

The Borough is preparing a motion to dismiss the eruv lawsuit in U.S. District Court in Newark. This type of motion asserts that even assuming the facts in the Eruv Plaintiffs' ("Plaintiffs") Amended Complaint are true, as a matter of law there is no valid legal claim, and/or no jurisdiction for the Court to determine whether such a claim exists.

Late on October 10, 2017 Plaintiffs filed a motion for a Preliminary Injunction in the case. Plaintiffs' motion is similar to their previous request for a temporary restraining order filed on July 27, 2017, and essentially claims that under a set of facts and law they have set before the court, the Borough should be prohibited from interfering with the existing portion of the eruv near the Mahwah border or in further installation of additional parts of the eruv which cut through the Borough. The Borough intends to vigorously oppose this motion by setting forth its own set of facts and law that dispute the Plaintiffs' facts and law. There are no further restraints on the Borough as of the filing.

An agreement exists between Plaintiffs and the Borough whereby the Borough agreed not to require Plaintiffs to take down the existing portion of the eruv on West Saddle River Road (into New York State) and Sparrowbush Road (toward Mahwah) pending the Court's determination of the issue in exchange for Plaintiffs withdrawing their request for a temporary restraining order.

A second eruv that runs along Old Stone Church Road, East Saddle River Road and Weiss Road into Montvale is incomplete and the Borough has taken the position that no further work can be done on that eruv until the Court makes a determination. The Preliminary Injunction motion asks the Court for a ruling on both eruvs.

Before Plaintiffs filed the motion for a Preliminary Injunction, the Borough and the Plaintiffs agreed that briefing regarding the two filings should be coordinated and the parties have jointly asked the Court for permission to do so. Under the tentative schedule filed with the Court on October 11, the Borough would file its motion to dismiss and answer the eruv plaintiff's motion for a preliminary injunction by November 2. The eruv plaintiffs would oppose the Borough's motion to dismiss and reply to the Borough's opposition to the preliminary injunction on November 20, and the Borough would reply to the opposition to the motion to dismiss on November 28. While the Motions will have a "return" date of December 4, 2017, these dates are rarely meaningful. It is unknown at this time whether U.S. District Court Judge Michael John Vasquez, who will hear the case, will hold oral arguments or hold a hearing on the two motions on December 4 or on any other date.