

Bond Case Briefs

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Town of Mamakating v. Village of Bloomingburg

Supreme Court, Appellate Division, Third Department - New York, July 18, 2019 - N.Y.S.3d - 2019 WL 3226710 - 2019 N.Y. Slip Op. 05732

Town planning board brought article 78 action and sought declaratory judgment against village board of trustees and village planning board seeking to annul determination by village board of trustees to reaffirm a State Environmental Quality Review Act (SEQRA) statement's findings and village planning board's determination to reaffirm developer's subdivision and site plan approval after town had already rescinded the initial approval.

The Supreme Court dismissed town's action. Town appealed.

The Supreme Court held that:

- Prior proceeding precluded village board of trustees and village planning board from claiming that town board lacked authority to initially rescind the approval;
- Village board had authority to reaffirm developer's subdivision and site plan approval;
- Village board's reaffirmation of developer's subdivision and site plan approval was not arbitrary and capricious;
- Village board was not required to refer developer's revised subdivision and site plan approval to the applicable county planning department;
- Village board of trustees had proper jurisdiction to act as SEQRA lead agency in reviewing developer's amended plan;
- Village board of trustees took requisite hard look at relevant areas of concern, satisfying the requirements of SEQRA; and
- Conflict of interest did not exist between village board of trustees acting as lead agency under SEQRA and developer, and thus annulment of the determination to reaffirm SEQRA findings was not warranted.

Prior proceeding wherein Appellate Division found developer's claim that town planning board lacked authority to rescind subdivision and site plan approval was moot on appeal, precluded village board of trustees and village planning board, which had originally granted the approval, from claiming that town board lacked authority to rescind the approval in town's article 78 action against village trustees and board seeking to annul their determination to reaffirm State Environmental Quality Review Act (SEQRA) statement's findings and the determination by village planning board to reaffirm developer's subdivision and site plan approval.

Village planning board had authority to reaffirm developer's subdivision and site plan approval, although the approval had been previously rescinded by town planning board, where village planning board was presented with new information in developer's amended subdivision and site plan.

