as opposed to the residents being burdened by the cost and effort of forming a legally

sufficient petition and carrying the same door-to-door.

The petition will be available starting December 12, 2024 at the Town of Watertown Municipal building located at 22867 County Route 67, Watertown, New York 13601. The petition will be available during normal business hours with the Town Clerk. The petition will be available for sixty (60) days. At the expiration of the sixty (60) days, the petition will be reviewed by the Town in order to determine whether the petition is sufficient. If the petition is sufficient, the Town will move forward with the water district efforts outlined in the New York Town Law. If the petition is insufficient, any efforts toward forming the water district shall immediately cease.

Am I eligible to sign the petition?

In order to sign the petition, an individual must be a citizen of the United States, be eighteen (18) years of age or older, be a resident of New York State, and own property within the proposed district.

As there is no existing statutory authority which permits a town to allow absentee signing, seasonal property owners and/or property owners who are away when the petition is available will not be sent copies of the petition to sign, nor will they be authorized to "mail in" signatures for the petition.

What if I am eligible to sign the petition and I own more than one property in the proposed district, own property with another person, rent property, or own property through a partnership, corporation, trust, or similar entity?

- (1) Persons who do not own taxable real property located in the proposed water district are not entitled to sign the petition.
- (2) Partnerships and corporations owning taxable real property located in the proposed water district are only entitled to a single signature. Please keep in mind that in order for an individual to have legal authority to sign on behalf of a partnership or corporation, they must be given the authority to sign via a resolution executed by the partnership or corporation.
- (3) Any person or entity owning more than one (1) parcel within the proposed district is only entitled to a single signature on the petition. For example, if a resident owns four (4) parcels within the proposed district, they are still only entitled to sign one (1) time. In a situation such as that, the owner's signature will be credited to the parcel they own which has the highest assessed value of their parcels.
- (4) Each tenant by the entirety, tenant in common, and joint tenant owning taxable real property located in proposed water district is entitled to sign the petition, meaning if

a parcel is owned by more than one person (such as a married couple), each person would be entitled to sign the petition. Please also note that if an owner does not sign the petition, their percentage ownership of the assessed value of the property will not be included in the petition. For example, if two individuals own a parcel within the proposed district which has an assessed value of \$100,000.00, and only one of those owners signs the petition, only \$50,000.00 of the total \$100,000.00 assessed value will be included in the calculation determining whether at least one-half of the assessed valuation of all taxable property within the proposed district is represented by the petition.

- (5) Each trustee specifically named on the deed of a corresponding parcel located within the proposed district shall be entitled to sign the petition. Please note that if an individual owns one (1) parcel as an individual (i.e. John Doe) and also owns another property as a trustee (i.e. John Doe as Trustee of the John Doe Trust), that individual will be entitled to sign for both parcels because the parcels are technically owned in different capacities.
- (6) Tenants/renters are not eligible to sign the petition.

What happens if a legally sufficient petition is submitted to the Town Board?

Once a legally sufficient petition has been presented to the Town Board pursuant to Town Law Article 12, the Town Board shall adopt an Order which cites the submission of the petition, the boundaries of the proposed district, the improvements proposed, the maximum amount to be expended for the improvement as stated in the petition, the estimated cost of hook-up fees, if any, to the typical property, and the cost of the district and/or extension to the typical property. The Order shall also specify the time when and place where the Town Board will meet to consider the petition and to hear all persons interested in the project.

It is important to note that the submission of a sufficient petition does not guarantee the successful creation/completion of the associated Water District.

Disclaimer: This is a list of frequently asked questions and general information. It is in no way exhaustive. Further, issues of residency and domicile may need to be determined on an individual case-by-case basis and may not necessarily conform entirely to the general statements made within this document. This document is merely intended to broadly address complex issues which may require an in-depth analysis.