

From: Steven Pambianchi
Sent: Monday, April 6, 2026 11:48 AM
To: localgov@osc.ny.gov; opinions@ag.ny.gov
Subject: Informal Opinion Request - Village of Mamaroneck Mosquito Suppression

Good morning,

This office is respectfully requesting an informal opinion as to whether it is appropriate to apply non-toxic larvicide, BTI on private property located within the Village for mosquito suppression, absent a local board of health nor local health officer approval or order. This was a practice undertaken by the Village since 1989 and was ceased last year upon a new Village administration deeming it inappropriate and without legal authority. The State DEC also questioned the Village's authority to undertake such a project in 2025, absent a DEC permit.

Public Health Law § 1500 (1), states that a “board of health of a municipality may take all necessary and proper steps for the control of mosquitoes, flies, black flies, punkies, ticks, and other insects detrimental to health within its jurisdiction.” Please note the may permissive language used. Public Health Law § 342 (e) requires that a local health officer shall enforce within his jurisdiction the provisions of the Public Health Law. To the extent that spraying was performed in the Village in the past, it appears to me to have been done so without a board of health approval nor by order of a local health officer.

An issue I encountered with the Village applying larvicide on private property is the potential for violating the Gifts and Loans Clause of the New York Constitution, Art. 8, § 1, “No... village ... shall give or loan any money or property to or in aid of any individual, or private corporation or association, or private undertaking”. This constitutional provision requires that municipal actions serve a public purpose rather than primarily benefiting private property owners. My concern here is the spraying of mosquitoes that primarily benefits certain private property owners, but arguably not the greater public. Selective treatment of individual properties for spraying can be construed as a violation of the State Constitution. Mosquito control measures can be taken by private property owners should they see fit. Additionally, the Public Health Law appears to contemplate the Gifts and Loans Clause issue with applying of larvicide on private property, and § 1501 (1) states that “whenever the board of health of a municipality shall determine that any accumulation of water wherein mosquito larvae breed, constitutes a nuisance or a danger or injury to life or health, the owner or owners of the premises on which the breeding place is located shall bear the expense of its suppression or removal.” § 1502 (1) states, “that a local board of health of a municipality shall apportion, assess and collect the amount of the cost thereof from the owners of the lands which will be benefited by the suppression and removal of such breeding place” in this scenario as well. In the Village's previous application of larvicide, the Village bore the expense, and not the individually benefitted property owners.

Please advise as to the legality of the aforementioned practice; while it appears to me that this is an inappropriate action for the Village to engage in in the aforementioned manner performed, until 2025, since 1989, many residents are upset about the ceasing of this program. If you need anything else from me or my office, please advise, and please confirm receipt of this request.

Best regards,



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