SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

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Elise McKenna,

INDEX NO.:

Plaintiff,

Verified Petition

-against-

Town of East Hampton
Town of East Hampton Town Board

Defendants.

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Petitioner-Plaintiff, Elise McKenna ("Plaintiff"), through her attorney, Tarbet & Lester, PLLC, as and for her Verified Petition against Respondents-Defendants Town of East Hampton and the Town Board of the Town of East Hampton ("collectively, the "Town" or "Defendants") respectfully alleges as follows:

NATURE OF THE ACTION

1. Petitioner brings this hybrid CPLR Article 78 proceeding and declaratory judgment action challenging the Town's authorization, by Resolution RES-2026-663, of the expenditure of approximately $3,975,000 in Community Housing proceeds to acquire 13.5 of vacant wooded land at 549 and 550 Wainscott Northwest Road (the "Property").
2. The action presents three independent grounds for relief, each established on the face of the Resolution itself.

3. First, Town Law §64-k authorizes the use of Community Housing Fund proceeds only for seven enumerated purposes. The sole enumerated purpose that permits real property acquisition is §64-k(3)(f), which is expressly limited to "existing housing units." The Resolution concedes that the Property is "currently vacant and wooded." The acquisition is therefore not authorized by statute and is ultra vires under General Municipal Law §51.
4. Second, the Resolution is internally contradictory. It simultaneously asserts (a) a housing purpose sufficient to justify use of the Community Housing Fund, and (b) the absence of any defined housing project, in order to limit environmental review under SEQRA to transfer of title. Those positions cannot be reconciled. A municipal determination resting on irreconcilable findings lacks a rational basis and must be annulled under CPLR Article 78.
5. Third, the Town's negative declaration under SEQRA rests on improper segmentation. The Resolution acknowledges that the acquisition and any future development are "related actions" and that the Town intends to use the Property for housing purposes. Despite those concessions, the Town confined its environmental review to the "acquisition only," deferring all evaluation of foreseeable impacts on identified sensitive resources. The Town's own Environmental Assessment Form identifies those resources, including habitat for the Northern Long-Eared Bat habitat, the groundwater recharge overlay, and sensitive archeological resources.
6. Petitioner seeks a judgment a) declaring the proposed expenditure ultra vires; b) annulling the Resolution and the accompanying negative declaration; and c) enjoining the Town from closing on the acquisition or expending Community Housing Fund proceeds until the statutory and environmental defects are cured.

PARTIES

7. Petitioner Elise McKenna is a resident and taxpayer of the Town of East Hampton, Suffolk County New York, who owns and occupies real property at 546 Wainscott Northwest Road, immediately adjacent to the Property.
8. Respondents-Defendant Town of East Hampton is a municipal corporation organized and existing under the laws of the State of New York.
9. Respondents-Defendant Town Board of the Town of East Hampton is the governing body of the Town, responsible for adopting Resolution RES-2026-663.

JURISDICTION AND VENUE

10. This Court has jurisdiction over the Article 78 claims under CPLR §7804(b) and over the declaratory judgment claims under CPLR §3001.
11. Venue is proper in Suffolk County under CPLR §§ 506(b) and 503(a), as Respondents-Defendants are located in this County and the events giving rise to this action occurred here.
12. The proceeding is timely under CPLR §217(1). The Town Board adopted the Resolution on April 16, 2026, conducted a public hearing on May 7, 2026, and is proceeding toward closing on the Property.

STANDING

13. The Petitioner has standing to challenge the SEQRA determination. She resides on property adjacent to the Property and will suffer environmental injury different in kind and degree from that of the public at large, including injury to groundwater quality,

neighborhood character, traffic, noise, and habitat. Matter of Sun-Brite Car Wash v. Bd. of Zoning & Appeals of Town of N. Hempstead, 69 N.Y.2d 406, 414 (1987); Matter of Save the Pine Bush, Inc. v. Common Council of City of Albany, 13 N.Y.3d 297, 305 (2009).

14. Adjacency to the Property creates a presumption of standing under SEQRA. Sun-Brite, 69 N.Y.2d at 414.

15. Petitioner also has standing as a taxpayer of the Town under General Municipal Law 51 to challenge the illegal expenditure of public funds. Korn v. Gulotta, 72 N.Y.2d 363, 372 (1988); Mesivta of Forest Hills Inst., Inc. v. City of New York, 58 N.Y.2d 1014, 1016 (1983).

16. The interests Petitioner seeks to protect, including the lawful use of dedicated housing funds, the preservation of groundwater resources, and the protection of habitat, fall within the zone of interests of Town Law §64-k, SEQRA, and the Town's own designated overlay districts. Society of Plastics Indus., Inc. v. County of Suffolk, 77 N.Y.2d 761, 773-74 (1991).

17. The public interest would be subverted if no one were found to have standing to challenge the use of Community Housing Funds to purchase the Property. Committee to Preserve Brighton Beach v. Planning Commission of the City of New York, 259 AD2d 26 (1st Dept 1999).

FACTUAL ALLEGATIONS

The Property

18. The Property consists of 13.5 acres of vacant, wooded land located at 549 and 550 Wainscott Northwest Road, Wainscott, identified on the Suffolk County Tax Map as SCTM #300-133.00-01.00-031.000 and 035.000.

19. The Property is zoned A5 (minimum lot size five acres) and is situated within the Town's Water Recharge Overlay District ("WRO"), the Town's designated Priority Drinking Water Protection Area, and the New York State-designated Special Groundwater Protection Area.

20. Town Code 255-3-60 declares the WRO to consist of "critical areas of environmental concern" and imposes a clearing limitation that restricts disturbance on the 13.5 acre Property to approximately 45,000 square feet, or just over one acre.

21. The Property is also a known habitat of the Northern Long-eared Bat, a species listed as endangered under both federal and New York State law.

22. The Town's Environmental Assessment Form ("EAF") for the acquisition identifies the Northern Long-Eared Bat habitat, the groundwater recharge overlay, and sensitive archeological resources as environmental resources of concern.

The Resolution and the Public Hearing

23. On April 16, 2026 the Town Board adopted Resolution RES-2026-663, authorizing the use of approximately $3,975,000 from the Town's Community Housing Fund to acquire the Property and scheduling a public hearing for May 7, 2026.

24. The Resolution describes the Property as "currently vacant and wooded" and states that the Town "has not determined how the property will be developed, but does intend to use the property in some way for housing purposes."

25. The Resolution further states that "the use of Community Housing Fund proceeds creates a statutory relationship between the acquisition and the Town's housing purposes" and that the acquisition and any future development "are related actions."

26. The Resolution simultaneously states that "[n]o development plan, site plan, subdivision application, or proposal for a specific use of the Property has been prepared, proposed, or authorized" and that "the nature, density, typology, scale, and configuration of any future use remains entirely undetermined."

27. On the basis of these statements, the Town Board classified the acquisition as an unlisted action under SEQRA, designated itself the lead agency, limited the scope of environmental review to the "acquisition only," stating that "[n]o site work, change of use, development, [or] improvement…is proposed or authorized by this resolution" and adopted a negative declaration of environmental significance.

28. The Resolution expressly provides that any future development or use of the Property will be subject to separate SEQRA review at a later time.

29. On May 5, 2026, Petitioner's counsel submitted a detailed legal objection to the Town Board identifying the statutory and SEQRA defects in the Resolution and requesting reconsideration.

30. The Town Board held the public hearing on May 7, 2026. Members of the Town Supervisor's office and Town Board have publicly stated that the Town's intent is to develop the Property with multiple units of affordable housing.

31. At the public hearing Katy Casey, the executive director of the East Hampton Housing Authority stated, "I am a big supporter of land banking. A big argument for the community housing fund was to enable the town to be a little bit more nimble. In the past, parcels were lost because the funds weren't immediately available. You had to bond."

32. Town Supervisor Kathee Burke-Gonzalez clarified what the board meant by land banking. "We do not mean land banking forever," she said. "We mean buying the property now to secure it, to create development plans later. We have not had the opportunity to create those plans yet due to the limited window the property has been available."

33. These statements are admissions that the Town is acquiring the Property to develop it with community housing and is deferring formulation of a specific development plan until after title transfers.

34. Notwithstanding the objections raised in the May 5 letter and at the May 7 hearing, the Town is proceeding toward closing.

AS AND FOR A FIRST CAUSE OF ACTION

Ultra Vires Expenditure of Community Housing Fund Procees; Town Law §64-k; GML§51

35. Petitioner repeats and realleges each of the foregoing paragraphs 1-34 as if fully set forth herein.

36. General Municipal Law §51 authorizes taxpayers to enjoin any illegal official act, including the expenditure of public funds for purposes not authorized by statute. Korn v. Gulotta, 72 N.Y.2d 363, 372 (1988).

37. Town Law §64-k(3) establishes a closed, enumerated list of seven purposes for which Community Housing Fund proceeds "shall be utilized." The use of a defined, enumerated list reflects legislative intent to limit expenditures to those expressly identified. Under settled principles of statutory construction, where a statute enumerates the circumstances in which it applies, what omitted is deemed excluded. McKinney's Cons. Laws of N.Y., Book 1, Statutes §240.

38. Of the seven enumerated purposes, only §64-k(3)(f) authorizes the acquisition of real property. It permits the "acquisition of interests in real property in existing housing units."

39. The phrase "in existing housing units" is deliberate and restrictive. It limits permissible acquisition to property that already contains housing at the time of acquisition. It excludes vacant land, undeveloped parcels, and parcels not containing housing units, categories the Legislature could have included but chose not to.

40. None of the remaining six enumerated purposes authorizes the purchase of vacant land for future development. Instead, they concern financial assistance, rehabilitation, or counseling relating to housing, not speculative land acquisition.

41. The Town may seek to rely on §64-k(5), which identifies eligible expenses including "land acquisition… directly related to the construction, rehabilitation, purchase or rental of housing." That reliance is misplaced for two (2) reasons.

42. First, subdivision (5) does not create an independent source of authority to expend Fund proceeds. It presupposes a lawful purpose under subdivision (3) and defines categories of costs that may be incurred in furtherance of that authorized purpose. A statute's grant of substantive authority controls over its description of permissible expenses. Subdivision (5) cannot enlarge what subdivision (3) does not authorize.

43. Second, reading subdivision (5) to permit acquisition of vacant land untethered to an authorized purpose under subdivision (3) would render subdivision (3)(f)'s specific limitation to "existing housing units" superfluous, in violation of the rule that statutes must be construed to give effect to every word. If subdivision (5) independently authorized vacant land acquisition, subdivision (3)(f)'s specific restriction would serve no function.

44. Furthermore, the Resolution expressly establishes that "[n]o development plan, site plan, subdivision application, or proposal for a specific use of the Property has been prepared, proposed, or authorized," and that the "nature, density, typology, scale, and configuration of any future use remains entirely undetermined." In the absence of any defined housing project, the acquisition is not "directly related" to housing within the meaning of §64-k(5). It rests entirely on speculative future decisions. An acquisition premised on undefined future possibilities is, as a matter of law, indirect and contingent, not "directly related" to any housing activity within the meaning of the statute.

45. To permit acquisition untethered to a defined, authorized housing activity would convert a purpose-restricted fund into a general land-acquisition tool, contrary to the statute's structure and voter intent.

46. Because the acquisition is not authorized by §64-k(3) and does not satisfy the "directly related" requirement of §64-k(5), the proposed expenditure of $3,975,000 in Community Housing Fund proceeds is ultra vires and unlawful.

47. Unless enjoined, the Town will disburse these dedicated public funds in violation of the statute, causing irreparable harm to Petitioner and to all Town taxpayers who fund the Community Housing Fund through their taxes.

AS AND FOR A SECOND CAUSE OF ACTION

Arbitrary and Capricious Determination; CPLR §7803(3); GML 51

48. Petitioner repeats and realleges each of the foregoing paragraphs 1-47 as if fully set forth herein.

49. An administrative determination must rest on a rational basis. A determination that adopts irreconcilable factual findings is arbitrary and capricious as a matter of law. Matter of Pell v. Bd. of Educ., 34 N.Y.2d 222, 231 (1974).

50. The Resolution adopts two factual positions that cannot coexist.

51. On one side, the Resolution asserts that the acquisition is sufficiently connected to housing purposes to justify the use of dedicated Community Housing Fund proceeds. It states that the Town "does intend to use the property in some way for housing purposes," and that "the use of Community Housing Fund proceeds creates a statutory relationship between acquisition and the Town's housing purposes."

52. On the other side, the Resolution asserts that no housing project has been defined, in order to limit environmental review under SEQRA to the acquisition alone. It states that the "nature, density, typology, scale, and configuration of any future use remains entirely undetermined."

53. These positions cannot be reconciled. If a housing purpose is sufficiently concrete to justify §64-k's "directly related" requirement, then a housing project is reasonably foreseeable and must be evaluated as part of the same SEQRA action. Conversely, if the future use of the property is too indefinite to permit meaningful environmental review, the acquisition cannot be considered "directly related" to housing for purposes of §64-k. The Town cannot simultaneously claim a defined housing purpose when it benefits the funding justification and disclaim that same purpose when it would trigger environmental review.

54. The Town adopted both positions simultaneously to satisfy two independent legal requirements. In doing so, it satisfied neither.

55. RES-2026-663 lacks a rational basis, is arbitrary and capricious, and must be annulled under CPLR §7803(3). The authorization is also an illegal official act subject to injunction under General Municipal Law 51.

AS AND FOR A THIRD CAUSE OF ACTION

Violation of State Environmental Quality Review Act (SEQRA)

56. Petitioner repeats and realleges each of the foregoing paragraphs 1-55 as if fully set forth herein.

57. SEQRA and its implementing regulations require the lead agency to identify and evaluate the environmental impacts of an action as a whole before committing to it. ECL §8-0109; 6 NYCRR §617.3(g); Matter of Chinese Staff & Workers Ass'n v. City of New York, 68 N.Y.2d 359, 369 (1986).

A. Improper Segmentation

58. SEQRA prohibits the segmentation of a single action into component parts to avoid review of the environmental impacts of the whole. 6 NYCRR §§ 617.3(g), 617.2(ag. Where segmentation is undertaken, the lead agency must clearly state its supporting reasons and demonstrate that segmented review is no less protective of the environment. 6 NYCRR § 617.3(g).

59. For the purpose of determining whether an action may cause significant adverse environmental impact, the lead agency must consider reasonably related long-term, short-term, direct, indirect, and cumulative impacts, including other simultaneous or subsequent actions which are: (i) included in any long-term plan of which the action under consideration is a part; (ii) likely to be undertaken as a result thereof, or (iii) dependent thereon. 6 NYCRR 617.7(c)(2). Failure to consider the cumulative impact of development will result in the invalidation of the environmental impact statement. Save the Pine Bush, Inc. v. City of Albany, 70 N.Y.2d 193, 518 N.Y.S.2d 943 (1987).

60. The Resolution establishes on its face that the acquisition and the future development of the Property are components of a single action. The Town concedes that: (a) the Town

"does intend to use the property in some way for housing purposes"; (b) "the use of Community Housing Fund proceeds creates a statutory relationship between the acquisition and the Town's housing purposes"; and (c) the acquisition and any future development "are related actions."

61. Statements by the Town Supervisor and other Town officials confirm that the Town intends to develop the Property with community housing and that the acquisition is the first step in that development. Those statements are admissions that the acquisition and the future development are a single, integrated action.

62. Notwithstanding these concessions and admissions, the Town limited its environmental review to the "acquisition only," expressly excluding the impacts of the housing development that the acquisition is intended to facilitate.

63. That limitation is legally impermissible. Where an agency undertakes an initial step that secures site control and is directed toward a particular future use, it must consider the environmental impacts of that future use, even if the details are not yet finalized. The absence of finalized details does not negate the existence of a defined purpose. Matter of Chinese Staff & Workers Ass'n, 68 N.Y.2d at 369; Matter of Riverkeeper, Inc. v. Planning Bd. of Town of Southeast, 9 N.Y.3d 219, 232 (2007); J. Owens Building Co., Inc. v. Town of Clarkstown, 128 A.D.3d 1067, 10 N.Y.S.3d 293 (2d Dept. 2015) (considering only part of a development is contrary to the intent of SEQRA).

64. The Appellate Division, Third Department, has identified three reasons why a lead agency must consider the cumulative effects of related actions: "First, where there is really but one plan for the development of a single area of special environmental significance, the accurate ecological/social/economic balancing of costs and benefits

mandated under SEQRA requires that the cumulative effects of all actions within the plan for that area be weighed (see Matter of Save the Pine Bush v. City of Albany, 70 N.Y.2d 193, 206, 518 N.Y.S.2d 943, 512 N.E.2d 526). The second reason is that grouping the effects of related sequential actions avoids distortions in the balancing process if they were considered in separate succession when the decision in the earlier action may be "practically determinative" of the subsequent action (Matter of Tri-County Taxpayers Assn. v. Town Bd., 55 N.Y.2d 41, 46, 447 N.Y.S.2d 699, 432 N.E.2d 592; see, Matter of Kirk Astor DJA Neighborhood Assn. v. Town Bd., 106 A.D.2d 868, 869, 483 N.Y.S.2d 526, appeal dismissed 66 N.Y.2d 896, 498 N.Y.S.2d 791, 489 N.E.2d 760). Lastly, considering the cumulative effects of related actions insures against stratagems to avoid the required environmental review by breaking up a proposed development into component parts which, individually, do not have sufficient environmental significance (Matter of Sutton v. Board of 32 Trustees, 122 A.D.2d 506, 508-509, 505 N.Y.S.2d 263)." Stewart Park at Reserve Coalition v. New York State Dep't of Transp., 145 A.D.2d 1,10, 555 N.Y.S.2d 481 (3d Dep't 1990).

65. The Appellate Division, Second Department has repeatedly annulled SEQRA determinations where the lead agency segmented review by considering only a preliminary phase of a project that was directed toward an identified future use. See Town of Blooming Grove v. County of Orange, 103 A.D.3d 655 (2d Dep't 2013) (finding county improperly segmented two projects that were part of an integrated and cumulative development plan); Farrington Close Condominium Bd. of Managers v. Inc. Village of Southampton, 205 A.D.2d 623 (2d Dep't 1994) (annulling negative declaration where Board considered only "initial phase" of park despite long-term plans for additional

development); Teich v. Buchheit, 221 A.D.2d 452 (2d Dep't 1995) (affirming annulment of negative declaration relating to parking lot that was part of hospital's long-range plan for expansion).

66. The Second Department's decision in J. Owens Bldg. Co. v. Town of Clarkstown is squarely on point. There, the Town sought to acquire real property for a drainable plan that was a component of a larger initiative known as the West Nyack Downtown Revitalization Project. Acting as lead agency, the Town Board reviewed only the drainage plan and did not consider the environmental concerns raised by the broader revitalization project of which the drainage plan was a "key component." The Second Department held that this was impermissible segmentation: under SEQRA, the Town Board was obligated to consider the environmental concerns raised by the entire project. 128 A.D.3d at 1068-69, 10 N.Y.S.3d at 295. The Court further held that if the Town Board believed segmentation was warranted, it was required under SEQRA to "clearly state in its determination of significance the supporting reasons[,] demonstrate that such review is clearly no less protective of the environment[,] and to identify and discuss related actions to the fullest extent possible." Because the Town Board had not done so, the determination was annulled and the matter remitted for an appropriate review. 128 A.D.3d at 1069, 10 N.Y.S.3d at 295.

67. The Third Department has reached the same conclusion. In Defreestville Area Neighborhoods Ass'n, Inc. v. Town Bd. of Town of North Greenbush, 299 A.D.2d 631 (3d Dep't 2002), a town board rezoned a 35-acre parcel from residential/professional to general business to allow construction of a retail shopping center but declared it would make no determination on "issues that will arise only when an actual construction project

is proposed for the site." Although no specific site plan had been developed, the record was clear that the rezoning was made in specific contemplation of constructing a large retail facility. The court held that the separation of the zoning phase from the development phase constituted impermissible segmentation, and that the board was obligated to consider the impacts to be expected from future development at the time of the rezoning, even absent a specific site plan.

68. The two cases the Town cites in support of segmented review, PSC, LLC v. City of Albany Indus. Dev. Agency, 200 A.D.3d 1282 (3d Dep't 2021), and Court St. Dev. Project, LLC v. Utica Urban Renewal Agency, 188 A.D.3d 1601 (4th Dep't 2020), are inapposite. Both involved acquisitions in which no future development purpose had been identified. Here, the Town has expressly identified housing development as the purpose of the acquisition and has conceded that the two actions are related.

69. On this record, the Town's decision to limit its SEQRA review to the "acquisition only" is precisely the kind of "stratagem to avoid the required environmental review by breaking up a proposed development into component parts" that the cumulative-effects doctrine is designed to prevent. Stewart Park, 157 A.D.2d at 10. The Town has admitted that housing development is the purpose of the acquisition, that Community Housing Fund proceeds create a statutory relationship between the acquisition and that housing purpose, and that the acquisition and any future development are "related actions." The acquisition and the housing development are a single integrated action under SEQRA, and the Town's failure to consider the cumulative environmental impacts of the integrated action requires that the negative declaration be annulled.

B. Failure to Take a Hard Look at Identified Environmental Resources

70. SEQRA requires the lead agency to take a "hard look" at the environmental impacts of an action and to produce a reasoned elaboration for its determination of significance. Matter of Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d 400, 417 (1986), and Matter of Riverkeeper, Inc. v. Planning Bd. of Town of Southeast, 9 N.Y.3d 219, 231-32 (2007).

71. The Town's own Environmental Assessment Form identifies three categories of environmental resources of concern at the Property: (a) the groundwater recharge overlay and the underlying Special Groundwater Protection Area; (b) habitat for the Northern Long-Eared Bat, a federally and state-listed endangered species; and (c) sensitive archaeological resources.

72. The Property is also located within the Town's Priority Drinking Water Protection Area and the WRO, areas declared by the Town Code to be "critical areas of environmental concern." Town Code §255-3-60.

73. Notwithstanding the identification of these resources, the negative declaration rests entirely on the premise that the transfer of title viewed in isolation causes no physical disturbance of the site. That premise does not satisfy SEQRA's hard look requirement. The relevant inquiry is whether the action, including its reasonably foreseeable consequences, may impair the identified resources. By defining the action to exclude the foreseeable housing development, the Town avoided the very evaluation SEQRA requires.

74. A negative declaration that systematically excludes foreseeable impacts on identified protected resources is arbitrary and capricious.

C. Inconsistency with the Town's Adopted Housing Plan and Comprehensive Plan

75. Town Law §64-k(7) requires that, before expending Community Housing Fund proceeds, the Town Board adopt a housing plan consistent with specified Smart Growth principles. Those principles include encouraging development where infrastructure is available or practical, protecting groundwater and environmental resources, and avoiding undue concentration of housing in any community. Town Law §64-k(7)(a).

76. The condition precedent imposed by §64-k(7) is not satisfied by the mere existence of an adopted plan. The expenditure must be consistent with the plan's specific provisions, including its siting, infrastructure, and environmental criteria. Town Law §64-k(7)(d) further provides that the town housing plan "shall be an element of the town's comprehensive plan."

77. The East Hampton Comprehensive Plan, of which the Town's housing plan is an element, directly addresses the Wainscott School District. The Plan recommends that all vacant parcels within the Priority Drinking Water Protection Area, which includes the Property, be placed on the Community Preservation Fund list for priority acquisition and preservation. The Plan does not identify any parcel within this area as suitable for affordable housing.

78. The Town's Community Housing Fund Study identifies the factors the Town Board and Planning Board must consider when evaluating any affordable housing project, including: a) neighborhood character; b) proximity to public transportation; c) proximity to downtowns or commercial centers providing access to goods, services, and employment; d) availability of public water; e) proximity of protected natural features, including

wetlands, bluffs, and dune land; and f) groundwater elevation and protection of the Town's sole-source aquifer.

79. The Property fails on nearly every one of those criteria. It is remote from town centers, lacks public transportation access, sits over the Town's most critical groundwater recharge area, and is immediately adjacent to over 1,000 acres of permanently preserved open space.

80. The expenditure of Community Housing Fund proceeds for an acquisition inconsistent with the Town's adopted Comprehensive Plan and the criteria identified in the Town's Community Housing Fund Study violates the condition precedent established by §64-k(7) and constitutes an additional basis for annulment of the Resolution.

D. The Negative Declaration is Arbitrary and Capricious Determination

81. A negative declaration issued on the basis of an improperly segmented review that fails to take a hard look at identified environmental impacts or that approves an action inconsistent with adopted plans is arbitrary and capricious and must be annulled.

82. Where an action is undertaken for a stated purpose and involves a substantial commitment of public resources to secure control of a site, SEQRA requires consideration of the reasonably foreseeable impacts of that purpose. By committing $3,975,000 in public funds to secure the Property while deferring any environmental analysis of the intended use, the Town has avoided the "hard look" required by law. Matter of Riverkeeper, Inc. v. Planning Bd. of Town of Southeast, 9 N.Y.3d 219 (2007); Matter of Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d 400 (1986). SEQRA review must occur at the earliest practicable time, particularly where an agency action

constitutes a commitment of resources that may foreclose alternative uses. The expenditure of $3,975,000 to secure control of the Property is precisely such a commitment.

83. Each of the errors identified above independently violates SEQRA. Taken together, they demonstrate that the Town did not comply with SEQRA's requirement to take a hard look at environmental impacts before committing to the action. The negative declaration adopted in connection with Resolution RES-2026-663 must be annulled.

PRAYER FOR RELIEF

WHEREFORE, Petitioner-Plaintiff respectfully requests that this Court enter judgment:

A) Declaring that the expenditure of Community Housing Fund proceeds for the acquisition of vacant land not containing existing housing units is not authorized by Town Law §64-(k)(3) and constitutes an illegal official act within the meaning of General Municipal Law 51;

B) Declaring that Resolution RES-2026-663 rests on irreconcilable factual findings, lacks a rational basis, and is arbitrary and capricious, and annulling the Resolution pursuant to CPLR §7803(3);

C) Annulling the negative declaration adopted in connection with Resolution RES-2026-663 as the product of improper segmentation, a failure to take a hard look at identified environmental impacts, and inconsistency with the Town's adopted Comprehensive Plan and housing plan;

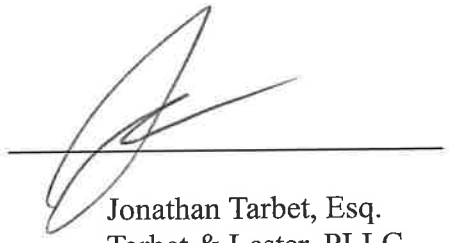
D) Permanently enjoining the Town from acquiring the Property using Community Housing Fund proceeds unless and until i) it identifies a statutory basis under Town Law §64-k(3) authorizing the acquisition, and ii) it completes a non-segmented SEQRA review of the acquisition and the housing development identified as its purpose, considered as a single action;

E) Granting Petitioner the temporary restraining order and preliminary injunction sought by the accompanying Order to Show Cause;

F) Awarding Petitioner her costs, disbursements, and reasonable attorneys' fees as permitted by law; and

G) Granting such other and further relief as this Court deems just and proper.

Dated: May 18, 2026
East Hampton, New York



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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

----------X

Elise McKenna,

INDEX NO.:

Plaintiff,

Verification

-against-

Town of East Hampton
Town of East Hampton Town Board

Defendant.

----------X

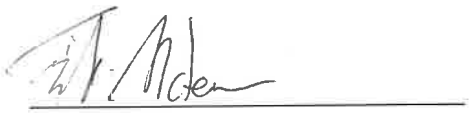
County of Suffolk)

) ss.:

State of New York)

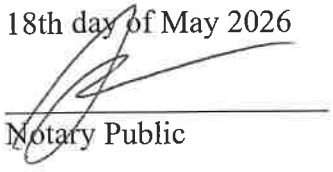
Elise McKenna, being duly sworn, deposes and says: I am the Petitioner-Plaintiff in the within action. I have read the foregoing Verified Petition and know the contents thereof; the same is true to my own knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Dated: May 18, 2026
East Hampton, New York



Elise McKenna

Sworn to before me this
18th day of May 2026



Notary Public

JONATHAN G TARBET
Notary Public, State of New York
Registration No. 02TA0032809
Qualified in Suffolk County
Commission Expires January 10, 2029