

Zelazny Family Enters., LLC v Town of Shelby
2018 NY Slip Op 33632(U)
August 20, 2018
Supreme Court, Niagara County
Docket Number: E164320/2018
Judge: Daniel J. Furlong
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STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

ZELAZNY FAMILY ENTERPRISES, LLC, CHESTER
M. ZELAZNY, EDWARD M. ZELAZNY, JAMES J.
ZELAZNY, ROBERT W. KWANDRANS, BRIAN P.
MURRAY, SR., STEVEN MILLER, RICHARD
MAMMARELLO, RONALD D. SANDERS, KENNETH
OLIVER, DONALD J. GARRETT, SR., PAUL D.
LUTHART, LEE H. HELLERT, JEFFREY L.
STOCKWELL, TODD J. ROBERTS, CHARLES J.
TIRANNO, ALAN PANEK, PANEK FAMILY FARMS,
LLC, ZELAZNY FAMILY FARMS, LP, MICHAEL J.
ZELAZNY, NICOLE M. ZELAZNY, and SUSAN M.
ZELAZNY,

Index No.: E164320/2018

Hon. Daniel J. Furlong, J.S.C.

—and—

FRONTIER STONE LLC and DAVID KRUG,

Petitioners-Plaintiffs,

—against—

TOWN OF SHELBY and THE TOWN BOARD OF THE
TOWN OF SHELBY,

Respondents-Defendants.

ORDER

WHEREAS, Respondents-Defendants the Town of Shelby and the Town Board of the Town of Shelby (collectively, the “Town”) filed a demand to change the venue of this consolidated proceeding/action from Niagara County to Orleans County, on May 31, 2018; and

WHEREAS, Petitioners-Plaintiffs Zelazny Family Enterprises, LLC, Chester M. Zelazny, Edward M. Zelazny, James J. Zelazny, Robert W. Kwandrans, Brian P. Murray, Sr.,

Steven Miller, Richard Mammarello, Ronald D. Sanders, Kenneth Oliver, Donald J. Garrett, Sr., Paul D. Luthart, Lee H. Hellert, Jeffrey L. Stockwell, Todd J. Roberts, Charles J. Tiranno, Alan Panek, Panek Family Farms, LLC, Zelazny Family Farms, LP, Michael J. Zelazny, Nicole M. Zelazny, Michael Zelazny, Mary S. Zelazny and Susan M. Zelazny (collectively, "Landowners") and Petitioners-Plaintiffs Frontier Stone, LLC and David Krug filed the affirmation of Laurel J. Eveleigh, Esq., dated June 5, 2018, and the affirmation of Gregory M. Brown, Esq., dated June 5, 2018, in opposition to the demand to change venue, respectively,

NOW, upon reading and filing the Notice of Motion, dated June 14, 2018, and the affirmation of Daniel A. Spitzer, Esq., dated June 14, 2018, with exhibits A-G attached, in support of the Town's motion; (2) the affirmation of Gregory M. Brown, Esq., dated July 24, 2018, with exhibits 1-5 attached, and Memorandum of Law in Opposition to the Motion to Change Venue, dated July 24, 2018; (3) the affirmation of Laurel J. Eveleigh, Esq., dated July 25, 2018, in opposition to the motion; and (4) the Reply Affirmation of Daniel A. Spitzer, Esq., dated July 27, 2018, with exhibit A attached, and Memorandum of Law in Reply, dated July 27, 2018, in support of the motion; and the Court having heard argument on August 1, 2018, and appearances having been made by ALARIO & FISCHER, P.C. (Laurel J. Eveleigh, Esq.) on behalf of Petitioners-Plaintiffs Landowners, BROWN DUKE & FOGEL P.C. (Gregory M. Brown, Esq.) on behalf of Petitioners-Plaintiffs Frontier Stone, LLC and David Krug, and HODGSON RUSS LLP (Charles W. Malcomb, Esq.) on behalf of Respondents-Defendants the Town of Shelby and Town Board of the Town of Shelby; and the court having considered the papers submitted, and upon all of the pleadings, affidavits, papers, and proceedings had herein, and deliberation having been had thereon,

NOW, upon the motion of Respondents-Defendants the Town of Shelby and the Town Board of the Town of Shelby, it is

ORDERED, ADJUDGED, AND DECREED, that the Town's motion for an order to change the venue of this consolidated proceeding/action from Niagara County to Orleans County is GRANTED in its entirety, that this consolidated proceeding/action, together with all pleadings and papers heretofore filed or made a part of the record are transferred to the Supreme Court of Orleans County and the caption is hereby amended to reflect the same.

That upon service of a copy of this Order, the clerk is directed to transfer this consolidated proceeding/action, including all pleadings and papers heretofore filed or made a part of the record, to the clerk of the County of Orleans.

SO ORDERED:

August 20, 2018

Daniel J. Furlong
Hon. Daniel J. Furlong, J.S.C.

GRANTED: