

Bond Case Briefs

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Hart Family, LLC v. Town of Lake George

Supreme Court, Appellate Division, Third Department, New York - October 24, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 06904

Owner of lakefront property filed article 78 proceeding, challenging the town planning board's denial of owner's request for site plan approval.

The appeals court held that town planning board lacked authority to grant or deny application submitted by the owner of lakefront property for site plan approval to construct a new pier and sundeck, where state owned the land under the lake, and state had not delegated its authority to review owner's proposed construction to town, and thus, state had exclusive authority to grant or deny owner's proposed construction.

When the state owns land under navigable waters in its sovereign capacity, its exclusive authority preempts local land use laws and extends beyond the regulation of navigation to every form of regulation in the public interest. Absent delegations by the state allowing local municipalities to regulate the manner of construction and location of structures in waters owned by the state in its sovereign capacity, municipalities bordering or encompassing such waters have no authority to issue such regulations.