

SHORT FORM ORDER
To commence the statutory
time period for appeals as
of right [CPLR 5513 (a)],
you are advised to serve a
copy of this order, with
notice of entry upon all parties.

FILED
AND
ENTERED
ON *May 3*, 2010
WESTCHESTER
COUNTY CLERK

SUPREME COURT : STATE OF NEW YORK
COUNTY OF WESTCHESTER
PRESENT: HON. NICHOLAS COLABELLA
J.S.C.

-----X
VALHALLA UNION FREE SCHOOL DISTRICT,

Plaintiff,

- against -

TOWN OF GREENBURGH,

Defendant.

- and -

ROBERT B. BERNSTEIN
and HERBERT ROSENBERG,

Proposed Intervener Defendant.

-----X
The following papers numbered 1-16 were read on this motion by proposed intervener
defendants for intervention.

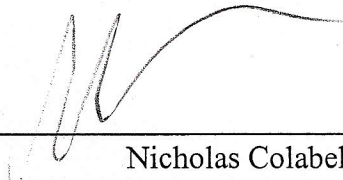
	<u>Papers Numbered</u>
Order to Show Cause, Affidavits, Exhibits _____	1-10
Answering Affidavits, Exhibits, Memorandum _____	11, 12
Reply Affidavits, Exhibits _____	13-14, 15, 16

Motion is granted. The proposed Answer of the intervenor defendants shall be served within twenty days.

Intervention should be allowed where the intervenor has a real and substantial interest in the outcome of the proceeding (see, Berkowski v. Bd. of Trustees of Incorporated Village of Southampton, 67 AD3d 840, 844-845). Here, although plaintiff disagrees, defendant Town of Greenburgh concedes that intervenors have a real and substantial interest in this action. The Court agrees.

Plaintiff seeks \$4,635,848 with interest from March 4, 2007 for breach of contract by defendant Town of Greenburgh. If successful, a resulting judgment could result in tax increases that would have to be borne by intervenors as taxpayers within the Town of Greenburgh (cf. Bernstein v. Feiner, 43 AD3d 1161). Defendant Town of Greenburgh also concedes that its defense may be compromised, as the result of certain statements by the Town Supervisor that purportedly support plaintiff's claim. Under the circumstances, the Court finds intervention may serve both the interest of the Town of Greenburgh and the interest of intervenors by ensuring a vigorous defense of this action.

Dated: White Plains, New York
6-2-10



Nicholas Colabella
Supreme Court Justice

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