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FEATURED

OneLyons mulling appeal of dissolution ruling

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Spencer Tulis / Finger Lakes Times

LYONS — Advocates of village dissolution want voters and lawmakers to act in the wake of a court ruling that cleared the way for a second referendum on Lyons' fate.

Meanwhile, they are not ruling out an appeal.

“We at OneLyons now ask our community to send a message on March 18, 2014, that the Village government is answerable for its questionable behavior,” the pro-dissolution group said in a press release Friday. “The Dissolution Plan adopted by the Village of Lyons Board of Trustees on Nov. 4, 2013, saves money, keeps necessary services, and simplifies the process of government in Lyons. Lyons will still be Lyons; a better Lyons, a unified Lyons, one Lyons. Read the dissolution plan and the facts of this court case and vote Yes on March 18.”

Dissolution opponents circulated a petition last year to force a referendum on the plan adopted after voters initially approved village dissolution in November 2012. The village validated the petition and moved to schedule the vote, prompting OneLyons to bring an Article 78 proceeding.

The group, represented by Jack Bailey and Andrew DeWolf, challenged the petition’s validity, but Acting Supreme Court Justice John Nesbitt rejected its arguments in a ruling issued Wednesday.

“As a result, the onus is now on the New York State Legislature and New York State Gov. Andrew Cuomo to take note of and address the problems the electors have encountered during the dissolution process,” OneLyons said in its statement.

In his ruling, Nesbitt granted OneLyons standing to sue but rejected its three main arguments, specifically:

- That the petition was flawed because it omitted certain language. Nesbitt said the language was suggested, not mandatory.
- That certain signatures were invalid. Nesbitt said the petition had enough valid signatures.

- That people with an interest in preserving the village got people to sign the petition through means that might be considered coercive. Nesbitt said no one had submitted sufficient evidence to support that.

OneLyons said Nesbitt ignored some recent court rulings it thought supported its case. At the same time, Nesbitt deferred to the principle that voters should always have the right to ballot unless fraudulent activity has occurred, the group said.

“To our dismay, Judge Nesbitt has decided to grant deference to the Village Clerk and affirm that she followed the proper processes and properly certified the petitions as the law required,” OneLyons said. “The Court declined to perform a fresh review of our allegations, and instead decided that the clerk utilized the proper data set to determine both the sufficiency of the petition and the eligibility of the signatures, and therefore no reason exists to overturn the Clerk’s certification.”

OneLyons said Nesbitt declined to rule on “obvious” conflicts of interest present among the clerk and village trustees. Instead, he “deferred all credibility back to the affidavit under oath, though we challenged its validity and truthfulness,” OneLyons said.

DeWolf said the group was considering all of its options, including an appeal of Nesbitt’s ruling.

“We believe there may be grounds for a successful appeal present in the case given the conflicts between the 4th and 2nd Appellate Divisions on these exact issues, but such is a costly endeavor that will involve a lot of hard work,” he wrote in an email. “Ultimately, we need to decide if an appeal is worth it in the big picture again.”

DeWolf said OneLyons has 30 days to make a decision.

On Thursday, Mayor Terry VanStean praised Nesbitt’s ruling, saying it leaves the decision where it belongs — in voters’ hands.