

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Matter of Detering v. New York City Env'tl. Control Bd.

2025 NY Slip Op 06646 (Appellate Division of the Supreme Court of the State of New York First Department 2025) · No. Index No. 159847/23; Appeal No. 5273; Case No. 2024-04806 · Decided December 2, 2025

SUMMARY

The Appellate Division, First Department unanimously affirmed an order and judgment denying claims challenging Local Law No. 16 of 2024. The court held that the Noise Control Code did not create contractual or vested property rights for citizen complainants, and rejected the petitioners' impairment-of-contract, due process, takings, and retroactivity arguments. The court also held that the enactment was exempt from environmental review under SEQRA because it constituted a Type II action.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Renwick, P.J.; Scarpulla, J.; Kapnick, J.; Mendez, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	December 2, 2025
DOCKET	Index No. 159847/23; Appeal No. 5273; Case No. 2024-04806
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioners appealed from an order and judgment of Supreme Court, New York County, in a hybrid CPLR articles 30 and 78 proceeding. The proceeding challenged Local Law No. 16 of 2024 as unconstitutional and sought annulment of the law as arbitrary and capricious for failure to conduct environmental review.
STANDARD OF REVIEW	The court reviewed the constitutional challenges and the claimed SEQRA violation in the CPLR article 78 proceeding; the opinion applied rational-basis analysis to the alleged retroactive legislation and determined whether the enactment was exempt from environmental review as a Type II action.
PRECEDENTIAL VALUE	Published

PARTIES

Dietmar Detering, et al. v. New York City Environmental Control Board, et al.

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QUESTIONS PRESENTED

1. Whether Local Law No. 16 of 2024 impaired a contractual or vested right of citizen complainants to prosecute Noise Control Code enforcement proceedings and receive compensation.
2. Whether Local Law No. 16 violated due process or effected a taking by eliminating or changing petitioners' asserted right to compensation.
3. Whether the alleged retroactive application of Local Law No. 16 violated due process.
4. Whether Local Law No. 16 was subject to environmental review under SEQRA or was exempt as a Type II action.

HOLDINGS

1. The Noise Control Code did not create a contractual agreement between petitioners and the City concerning the ability to commence and prosecute administrative enforcement actions or the recovery of compensation.
2. Petitioners failed to establish a vested property interest because any entitlement to compensation was inchoate and contingent on completion of a proceeding, collection of a penalty by the City, and the Environmental Control Board's decision not to remit the penalty.
3. The alleged retroactive application of Local Law No. 16 did not violate due process because the law did not impair rights possessed when petitioners acted, increase liability for past conduct, or impose new duties concerning completed transactions.
4. Local Law No. 16 was exempt from SEQRA environmental review because it constituted a local legislative decision connected with civil administrative enforcement proceedings and met the criteria for a Type II action.

KEY QUOTATIONS

"absent some clear indication that the Legislature intends to bind the State contractually, a statute is presumed not to create private contractual or vested rights, but merely to declare a policy to be pursued until the Legislature shall ordain otherwise" (2025 NY Slip Op 06646)

“it is settled that, before a law may be deemed to amount to a contract between the State and a third party, the statutory language must be examined and found to be 'plain and susceptible of no other reasonable construction' than that a contract was intended” (2025 NY Slip Op 06646)

FACTUAL BACKGROUND

Petitioners were citizen complainants who asserted that the City's Noise Control Code authorized them to commence and prosecute civil enforcement proceedings at their own expense and to receive fair and reasonable compensation from penalties collected. Local Law No. 16 of 2024 amended the governing statutory scheme, and petitioners claimed that the amendment impaired a contract, violated due process, effected a taking, and required environmental review under SEQRA. The Environmental Control Board retained authority to remit all or part of a civil penalty if the respondent was no longer in violation at the relevant time.

PROCEDURAL HISTORY

Supreme Court, New York County, denied the challenged portions of the amended petition and complaint. Petitioners appealed, and the First Department unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Medical Socy. of State of N.Y. v. Sobol, 192 AD2d 78, 80 (3d Dept 1993), appeal dismissed, 82 NY2d 802 (1993), cert denied, 511 US 1152 (1994)
- Pennsylvania R.R. Co. v. State of New York, 11 NY2d 504, 511 (1962)
- American Economy Ins. Co. v. State of New York, 30 NY3d 136, 150, 157-158 (2017)
- General Motors Corp. v. Romein, 503 US 181, 186, 191 (1992)
- Lend Lease (US) Constr. LMB Inc. v. Zurich Am. Ins. Co., 28 NY3d 675, 684 (2017)
- Brooks v. Dunlop Mfg. Inc., 702 F3d 624, 632 (Fed Cir 2012)
- Rogers v. Tristar Products, Inc., 559 F Appx 1042, 1045 (Fed Cir 2012)
- Matter of Regina Metro. Co., LLC v. New York State Div. of Hous. & Community Renewal, 35 NY3d 332, 365 (2020)
- Landgraf v. USI Film Products, 511 US 244, 280 (1994)
- Matter of Hazan v. Howe, 214 AD2d 797, 799-800 (3d Dept 1994)