

VILLAGE LAW § 9-912; ELECTION LAW § 15-102 (1), (2).

Under Village Law § 9-912, upon the filing of a petition with the required number of signatures to change the name of the village which specifically requests that the proposition be submitted to the electors at a time other than the date of the regular or special village election, the referendum on the proposition must be held no less than 30 nor more than 60 days after the filing of the petition.

February 11, 1997

Janet A. Gandolfo, Esq.
Village Attorney
Village of North Tarrytown
1 Central Avenue, Suite 304
Tarrytown, NY 10591

Informal Opinion
No. 97-2

Dear Ms. Gandolfo:

Your inquiry relates to the procedure for changing the name of a village. You have asked us to assume that a petition with 765 signatures has been filed with the village clerk's office calling for an election no less than 30 nor more than 60 days from the filing of the petition to determine the question of whether the name of the village should be changed. The population of the Village of North Tarrytown is 8,300 and you believe that the above number of signatures would require the board of trustees of the village to schedule an election no less than 30 nor more than 60 days from the date of the filing of the petition. Nonetheless, you have asked whether the board of trustees legally would be required to hold an early election or whether it has discretion to place the proposition on the ballot during the regular village election to be held next March 18, 1997. Although an election has been conducted on this proposition, in a telephone conversation you have asked for guidance that can be applied prospectively.

Village Law § 9-912(2)(d) governs the procedure for changing the name of a village. Under that provision, the board of trustees may upon its own motion and must upon the petition of at least 200 electors in villages with a population of 5,000 or more (North Tarrytown falls into this category), submit a proposition to change the name of the village at a regular or special village election. The regular or special village election is conducted for purposes of electing village officers (Election Law

§ 15-102[1], [2]), and in your village that election takes place in March.

If a petition is filed which requests the holding of a referendum at a time other than the date of the regular or special village election, the petition must contain twice the number of signatures otherwise required. Id., § 9-912(1). If the petition includes that request and has the requisite number of signatures, "such referendum shall be held no less than thirty, nor more than sixty, days after the filing of such petition". Id.

It seems clear under the above provision that upon the filing of a petition to change the name of the village, which specifically requests that the proposition be submitted to the electors at a time other than the date of the regular or special village election and includes the required number of signatures, the referendum on the proposition must be held no less than 30 nor more than 60 days after the filing of the petition. Once that petition is filed, the board of trustees has no discretion to place the proposition on the ballot at the regular village election to be held in March.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions

