
ZONING & PLANNING - NEW YORK

Town of Delaware v. Leifer

Court of Appeals of New York - November 21, 2019 - N.E.3d - 2019 WL 6183535 - 2019 N.Y. Slip Op. 08446

Town commenced action against landowner, seeking permanent injunction to prevent landowner from holding three-day music and camping festival on his 68-acre property.

The Supreme Court, Sullivan County, granted town's motion for summary judgment, denied landowner's cross-motion for summary judgment, and permanently enjoined landowner from advertising, selling tickets to, or holding festival on his property. The Supreme Court, Appellate Division, affirmed. Landowner appealed.

The Court of Appeals held that:

- Proposed festival was not encompassed within permitted principal or accessory use of single-family residence;
- Zoning law's theater land use restriction was content-neutral time, place, and manner restriction;
- Restrictions were narrowly tailored to serve town's legitimate interests;
- Zoning law was not overbroad;
- Zoning law afforded landowner sufficient notice that music festival was prohibited land use; and
- Injunction was not overly expansive.

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