

*The Law Offices of*  
**ANTHONY A. CAPETOLA**  
ATTORNEYS AND COUNSELORS AT LAW  
TWO HILLSIDE AVENUE  
BUILDING C  
WILLISTON PARK, NEW YORK 11596

ANTHONY A. CAPETOLA

TEL.: (516) 746-2300  
FAX: (516) 746-2318

OF COUNSEL

ROBERT P. JOHNSON  
LINDA KULE  
ALITA McKINNON  
DONALD ROLLOCK

DOLORES CAPETOLA\*  
\*Also Admitted In NJ

August 10, 2004

Michael Klein  
Deputy County Executive  
c/o Nassau County Legislature  
1 West Street  
Mineola, New York 11501

Reference: 19<sup>th</sup> Hole

Dear Mr. Klein:

Under separate cover, I forwarded to Nick Thalasinis with a copy to you (copy enclosed) our agreement that the start date for the 19<sup>th</sup> Hole would be August 1, 2004.

Please further confirm to him that the first year's rent will have no lease or percentage rent as we agreed.

There remains the further necessity to discuss what the exact rent rebate in future rets will be for the following damages or concessions that Carlton has or will make :

1. The inability to open in a timely fashion as provided for in the RFP dated January 2, 2003 because the County could not deliver the premises vacant because of the tenancies of locker holders.
2. The loss of revenues sustained by Carlton because of Mr. Yamali and Dover Catering continuing to maintain the snack bar in violation of our lease.

Michael Klein

- 2 -

August 10, 2004

Reference: 19<sup>th</sup> Hole

3. Carlton's agreement not to operate any vending machines immediately in front of the ticket office and around Carlton as it apparently is in conflict with the County's agreement with Yamali/Dover.
4. The inordinate delay by the County in agreeing to the plans provided for in the RFP and their delaying the approval of the 600 amp service.

We await your review and an ultimate rent rebate stipulation.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd

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DOLORES CAPETOLA\*  
\*Also Admitted In NJ

August 17, 2004

Michael Klein  
Deputy County Executive  
c/o Nassau County Legislature  
1 West Street  
Mineola, New York 11501

Reference: 19<sup>th</sup> Hole

Dear Mr. Klein:

As to your offer concerning our rent rebate, same is totally laughable.

The mere giving up of our right to utilize vending machines over the ten years of the new lease/licence will amount to \$500,000 in lost revenues.

The fact that Mr. Thalasinis put out a bid which conflicted with the Yamali/Dover lease is no fault of ours nor was it divulged in the 19<sup>th</sup> Hole bid package.

Yamali/Dover went on to operate in violation of our lease for in excess of five months (April-mid-August 2004). Why should Carlton bear this loss because of the County Attorney's error?

Please reconsider your position and lets amicably resolve this matter. Carlton will have expended \$80,000 for the 600 amp service and Yamali's continual use of vending machines across from the door of the 19<sup>th</sup> Hole will cost us a fortune.

Very truly yours,

ANTHONY A. CAPETOLA

AAC:dd

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DOLORES CAPETOLA\*  
\*Also Admitted In NJ

November 6, 2004

Michael Klein  
Deputy County Executive  
c/o Nassau County Legislature  
1 West Street  
Mineola, New York 11501

Reference: 19<sup>th</sup> Hole

Dear Mr. Klein:

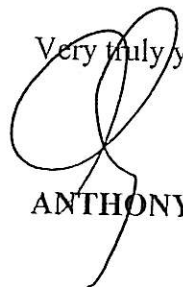
Thank you for taking the time to talk to me in your busy schedule.

As you said to me "put it in writing". I am doing this now and hope you will immediately attend to making the proper notations pertaining thereto.

It is our agreement that: (1) the base and percentage rent will start on August 1, 2005 and will follow out yearly for the balance of the lease for the 19<sup>th</sup> Hole and follow the schedule of the original lease thereafter. Base rent only for August 1, 2004 - July 31, 2005; and (2) Carlton will receive a rent rebate of \$60,000 to cover a part of the cost for the loss of business due to the Dover lease/license and Carlton's agreement not to put vending machines in the area of the Park office to compete with Dover.

Thank you for your work on this matter and your dedication to Park's improvement.

Very truly yours,



ANTHONY A. CAPETOLA

AAC:dd



OFFICE OF THE COUNTY COMPTROLLER  
OF THE COUNTY OF NASSAU  
NASSAU COUNTY OFFICE BUILDING  
240 OLD COUNTRY ROAD  
MINEOLA, NEW YORK 11501-4247

December 26, 2001

Howard Sklar, CPA  
Sklar, Heyman & Company, LLP  
500 Bedford Avenue  
Bellmore, New York 11710

**Re: Request For Reconciliation of NYS Reported Sales Tax Revenue  
To Carlton's Gross Revenue Reported to Nassau County For Years  
1997 - 2000, Inclusive**

Dear Mr. Sklar:

Per recent conversations between yourself and Peter F. Graven of this office, it is our understanding that you have reconciliations of NYS reported Sales Tax Revenue to Gross Sales as reported to Nassau County for the purpose of determining contractual rent due Nassau County. We would appreciate your forwarding copies of these reconciliations for the years 1997-2000, inclusive.

If you have any questions, please don't hesitate calling myself or Peter F. Graven at 571-1141.

Very truly yours,

Salim Ejaz, CPA  
Field Audit Director

SE:mes

cc: Anthony A. Capetola, Esq.  
Capetola & Doddato, Esqs.  
2 Hillside Avenue - Building C  
Williston Park, New York 11596  
Vincent Neglia, Deputy Commissioner  
Dept. Of Recreation & Parks



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 KATHARINE J. RICHARDS

\*Also Admitted In NJ

VIA FACSIMILE TRANSMISSION

January 9, 2006

Richard Murphy  
 Commissioner of Recreation, Parks & Support Services  
 Eisenhower Park  
 East Meadow, New York 11554

Reference: Carlton on the Park  
 Ladies Locker Room

Dear Commissioner Murphy:

Enclosed please find our bills from Telcom Management, Inc. and Home Depot for the damages we sustained on December 17, 2005 as a result of the power outage in the park.

I have directed our bookkeeper to deduct the following amount from our next rental payment due on the 18<sup>th</sup> of January:

Telcom Management, Inc.	\$2,699.33
Home Depot (\$914.64 - 395.36)	<u>519.28</u>
<b>TOTAL</b>	<b>\$3,218.61</b>

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd

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VIA FACSIMILE TRANSMISSION

January 20, 2006

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Reference: Carlton on the Park  
Power Outage - December 16, 2005

Dear Commissioner Murphy:

Enclosed, please find copy of settlement letter with Manchester Publishing. We have had to refund the sum of \$3,516.81 to Manchester Publishing as a result of the County's failure to provide power service on that date.

We will be deducting the above amount from our next supplemental rent payment.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd  
enc.

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VIA FACSIMILE TRANSMISSION

June 21, 2005

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Dear Commissioner Murphy:

I wanted to correct the letter dated June 20, 2005 which was forwarded to you along with our May rent by my bookkeeper . The gross amount due the County of \$70,391.68 is correct as well as the credit for the base rent of \$24,825.00.

In connection with the renovation of the 19<sup>th</sup> Hole, Dan Ayres of the County requested that we install new metal partitions at our expense because of the exigent circumstances of having them installed prior to the commencement of the Senior Golf Tournament. He informed me that he had gotten approval for this and also had reviewed it with Nicholas Thalasinis.

Accordingly, the gross amount of the rent submitted, \$43,316.61, was correct, after the deduction of \$2,225.00, for Flush Metal. I wanted to clarify the invoices and deduction for Flush Metal Partition which were attached to the June 20<sup>th</sup> correspondence and are again attached hereto.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd

enc.

cc: Nicholas Thalasinis, Esq.



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DOLORES CAPETOLA\*  
\*Also Admitted In NJ

VIA FACSIMILE TRANSMISSION

May 17, 2005

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Dear Commissioner Murphy:

I write to you to memorialize circumstances surrounding the mens and ladies locker rooms. On Friday, May 13, 2005 (yes, Friday the 13<sup>th</sup>) I called you to inform you that contractors working in the ladies locker room had commenced demolition of the locker room and in doing so, ruptured some pipes which in turn flooded our basement laundry room located immediately under the ladies locker room.

In our conversation, you informed me that you put me on speaker phone and that various other County officials were present who participated in this conversation. You further informed me that the contractor who was doing the work was not supposed to start any demolition without the go ahead from the County and further that the contractor was to disconnect water service to the ladies locker room prior to commencing demolition to avoid this very problem.

Unfortunately, as reported above, the County's contractor did exactly the opposite of what you informed me was in your contract with him, thereby causing Carlton substantial damages. As a result of this leak (I understand that the plumbing contractor was G & M Mechanical), the ensuing flood leaked into our "mangler" pressing machine which had to be shut down and ultimately disassembled, dried and reassembled. As a consequence, the pressing machine was inoperable for some 36 hours which prevented three full shifts of day and evening employees from being able to utilize it. Accordingly, we had to pay for their service without any work being performed. On the other hand, fortunately, because of the quick action of our building manager and his experience, we were able to save the machine, which costs about \$45,000, from permanent damage.

Richard Murphy

- 2 -

May 17, 2005

In addition to the foregoing and as result of the flooding, we lost about 300 relatively new white napkins with satin ribbon edging and approximately 50 lace table cloths. Each of these items were stacked or hung below the locker room when the basement was flooding. Discolored water seeped into the basement and stained these items beyond repair. The napkins were purchased on March 14, 2005 and had a unit price of \$3.90 per unit, plus sales tax and shipping and handling. The table cloths were \$85 to \$90 per unit plus tax and shipping and handling. Additionally, we lost various paper goods and food supplies which were stored in our dry storage locker immediately adjacent to the laundry room behind the chain link fence.

Accordingly, my estimate of the damages sustained by the Carlton are as follows:

1.	36 hours x 2 for laundry service personnel or 72 hours x \$10 per hour or	\$ 720.00
2.	Repair work by Carlton employees to the pressing machine:	
	Carlos Pascual	400.00
	Other Labor	300.00
3.	Labor to remove water soaked debris.	300.00
4.	300 White napkins with satin ribbon \$3.90 each unit x 8¾% + shipping handling	1,272.38
5.	50 lace white table cloths:	
	10 @ \$86 per unit + 8¾ sales tax	935.85
	40 @ \$90 per unit + 8¾ sales tax	3,631.50
6.	Loss of dry storage items such as cake boxes, sugar packs, etc.	<u>1,000.00</u>
	TOTAL LOSS	\$8,559.73

Kindly advise at your earliest convenience when we can be reimbursed for this loss.

I further enclose herewith, recent invoices from Party Cloths of New York indicating pricing on the cloth napkins and tablecloths.

On another note, I reported to you this morning that the contractors were again at work in the ladies locker room and ripping out windows again without shutting off water service. They were doing this demolition without ever bothering to cover the new lockers. I understand after our conversation that they were covered with tarp.

Richard Murphy

- 3 -

May 17, 2005

Finally, the mens locker room was not locked on Sunday night. When we arrived this morning all of the commodes were completely filled with feces and you could see that the showers were recently utilized. We closed our restaurant for about two hours so as to not have our patrons offended by the odors. This continuing situation convinces me that vagrants use these premises during the course of the night. For the County's sake and for the image of our Parks Department, it is most necessary that this area be secured and checked on a daily basis so that this does not reoccur. It would be a terrible circumstance if one of our senior citizens were confronted by one of these vagrants who frequent the park.

Please take immediate action regarding the loss sustained by The Carlton so that we can be reimbursed. I understand that you were present to observe the flood first hand and therefore there is no better person to attest to the above.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd

cc: Michael Klein  
Anthony Cancilliere  
Peter Gervasi



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DOLORES CAPETOLA\*  
\*Also Admitted In NJ

VIA FACSIMILE TRANSMISSION

July 15, 2005

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Reference: Carlton on the Park  
Ladies Locker Room

Dear Commissioner Murphy:

I write to you with regard to the loss which The Carlton suffered on May 13, 2005 as a result of Nassau County's negligence with respect to its subcontractors' work in the ladies locker. You may recall after speaking with you that you made a personal inspection of the scene and were able to visualize the damage which we sustained.

After the incident, it took about five letters to get the name of the plumbing contractor who eventually contacted me regarding the damages that The Carlton sustained. The contractor stated, through their president, that although they were on the scene, they remedied the leak and that the leak was caused by the general contractor who did the demolition work.

I have written to the County on two occasions to identify the contractor who was identified as the culpable entity by Michael Scott of G & M Mechanical and I have not gotten a response. I had also advised the County to withhold payment of the amount of our damages (\$8,559.73) from the sums due the contractors. This would enable that amount to be secured in the event it is discovered the contractor was uninsured, or, refused to accept responsibility for the damages that they caused.

Richard Murphy

- 2 -

July 15, 2005

Reference: Carlton on the Park - Ladies Locker Room

Under these circumstances, since the damage was caused by one of the County's contractors and since we can not get any satisfactory resolution, we are going to deduct the \$8,559.73 from the rent due July 18, 2005, and will enclose a copy of our original claim letter to the County with it.

I strongly suggest that you withhold this amount from the contractor who worked on the ladies locker room to secure reimbursement of same.

Thank you for your attention to this matter.

Very truly yours,



**ANTHONY A. CAPETOLA**

AAC:dd

cc: Stewart Held  
Nicholas Thalasinis, Esq.



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OF COUNSEL

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DOLORES CAPETOLA\*  
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July 29, 2005

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Reference: Carlton on the Park  
Ladies Locker Room

Dear Commissioner Murphy:

This will confirm that Carlton will not seek damages for lost business suffered on May 17, 2005 as a result of the County's negligence. We agree to settle our claims for damages to our property in the sum of \$8,559.73.

Kindly notify all appropriate parties.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd

cc: Stewart Held  
Nicholas Thalasinis, Esq.

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OF COUNSEL

DOLORES CAPETOLA\*  
\*Also Admitted In NJ

**VIA HAND DELIVERY**

March 21, 2005

Richard Murphy  
Commissioner of Recreation, Parks & Support Services  
Eisenhower Park  
East Meadow, New York 11554

Dear Mr. Murphy:

Enclosed please find check in the sum of \$16,764.98 which represents sums due you through February 25, 2005. You will note that we have deducted from the rent, \$6,880.00 which is the remaining balance due The Carlton from the County of Nassau for the Symposium on Parks.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd  
enc.

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OF COUNSEL

DOLORES CAPETOLA\*  
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March 14, 2005

Michael Klein  
Deputy County Executive  
c/o Nassau County Legislature  
1 West Street  
Mineola, New York 11501

Reference: 19<sup>th</sup> Hole

Dear Mr. Klein:

This will confirm our understanding that I am deducting the sum of \$6,880 from my next rent due the County.

Very truly yours,

**ANTHONY A. CAPETOLA**

AAC:dd