

Short Form Order

SUPREME COURT - STATE OF NEW YORK
IAS PART 33 - SUFFOLK COUNTY

PRESENT:

HON. THOMAS F. WHELAN, J.S.C.

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In the Matter of the Application of

HELIFLITE SHARES L.L.C.,

Petitioner,

-against-

TOWN OF EAST HAMPTON and TOWN BOARD
OF THE TOWN OF EAST HAMPTON,

Respondents.

For Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules

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INDEX NO.: 612657/2024

MOTION DATE: 04/03/2026

MOTION SEQ. NO.: 001 MD

004 MD

006 MD

CASE DISP: Y X N

PLAINTIFF'S ATTORNEYS:

Campolo, Middleton & McCormick, LLP
4175 Veterans Memorial Highway, Suite 400
Ronkonkoma, New York 11779

DEFENDANTS' ATTORNEYS:

Rigano LLC
534 Broad Hollow Road, Suite 100
Melville, New York 11747

Upon the e-filed documents number 1-2, 10-11, 44 through 66, and 70, for an Order annulling, vacating, and setting aside the Town Board of the Town of East Hampton's Resolution RES-2024-196, Regarding Termination of Lease with Long Island Airlines LLC, adopted on January 23, 2024, which authorized the termination of a written commercial lease for Long Island Airlines, LLC, a Fixed Base Operator that provides a private hangar and general aviation services to residents and transient aircraft, including HeliFlite, and upon due deliberation and consideration of the foregoing papers, it is hereby

ORDERED that Petitioner's Application for a Preliminary Injunction (motion sequence no. 004) is denied as moot; and it is further

ORDERED that Respondent's Application for Expedited Discovery (motion sequence no. 006) is denied as moot; and it is further

ORDERED that Petitioner's Petition (motion sequence no. 001) is denied and dismissed in it's entirety; and it is further

ORDERED that the stay set forth in the Order to Show Cause from November 12, 2025 is hereby vacated; and it is further

ORDERED that Respondent shall submit a judgment on notice within 15 days of this order.

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This matter was commenced by the electronic filing of a Notice of Petition and Petition on May 22, 2024. Petitioner HeliFlite Shares LLC seeks to annul, vacate, and set aside the Town Board of the Town of East Hampton's Resolution RES-2024-196 ("the Resolution"), adopted on January 23, 2024 which authorized the termination of a written commercial lease for a Long Island Airlines, LLC ("LIA"), a fixed base operator ("FBO") that provides a private hangar and general aviation services to residents and transient aircraft, including HeliFlite.

In support of its application, Petitioner submits that HeliFlite is a private helicopter company which provides flights to its clientele into East Hampton Airport which is owned by Respondent Town of East Hampton. HeliFlite is serviced by an FBO, LIA. The airport has two Fixed Base Operators that provide services to the aircraft that land at the airport. Only LIA services the private hangar and terminal HeliFlite utilizes. Petitioners submit that respondents seek to shut down LIA which provides services to Petitioner and, as such, seeks to disrupt or shut down HeliFlite's service to East Hampton Airport.

In opposition, respondents submit that the Town of East Hampton operates the East Hampton Town Airport located in Wainscott, New York. There are sixty-two (62) hangars at the Airport that the Town leases to third party tenants. The property known as 50 Industrial Road, Wainscott, New York comprises of a single hangar at the Airport. The Town has leased the premises to LIA, as a commercial tenant, since 1996. LIA's principals were Ben and Bonnie Krupski, who died in a plane crash in 2018. In 2024, the Town had an engineer inspect the hangar; he concluded that the premises required more than \$1.8 million of renovations to mitigate safety concerns. Respondents submit that neither LIA nor Petitioner have offered to pay these expenses.

The submissions reflect that the Town Board passed two resolutions dated January 20, 2022 and February 17, 2022 which authorized the deactivation of the public use Airport on May 17, 2022 and reopening the Airport as a private use airport on May 19, 2022. Thereafter, three Article 78 proceedings were commenced against the Town seeking an injunction to enjoin the closure of the Airport and its change from a public use to private use airport. Petitioner was not a party to those proceedings. The Article 78 proceedings ultimately resulted in an injunction, which, as modified by the Second Department on March 27, 2024, "only enjoined the Town from deactivating or closing the airport based on the resolutions in the determination dated January 20, 2022, as amended by the subsequent determination dated February 17, 2022" (*East End Hangars et. al. v. Town of East Hampton*, Index No.: 09552/2022 [2d Dept. 2024]).

The submissions further reflect that on November 7, 2024, the Town filed Form 7480-1 with the FAA requesting that the Airport be formally converted back to public use. On February 20, 2025, the FAA formally converted the Airport back to public use. Respondents contend that the Airport is operating in the same manner as it did before issuance of the Town's January 20, 2022 resolution, and is therefore, in complete compliance with the injunction.

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Of the sixty-two (62) tenants that lease hangars at the Airport from the Town, only LIA is subject to lease termination and an eviction proceeding. LIA had the opportunity in this matter to be heard before two Supreme Court Justices, the Second Department and the Court of Appeals. The Courts ruled that LIA committed an incurable material breach of the lease, is a shell with no ability to operate, and denied LIA any further ability to litigate its *Yellowstone* application (*Long Island Airline v. Town of East Hampton*, Index No.: 618836/2021). Thereafter, the Town Board passed Resolution RES-2024-196, authorizing the termination of LIA's lease and commencement of an eviction proceeding. On or around February 12, 2024, the Town served the Notice of Termination on LIA. The notice for Termination provided for a lease termination date of February 20, 2024. Respondents contend that since the lease termination, LIA and HeliFlite have not voluntarily surrendered the premises. On or about February 26, 2024, the Town commenced an eviction proceeding against LIA in the Town of East Hampton Justice Court. By Order dated August 1, 2025, the court (FILER, J.) granted the Town summary judgment, finding that the lease had been violated, and granted the warrant of eviction. The appeal of that decision was dismissed by the Appellate Term of the State of New York for the 9th and 10th Judicial Districts by Order dated December 22, 2025.

The Town submits that it adopted the Resolution because of court orders entered in the *Yellowstone* litigation commenced by LIA, captioned *Long Island Airline, LLC v. Town of East Hampton*, Index No.: 618836/2021. The LIA action resulted in two sets of Orders. The first order (ROUSE, J.) dated April 19, 2022, found that LIA had committed an incurable material breach of the lease, that LIA is a "shell," and denied LIA's request for a *Yellowstone* injunction. This decision was affirmed by the Second Department and the Court of Appeal's denied LIA's request for leave to appeal (*see LIA* action, NYSCEF Doc. Nos. 133, 135). The Town Board adopted the Resolution after the appellate orders were entered. The second order dismissed the entirety of the LIA action upon the Town's motion for summary judgment on the grounds that the lease termination mooted LIA's claims. In that Order, the Court (HACKELING, J.) held that the Town "duly serv[ed] the Notice of Termination of the Lease upon [LIA] terminating the lease" (NYSCEF Doc. No. 173).

Here, Petitioner is collaterally estopped from requesting the relief demanded in its Petition. "The doctrine of collateral estoppel, a narrower species of res judicata, precludes a party from relitigating in a subsequent action or proceeding an issue clearly raised in a prior action or proceeding and decided against that party or those in privity, whether or not the tribunals or causes of action are the same" (*Katsoris v. Bodnar & Milone, LLP*, __NYS3d__, 2026 WL 2508020, *Hossain v. Hossain*, 243 AD3d 894, 895, 246 NYS3d 429; *see Domingo v. Avis Budget Group, Inc.*, 219 AD3d 964, 965, 195 NYS3d 751). "The doctrine of collateral estoppel applies when: (1) the issues in both proceedings are identical, (2) the issue in the prior proceeding was actually litigated and decided, (3) there was a full and fair opportunity to litigate in the prior proceedings, and (4) the issue previously litigated was necessary to support a valid and final judgment on the merits" (*Katsoris v. Bodnar & Milone, LLP*, *supra* quoting *Hossain v. Hossain*, 243 AD3d at 895-896, 246 NYS3d 429). "The party seeking to invoke collateral estoppel has the burden to show the identity of the issues, while the party trying to avoid application of the

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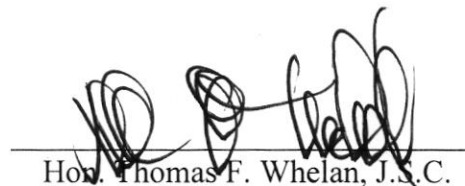
doctrine must establish the lack of a full and fair opportunity to litigate” (*Katsoris v. Bodnar & Milone, LLP, supra*, quoting *Hossain v. Hossain*, 243 AD3d at 896, 246 NYS3d 429). In the LIA matter, this Court (HACKELING, J.) found that the Town properly terminated the lease. Accordingly, the issue of “lease termination” has been previously decided and that determination is dispositive of the present action.

In light of the foregoing, Petitioner’s Petition is denied and this matter is dismissed. Submit judgment on notice.

Dated: September 24, 2026

TFW

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Hon. Thomas F. Whelan, J.S.C.