Notice of Hearing Requirements for Establishment or Extension of Town Special Districts

Articles 12 (§ 190 *et seq*.) and 12-A (§ 209 *et seq.*) of Town Law set forth two methods for establishing or extending a town improvement district: (1) by the submission to the town board of a valid petition requesting the establishment or extension of the district (Article 12)[3]; and (2) by town board motion, subject to permissive referendum requirements (Article 12-A)[4]

Under both of these methods, the town board is required to adopt a resolution calling for a public hearing on the proposal to establish or extend the district. The following is a summary of the requirements for a notice of hearing. For more specific information on the requirements, please consult Town Law § 193 for Article 12 districts and Town Law § 209-d for Article 12-A districts:

- Posting and Publishing. The notice of public hearing must be posted on the town signboard and published in the town's official newspaper not less than ten and not more than twenty days before the date designated for the public hearing. The notice may also be made available on the town's website, if any.
- Time and Place for Hearing. The notice must specify the time when and place where the board will meet to hear all interested persons and, in the case of an Article 12 proceeding, consider the petition.
- Other Key Information. The notice must include:
    - a boundary description;
    - a description of the proposed improvements;
    - the maximum proposed to be expended for the improvement;
    - the estimated cost of hook-up fees, if any; and
    - the "cost of the district or extension" to the "typical property" and, if different, to the "typical one or two family home."[5]

[3] The petition, among other requirements, must be signed by the proper number of owners of taxable real property in the proposed district or extension and, in the case of water, sewer, wastewater disposal and drainage districts, must be accompanied by an appropriate map, plan and report (see Town Law §§ 191, 191-a, 192).
[4] The establishment or extension of an improvement district under Article 12-A is based on a map, plan and report (see Town Law §§ 209-b, 209-c; see also Town Law § 209-e[3] and Article 7 of the Town Law (§ 90 et seq.), relating to permissive referendum requirements).
[5] The terms "typical property," "typical one or two family home," "cost of the district or extension to the typical property" and "cost of the district or extension to the typical one or two family home" are defined in Town Law §§ 193(2) and 209-a.

- Filing of Petition. In the case of an Article 12 proceeding, the notice must recite in general terms the filing of a petition.
- Proposed Method of Financing/Map, Plan and Report. In the case of an Article 12-A proceeding, the notice must state the proposed method of financing and the fact that a map, plan and report describing the improvements are on file in the town clerk's office for public inspection.
- Statement as to Benefit Assessments. In the case of an Article 12 proceeding for a water district and certain other types of districts, if it is intended to finance the proposed district on a benefit basis (rather than on an ad valorem basis), the petition must contain a statement to that effect. In the case of an Article 12-A proceeding for a water district, and certain other types of districts, if the town intends to finance the proposed district on a benefit basis (rather than on an ad valorem basis), the notice of hearing must contain a statement to that effect.
- Detailed Explanation of Costs. Prior to the publication of the notice, the board must cause to be prepared, and file for public inspection with the town clerk, a detailed explanation of how the estimated cost of hook-up fees, if any, and the cost to the "typical property" and, if different, the "typical one or two family home," were computed.

For further information on the notice of hearing requirement, please contact the State Comptroller's Division of Legal Services at 518-474-5586.