

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EAST END ERUV ASSOCIATION, INC.,
MARVIN TENZER, MORRIS TUCHMAN,
CLINTON GREENBAUM, ALAN H.
SCHECHTER, and CAROL SCHECHTER

Plaintiffs,

-against-

THE VILLAGE OF WESTHAMPTON BEACH,
CONRAD TELLER, individually and in his official
capacity as Mayor of the Village of Westhampton
Beach, TONI-JO BIRK, LEOLA FARRELL, JOAN
S. LEVAN, HANK TUCKER, each individually and
in their official capacities as Trustees of the Village
of Westhampton Beach, THE VILLAGE OF
QUOGUE, PETER SARTORIUS, individually and
in his official capacity as Mayor of the Village of
Quogue, RANDY CARDO, JEANETTE OBSER,
KIMBERLEY PAYNE, and TED NECARSULMER,
each individually and in their official capacities as
Trustees of the Village of Quogue, THE TOWN OF
SOUTHAMPTON, ANNA THRONE-HOLST,
individually and in her official capacity as Supervisor
of the Town of Southampton, NANCY S.
GRABOSKI, CHRISTOPHER R. NUZZI, JAMES
W. MALONE, BRIDGET FLEMING, each
individually and in their official capacities as
members of the Town Council of the Town of
Southampton

Defendants.

Index No. CV 11-0213

Hon. Leonard D. Wexler

**DECLARATION OF MORRIS TUCHMAN PURSUANT TO 28 U.S.C. § 1746
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, MORRIS TUCHMAN, hereby declare under penalty of perjury:

1. I am an attorney licensed to practice in New York. I am a plaintiff in the above-captioned proceeding and I have been involved in the efforts to establish an eruv in Westhampton Beach and parts of Quogue and Southampton (collectively, the "Municipalities").

As such, I am familiar with the facts and circumstances set forth herein. I submit this Declaration in support of Plaintiffs' Motion for Preliminary Injunction.

2. I maintain personal residences in Queens, New York and in Westhampton Beach, New York.

3. As an observant Jew, my religious beliefs are informed by thousands of years of Jewish tradition and by the writings and teachings of my rabbis, teachers, and spiritual advisors, both past and present. Part of my strongly-held religious beliefs is the primacy of *halakha*, or the Jewish legal system, which establishes a framework for my entire life. A second core element of my beliefs is *kehillah*, or community, and the importance of joining together with members of my community to pray, study, and worship, to mourn at sad times and to celebrate in times of joy.

4. Part of my adherence to Jewish law is my observance of Shabbat, the Jewish day of rest, which spans from Friday evening until Saturday night. On Shabbat, I and many observant Jews refrain from certain activities, such as working, cooking, using electricity, or riding in cars and do not carry items in public places (*e.g.*, in the street, in communal areas, or from one private space to another). That prohibition includes the use of strollers and wheelchairs outside of one's own home. Jewish law has developed a concept called an "*eruv*," which, through the erection of symbolic markers, creates a literal and symbolic boundary around a community within which observant Jews may carry and use strollers or wheelchairs within that private space without violating the laws of Shabbat. The establishment of an *eruv* has no effect on non-Jews and non-observant Jews. It does not change what they can or cannot do.

5. Another element of my adherence to Jewish law is my sense of obligation to pray and worship with my community, especially on Shabbat. On Shabbat, many observant Jews

recite prayers that can only be said with a *minyan* (a quorum of Jewish adults), including the reading of the weekly Torah portion. On special occasions, we celebrate life cycle events in the synagogue on Shabbat with readings from the Torah. On the memorial anniversary of loved ones, we recite the Mourner's *Kaddish*, which also may only be recited in the presence of a *minyan*. Without an eruv, many observant Jews who use wheelchairs or who have children who must ride in strollers are confined to their homes and are unable to participate in these traditions or fulfill many of their other ritual obligations.

6. Many of the same restrictions apply on Yom Kippur (the Jewish Day of Atonement) as on Shabbat. Specifically, many observant Jews who rely on strollers and wheelchairs will not leave their homes on Yom Kippur in the absence of an eruv. Accordingly, they are home-bound on what is considered to be one of the holiest days of the Jewish year, a day on which the vast majority of the special prayers may only be recited in the presence of a *minyan*.

7. Jewish tradition does not ignore the plight of those who are dependent on strollers and wheelchairs. The establishment of an eruv liberates such people from their homes and permits them to observe Shabbat and Yom Kippur to their fullest, with a *minyan* and with their synagogue communities. To that end, in March of 2010, I and others formed EEEA to work to establish an eruv in the Municipalities.

8. If EEEA is not permitted to establish an eruv in the Municipalities, my family and I will continue to be unable fully to practice our religion.

9. I have an elderly father who is confined to a wheelchair. In the absence of an eruv, he cannot go to synagogue on Shabbat and Yom Kippur and, as a result, is unable to visit me on those days. Additionally, I have ten grandchildren, who range in age from 9 months to 14

years. Several of them cannot walk to my synagogue in Westhampton Beach on their own and must ride in strollers. Because there is no eruv in Westhampton, I, my wife or some or all of my children and grandchildren, cannot fully observe Shabbat when my grandchildren visit me in Westhampton Beach, because someone must stay home with the young children throughout Shabbat. Indeed, notwithstanding that my grandchildren are in day camp in Westhampton during the week, they return every weekend to their winter home for Shabbat as their mother and they cannot leave the house since there is no eruv in Westhampton. Moreover, since there is no eruv, I am unable to carry a prayer shawl, prayer books, “dress shoes” (as we live about two miles from the Synagogue) or a Bible to the Synagogue and must leave them at the Synagogue and “pray” that it does not rain on the Shabbat.

10. I have been personally involved in the establishment of an eruv in the Municipalities since 2008.

11. On or about March 7, 2008, Rabbi Marc Schneier submitted a petition on behalf of the Hampton Synagogue to the Board of Trustees of Westhampton Beach (“Westhampton Beach Trustees”) for the establishment of an eruv in Westhampton Beach.

12. The Eruv petition was discussed during meetings of the Westhampton Beach Trustees in April 2008 and May 2008.

13. During the May 2008 meeting, Mayor Teller made a motion to add to the agenda a resolution to approve the Eruv petition. Public comment followed, which included statements by one community member who expressed “a fear . . . that what happened in Lawrence and Cedarhurst” – two communities with eruvs in which there was a significant increase in the observant Jewish populations – “could end up happening in Westhampton Beach.” The motion

was defeated by a 3-2 vote of the Trustees. The Trustees refused to even put the petition on the agenda.

14. By letter dated May 23, 2008, Rabbi Schneier informed Mayor Teller, the Trustees, and the members of the Westhampton Beach Community that the Hampton Synagogue would suspend its application for the Eruv, citing the controversy that the application had evoked throughout the village, including comments that “this is the beginning of a push by the rabbi to create ‘another Lawrence,’” and “just what we need, more Jews.”

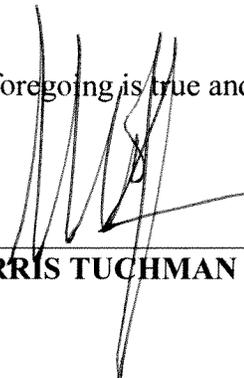
15. Such sentiment continued when the eruv proponents subsequently sought to pursue the establishment of the eruv in the municipalities through private contracts with Verizon and LIPA. Since those contracts were executed, the Municipalities have interfered with them, and Verizon and LIPA have been unable and/or unwilling to perform them.

16. I, therefore, respectfully request that this Court grant Plaintiffs’ application for a preliminary injunction.

17. I declare under penalty of perjury that the foregoing is true and correct.

Executed on [DATE]

3/14/11



MORRIS TUCHMAN