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**EMINENT DOMAIN - NEW YORK**

## **3649 Erie, LLC v. Onondaga County Industrial Development Agency**

**Supreme Court, Appellate Division, Fourth Department, New York - November 15, 2024 - N.Y.S.3d - 2024 WL 4798235 - 2024 N.Y. Slip Op. 05673**

Property owner filed petition against county's industrial development agency and developer seeking to annul the agency's authorization of the condemnation of owner's property in connection with the redevelopment of a former shopping mall.

The Supreme Court, Appellate Division, held that:

- Agency's intended use for owner's property was not residential or retail in nature, and thus, agency's acquisition of the property was within agency's statutory jurisdiction;
- Any challenge to agency's authority to finance project that contained residential component was properly raised in an article 78 proceeding;
- Even if agency was constitutionally required to establish source of just compensation for owner, it did so;
- Agency's review pursuant to State Environmental Quality Review Act (SEQRA) was not improperly deferred or segmented; and
- Agency's redevelopment of the mall would serve a legitimate public use.

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