

Resolution -2012

WHEREAS, the Laws of Westchester County (“LWC”) Section 209.91(1) and (2) empowers the Westchester County Board of Legislators “to enact local laws, acts and resolutions....” and that it “shall have such further powers and duties as have heretofore been or may hereafter be lawfully granted or imposed by the Constitution, County Charter, local law, act or resolution of such board, or by any provision of any act of the legislature”; and

WHEREAS, LWC Section 110.11(1) mandates that the County Executive “supervise, direct and control, subject to law and the provisions of this act and local laws, the administrative services and departments of the county”; and

WHEREAS, LWC Section 110.11(5) mandates that the County Executive “see that the county officers, boards, agencies, commission and departments faithfully perform their duties”; and

WHEREAS, LWC, Section 110.11(6) mandates that the County Executive “see that...the acts and resolutions of the County Board and duly enacted local laws are executed and enforced within the county”; and

WHEREAS, LWC Section 110.11(10) mandates that the County Executive “perform all such duties as may be prescribed for him...by act of the County Board”; and

WHEREAS, the County Board is the “governing body” of Westchester County (*see* LWC §209.01); and

WHEREAS, LWC Section 209.261 mandates that “[a]ny local law... adopted by the County Board and not heretofore held invalid by a court of competent jurisdiction, shall be valid and shall not hereafter be held invalid because of any lack of power of the County Board to enact such local law at the time of its enactment. Such local law shall be deemed effective from the date when such local law purported to take effect, and all acts authorized thereby are legalized and confirmed.”; and

WHEREAS, notwithstanding the foregoing powers of the County Board and duly prescribed duties of the County Executive and the County Attorney, the County Executive has failed to enforce local laws, acts and/or resolutions adopted by the County Board, including local laws which have not been invalidated by a court of competent jurisdiction, as a result of the non-binding opinions rendered by the County Attorney; and

WHEREAS, it is a fundamental principle of organic law that each department of government should be free from interference in the lawful discharge of duties expressly conferred by either of the other branches; and

WHEREAS, it is well-settled through decisions of the court the that an executive branch is required to implement the adopted policy declarations of the Legislature unless judicially invalidated; and

WHEREAS, it is also well-settled through decisions of the court that laws are made by the elected legislative branch, not by appointed administrative officers.

NOW THEREFORE BE IT

RESOLVED, that the Chairman of the County Board is hereby authorized to take any and/or all appropriate action to enforce the Resolutions, Acts and Local Laws adopted by the County Board where the County Executive has failed to comply with his statutory mandate to enforce same. The Chairman's authorization may only be exercised after consultation with the Rules Committee, written notice to the County Executive specifying the Resolution(s), Act(s) and Local Law(s) in question, and a Committee meeting concerning same.

Dated: April ___, 2012

White Plains, New York