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## LOCAL NEWS



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Wednesday, June 08, 2005

### Spitzer: Village should be able to collect taxes: State's request could affect Seneca land claim area

By DENISE M. CHAMPAGNE

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The state wants a federal injunction against Union Springs lifted to allow it to collect taxes from the Cayuga Indian Nation.

Assistant Attorney General David Roberts Tuesday filed a "friend-of-the-court" brief in U.S. District Court in Syracuse, asking Judge David Hurd to lift his April 23, 2004, that prevents the village of Union Springs from enforcing zoning and other local land use laws and regulations on a parcel where the Nation owns two businesses.

He asks Hurd to rule in favor of the village, saying the March 29 U.S. Supreme Court "Sherrill" decision requires it to do so.

In City of Sherrill v. Oneida Indian Nation of New York, the court ruled the Oneidas cannot reassert sovereignty over non-reservation land by buying formally abandoned parcels.

Roberts maintains the same applies to the Cayuga Indian Nation, so Seneca and Cayuga county land it has bought in the last 10 years is subject to local and state taxation and other regulations.

Roberts further argues that the "Sherrill" decision applies equally, if not more strongly, to the Cayuga Indian Nation, which was displaced from its historic homeland during the American Revolution, sold its former Cayuga reservation



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lands in 1795 and 1807 and never returned.

"The state and its political subdivisions have exercised jurisdiction throughout the area for the past two centuries," Roberts says.

The Cayugas are applying to the federal Bureau of Indian Affairs to have the 64,000 acres, which it has laid claim to since 1980, placed into federal trust to have it declared sovereign.

Seneca County is opposing the application.

The brief, on behalf of Attorney General Eliot Spitzer, comes about six weeks after the Seneca County Board of Supervisors asked Spitzer's office to investigate and possibly close gaming facilities at LakeSide Entertainment on Route 89 in the town of Seneca Falls, claiming they may be illegal.

In a June 1 letter to County Attorney Steven Getman, Deputy Attorney General Richard Rifkin wrote that Spitzer's office, in conjunction with the governor's staff, has been carefully reviewing the Sherrill decision.

Rifkin noted questions have been raised about the exact parameters of the state's authority, but that the Spitzer's office will be forcefully arguing for expanded authority.

He said the governor's counsel has sought clarification from the Secretary of the Interior and National Gaming Commission about their position on that and other issues, and there are a number of pending court cases that should further define the implications of the Sherrill decision.

Daniel French, of the Syracuse law firm Green & Seifter, which represents a faction of the Cayuga Indian Nation, said today the Union Springs case has nothing to do with gaming, which he said will be a separate issue.

"People are going to have to take it one step at a time and recognize that the Supreme Court in Sherrill left as many questions unanswered as it answered," he said. "As far as we know, the federal government still considers the land Indian country. All this land is on Cayuga reservation, which has been settled law for a number of years, based on the Indian land claim. It's not as simple as saying the Supreme Court ruled in Sherrill, and the Cayugas don't have rights on this land."

The matter will be heard June 27 by Hurd who will also listen to arguments regarding which law firm officially represents the Cayuga Indian Nation, which is going through an internal leadership dispute.

"While we appreciate the need for a complete legal review of the issues presented, the county is disappointed that the attorney general's office is adopting the wait-and-see attitude and somewhat turning to the federal authorities to address a matter that the county maintains is governed by state criminal law," Getman said.

He noted the county looks forward to a decision by Spitzer it hopes works to re-establish equal treatment on issues of gambling and other matters.

"In the past, Mr. Spitzer, has not shied away from challenging the federal government's interpretation of federal law," Getman said.

Spitzer spokeswoman Christine Pritchard said the attorney general's office, in filing the amicus brief in the Union Springs case, is taking an aggressive position in terms of defining the implications of the Sherrill decision.

"What impact that has is going to be litigated in a variety of different cases, one of them being the Union Springs case," she said, noting they hope the litigation will further define the state's enhanced authority over tribal matters.

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