



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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December 22, 2021

Robert A. Spolzino
Village Attorney
Village of Mamaroneck
Village Hall at the Regatta
P.O. Box 369
123 Mamaroneck Avenue
Mamaroneck, NY 10543

Dear Mr. Spolzino:

Your letter to the Attorney General was forwarded to me for response. You have requested an opinion regarding the Village's authority to adopt a local law that would transfer the power to fill certain board of trustees' vacancies from the mayor to the board of trustees. You identified an opinion issued by this office in 1973 that concluded that a village was not so authorized. 1973 Op. Att'y Gen. (Inf.) 198. You recognized that, while the opinion identified a village's supersession power granted by Municipal Home Rule Law § 10(1)(ii)(e)(3), the opinion did not address the exercise of that power in reaching its conclusion.

In 1978, the Court of Appeals affirmed a Fourth Department decision upholding the validity of a local law that vested with the board of trustees the power to appoint certain village officers and employees. *Rozler v. Franger*, 46 N.Y.2d 760, *aff'd* 61 A.D.2d 46 (4th Dep't 1978). The Fourth Department decision reconciled Municipal Home Rule Law § 10(1)(ii)(e)(3)'s "notwithstanding" language with the limiting "general law" language of Municipal Home Rule Law § 10(1)(i),(ii).

I think you may find the *Rozler* decision answers your question. Please advise, however, if you would like to pursue your request for opinion.

You can reach the Opinions unit at the phone number above or by email to Opinions@ag.ny.gov.

I look forward to assisting the Village in the future.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Kathryn Sheingold", with a stylized flourish at the end.

KATHRYN SHEINGOLD
Assistant Solicitor General
In Charge of Opinions