

Bond Case Briefs

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ANNEXATION - NEW YORK

Commandeer Realty Associates, Inc. v. Allegro

**Supreme Court, Orange County, New York - August 18, 2015 - N.Y.S.3d - 2015 WL 4920070
- 2015 N.Y. Slip Op. 25276**

Property owners commenced Article 78 proceeding seeking writ of prohibition temporarily restraining three municipalities from taking any action on two petitions to annex territory that overlapped with territory proposed for annexation in another municipality's prior annexation petition, on grounds that municipalities lacked jurisdiction to entertain those two petitions, under prior jurisdiction rule, pending final determination of prior petition, and also claiming two petitions were filed for illegitimate purpose of attempting to block prior petition. Municipalities asserted counterclaims and cross-claims for declaratory relief. Individual signatories to two petitions moved to dismiss.

The Supreme Court, Orange County, held that:

- Owners had standing to maintain Article 78 proceeding;
- Writ of prohibition was available for jurisdictional claim;
- Writ of prohibition was not available for illegitimacy claim;
- Article 78 proceeding was ripe;
- In matter of first impression, prior jurisdiction rule applies to municipal annexation proceedings; and
- Prior jurisdiction rule barred processing of two later-filed petitions.