
STANDING - NEW YORK

Association for a Better Long Island, Inc. v. New York State Dept. of Environmental Conservation

Court of Appeals of New York - April 1, 2014 - N.E.3d - 2014 N.Y. Slip Op. 02216

Association dedicated to economic growth of region, land-owning limited liability company (LLC) and its managing partner, and town and its community development agency (CDA) commenced hybrid Article 78 petition/declaratory judgment action challenging regulatory amendments, made by Department of Environmental Conservation's (DEC) Division of Fish, Wildlife and Marine Resources, establishing a formal process through which individuals could obtain permits to allow for incidental taking of endangered or threatened species. The Supreme Court, Albany County, granted Department's motion to dismiss. Petitioners appealed. The Supreme Court, Appellate Division, affirmed. Leave to appeal was granted to town and its community development agency.

The Court of Appeals held that:

- Town and CDA sufficiently alleged an injury in fact, as required for standing to challenge Department's procedures for adopting the amended regulations;
- Town and CDA satisfied "zone of interests" requirement for standing to challenge Department's procedures for adopting the amended regulations; but
- Alleged economic injuries did not support standing to bring claim asserting that Department issued negative declaration without taking a hard look; and
- Substantive challenges to amended regulations were not ripe.

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