

Coppola v Godd Samaritan Hosp. Med. Ctr.
2006 NY Slip Op 30661(U)
November 28, 2006
Sup Ct, Suffolk County
Docket Number: 10881/01
Judge: Arthur G. Pitts
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Supreme Court of the State of New York
IAS Part 43- County of Suffolk

PRESENT:

HON. ARTHUR G. PITTS

JUSTICE OF THE SUPREME COURT

MICHAEL C. COPPOLA, JOHN S. POPOVITCH, JOHN CARUSO, WILLIAM MARLETTA, WILLIAM LANE, TERESA DIOGUARDI, DONNA DELANOY, BEVERLY FONSECA, LOIS BAISLEY, GARY SEIB, JOSEPH SURACE, KEVIN WOOD, DANIEL GRAPPA, and WAYNE S. SMITH,

Petitioners,

-against-

GOOD SAMARITAN HOSPITAL MEDICAL CENTER, TOWN OF ISLIP, and TOWN OF ISLIP PLANNING BOARD,

Respondents.

ORIG. RETURN DATE: 7/27/06

FINAL SUBMIT DATE: 9/14/06

MOTION SEQ. NO.: 018-MG

PLTF'S/PET'S ATTY:

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Upon the following papers numbered 1 to 12 read on this motion /dismissal
 Notice of Motion/OSC Upon and supporting papers 1-6; Notice of Cross-Motion and supporting papers ___
 Affirmation/affidavit in opposition and supporting papers 7-12; Affirmation/affidavit in reply and
 supporting papers ___ Other _____; ~~(and after hearing counsel in support of and opposed to the motion)~~ it is,

ORDERED that the respondents Town of Islip and the Town of Islip Planning Board's motion for an order dismissing the within petition is granted under the circumstances presented herein.

The matter at bar has a long and arduous history all of which will not be repeated herein. The within petition sought, among other relief, an order directing the respondent Good Samaritan Hospital Medical Center and the Town of Islip Planning Board to comply with the procedural and substantive requirements of Article 8 of the Environmental Conservation Law, commonly known as the State Environmental Quality review Act ("SEQRA"), concerning the relocation of the Emergency Room to

near the intersection of Beach Drive and Gate Lane in the Town of Islip. By decision and order of this Court dated October 22, 2002 (Whelan, J.), the petition was granted and the Town Planning Board site plan decision of December 9, 1999 and the emergency room building permit issued on June 9, 2000 and subsequent certificate of occupancy dated November 20, 2001 were declared null and void. The matter was remanded to the Planning Board and the Town for further de novo review and an injunction restraining and enjoining the hospital from conducting business affairs and services at the relocated emergency room was also granted. The decision further directed that the Town of Islip take a "hard look" at the Good Samaritan building application as the SEQRA statute requires.

By decision and order dated October 31, 2003 the Appellate Division, Second Department affirmed the decision and leave to appeal to the Court of Appeals was denied. By order to show cause filed under a separate index number, the petitioners sought an order finding Good Samaritan, its Chief Executive Officer Richard Murphy and the Board of Directors to be in contempt for continuing to operate the emergency room. By decision and order of this Court dated February 17, 2004 the application was denied and the respondents' cross motion for a stay was granted. The stay was initially granted to May 13, 2004 and was periodically extended upon the respondents reporting to the Court the progress being made in the SEQRA review process as mandated by the prior decision. Said decision and order was then affirmed by the Appellate Division, Second Department.

The respondents submit that as early as January 27, 2003 they began to prepare the necessary reports and studies required to be submitted to the Planning Board as well as to prepare a new site plan to comply with SEQRA. A new permit application to relocate the emergency room was submitted on February 13, 2003 and a public hearing was held on April 3, 2003. A final scope was adopted by the Town Board on April 28, 2003 and the respondents submitted a Draft Environmental Impact Statement ("DEIS"). After review and a submission of a revised DEIS a public hearing was conducted. After receiving written comments from the Town as to the revised DEIS, the respondents were directed to prepare a Final Environmental Impact Statement ("FEIS") which was submitted on October 14, 2004. It was amended at the request of the Town and a final version was filed on January 13, 2005. A SEQRA notice of completion of the FEIS was issued by the Town on January 20, 2005 and the public comment extended to February 7, 2005. The SEQRA process was concluded on March 31, 2005. The Planning Board conditionally approved the site plan and the respondents aver that all conditions have been met. A certificate of occupancy was re-issued on March 29, 2006 and the Town Zoning Board of Appeals granted the respondent Good Samaritan Hospital signage application on September 19, 2006.


Based upon the foregoing, it is apparent that the respondents have complied with the directives of Justice Whelan set forth in the decision of October 22, 2002. There have been no appeals taken of the Planning Board's approval of the subject site plan or its adoption of findings statement as required by SEQRA. A appeal taken at this time would be time barred. The respondents took all the necessary

steps directed by the Court to comply with and meet SEQRA requirements. The petitioners' did not timely appeal those findings and as such, the instant proceeding is rendered moot. (see *Matter of Citizens to Save Minnewasha v. Ulster County*, 85 A.D.2d 794, 445 N.Y.S.2d 301 [3rd Dept 1981]) Accordingly, the respondents' motion is granted.

This shall constitute the decision and order of the Court.

So ordered.

**Dated: Riverhead, New York
November 28, 2006**



J.S.C.

FINAL DISPOSITION NON-FINAL DISPOSITION DO NOT SCAN