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January 31, 2019

- I. New League Emails in Effect Tomorrow
- II. League President Welcomes Long-Awaited Court Decision

I. New League Emails in Effect Tomorrow

To achieve consistency with the very familiar NJLM logo, we are updating our web and email addresses to reflect njlm.org.

On Friday, February 1, you will see a change in League staff emails, as new updated addresses are rolled out. Emails you send to njslom.org accounts will still be received by League staff. **But to ensure that you continue receiving correspondence from the League, please update your email settings and add njlm.org to your safe lists.**

As part of this process, you will notice that the new website address for the League is www.njlm.org. Please update any bookmarks that you may have saved to reflect this change.

The change to www.njlm.org will establish a level of consistency and recognition with our very familiar NJLM logo. Creating a level of consistency is important so that the League membership and partners can easily recognize and rely on our communications.

II. League President Welcomes Long-Awaited Tax Court Decision

On Monday, January 28, Hopewell Borough scored a major win in a NJ Tax Court case filed 10 years ago by telecommunications giant Verizon. The case, *Verizon v. Hopewell*, stemmed from a decision rendered by the Mercer County Board of Taxation, in which the corporation sought to avoid paying Business Personal Property Taxes owed to the Borough under a 1997 statute.

Hopewell Borough Mayor Paul Anzano commented, "This well-reasoned decision should stand and benefit the residents who simply want to have each taxpayer pay their fair share." The Borough was successfully represented by Joseph C. Tauriello, Esq., whose offices are located in Princeton.

"We commend the Borough's Mayor and Governing Body for their toughness and integrity, throughout this battle. Their perseverance has well served the interests of the ordinary taxpayers of Hopewell and, hopefully, the rest of the State," said Mayor Colleen Mahr of Fanwood, President of the New Jersey State League of Municipalities.

The dispute began in 2008, when Verizon informed a handful of municipalities that it had decided to exempt itself from payment of taxes on all of the cables and electronic equipment it houses in local switching stations. In the years that followed, similar decisions by Verizon have led to cases affecting taxpayers in hundreds of other New Jersey municipalities.

Verizon based its exemption on a misreading of the 1997 statute, which, its lawyers contended, allowed Verizon to exempt itself from the taxes once it determined that it no longer provided dial tone service to 51% or more of an area's land line telephones.

In its decision, the court accepted Hopewell's argument that the legal definition of "Hopewell Telephone Exchange ... is based on geographic boundaries as depicted on Verizon's tariff and product guide exchange maps." That left at issue the credibility of Verizon's proof that it no longer provided at least 51% of the dial tone service within the geographic boundaries of the municipality, which it sought to short-change.

The court found the arguments of the Borough's expert witness more credible than those offered by Verizon's hired experts. The Judge ruled that Verizon was providing at least 51% of the dial tone service in Hopewell in 2008. The Court's ruling affirmed the 10-year-old decision of the Mercer County Tax Board regarding Verizon's 2009 tax liability in Hopewell.

The court cautioned that in future decisions regarding provider exemption claims, "...the credibility and weight given to the experts' analysis and methodology will be highly fact sensitive, will likely vary from year to year, and may also be dependent on the characteristics of a specific exchange."

This decision provides a framework that can be used by other municipalities seeking to ensure appropriate payments of these business personal property taxes.

The League, along with the New Jersey Institute of Local Government Attorneys, both represented by Joel Shain, Esq., filed an amicus brief in an interlocutory appeal on a point of law related to the case. The Appellate Division and the NJ Supreme Court declined to consider that appeal, pending a final ruling by the Tax Court. Mr. Shain is the League's Public Utility Counsel and a founding Principal of Shain Schaffer in Bernardsville.

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