

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

ELISE MCKENNA,

Petitioner-Plaintiff,

Index No.: 613737/2026

-against-

TOWN OF EAST HAMPTON AND TOWN BOARD
OF THE TOWN OF EAST HAMPTON ,

Respondents-Defendants.

**MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S REQUEST FOR A
TEMPORARY RESTRAINING ORDER**

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TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

STATEMENT OF FACTS 1

 A. The Peconic Bay Region’s Affordable Housing Crisis and the Community Housing Fund 1

 B. The Voter Mandate 2

 C. The Resolution and the Public Hearing 3

I. THE STANDARD FOR A TEMPORARY RESTRAINING ORDER IS NOT MET 3

 A. PETITIONER CANNOT DEMONSTRATE LIKELIHOOD OF SUCCESS ON THE MERITS 3

 1. Town Law Section 64-k Expressly Authorizes Land Acquisition for the Production of Community Housing 3

 2. Requiring Full SEQRA Review Before CHF Land Acquisition Would Effectively Gut Town Law 64-K 4

 3. The Town’s SEQRA Determination Was Lawful; There Is No Improper Segmentation 5

 a) The Controlling Case Law Supports the Town 5

 b) The Absence of a Defined Project Defeats the Segmentation Claim 7

 c) Any Future Development Will Receive Complete SEQRA Review 8

 d) The Town of Southampton Has Already Done Exactly What the Town Proposes Here 8

 4. The Town’s Actions Are Not Arbitrary and Capricious 10

 5. The Acquisition Is Consistent with the Town’s Adopted Housing Plan 11

 6. Petitioner Failed to Name the Seller as a Necessary Party 12

 B. PETITIONER CANNOT DEMONSTRATE IRREPARABLE HARM 13

 C. THE BALANCE OF EQUITIES OVERWHELMINGLY FAVORS THE TOWN AND THE PUBLIC 13

II. THE REQUESTED RELIEF IS NOT RIPE AS THE TRO APPLICATION IS PREMATURE 14

III. ANY INJUNCTIVE RELIEF REQUIRES A SUBSTANTIAL UNDERTAKING 15

CONCLUSION 15

TABLE OF AUTHORITIES

<u>Cases:</u>	<u>Page:</u>
<i>Andryeyeva v New York Health Care, Inc.</i> , 33 NY3d 152 (2019)	4
<i>Chinese Staff & Workers Ass'n v. City of New York</i> , 68 N.Y.2d 359 (1986)	8
<i>City of New York v. Long Island Airports Limousine Service Corp.</i> , 48 N.Y.2d 469 (1979)	13
<i>Court Street Development Project, LLC v. Utica Urban Renewal Agency</i> , 188 A.D.3d 1601 (4th Dep't 2020)	5, 6, 7, 8
<i>Defreestville Area Neighborhoods Ass'n, Inc. v. Town Bd. of Town of North Greenbush</i> , 299 A.D.2d 631 (3d Dep't 2002)	7
<i>Doe v. Axelrod</i> , 73 N.Y.2d 748 (1998)	3
<i>EdCia Corp. v. McCormack</i> , 44 A.D.3d 991 (2d Dep't 2007)	13
<i>Golden v Steam Heat, Inc.</i> , 216 AD2d 440 (2d Dept 1995)	13
<i>J. Owens Building Co. v. Town of Clarkstown</i> , 128 A.D.3d 1067 (2d Dep't 2015)	7
<i>Kurcsics v. Merchants Mut. Ins. Co.</i> , 49 N.Y.2d 451 (1980)	8
<i>Matter of Jackson v. New York State Urban Dev. Corp.</i> , 67 N.Y.2d 400 (1986)	8
<i>Matter of Raritan Dev. Corp. v. Silva</i> , 91 N.Y.2d 98 (1997)	4
<i>Matter of Residents for More Beautiful Port Washington v. Town of N. Hempstead</i> , 149 A.D.2d 266 (2d Dep't 1989)	6, 10
<i>Matter of Riverkeeper, Inc. v. Planning Bd. of Town of Southeast</i> , 9 N.Y.3d 219 (2007)	8

PSC, LLC v. City of Albany Indus. Dev. Agency,
 200 A.D.3d 1282 (3d Dep’t 2021)5, 8

Statutes & Regulations

6 N.Y.C.R.R. 617.3(g)8

CPLR 1001.....12

CPLR 6312(b).....15

Town Law Section 64-k..... *passim*

PRELIMINARY STATEMENT

Petitioner Elise McKenna, a neighbor adjacent to a parcel the Town of East Hampton seeks to acquire for community housing, asks this Court to halt, immediately and without a full hearing, the expenditure of nearly \$4 million in democratically-approved public funds dedicated by a landslide vote to address one of the most severe affordable housing crises in New York State. The application should be denied.

This case involves a unique opportunity: 13.5 acres in Wainscott at a purchase price of approximately \$3,975,000, a parcel that is extraordinary in size, availability, and price in one of the most expensive real estate markets in the nation. The Community Housing Fund was created by the Legislature and approved by voters precisely to empower towns to move quickly when such opportunities arise, before the land permanently disappears from the market. As of 2023, 617 affordable housing units exist in a Town with 21,655 total housing units. Properties like this one are not replaced. If the TRO issues and the seller walks away, that opportunity is gone permanently. The balance between one adjacent landowner's speculative concern about future development and the housing needs of thousands of East Hampton residents and workers could not be more lopsided.

Petitioner misstates the statute, misapplies the SEQRA segmentation doctrine, fails to name a necessary party, and cannot satisfy any prong of the preliminary injunction standard. The application should be denied.

STATEMENT OF FACTS

A. The Peconic Bay Region's Affordable Housing Crisis and the Community Housing Fund

The [Bill Jacket](#) accompanying Town Law Section 64-k states that "the Peconic Bay region is experiencing one of the most severe affordable housing shortages in the state" and that "[i]t is the public purpose of this legislation to give the towns of the Peconic Bay region the authority and

resources needed to establish a dedicated fund to provide needed housing opportunities.” *Id.* The statute passed with overwhelming bipartisan support, including from Long Island Republican Assembly Members Durso, Giglio, Gandolfo, and DeStefano. *Id.* The Community Housing Fund (“Fund”) maintained by each town in the Peconic Bay Region, including the Town of East Hampton, was designed to enable towns to act with urgency when land becomes available. A framework requiring full development planning and SEQRA analysis as a precondition to every land purchase would make the fund incapable of achieving its purpose.

The severity of the crisis is concrete. According to the Town’s adopted [Community Housing Fund Plan](#), only 617 registered affordable housing units exist in East Hampton out of a total housing stock of 21,655 units, less than 3% of the total. [Community Housing Fund Plan](#) at 2. The Property at 549 and 550 Wainscott Northwest Road represents a rare opportunity in a market where land of this character, size, and price is effectively unobtainable. That opportunity will not recur.

B. The Voter Mandate

East Hampton voters approved the Community Housing Fund by a margin of 68.53% to 31.47%.¹ The Town’s official voter guide told voters: “How will the money be spent? The fund can be used to buy land”² Similarly, the Town’s adopted Community Housing Fund Plan states that the fund may be used to “buy land or buildings to provide affordable housing.”³ Petitioner’s claim that the Fund cannot be used for land acquisition directly contradicts what voters were told and approved and also, as discussed below, the plain text of the statute.

1 <https://apps2.suffolkcountyny.gov/boe/eleres/22ge/default.htm>

2 <https://www.ehamptonny.gov/DocumentCenter/View/13626/East-Hampton-Town-Community-Housing-Opportunity--Fund-Voters-Guide-1>

3 <https://www.ehamptonny.gov/DocumentCenter/View/16515/Community-Housing-Fund-Plan-January-19-2023?bidId=>, p. 2.

C. The Resolution and the Public Hearing

On May 7, 2026, the Town Board held a public hearing on the potential acquisition of 13.5 acres at 549 and 550 Wainscott Northwest Road for approximately \$3,975,000 using Community Housing Fund proceeds. Several commenters were in favor of the acquisition. The Resolution identified by Petitioner comprehensively discusses SEQRA, acknowledges the relationship between the acquisition and any future development, states that segmented review is appropriate and no less protective of the environment, and commits to full SEQRA review before any development is authorized. Notably, The Town Board has not adopted a resolution authorizing the closing, which even if authorized, is still weeks away as it is still subject to survey review.

ARGUMENT

I. THE STANDARD FOR A TEMPORARY RESTRAINING ORDER IS NOT MET

To obtain a TRO or preliminary injunction under CPLR 6301, a movant must demonstrate by clear and convincing evidence: (1) likelihood of success on the merits; (2) irreparable harm absent the injunction; and (3) a balance of equities in the movant's favor. *Doe v. Axelrod*, 73 N.Y.2d 748, 750 (1988). Petitioner fails all three prongs.

A. PETITIONER CANNOT DEMONSTRATE LIKELIHOOD OF SUCCESS ON THE MERITS

1. Town Law Section 64-k Expressly Authorizes Land Acquisition for the Production of Community Housing

Petitioner's ultra vires argument rests on a fundamental misreading of the statute that ignores its primary operative provision. Town Law Section 64-k(3) authorizes Fund proceeds for seven purposes. The first listed purpose, subsection (b), is "the actual production of community housing for sale to eligible individuals by the town." The production of community housing on vacant land is precisely what Section 64-k(3)(b) authorizes.

Town Law Section 64-k(5), the eligible expenses provision, expressly states that eligible

expenses “relating to the production of community housing . . . shall include but not be limited to **land acquisition . . .**” *Id.* (emphasis added). The Legislature explicitly enumerated land acquisition as the *first* eligible expense in furtherance of housing production. This language is unambiguous.

Petitioner argues that Section 64-k(3)(f), which permits “acquisition of interests in real property in existing housing units,” is the exclusive land acquisition authority. This argument inverts the statute’s structure. Section 64-k(3)(f) addresses a specific and different strategy: acquiring interests in already-built housing units to convert them into affordable units. It neither limits nor displaces Section 64-k(3)(b). Petitioner’s reading would render Section 64-k(5)’s explicit reference to “land acquisition” meaningless, a result courts must avoid. *See Andryeyeva v. New York Health Care, Inc.*, 33 NY3d 152, 176 (2019) (citations omitted) (“words must be harmonized and read together to avoid surplusage”).

The legislative history confirms this reading. The Bill Jacket identifies the law’s purpose as giving towns “the authority and resources needed to establish a dedicated fund to provide needed housing opportunities” to address the affordable housing “crisis” in the Peconic Bay region. *See Matter of Raritan Dev. Corp. v. Silva*, 91 N.Y.2d 98, 106-107 (1997) (courts should attempt to “effectuate the intent of the Legislature”). Petitioner’s interpretation of the statute not only runs against the plain text, it would result in a narrow application of the statute that would inappropriately limit its reach to address the “severe” crisis.

2. Requiring Full SEQRA Review Before CHF Land Acquisition Would Effectively Gut Town Law 64-K

Petitioner’s position, taken to its logical conclusion, would require every Peconic Bay town to complete development planning and SEQRA analysis for a specific housing project before it could purchase a single acre of land with 64-K funds. That sequence is the reverse of how housing

development actually works and how real estate markets operate. The property at issue is available now, at a price that, for 13.5 acres in Wainscott, is extraordinary. The seller is not obligated to, and will not, wait for the Town to conduct an environmental impact statement (which itself could take years), select a developer and design a project. Properties of this character, size, and price do not come to market again at this price.

The practical reality is that concrete development plans are rarely established in advance of purchasing property. Lenders do not commit, architects do not design, and developers do not plan for parcels that may never be acquired. To require municipalities to complete development planning and SEQRA review before purchasing land would transform the Community Housing Fund from a tool for urgent action into a meaningless statute detailing a process that can never move quickly enough to compete in the Peconic Bay real estate market. The Legislature enacted a fund designed for exactly these circumstances: a rare parcel, available now, at an extraordinary price. Petitioner's interpretation would eliminate that capacity entirely. The Supervisor's statement at the public hearing referenced in the Petition at paragraph 32 recognized this reality: the Town plans to acquire the property because it is available for a short window now and determine how to develop it thereafter.

3. The Town's SEQRA Determination Was Lawful; There Is No Improper Segmentation

a) The Controlling Case Law Supports the Town

The Resolution cites *PSC, LLC v. City of Albany Indus. Dev. Agency*, 200 A.D.3d 1282 (3d Dep't 2021), and *Court Street Development Project, LLC v. Utica Urban Renewal Agency*, 188 A.D.3d 1601 (4th Dep't 2020), both of which squarely support segmented SEQRA review for acquisitions where no specific development plan has been defined.

In *PSC*, 200 A.D.3d 1282, the court considered the exact situation presented here: the

agency sought to acquire the property but did not have concrete development plans and sought to segment SEQRA such that the environmental review associated with development would occur later when the development plans were created. The Appellate Division agreed with that approach holding, as follows:

the Agency's SEQRA resolution determined that this project, consisting solely of the acquisition of the properties, was an "unlisted" action and that it would "not have a significant adverse impact on the environment." The Agency evaluated whether this would constitute impermissible segmentation and determined that it would not, because the redevelopment project was too "speculative and hypothetical" at this point as it depended on "future steps and proposals that have yet to be developed." The Agency noted that, once a final project was approved, a complete SEQRA review would be completed at that time. The Agency further reviewed the criteria for determining significance set forth in 6 NYCRR 617.7 (c) and found that the acquisition will not have a significant adverse impact on the environment. Regarding the historical resources of the area, the Agency noted that those existed in the area and preservation of these would need to be considered as part of any future development plans, but that there would be no negative effects at this time caused by the acquisition. Thus, although the review was segmented, it was properly segmented in this circumstance because it was not done to circumvent review under SEQRA but to allow for a complete review later.

Id. at 1289.

Similarly, in *Court Street Development*, 188 A.D.3d 1601, the Appellate Division held that respondent properly segmented SEQRA by considering "only the impact of the condemnation of petitioner's property without considering the impact of future unknown aspects of the rehabilitation or reuse project." *Id.* at 1603. The court reasoned, "no specific future use had been identified prior to the acquisition of petitioner's property, and thus respondent was not required to consider the environmental impact of anything beyond the acquisition." *Id.*

Finally, in *Matter of Residents for More Beautiful Port Washington v. Town of N. Hempstead*, 149 A.D.2d 266, 275 (2d Dep't 1989), also cited in the Resolution, the Appellate

Division held that SEQRA review of a related future action is not required until a specific project is actually proposed with sufficient definition to permit meaningful environmental review. The court specifically held, “an environmental impact statement is not required until a specific project is actually proposed. To the extent that no specific plan for the remaining 400 acres of the Morewood Property has been formulated, no environmental impact statement is required.” *Id. at* 275.

Each of these cases is controlling and on point. This precedent is fatal to Petitioner’s segmentation claim.

b) The Absence of a Defined Project Defeats the Segmentation Claim

The SEQRA anti-segmentation rule prohibits breaking a single action into artificial segments to evade review of the whole. It does not require merging every land acquisition with an undefined hypothetical future development. As the Fourth Department held in *Court Street Development*, segmentation cannot occur in the absence of a plan for subsequent development. Here, no site plan, subdivision application, unit count, building typology, or infrastructure configuration has been proposed or approved.

Petitioner relies on *Defreestville Area Neighborhoods Ass’n, Inc. v. Town Bd. of Town of North Greenbush*, 299 A.D.2d 631 (3d Dep’t 2002), and *J. Owens Building Co. v. Town of Clarkstown*, 128 A.D.3d 1067 (2d Dep’t 2015). Both are distinguishable. In *Defreestville*, the rezoning was made in specific contemplation of a large retail facility. In *J. Owens*, the acquisition was for a drainage plan expressly identified as a “key component” of a named, defined revitalization project with specific parameters. Indeed, dicta in *J. Owens* supports the Town’s position as the court stated: “[i]f, at this stage, the larger project is merely speculative or hypothetical, then the Town’s separate consideration of the drainage plan would not constitute

impermissible segmentation.” *Id.* at 1069.

Further, Petitioner’s reliance on *Matter of Riverkeeper, Inc. v. Planning Bd. of Town of Southeast*, 9 N.Y.3d 219 (2007), *Chinese Staff & Workers Ass’n v. City of New York*, 68 N.Y.2d 359 (1986), *Matter of Jackson v. New York State Urban Dev. Corp.*, 67 N.Y.2d 400 (1986), is misplaced. Each of these cases is inapposite because each did not involve undefined development projects. Instead, they each stand for the proposition that where a specific future project is defined, an agency is required to engage in a SEQRA review. While those cases cited by Petitioner have no bearing on the issue at hand, *PSC* and *Court Street* discussed *supra*, decided after each of these cases, confirm that segmented SEQRA review is proper where no specific development project has been defined.

c) Any Future Development Will Receive Complete SEQRA Review

The Resolution expressly provides that any future development will be subject to independent and full SEQRA review no less protective than would have resulted from unified review. This satisfies 6 NYCRR Section 617.3(g). *See PSC*, 200 A.D.3d 1282; *Court Street Development*, 188 A.D.3d 1601. The environmental resources identified in the EAF, including the Northern Long-Eared Bat habitat, groundwater recharge overlay, and archaeological resources, will be fully analyzed at the development stage. These resources are not threatened by a transfer of title that causes no physical disturbance whatsoever.

d) The Town of Southampton Has Already Done Exactly What the Town Proposes Here

The identical practice of a neighboring Peconic Bay town operating under the same statute is strong evidence of the statute’s proper interpretation and of how the Legislature intended it to function. Courts appropriately consider contemporaneous administrative interpretation in resolving statutory questions. *Kurcsics v. Merchants Mut. Ins. Co.*, 49 N.Y.2d 451, 459 (1980).

The Town of Southampton's interpretation and practice under Town Law Section 64-k and SEQRA, using the same funding mechanism and process, fully supports the Town's reading.

On January 23, 2024, the Southampton Town Board adopted Resolution RES-2024-145 by a unanimous 5-0 vote, authorizing the purchase of approximately 3.8 acres of undeveloped land at 99 Montauk Highway, Water Mill, from the Euell Family Trust for \$4,300,000, funded entirely from the Peconic Bay Region Community Housing Fund, for the express purpose of "producing community housing through the Community Housing Fund."⁴ The property contained no existing housing units. There was no site plan, no unit count, no density determination, no building typology, and no defined development project at the time of the vote. Southampton's own resolution acknowledged that "in order to develop community housing, the Property will require that the procedures listed in Town Code Sec. 330-185 for a Change of Zone be followed including a separate public hearing to be held by the Town Board."⁵ Future zoning, regulatory proceedings, and environmental review were expressly left to a later date. No SEQRA analysis of any development was conducted before the acquisition.

Nine months later, on October 22, 2024, the Southampton Town Board adopted Resolution RES-2024-1194, also unanimously, authorizing the assignment of the contract of sale to the Southampton Housing Authority for development.⁶ The October 2024 resolution again acknowledged that a Change of Zone and separate public hearing "may be required" before development could proceed.⁷ A specific development plan, defined unit count, or completed environmental analysis still did not exist nine months after the acquisition resolution.

⁴ <https://southamptonny.iqm2.com/Citizens/FileOpen.aspx?Type=12&ID=8720&Inline=True>, p. 143-44

⁵ *Id.*

⁶ <https://southamptonny.iqm2.com/Citizens/FileOpen.aspx?Type=12&ID=8876&Inline=True>, pp. 15-17.

⁷ *Id.*

Southampton's course of conduct confirms that the statute means what it says: towns may acquire land for community housing now, with planning, zoning, and environmental review to follow when a specific development proposal is advanced. This is not an administrative overreach or a departure from the statute. It is the statute operating as designed. The Legislature created a fund intended to permit nimble acquisition when properties become available. Southampton's consistent and uncontested practice under that fund confirms the Town's reading is correct. If Petitioner's interpretation were right, Southampton's acquisition would have been equally unauthorized. It was not. The statute authorizes what Southampton has already done and what the Town proposes to do.

4. The Town's Actions Are Not Arbitrary and Capricious

Petitioner frames the Resolution as internally contradictory. It is not. The Town identified the general purpose of the acquisition, community housing, without committing to a specific project. That distinction is precisely what *Residents for More Beautiful Port Washington*, 149 A.D.2d at 275, authorizes. The "directly related" standard under Section 64-k(5) is expressly satisfied by acquiring land for an affordable housing purpose. The SEQRA segmentation doctrine asks whether a specific project is sufficiently defined to require combined review. These are different legal inquiries operating at different points in the planning process.

The apparent tension Petitioner identifies is not a contradiction. It is a feature of how the Legislature structured the statute. Section 64-k(5) requires only that a land acquisition be "directly related to the production of community housing." That standard is satisfied by purpose, not by plan. The Town has identified its purpose: community housing. That is all the statute requires at the acquisition stage. SEQRA's anti-segmentation doctrine, by contrast, asks a different question: is a specific project sufficiently defined to permit meaningful environmental analysis? Those two

standards measure different things at different points in the process. A general housing purpose satisfies the statutory “directly related” nexus without triggering SEQRA review of a project that does not yet exist in concrete form. This is not a logical contradiction; it is the statute and SEQRA operating in sequence as the Legislature intended. Petitioner’s argument would require towns to define a specific project before acquiring land, precisely the sequence that makes the Fund unworkable.

Petitioner argues that the Property is not located within the Town’s Affordable Housing Overlay District and that a special permit under Town Code §255-3-25 is required before the Property can be developed for affordable housing. This argument again fails for the same fundamental reason: it conflates development with acquisition. The Town is not seeking to develop the Property yet. It is seeking to acquire it. No special permit is required for the purchase of land; such permits are development approvals issued when a specific application is filed and reviewed. Moreover, if development is ultimately proposed, the special permit process provides exactly the public review and environmental scrutiny Petitioner claims is missing, making clear that Petitioner’s concerns are addressed by existing law, not by a TRO.

5. The Acquisition Is Consistent with the Town’s Adopted Housing Plan

Petitioner argues that Town Law §64-k(7) requires consistency with an adopted housing plan as a condition precedent to Fund expenditures, and that the Town’s Comprehensive Plan recommends preservation rather than housing development for vacant parcels in the Wainscott Priority Drinking Water Protection Area. This argument misreads both the statute and the Town’s planning documents.

Town Law §64-k(7) requires that the Town adopt a Community Housing Fund Plan before expending proceeds. The Town has done exactly that: it adopted a Community Housing Fund Plan,

which is the document referenced throughout this brief and which expressly authorizes the use of fund proceeds to buy land or buildings to provide affordable housing. Petitioner's argument conflates the Community Housing Fund Plan, which governs Fund expenditures, with the Town's broader Comprehensive Plan, which addresses land use policy generally. The condition precedent in §64-k(7) is satisfied by adoption of and consistency with the Community Housing Fund Plan, not with every recommendation in every Town planning document.

Petitioner's reliance on Comprehensive Plan recommendations about Wainscott is also misplaced. A Comprehensive Plan is a guiding policy document, not a binding regulatory instrument. Its recommendations do not override the Town Board's authority to exercise its judgment within statutory parameters, particularly when the Legislature has specifically authorized the acquisition of land for community housing through the Fund mechanism. Furthermore, Petitioner's argument that the Comprehensive Plan "recommends deletion of the existing Affordable Housing Overlay Districts in Wainscott" is a recommendation for future zoning action, not a prohibition on land acquisition. Recommendations for future study and zoning revisions do not vest in any party a right to prevent a specific land acquisition.

The Town's Community Housing Fund Plan, the operative document under §64-k(7), expressly supports this acquisition. The statutory condition precedent is satisfied.

6. Petitioner Failed to Name the Seller as a Necessary Party

The Order to Show Cause seeks to enjoin the Town from closing. The seller, the Estate of Eileen Chamberlain, is identified on the face of the Resolution as the contracting party. The Estate is a necessary party under CPLR 1001 whose interests are directly affected by the relief sought. An order enjoining the Town from proceeding directly impairs the Estate's rights without notice or an opportunity to be heard. The TRO should not be granted in the absence of this necessary

party, and the petition is defective for failure to join it. *City of New York v. Long Island Airports Limousine Service Corp.*, 48 N.Y.2d 469, 475-76 (1979).

B. PETITIONER CANNOT DEMONSTRATE IRREPARABLE HARM

Petitioner cannot demonstrate irreparable harm for two independent reasons. *First*, any harm from future development is not caused by the acquisition itself. The acquisition transfers title to the Property in its current undisturbed wooded condition. No physical alteration would be authorized by the Resolution. No trees will be cleared, no grading will occur, no wildlife will be disturbed. The environmental resources Petitioner identifies are not harmed by a transfer of title. They remain unchanged after closing. Petitioner's claimed injury is entirely contingent on a future development that has not been proposed, approved, or conceptualized in specific terms. Speculative, contingent harm does not constitute irreparable injury. *Golden v Steam Heat, Inc.*, 216 AD2d 440, 442 (2d Dept 1995) ("the irreparable harm must be shown by the moving party to be imminent, not remote or speculative"). Further, to the extent Petitioner complains that her property will be devalued, such "injury" can be compensable by money damages and does not constitute irreparable harm. *EdCia Corp. v. McCormack*, 44 A.D.3d 991, 993 (2d Dep't 2007).

Second, Petitioner will have a full opportunity to participate in SEQRA review when a specific development proposal is advanced. The Resolution expressly guarantees this. If she believes that review is inadequate, she retains all of her legal rights. The injunction would not protect Petitioner from future harm; it would merely delay the acquisition while those rights remain fully intact.

C. THE BALANCE OF EQUITIES OVERWHELMINGLY FAVORS THE TOWN AND THE PUBLIC

The equities favor denying the TRO. The harm to the Town and the public is immediate, concrete, and irreversible. The Property is under contract. If the TRO is granted and the Town

loses the opportunity to close, an irreplaceable 13.5-acre parcel at an exceptional price of approximately \$3,975,000 will be permanently lost. Land of this character and size in Wainscott is unlikely to come to market again at this price. East Hampton's residents and workers who cannot afford to live in the community where they work will bear that loss. The Legislature, which enacted this statute by a bipartisan supermajority; the East Hampton voters, who approved it by a landslide; and both the East Hampton Town Board and the Southampton Town Board, which acted unanimously to use the funds to acquire property, all have concluded that the process the Town proposes to implement here is exactly what the Community Housing Fund is for.

On the other side of the scale, Petitioner is one adjacent property owner whose claimed injury is speculative, contingent on a future development that has not been proposed, and fully addressable through future SEQRA review. One adjacent landowner's preference to preserve the wooded character of her view does not override that democratic consensus, and a court should not elevate her view over the public interest by issuing a TRO.

If the Town closes, the Town will undertake appropriate environmental review before any development, Petitioner suffers no harm from the acquisition itself. The harm she fears will be subject to full SEQRA review in which she may fully participate. The acquisition forecloses nothing for her.

II. THE REQUESTED RELIEF IS NOT RIPE AS THE TRO APPLICATION IS PREMATURE

The Town Board has not passed a resolution authorizing the closing. Such consideration is under advisement and will be considered at a future Town Board meeting. Accordingly, this request is not ripe.

Even if ripeness did not entirely preclude Petitioner's requested relief, emergency relief is not warranted because, in addition to Town Board authorization, closing is subject to title/survey

review, which is weeks from completion. The proper course for consideration of Petitioner's request is full briefing on notice with full development of the record, not emergency relief on the basis of one side's allegations.

III. ANY INJUNCTIVE RELIEF REQUIRES A SUBSTANTIAL UNDERTAKING

Should this Court grant any injunctive relief, Petitioner must immediately post an undertaking pursuant to CPLR 6312(b). If the TRO is granted and the Town permanently loses this property as a result, the Town's damages include the irreplaceable loss of a \$3,975,000 parcel and the corresponding public benefit it would have provided. The undertaking should be set at no less than the full purchase price of \$3,975,000 plus carrying costs.

CONCLUSION

This case involves an opportunity to acquire 13.5 acres for community housing at an exceptional price in one of the most constrained real estate markets in New York State. The Legislature created the Community Housing Fund to enable exactly this kind of timely, opportunistic acquisition. The voters approved it. The Town acted. The neighboring Town of Southampton used the statute the identical way, acquiring undeveloped land before a development plan existed, and no court has ever suggested it acted unlawfully. Petitioner's legal arguments do not withstand scrutiny; she failed to name a necessary party; her claimed harm is speculative and contingent; and the harm to the Town and the public from the TRO she seeks is immediate and irreversible.

For the foregoing reasons, Respondents respectfully request that this Court:

1. Deny Petitioner's application for a temporary restraining order in its entirety;
2. In the alternative, set an expedited briefing schedule on the preliminary injunction motion to be heard on full notice;

3. If any restraint is imposed, require Petitioner to post an undertaking of no less than \$3,975,000; and
4. Grant such other and further relief as the Court deems just and proper.

Dated: May 19, 2026
Melville, New York

Respectfully Submitted,

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CERTIFICATION OF COMPLIANCE

Undersigned counsel hereby certifies that this Memorandum of Law complies with the word count limitation pursuant to Rule 202.8-b(c) of the Uniform Civil Rules for the Supreme Court. According to the word processing system used by undersigned counsel, this document, excluding the sections as set forth by Rule 202.8-b(b) contains 4,496 words.

Dated: Melville, New York
May 19, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2026, the instant Memorandum of Law was served by
NYSCEF on all counsel of record in this action.

Dated: Melville, New York
May 19, 2026

By: /s/ Nicholas C. Rigano
Nicholas C. Rigano, Esq.