

SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NASSAU

PRESENT HON. _____
JUSTICE OF THE SUPREME COURT

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RICHARD A. BRUMMEL,
15 Laurel Lane
East Hills, N.Y. 11577
(516) 238-1646

JOSHUA DICKER
17 The Tulips
Roslyn Estates, N.Y. 11576

DAVID GREENGOLD
29 Diana's Trail
Roslyn Estates, N.Y. 11576

Petitioners Pro Se,

For Judgements and an Order Pursuant to Article 78,
Section 3001 (Declaratory Judgement), Section 6311
(Preliminary Injunction) and Section 6313 (Temporary
Restraining Order) of the Civil Practice Law and Rules ("CPLR")

-against-

THE TOWN OF NORTH HEMPSTEAD TOWN BOARD
a/k/a TOWN COUNCIL
by JUDI BOSWORTH, Town Supervisor
220 Plandome Road,
Manhasset NY 11030
Tel. (516) 869-6311

THE NASSAU COUNTY LEGISLATURE
by NORMA L. GONSALVES, Presiding Officer
1550 Franklin Avenue
Mineola NY 11501
Tel. (516) 571-6200

-CONTINUED-

Index Number
6150 1 14
Order to Show Cause
with Declaratory and
Injunctive Relief
in Article 78
Special Proceeding

NASSAU COUNTY EXECUTIVE EDWARD P. MANGANO
1550 Franklin Avenue
Mineola NY 11501
Tel. (516) 626-4266

THE ROSLYN WATER DISTRICT
by MICHAEL J. KOSINSKI, Chairman
24 West Shore Road
Roslyn, NY 11576
Tel. (516) 621-7770

Respondents and Necessary Parties

6/50/14
To Justice
M. J. Cosentino
June 40

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Upon the reading and filing of the annexed Verified Petition of Richard A. Brummel, Joshua Dicker, and David Greengold, verified the 22nd day of June, 2014, and the Exhibits, Affidavits, and Memorandum of Law annexed thereto,

[Handwritten scribbles and initials]
53c

Let the Respondents or their attorneys show cause before this Court at IAS Part 6/25 Room _____ thereof at the Courthouse located at 100 Supreme Court Drive, Mineola NY on the 25 day of June, 2014 at 10:30 o'clock in the fore noon, or as soon as the parties to this proceeding may be heard, why an Order or Judgement should not be entered, providing the following relief:

2:30 PM

(1) Declaring the vote of the Town of North Hempstead, N.Y., ("the Town") of February 25, 2014 with respect to bonding for, and or disbursing funds for, the construction of an "air-stripper" water-treatment facility in Christopher Morley Park ("the Park"), access road, and appurtenant facilities, or for any work of any kind that would in any way damage, degrade or alter the Park for that purpose, or to lease,

buy or otherwise acquire ownership of or access to land in the Park for that purpose, null and void; and,

(2) Enjoining the Town of North Hempstead, N.Y. from bonding for or disbursing funds for the aforementioned purposes, unless and until all relevant provisions of the State Environmental Quality Review Act ("SEQRA") are complied with by the Town and the Roslyn Water District ("RWD"), as determined by this Court; and,

(3) Declaring null and void the County of Nassau's Home Rule Law on alienation of land at Christopher Morley Park, approved pursuant to Resolution #95-2014, as approved by the County Legislature June 2, 2014 and signed or otherwise assented to by the County Executive at a date unknown; and,

(4) Enjoining the County of Nassau from issuing any license, permit, lease or other permission or accommodation for the the Roslyn Water District ("RWD") to construct an air-stripper, road, building or other such intrusion in the Park for the purposes of building such an air-stripper or such other water-treatment facility as the RWD undertakes, and,

(5) Enjoining the County by itself, or by its agents or other parties, from in any way damaging or altering the forest and appurtenant areas in Christopher Morley Park in the area designated by the RWD or any other party for its proposed air-stripper facility, or water-treatment facility of similar purpose, and related works, or any future such site later chosen, unless and until all relevant provisions of SEQRA are complied with by the County and all relevant parties, as determined by this Court; and,

(6) Declaring null and void the full Environmental Assessment Form dated June 5,

2014 of the Roslyn Water District related to the construction of an air-stripper at Christopher Morley Park; and,

(7) Enjoining the RWD from performing any land- or forest-clearing, other construction activities, or leasing or purchasing or otherwise obtaining land for the aforementioned air-stripper project and appurtenant facilities or water-treatment facility of similar purpose as proposed to be constructed in Christopher Morley Park, unless and until the provisions of SEQRA are complied with, as determined by this Court; and

(8) Declaring that the proposed air-stripper project as proposed to be located in Christopher Morley Park, including the appurtenant access road and other facilities, may have a "significant adverse environmental impact," and therefore is properly subject to a "Positive Declaration" of environmental significance under the provisions of SEQRA; and,

(9) Enjoining the Respondent agencies, and any other agencies, from disbursing funds, clearing trees or land, engaging in construction, or leasing, selling, or buying, or otherwise conveying land in Christopher Morley Park for the purpose of constructing the aforementioned and described air-stripper project, or water-treatment facility of similar purpose, unless and until an Environmental Impact Statement ("EIS") is undertaken and lawfully completed with respect to said project; and,

(10) Granting such other relief as this Court deems just and proper.

Upon the grounds, more fully described in the Verified Petition attached hereto, that:

(1) The Town of North Hempstead approved and undertook to fund the multi-

million-dollar construction of a noisy, polluting, and highly obtrusive water treatment facility and 320-foot access road in a publicly-valued, natural-forest area of Christopher Morley Park without having before it any environmental analysis of the impact or even the definitive nature and characteristics of that project as required by the provisions of SEQRA; and

(2) The Roslyn Water District ("RWD"), at the behest of the Town of North Hempstead, of which it is a semi-autonomous Special Improvement District, voted to change the location of the proposed water facility, from the RWD's own nearby property to a location in the Park, without having before it any environmental analysis or statement of the real and potential impacts of constructing the facility, and the access-road, and appurtenant facilities in that Park, as required by the provisions of SEQRA, because its SEQRA documentation at that time only addressed the placement of the facility on its own property, not in the Park; and

(3) The Roslyn Water District board, when it did have documentation before it that described the construction of the air-stripper facilities in the Park, including the 320-foot access-road, nevertheless lacked a properly complete, full, and legally-adequate such environmental analysis, as required by the provisions SEQRA, because among other reasons integral parts of the report were omitted, and a plethora of readily-apparent, environmentally-critical characteristics were absent from such documentation, and did nevertheless undertake final conclusory votes on dispositive SEQRA-related questions and procedures, the glaring deficiencies notwithstanding; and

(4) The County of Nassau approved a Home Rule law seeking assent of the State

Legislature to alienate the designated portion of the Park, with the multitude of predictable and apparent, although not properly and lawfully analyzed, environmental impacts upon, e.g.: the aesthetics of the Park; the recreational value of the Park to joggers, walkers, nature lovers, and overnight Boy Scout campers; upon wildlife in the Park; upon the wider atmosphere from the emission of potentially toxic and known greenhouse gases ("GHGs"), without performing any environmental analysis as required by the provisions of SEQRA, nor coming to any decisions regarding environmental impacts and their mitigation, as required by the provisions of SEQRA.

Sufficient grounds having been show it is hereby

ORDERED, that pending the hearing and determination of this special proceeding Respondents, and their related parties, agents, or successors, are hereby restrained (per CPLR 6311, 6313, 3001) from:

*J.S.C.
T.R.O.*

**NO TRO except as below describe*

- (a) Appropriating or expending any funds for the acquisition or lease of land for the purpose of constructing, or for the actual construction of, or clearing land for, an air-stripper or similar facility, or access roadway in Christopher Morley Park; and,
- (b) Damaging, harming or altering in any way the forest, trees, wildlife and overall ecological condition of any areas of Christopher Morley Park designated by the RWD for its proposed air-stripper facility or similar facility, and access-roadway, or any areas designated or contemplated at a future time for that purpose; and,
- (c) Undertaking any lease, permit, sale or other instrumentality that would in any way alter the exclusive County ownership of any part of Christopher Morley Park that could be used for the siting of an air-stripper or construction of associated roadways or appurtenant facilities, or similar facility; or that would allow under any

** Unless further adjourned and in any event the next appearance date NB. Joun of N. Hempstead must be served on or before 10:00 AM June 25, 2017*

other conditions the siting of an air-stripper, access roadway, or related facilities, or similar facility, in the Park;

ADW
J.S.C.

(d) Altering in any manner the status quo of the forested and appurtenant areas in Christopher Morley Park, without explicit permission of this Court; and

may be viewed by H. Garrisonell or others of

(e) Such other relief as this Court may deem just and proper.

JAM
J.S.C.

ORDERED, that Respondents shall serve upon Petitioner their Answers, supporting affidavits and other supporting papers, if any, at least _____ () days prior to the return date hereof, and a Reply, together with supporting papers, shall be served _____ () days before the return date.

Roslyn Water District

6/30

SUFFICIENT CAUSE BEING ALLEGED THEREFOR, personal service pursuant to CPLR 311 of this Order to show cause, together with the Verified Petition and all Exhibits and Affidavits annexed thereto, and the Memorandum of Law in Support upon which this order is granted, upon the Respondents, on or before the _____ day of _____ 2014, at _____, shall be deemed good and sufficient service thereof.

An affidavit or other proof of service shall be presented to this Court on or before the return date directed in the second paragraph of this order.

ENTER

[Signature]
J.S.C.

Dated June 24, 2014
Copy received:
Kenneth L. Gardner
Lynn Gardner Dunn & Conillo 7
cc'd to for County respondents

Copy Received
Peter M. Fishbain
Peter M. Fishbain for Roslyn Water District