

LONG ISLAND / SUFFOLK

WATCHDOG Dispute over little backyard treehouse costs Babylon Village residents big bucks

Babylon Village resident John Lepper built this treehouse for his children, but officials said it was a violation of village code and ordered him to take it down. Credit: Jessica Rotkiewicz

By Keldy Ortiz

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Taxpayers in Babylon Village have gone out on a financial limb paying more than \$50,000 in legal costs associated with a backyard treehouse they didn't help construct and can't enjoy for themselves.

Village officials and John Lepper have been at odds over the legality of the treehouse since officials said Lepper needed a building permit for the 86-square-foot structure he built in May 2018. Lepper contested the order, but a village court judge ruled against him and Lepper paid a fine. He appealed the decision, which got overturned, based on a technical defect in the way the summonses were written.

Records obtained through a Freedom of Information Law request show Village Attorney Gerard Glass has billed Babylon for a little more than 182 hours at \$300 per hour between Dec. 1, 2018, and Jan. 16, 2020. This also includes a reimbursement for \$99.91 in mailing fees. The fees are separate from the flat rate retainer the village pays Glass of \$75,000 annually for about 20 hours of work each month to handle other village matters.

Glass defended the cost — \$54,749 — to help the village tackle the lawsuits Lepper has filed.

"Mr. Lepper and his attorney have a hair trigger for a litigation," Glass said. "The village has no alternative but to defend these litigations to uphold the rule of law."

One of Lepper's attorneys, Cory Morris of Melville, called the legal bill "a tragedy."

"For the Village of Babylon to spend over \$125,000 of taxpayer money to keep elementary-age children from a treehouse their father so carefully built is just plain wrong," Morris said.

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Since 2018, Lepper has filed two lawsuits and a notice of claim.

On Dec. 6, 2018, Lepper filed a federal lawsuit, accusing several village officials of "punishing" him and pursuing "personal animosity in violation of [Lepper's] civil and

constitutional rights." On Dec. 8, Glass billed the village for three hours for reviewing litigation papers and searching for other treehouse cases nationwide, according to invoices. Between Dec. 1 and Dec. 31, 2018, Glass billed the village for 24 hours and 50 minutes, totaling \$7,450, according to invoices.

Anthony Spota, 86, a village resident since 1977, said he doesn't mind the treehouse as long as it's safe and within village code.

"Naturally I would like to keep the legal fees as low as possible," Spota said. "The village has to pay the legal fees."

While litigation remains pending in the federal case, Lepper filed a lawsuit on Jan. 22, 2019, in Suffolk County Supreme Court in Riverhead over a FOIL request for information regarding other treehouses in the village. A state Supreme Court judge denied the request. Lepper and his attorneys have appealed and are awaiting a decision from the appellate division.

For 72 hours and 25 minutes between Jan. 9, 2019, and June 27, 2019, the village received a bill from Glass of \$21,725. During that time, the village received bills for various instances related to the cases with Lepper, including phone calls with village officials, a Newsday reporter and attending a deposition of Lepper, according to invoices.

Between June 28, 2019, and Jan. 16, the village received a bill of \$25,475 which included phone calls, depositions and reviewing transcripts, according to invoices. The village has received no invoices since Jan. 16.

On March 10, Lepper filed a \$2 million notice of claim against the village, alleging that "violation of civil rights and unlawful conduct" by officials has resulted in a loss of emotional integrity, loss of dignity and the stigma of getting labeled a criminal. While the case remains in federal court, no work will be done to the treehouse and no fines can be issued.

Village Mayor Ralph Scordino did not return a request for comment.

BILLABLE HOURS

Dec. 1 to Dec. 31, 2018: **\$7,450**

Jan. 9 to June 27, 2019: **\$21,824**

June 28 to Sept. 30, 2019: **\$9,425**

Oct. 1 to Jan. 16, 2020: **\$16,050**

Source: Village of Babylon

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