INDEX No. 617209/2026

SUPREME COURT - STATE OF NEW YORK
I.A.S. PART 41 - SUFFOLK COUNTY

PRESENT:

Hon. JAMES F. QUINN
Acting Justice of the Supreme Court

MOT. #001 DATE 06/22/2026
MOT. #001 ADJ. DATE 09/29/2026
MOT. #002 DATE 08/13/2026
MOT. #001 ADJ. DATE 09/29/2026
Mot. Seq. #001 - MD
Mot. Seq. #002 - MG

RETREET ON WNR, LLC,

Plaintiff-Petitioner,

-against-

TOWN OF EAST HAMPTON, TOWN BOARD OF THE TOWN OF EAST HAMPTON, AND JAMES MURPHY, ESQ., AS EXECUTOR OF THE ESTATE OF EILEEN CHAMBERLAIN,

Defendants-Respondents.

DECISION AND ORDER

MATTHEWS, KIRST, COOLEY & CHORON, PLLC
Attorneys for Plaintiff-Petitioner
241 Pantigo Road
East Hampton, New York 11937

RIGANO LLC
Attorneys for Defendants-Respondents
Town of East Hampton and Town Board of the Town of East Hampton
534 Broad Hollow Road, Suite 100
Melville, New York 11747

BARNES & BARNES, P.C.
Attorneys for Defendant-Respondent
James Murphy, Esq., as Executor of the Estate of Eileen Chamberlain
445 Broadhollow Road, Suite 226
Melville, New York 11747

Upon the E-File documents numbered 1-21, 29-35 and 40-55, read and considered on the application by Plaintiff-Petitioner Retreet on WNR, LLC (Mot. Seq. #001), in this hybrid Article 78 proceeding, seeking an Order of this Court: a) vacating and annulling Town of East Hampton Resolutions 2026-663 and 2026-996 as arbitrary and capricious, contrary to law, and constituting a waste of public funds; b) permanently enjoining Defendant-Respondent Town of East Hampton from disbursing Community Housing Fund proceeds for the acquisition of two (2) properties located at 549 and 550 Wainscott Northwest Road, Wainscott, New York; c) declaring that the contemplated expenditure of Community Housing Fund proceeds for the acquisition of the properties is ultra vires under Town Law §64-k and constitutes a waste of public funds under General Municipal Law §51; d) declaring that the

properties do not qualify for acquisition with Community Housing Fund proceeds under Town Law §§64-k and 64-e; e) declaring that the Town failed to discharge its obligations under Town Law §64-e(8); f) declaring that the Town engaged in improper segmentation under SEQRA; g) declaring that the Town acted arbitrarily and capriciously and remanding the matter to the Town for preservation review pursuant to Town Law §64-e; h) awarding Plaintiff-Petitioner costs and attorney's fees;

And upon the E-File documents numbered 22-28, read and considered on the cross-motion by Defendants-Respondents Town of East Hampton and Town Board of the Town of East Hampton (Mot. Seq. #002), seeking dismissal of Plaintiff-Petitioner's Complaint and a declaration that the Town's acquisition of the properties located at 549 and 550 Wainscott Northwest Road, Wainscott, New York, is lawful in all respects, it is hereby

ORDERED, that the application by Plaintiff-Petitioner Retreet on WNR, LLC (Mot. Seq. #001) is hereby ***denied***; and it is further

ORDERED, that the cross-motion by the Defendants-Respondents Town of East Hampton and Town Board of the Town of East Hampton (Mot. Seq. #002), is hereby ***granted***.

Before addressing the merits of this action and the arguments advanced by the parties, the Court finds it necessary to address several deficiencies in Plaintiff-Petitioner's submissions.

First, counsel for Plaintiff-Petitioner failed to submit the required word-count certification. The Court notes that compliance with the applicable court rules is mandatory and cautions counsel that such omissions may warrant appropriate action by the Court.

Furthermore, Plaintiff-Petitioner raises allegations in its reply to the Town's cross-motion that were neither asserted in the original Complaint nor responsive to the arguments raised in the cross-motion. The Court legally cannot consider or discuss these newly raised matters, which are not properly before it.

Nevertheless, the Court finds that the substantive issues raised in this proceeding are of greater importance to the parties and the public. Accordingly, rather than dispose of the matter on these procedural grounds, the Court will address the merits of the parties' respective applications.

Before this Court is an action commenced by Plaintiff-Petitioner Retreet on WNR, LLC, the owner of property adjacent to land owned by James Murphy, Esq., as Executor of the Estate of Eileen Chamberlain, who is in contract to sell approximately 13.5 acres of land located at 549 and 550 Wainscott Northwest Road, Wainscott, New York, for the purchase price of $3,975,000.00, for the purpose of affordable housing.

A similar attempt to enjoin this sale was made by Elise McKenna on June 1, 2026, in a related proceeding involving the same Defendants-Respondents but a different Plaintiff-Petitioner. The Court rendered a decision in that matter, wherein relief similar, although not identical, to that sought herein was requested. In the interest of consistency, the Court finds it appropriate to reiterate its prior analysis and determination below.

"***ORDERED,*** Petitioner-Plaintiff's application to stop the Town of East Hampton and the Town of East Hampton Town Board from purchasing property located at 549 and 550 Wainscott Northwest Road, Wainscott, New York is ***denied***; and it is further

ORDERED, Petitioner-Plaintiff's application to prohibit the Town of East Hampton and the Town of East Hampton Town Board from using money from the Town Community Housing Fund to purchase the property located at 549 and 550 Wainscott Northwest Road, Wainscott, New York is ***denied***.

Petitioner brings this action as a hybrid proceeding seeking an Order and judgment pursuant to Article 78 and CPLR §3001. Petitioner seeks an injunction barring the Town of East Hampton and the Town of East Hampton Town Board ("the Town") from using the Town Community Housing Fund to purchase 13.5 acres of land located at 549 and 550 Wainscott Northwest Road, Wainscott, New York at the purchase price of $3,975,000 for affordable housing. Petitioner also seeks an Order declaring that the Town has not complied with the State Environmental Quality Review Act ("SEQRA") by segmenting the review of the subject property and not doing a complete SEQRA analysis prior to the purchase of the subject property and therefore should be prohibited from purchasing the subject property. Petitioner argues, amongst other things, that the Town violated Town Law §64-K and the purchase of the subject property with the Community Housing Funds is ultra vires and enjoinable pursuant to General Municipal Law §51. Petitioner argues that Town Law §64-K(3)(f) mandates Community Housing Funds be used to purchase only "the acquisition of interests in real property in existing housing units, which will result in the production of community housing for sale or rental to eligible individuals..." (NY Town Law Section 64-K Peconic Bay Region Community Housing Fund) and the proposed purchase is vacant land and is not a qualifying purchase with these funds.

The Respondent Town opposes the application in all respects and asks the court to deny it in its entirety. The Town argues, amongst other things, that the purchase is a permissible use of the Community Housing Fund in compliance with Town Law 64-K and they are complying with a voter mandate that established the Community Housing Fund to address a shortage of affordable housing in the Town. The Town also argues that the application is not ripe because the Town has not yet passed a resolution authorizing closing on the subject property. Specifically, the Town argues that, as contained in the Resolution, any development of the subject property would be subject to full SEQRA review.

Counsel for Respondent-Defendant James Murphy, Esq., Executor of the Estate of Eileen Chamberlain did not interpose opposition. The Court also notes that Petitioner submitted a letter to the Court (NYSCEF Doc. #20) yesterday June 3, 2026 with an unpublished Trial Court case dated June 26, 2009 and legal argument. Respondents, in response, submitted a letter objecting to Petitioner's submission. Petitioner's submission is improper and therefore was not considered by the Court.

With regard to the issue of standing the Petitioner Elise McKenna submits an affidavit stating that the subject property is immediately adjacent to her property located

at 546 Wainscott Northwest Road. Petitioner acknowledges that the subject property may legally be developed with two homes and if the Town is permitted to purchase the subject property and builds multi-unit residences that will create traffic, noise and light that will impact the use and enjoyment of her property different form the public at large. The Court finds that the Petitioner has standing as her property is immediately adjacent to the subject property (*see* ***Muir v Town of Newburgh***, 49 AD3d 744, 854 NYS2d 727 [2d Dept 2008].

In an effort to dispel the erroneous belief that the purchase of the subject property is impermissible, the Court draws attention to Town Law 64-K(5) which states in pertinent part:

"5. Eligible expenses. For the purposes of this section, eligible expenses relating to the production of community housing...under the fund **shall** include but not be limited to land acquisition..."(emphasis added).

As such, the Court finds that the acquisition of the subject property is legal and permissible.

The Court will next determine if the controversy is ripe. Respondents argue that as the Town has not yet passed a resolution authorizing closing on the subject property the instant application is precluded as not ripe for judicial review. In order for an administrative decision to be ripe for judicial review in a CPLR Article 78 proceeding, the challenged action must be final (*see* CPLR 7801[1]). An action is considered to be final when it "impose[s] an obligation, den[ies] a right or fix[es] some legal relationship as a consummation of the administrative process" (***Matter of Gordon v Rush***, 100 NY2d 236, 792 NE2d 168, 762 NYS2d 18 [2003]). The harm suffered must not be amenable to further administrative review and corrective action (*see* ***Matter of Eadie v Town Bd. Of Town of N. Greenbush***, 7 NY3d 306, 854 NE2d 464, 821 NYS2d 142 [2006]). "A challenged determination is final when it 'has its impact' upon the petitioner who is thereby aggrieved" (***Matter of Edmead v McGuire***, 67 NY2d 714, 490 NE2d 853, 499 NYS2d 934 [1986]).

Here, the issue is not ripe for two reasons. First, Resolution RES-2026-663 was not a final determination. In fact, the resolution mandated a public hearing on the potential purchase of the subject property which was scheduled for May 7, 2026 (NYSCEF Doc. #9). Additionally the Resolution states "the Town has the opportunity to acquire real property" and "the acquisition of the property is being considered" indicating prospective opportunities and actions (NYSCEF Doc. #9). Further, irrespective of the Petitioner and Respondents indicating that the Town may vote on June 2, 2026 or June 4, 2026 to authorize closing on the subject property, the fact is that the Town has not yet passed a resolution authorizing the closing of sale on the subject property. Second, the Resolution at issue speaks to the purchase of the property for use as affordable housing. The thrust of Petitioner's application revolves around the argument that if the Town is permitted to close on the subject property, it would be an irrevocable purchase not authorized by statute and that the Town is obligated to complete a full

SEQRA analysis prior to the purchase of the subject property because the Town plans to build high-density affordable housing on the subject property. However, nowhere in the Resolution or in the Town's papers or arguments is it asserted in any way that high-density housing is contemplated on the subject property. In fact, the Petitioner acknowledges in her affidavit (NYSCEF Doc. #4, p.2, §3), in the petition (NYSCEF Doc. #1, p.5, ¶20) and in her papers (NYSCEF Doc. #3, p.7, ¶33) that the subject property is currently zoned A5 (minimum lot size 5 acres) and that the construction of two homes on the subject property is permissible. Further, the Resolution states that "the Property is presently zoned for residential use, and at this time, the Town has not determined how the property will be developed, but does intend to use the property in some way for housing purposes, and wants to take the opportunity to acquire the property while it is available for purchase" (NYSCEF Doc. #9, p.3).

The Court finds that the Petitioner's argument is not challenging an action that will certainly and immediately harm her, but is attempting to prevent a speculative harm from taking place (*see* ***10 Street NY, LLC v New York City Department of Buildings***, 239 AD3d 637, 237 NYS3d 215 [2d Dept 2025]).
As the application is not ripe for judicial review the Court need not address the remaining issues.

Accordingly it is hereby,

ORDERED, the Court's Temporary Restraining Order dated June 1, 2026 is hereby vacated; and it is further

ORDERED, the Town of East Hampton and the Town of East Hampton Town Board may close on the subject property pursuant to applicable law; and it is further

ORDERED, the Town of East Hampton and the Town of East Hampton Town Board may disburse and/or expend any monies from the Town's Community Housing Fund for the acquisition of the subject property pursuant to applicable law.

The foregoing constitutes the ***Decision and Order*** of this Court (Index No. 615045/2026, NYSCEF Doc. #22)."

The principal distinctions between the two (2) applications are that the instant proceeding involves a different Plaintiff-Petitioner, who is also an abutting property owner, and that the Town has since adopted a resolution authorizing the closing on the subject property. However, the Town has not yet adopted any resolution determining how the property will ultimately be used.

The Court has previously determined that, pursuant to Town Law §64-k(5), the Town is authorized to utilize Community Housing Fund proceeds for land acquisition. Plaintiff-Petitioner's argument to the contrary is denied.

Requiring the Town to complete every review associated with an as-yet-undetermined future use before acquiring the property would impose substantial obstacles to the acquisition process and could discourage property owners from entering into contracts with governmental entities.

Whether the Town will ultimately be able to utilize this particular parcel for affordable housing remains to be determined. Nevertheless, the acquisition of the property itself is not rendered unlawful merely because its ultimate use has not yet been established.

Plaintiff-Petitioner has yet to show how it has been damaged by the Defendants-Respondents' acquisition or proposed acquisition of the property, where the Town has acted within its statutory authority to acquire land.

Based upon the foregoing, the Defendants-Respondents' cross-motion is ***granted in all respects***, and Plaintiff-Petitioner's Complaint is hereby ***dismissed***.

The foregoing constitutes the ***Decision and Order*** of this Court.

Dated: November 19, 2026
Riverhead, New York

HON. JAMES F. QUINN, A.J.S.C.

__XX__ FINAL DISPOSITION **___ NON-FINAL DISPOSITION**