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Glick v. Harvey

Court of Appeals of New York - June 30, 2015 - N.E.3d - 2015 WL 3948188 - 2015 N.Y. Slip Op. 05593

Petitioners commenced Article 78 proceeding to challenge city council's approval of construction project, seeking an injunction of city's planned transfer of four parcels of municipal land and a declaration that city had unlawfully alienated impliedly dedicated public parkland in violation of the public trust doctrine. Respondents filed cross-motions to dismiss. The Supreme Court, New York County granted petition and issued injunction. Respondents appealed. The Supreme Court, Appellate Division, modified the judgment and affirmed. Petitioners appealed.

The Court of Appeals of New York held that City's acts were not unequivocal manifestation of intent to dedicate four parcels of municipal land as permanent public parkland, so as to cause parcels to fall under protection of the public trust doctrine.

Permit, memorandum of understanding, and lease/license relating to three of the parcels showed that any management of the parcels by the New York City Department of Parks and Recreation (DPR) was understood to be temporary and provisional, and that though city permitted and encouraged some use of those parcels for recreational and park-like purposes, it had no intention of permanently giving up control of the property, city's refusal of various requests to have streets de-mapped and re-dedicated as parkland further indicated that it had not unequivocally manifested an intent to dedicate those parcels as parkland, and fourth parcel, a dog run operated not by DPR, but by a non-profit corporation, and available only to paying members, was not used as parkland.