

*Wayne Thompson*  
ATTORNEY AT LAW  
*17 Hasbrouck Drive*  
*Poughkeepsie, NY 12603*

PHONE: 845-464-6693

FAX: 845-463-0203

EMAIL: WayneThompson5@aol.com

December 27, 2021

*Via Email: kbryant@kingston-ny.gov and bgraves@kingston-ny.gov*

Kevin Bryant, Esq.  
Barbara Graves-Poller, Esq.  
City of Kingston Corporation Counsel  
420 Broadway  
Kingston, New York 12534

*Via Email: commoncouncil@kingston-ny.gov*

Andrea Shaut, Alderperson-at-large  
City of Kingston Common Council  
420 Broadway  
Kingston, New York 12534

*Via NYSCEF*

Hon. Richard Mott, J.S.C.  
New York State Supreme Court  
401 Union Street  
Hudson, New York 12534

Re: January 12, 2022 Public Hearing  
9-17 & 21 N. Front Street and Fair Street Extension

Dear Alderwoman Shaut:

I am writing on behalf of James Shaughnessy regarding the Common Council's proposal to abandon the Fair Street Extension in connection with the project proposed at 9-17 & 21 N. Front Street and Fair Street Extension, commonly referred to as the Kingstonian (the "Project"). A public hearing is scheduled for January 12, 2022, pursuant to agreement by the parties and ordered by Judge Mott. Additionally, the order included the directive that the City name a location for the hearing by December 24, 2021. As of the time of this writing, counsel has not been notified of the location nor has any information regarding this important hearing been put on the City's website calendar. A hearing of this magnitude and importance needs to be fully advertised so that the citizens of the City can be informed and involved in the process to the fullest extent possible. No action, or inaction, should be undertaken to diminish or chill public

participation.

On November 28, 2021, County Executive Pat Ryan declared a state of emergency due to “covid cases and hospitalizations surging<sup>1</sup>.” Since the court hearing on December 10, 2021, covid cases within Ulster County have increased significantly. The most recent data from December 23, 2021, available on the Ulster County Covid Dashboard indicates an 11% positivity rate, with over 1592 active cases in the County. On Monday December 20, 2021, the City distributed free Covid rapid tests at City Hall, and ran out of tests on the first day<sup>2</sup>. Based on the current widespread outbreak of Covid-19, it is completely irresponsible to hold an in-person only public hearing on the abandonment of the Fair Street Extension. We urge the City to include a virtual option for real-time participation in the hearing during this winter surge of the Covid-19 pandemic.

There was not the current surge of Covid-19 cases at the time the present stipulation was agreed to and so-ordered. As such, the order only cites an in-person public hearing. Presiding circumstances now dictate the necessity for modifications to the original order to protect the safety and health of your constituents to include:

1. The City, in order to protect the safety and health of its citizens, can use its discretion to schedule a hybrid meeting on January 12, 2021; or
2. The City can choose to hold an in-person hearing at a later date when this current surge of cases has passed.

A review of the City’s calendar shows that every other meeting held by City Boards and Commissions is virtual only, or a hybrid option is offered, including the upcoming hearing on the Project before the Historic Landmarks Preservation Commission. In fact, just last month Mayor Noble was interviewed for an article on virtual participation, in which he stated that “We’re realizing much more public engagement with the Zoom and YouTube meetings. People are able to see their city government first-hand.” Mayor Noble further stated that “It’s really more convenient for people. They can make dinner, watch their children and still take in the meeting.”<sup>3</sup> According to the Mayor, special equipment has been ordered for hybrid meetings, which will be available in January. Unless the purpose of having an in-person meeting is to chill participation in the hearing on this controversial topic, there is absolutely no reason why the City is not putting the safety of its residents first and finding a way to make a hybrid meeting work.

The City must safeguard the health and safety of its residents and take steps to ensure that any interested member of the public can fully participate in the public hearing. Should the City choose to recognize this overriding public health and safety concern, we are open to amending the stipulation to reflect the modifications proposed above and would draft such forthwith upon such agreement.

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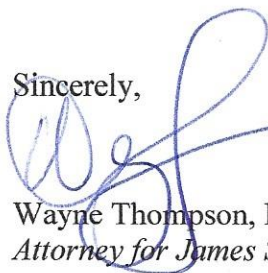
<sup>1</sup> <https://ulstercountyny.gov/news/executive/county-executive-pat-ryan-declares-state-emergency-due-rising-cases-covid-19>

<sup>2</sup> <https://www.timesunion.com/hudsonvalley/news/article/free-COVID-test-kits-wiped-out-in-Kingston-16717875.php>

<sup>3</sup> [Meetings move toward hybridization \(themunicipal.com\)](https://www.themunicipal.com/news/2021/12/16/ulster-county-meetings-move-toward-hybridization)

Thank you for your time and courtesy with this matter. We look forward to your prompt reply.

Sincerely,



Wayne Thompson, Esq.  
*Attorney for James Shaughnessy*

Cc: Pat Ryan, County Executive  
Alita Guida, Esq.  
Michael Cook, Esq.  
Victoria Polidaro, Esq.  
J. Scott Greer, Esq.