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Coney Island Boardwalk Community Gardens v. City of New York

Supreme Court, Appellate Division, Second Department, New York - May 29, 2019 - N.Y.S.3d - 2019 WL 2274976 - 2019 N.Y. Slip Op. 04162

Petitioners commenced hybrid article 78 proceeding and action for declaratory relief, seeking an implied dedication of land to parkland, and challenging city's purported alienation of the land to build amphitheater.

The Supreme Court, Kings County, granted summary judgment in favor of respondents, and petitioners appealed.

The Supreme Court, Appellate Division, held that city's actions and declarations did not unequivocally manifest intent to dedicate parcel of land, which had been used as community garden, as parkland protected under public trust doctrine.

City's actions and declarations did not unequivocally manifest intent to dedicate parcel of land, which had been used as community garden, as parkland protected under public trust doctrine, where licenses were terminable at will by the city, it was otherwise clear that city permitted the community garden to exist on a temporary basis as the city moved forward with its plans to develop the parcel, and any management of the parcel by city department of parks and recreation was understood to be temporary and provisional.