

Index No.

Plaintiff designates
Suffolk County as the
place of trial

Plaintiff,

SUMMONS

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YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on plaintiff's attorney(s) within 20 days after the service of this summons, exclusive of the date of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

JACOB TURNER
Town Attorney
For Plaintiff
159 Pantigo Road
East Hampton, NY 11937
(631) 324-8787

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X Index No.

TOWN OF EAST HAMPTON

Verified Complaint

Plaintiff,

-against-

435 EAST LAKE DR, LLC.;
435 OPERATION MTK LLC.;
R & J EAST LAKE PROPERTIES, LLC;
PETER F. CASTELLANA III; PETER FERRANDINO;
JEREMY MORTON, et al.

Defendants.

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Plaintiff, Town of East Hampton, by its attorney, Jacob Turner, Town Attorney, complaining of
DEFENDANTS alleges as follows:

1. In this Verified Complaint, the Town of East Hampton is seeking relief against Defendants, pursuant to Town Law § 268, Chapter 255 of the Code of the Town of East Hampton, and the equitable powers of this court to restrain, prevent, and abate ongoing violations of the Town Code and unauthorized land use activities occurring at the premises located at 435 East Lake Drive, Montauk, New York (the "Premises" or the "Property").
2. Defendants have engaged in an unlawful expansion and intensification of a restaurant use at the Premises by operating in a manner inconsistent with the approvals granted by the Town, constructing and maintaining improvements without required approvals, and continuing such activities despite multiple Notices of Violation issued by the Town.

3. Defendants' conduct, among other things, includes:

- . Operating a restaurant use beyond the scope and intensity authorized by the Planning Board;
- . Maintaining seating and outdoor dining areas not authorized by approved plan;
- . Constructing and utilizing an outdoor bar without required approvals;
- . Installing and utilizing storage containers without required approvals;
- . Performing construction and site alterations without required permits;
- . Operating without required Certificates of Occupancy; and
- . Failing to obtain required Architectural Review Board approval.

4. Additionally, the violations are particularly significant because the Premises is located in close proximity to Lake Montauk, a sensitive water resource within the Town, and Defendants have increased the intensity of the restaurant operations beyond the capacity evaluated and approved through the prior site plan review process.

5. Defendants' continued operation of the Premises in violation of the Town Code and approved site plan constitutes a continuing violation requiring judicial intervention

THE PARTIES

6. At all times relevant hereto, the Plaintiff TOWN OF EAST HAMPTON (hereinafter referred to as, "the Town") is a municipal corporation duly organized under the laws of the State of New York, having its principal place of business at 159 Pantigo Road, Town of East Hampton, County of Suffolk, and State of New York.

7. Upon information and belief, and at all times relevant hereto, Defendant 435 EAST LAKE DR. LLC. is the owner of the Premises located at 435 East Lake Drive, Montauk, New York.
8. Upon information and belief, and at all times relevant hereto, the Defendants 435 EAST LAKE DR. LLC and 435 OPERATIONS MTK LLC. hold itself out as the owners and/or operators of restaurant (also known as "Barlume Beach") located at the Premises and are responsible for the day-to-day operation and use of the property.
9. Upon information and belief, and at all times relevant hereto, the Defendant R&J EAST LAKE PROPERTIES, LLC., is the owner and applicant which obtained site plan approval in 2006 from the Town of East Hampton Town Planning Board of the subject premises subject to certain conditions and limitations, including limitations on the scope and intensity of the approved use ("2006 site plan approval"). Defendant is bound by the terms and conditions contained therein.
10. Upon information and belief, Defendants PETER F. CASTELLANA III and PETER FERRANDINO are applicants for building permits related to the Premises and are believed to be owners of the Premises and Principals of the operation at 435 East Lake Drive.
11. Upon information and belief, JEREMY SHERIDAN, is an applicant for planning board approvals and is listed as an owner of the Premises.
12. Each Defendant has an ownership, operational, possessory, and/or other interest in the Premises and is a necessary party to the relief requested herein.

JURISDICTION AND VENUE

13. This Court has jurisdiction pursuant to CPLR § 301 and the equitable powers of this Court.
14. Venue is proper in Suffolk County pursuant to CPLR Article 5 because the real property that is the subject of this action is located within Suffolk County.

AUTHORIZATION TO COMMENCE ACTION

15. The East Hampton Town Board duly adopted a resolution at a meeting on June 16, 2026, authorizing the East Hampton Town Attorney's Office to initiate, prosecute and resolve the instant action against appropriate parties regarding the use and occupancy of the premises commonly known as 435 East Lake Drive, in the unincorporated hamlet of Montauk, Town of East Hampton, County of Suffolk, state of New York, and more particularly described as SCTM #300-6-2-16.

16. Subsection 2 of Section 268 of the New York State Town Law states in part:

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this article or of any local law, ordinance or other regulation made under authority conferred thereby, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

FACTS

Prior Site Plan Approval and Approved Restaurant Capacity

17. The Premises has historically operated as a restaurant subject to site plan approval by the Town of East Hampton Planning Board.
18. Upon information and belief and at all times relevant hereto, Defendants operated their business under a site plan duly approved by the East Hampton Town Planning Board on August 9th, 2006 and filed with the Clerk on August 10, 2006 (hereinafter 2006 Site Plan Approval), attached hereto and incorporated herein as **Exhibit 1**.
19. The 2006 Site Plan Approval allowed for the property owner to “extend the existing bulkhead and walkway 37 feet to the north, to construct a 900 square foot awning and a gravel patio associated with outdoor dining for an existing restaurant,” allowing for a combined indoor and outdoor seating of 75 seats.
20. The Planning Board approval authorized a restaurant use subject to certain conditions and limitations, including limitations regarding the approved site layout, improvements and intensity of use.
21. The 2006 site plan approval contemplated continuation of a restaurant use consistent with the approved seating capacity and existing sanitary flow assumptions.
22. As part of the Planning Board’s 2006 site plan review, Defendant R & J East Lake Properties, LLC., represented and the approved plans reflected that the number of restaurant seats would not increase above the 75 seats approved by the Suffolk County Department of Health Services (“SCDHS”).

23. SCDHS records for the Premises reflect approval for a 75-seat restaurant.
24. As part of the 2006 site plan review process, no changes in capacity were proposed that would increase the applicant's sanitary flow.
25. The Town does not regulate or administer SCDHS approvals, nor does the Town seek to enforce SCDHS requirements through this action.
26. However, the approved seating capacity and related sanitary flow assumptions were material considerations in evaluating the scope and intensity of the restaurant use approved by the Town.
27. The East Hampton Town Planning Board acknowledged, as part of its 2006 site plan review, that since "the number of seats will not be increase [sic] above the 75 currently approved by the Suffolk County Department of Health Services (SCDHS) and *no changes in capacity are proposed that increase the applicant's sanitary flow*, that agency has indicated that it will not require an upgrade of the system."
28. Though Suffolk County Department of Health Services did not require the updated septic system, the Town Planning Board expressed concerns over the adequacy of the septic throughout the 2006 site plan review.
29. Upon information and belief, the existing septic system is located less than 40' from the surface waters of Lake Montauk, where current regulations would require a 200' setback.
30. The Planning Board's approval did not authorize an increase in restaurant capacity beyond the approved use.

Unauthorized Expansion of Use

31. Upon information and belief, on or about May 26, 2023, a fire destroyed the structure on the subject premises, leaving only the foundation of the building.

32. On January 3, 2025, Defendants 435 EAST LAKE DR., LLC., PETER F. CASTELLANA III, and PETER FERRANDINO, submitted plans to rebuild the structures on the property “in place and kind,” including the extended bulkhead and walkway and 900 foot gravel patio” a restaurant, and bar.
33. Defendants were authorized to reconstruct the restaurant substantially “in place and in kind,” as evidenced by the Building Permit (Permit No. 76964) annexed hereto and incorporated herein as **Exhibit 2**.
34. Despite the application for an in place and kind building permit, Defendants were not granted any additional site plan approvals or expansions of use.
35. Pursuant to East Hampton Town Code 255-6-30(B)(2), site plan approval is required when:
- “Any change from one category of permitted or special permit use listed in the Use Tables of § 255-11-10 to another listed category of permitted use, if such change in use increases site parking requirements or requires approval of the wastewater disposal system by the Suffolk County Department of Health Services.”
36. Upon information and belief, DEFENDANTS 435 EAST LAKE DR., LLC and JEREMY MORTON submitted a site plan application to the Town Planning Board on August 15, 2025.
37. The application was reviewed at Planning Board work session and comments from the Board were issued, in response to which the applicant submitted a second submission for review.

38. During the Planning Department's review of the second submission of the application, it was identified that the application materials did not accurately depict the existing site conditions at the Premises or the scope and intensity of the current operations occurring on the Premises as observed by the Building Department and as advertised on the location's website.
39. By correspondence dated July 7, 2026, the Planning Department requested additional information requesting that the applicant clarify the intended scope of site plan approval and operations and requested additional information necessary to conduct a meaningful review of the application. **Exhibit 7.**
40. As of the commencement of this action, Defendant has not provided the requested information. Accordingly, the Planning Department has been unable to complete its review of the application, and no referral has been made to the Planning Board and no approval has been granted authorizing the existing operations.
41. The filing of an incomplete application, which is inconsistent with current operations, does not authorize ongoing violations of the Town Code or excuse compliance with existing approvals.

Violations

42. On June 10th, 2026, the Defendants were observed, by Building Inspector Dawn Green, serving 412 outdoor seats and 96 indoor seats for a total of 508 seats, nearly five times the permitted seating granted under the 2006 site plan.
43. On June 11th, 2026, East Hampton Town Code Enforcement Officer, Janer Salazar, observed and cited Defendants for having built an outdoor bar on the rear of the property

without a site plan to the East Hampton Town Planning Department for review and approval.

44. On June 11th, 2026, upon reinspection, the Building Inspector observed a total of 483 seats.
45. Such use was and remains to be in violation of East Hampton Town Code Section 255-6-100(A) – Failure to Obtain Site Plan Approval.
46. Photos taken by the Building Department are attached hereto as **Exhibit 3**.
47. On June 11th, 12th, 14th and 21st, 2026, East Hampton Town Code Enforcement Officers observed and cited Defendants for multiple violations of the Town Code including violations of §102-7 (A)(1)- Failure to Obtain Building Permit; § 255-6-100 (A)- Failure to Obtain Site Plan Approval; § 255-7-30 (B)- Failure to Obtain Architectural Review Board Approval; and § 102-14(A)- No Certificate of Occupancy.
48. The Defendants use of the Premises was and continues to be in violation of the above referenced Code Sections.
49. On June 11, 2026, East Hampton Town Fire Marshal, Alexander Errico, observed and cited Defendants for numerous violations of the Town Code for having erected a 30' x 40' tent used for outdoor seating without proper permits or site plan approvals granted from the East Hampton Town Fire Marshal and Planning Department.
50. Notices of Violation were issued for failure to comply with Town Code § 141-11; Town Code § 102-14(B); and other applicable provisions of the Town Code. Attached hereto and incorporated herein as **Exhibit 5**.

51. On June 12, 2026, East Hampton Town Fire Marshal, Fritz Riege, observed and again cited Defendants for having erected a tent without proper permits or site plan approvals granted by the Town.
52. Such use was in violation of the East Hampton Town Code Sections, 255-6-100(A) and 141-9(19), 141-9AD (21) and 141-11(Fire Code).
53. Through Defendants increase in seating from 75 to an excess of 400 people, the restaurant directly created a condition which caused greater parking and septic requirements.
54. By erecting and using an additional, unapproved outside bar, storage containers, office space, walk in coolers, and tents, Defendants created a use which inherently exceeds the approved use of the property and unlawfully exceeds their current site plan.
55. Defendants have continued operating/allowing operations despite multiple Notices of Violations.
56. Defendants have not remedied existing violations.
57. The existing parking and wastewater facilities were not approved for the present intensity of use.
58. Defendants have never obtained amended site plan approval authorizing these changes.

Public Health, Safety and Environmental Concerns

59. The Premises is located in close proximity to Lake Montauk, a water body resource within the Town of East Hampton.
60. Upon information from the Suffolk County Department of Health Services, the current approved septic is for a 75 seat restaurant.

61. The Town recognizes that regulation of sanitary systems and sanitary flow approvals fall within the jurisdiction of SCDHS.
62. Notwithstanding, the substantial increase in seating beyond the 75-seat restaurant operation raises legitimate concerns regarding impacts associated with increased wastewater generation and surrounding land uses.
63. The Planning Board did not review or approve an increase from the approved 75 seat use.
64. As a result, the Town has not had the opportunity to evaluate the impacts associated with the current intensity of use through the site plan review process required by Chapter 255.
65. The unauthorized expansion of use has deprived the Town of its ability to review and address potential impacts to public health, safety, welfare and environmental resources before the expanded operation.
66. Such intensification of use places an extraordinary burden on the existing septic system.
67. The proximity of the Septic System to Lake Montauk presents significant environmental concerns.

Violations Continue to Exist

68. Various Town officials inspected the Premises on June 10, 2026, June 11, 2026, June 12, 2026, June 14, 2026, and June 21, 2026.
69. During those inspections, officials observed continuing violations of the Town Code and issued numerous Notices of Violation.
70. Despite the issuance of Notices of Violation, Defendants have continued operating the Premises in a manner inconsistent with land use approvals.

71. The violations are ongoing and continue each day the Defendants maintain the unauthorized uses and improvements.

ASAND FOR THE FIRST CAUSE OF ACTION – VIOLATION OF CHAPTER 255

72. The TOWN repeats and reiterates the allegations and information contained in Paragraphs "1" to "71" inclusive, as if set forth more fully herein below.
73. Chapter 255 regulates land uses, site plan approvals and compliance with approvals issued by Town agencies.
74. The Defendants have violated Chapter 255 of the East Hampton Town Code by operating contrary to the approved site plan and constructing improvements requiring Planning Board approval without such requisite approvals.

AS AND FOR A SECOND CAUSE OF ACTION- VIOLATION OF PLANNING

BOARD SITE PLAN APPROVAL

75. The TOWN repeats and reiterates the allegations and information contained in Paragraphs "1" to "71" inclusive, as if set forth more fully herein below.
76. The approved site plan limited and conditioned the restaurant operation.
77. Defendants have exceeded those limitations and conditions by operating at a substantially intensified use without Planning Board approval.
78. Defendants' conduct constitutes an ongoing violation of the conditions of the approved site plan.
79. Defendants are operating in violation of the conditions and limitations of the Planning Board's approval.

AS AND FOR A THIRD CAUSE OF ACTION- INJUNCTIVE RELIEF PURSUANT TO
TOWN LAW §268

80. The TOWN repeats and reiterates the allegations and information contained in Paragraphs "1" to "71" inclusive, as if set forth more fully herein below.
81. Pursuant to town Law § 268, Plaintiff is authorized to institute an action to prevent, restrain, correct, or abate violations of the Town Code.
82. The imposition of monetary penalties have not secured compliance with Town Code or current approvals of Town Boards and Departments.
83. Unless restrained, Defendants will continue violating the Town Code.
84. The TOWN has no adequate remedy at law.
85. The TOWN is entitled to a permanent injunction pursuant to Town Law 268.
86. The TOWN respectfully requests this Court to permanently enjoin the unlawful conduct.

RELIEF

87. Plaintiff Town of East Hampton respectfully demands judgment against the Defendants are follows:
- A. Pursuant to Town Law § 268, CPLR Article 63, and Chapter 255 of the East Hampton Town Code, preliminarily and permanently enjoining Defendants, their agents, servants, employees, invitees, members, tenants, lessees, representatives, guests and all other persons acting on their behalf, or in concert with the Defendants from violating Chapter 255 of the Code of the Town of East Hampton and from maintaining or operating the subject premises in a manner inconsistent with the last lawfully approved Planning Board site plan and all conditions of approval applicable thereto;

B. Directing Defendants to immediately cease the use of the unapproved outdoor bar, the approximately 30 foot by 40 foot tent, the storage containers, and any other structures or site improvements constructed or utilized without the approvals required by the Code, until such approvals have been lawfully obtained;

C. Directing Defendants to immediately cease operating with a seating capacity in excess of that authorized by the last valid Planning Board approval and to discontinue use of all unauthorized seating areas pending receipt of all required approvals from the Town of East Hampton;

D. Directing the Defendants to restore the premises to the last lawfully approved configuration and use, including the removal or discontinuance of any unapproved structures, improvements, or uses erected, installed, or commenced without the approvals required by law;

E. Enjoining Defendants from undertaking any further construction, site alteration, expansion, or intensification of the use of the premises without first obtaining all approvals, permits and authorizations required by the Town Code and all other applicable laws and regulations;

F. Awarding the Town all civil penalties, fines, costs and other relief authorized by Town Code and any other applicable law;

G. Awarding Plaintiff the costs and disbursements of this action; and

H. Granting such other and further relief as the Court deems just, proper, and equitable.

Dated: East Hampton, New York
July 28, 2026

Yours, etc.

Jacob Turner, Town Attorney
Town of East Hampton
Attorney for Plaintiff

By 
Brittany Tolendano, Deputy Town Attorney
Town of East Hampton
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