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MUNICIPAL ORDINANCE - NEW YORK

Wallach v. Town of Dryden

Court of Appeals of New York - June 30, 2014 - N.E.3d - 2014 N.Y. Slip Op. 04875

Energy company commenced hybrid Article 78 proceeding and declaratory judgment action to challenge town's amendment to its comprehensive plan and zoning ordinance to ban oil and gas production activities, including hydrofracking, within municipal boundaries. The Supreme Court, Tompkins County, granted town's motion for summary judgment and declared amendment valid, with exception of provision invalidating state and federal permits, and company appealed. The Supreme Court, Appellate Division affirmed. In second suit, corporation challenged another town's zoning law that prohibited natural gas exploration. The Supreme Court, Otsego County, granted town's motion to dismiss complaint. The Supreme Court, Appellate Division, affirmed. In their respective cases, energy company and corporation sought leave to appeal.

The Court of Appeals held that Oil, Gas and Solution Mining Law (OGSML) did not preempt towns' laws.

Towns acted within their home rule authority in adopting those laws, in absence of any legislative intent in OGSML's plain language, overarching statutory structure, or legislative history, much less any "clear expression," requiring preemption of local land use regulations.