

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION SECOND JUDICIAL DEPARTMENT**

In the Matter of

OPERATION STOMP and TANYA LUKASIK, EUGENE
GOLDFARB, and EDITH AMERRATA, individually and as
members of Operation STOMP,

Petitioners

- against -

NASSAU COUNTY, NASSAU COUNTY EXECUTIVE
EDWARD P. MANGANO, NASSAU COUNTY
DEPARTMENT OF PUBLIC WORKS, TRI-STATE PAVING
LLC and LASER INDUSTRIES,

Respondents

YUSHEN SU,

Intervenor,

For relief per New York Civil Procedure Law and Rules ("CPLR") Section 1012
(a)(2) and Section 7802(d)

ORDER TO SHOW CAUSE

Appellate Division Docket
Number:

2014-10214

Supreme Court Index No.:

9782 / 14

FEE PAID

MP (4)

X

Upon the annexed affidavit of Yushen Su, dated November 3, 2014, and the
papers annexed thereto:

Let the Petitioners OPERATION STOMP and TANYA LUKASIK, EUGENE
GOLDFARB, and EDITH AMERRATA, individually and as members of Operation
STOMP, and Respondents, NASSAU COUNTY, NASSAU COUNTY
EXECUTIVE EDWARD P. MANGANO, NASSAU COUNTY DEPARTMENT OF
PUBLIC WORKS, TRI-STATE PAVING LLC and LASER INDUSTRIES, SHOW
CAUSE BEFORE THIS COURT, at the courthouse hereof, located at 45 Monroe

Place, Brooklyn NY 11201, on the 14th day of November, 2014, at 9:30 O'Clock in the forenoon of that date or as soon thereafter as counsel may be heard, why an order should not be made and entered:

Granting leave to appeal DENIAL OF IMMEDIATE
INTERVENOR STATUS

_____, and
Granting leave to appeal the order which vacated the temporary restraining order and denied further preliminary injunctive relief in this proceeding by the Honorable R. Bruce Cozzens Jr. of the New York State Supreme Court, Nassau County, on October 23, 2014, with respect to the removal of trees along South Oyster Bay Rd. in the County of Nassau, State of New York, by the Respondents, AND GRANTING PRELIMINARY RELIEF

On the grounds that: (a) Petitioners and Yushen Su have made a convincing case that the provisions of the State Environmental Quality Review Act ("SEQRA") were violated by Respondents; (b) the issues raised, the facts presented, and the causes of action submitted by Petitioners have a strong likelihood of success, (c) the preservation of the status quo is favored by equity, and irreparable harm to Petitioner will occur without the continuation of injunctive relief; (d) the Court did not exercise its discretion properly in denying Petitioners' request for injunctive relief to protect the trees while the underlying Article 78 proceeding was adjudicated, and

Granting such other relief as to the court may seem just and equitable.

SUFFICIENT CAUSE THEREFORE APPEARING, it is 

~~ORDERED that pending the hearing of this motion, [REDACTED] INTERVIEW~~

~~STATUS IS GRANTED, and it is further~~

~~ORDERED that pending the hearing and determination of this motion, [REDACTED] the Order of Justice Cozzene is hereby stayed and the preliminary injunctive relief is reinstated such that no removal, alteration or damage shall be performed by Respondents, their agents or parties under their control on the trees lining South Oyster Bay Road, and it is further,~~

ORDERED that service of a copy of this order to show cause and the papers upon which it was made upon counsel for the Petitioners and the Respondents by

[REDACTED] personal delivery pursuant to CPLR 2103(b)(1) or

[REDACTED] office delivery pursuant to CPLR 2103(b)(3) or

[REDACTED] overnight delivery service pursuant to CPLR 2103(b)(6)

on or before November 6th 2014, shall be deemed sufficient service thereof.

Dated: Brooklyn, New York

November 5th, 2014



Hon. William F. Mastro
Associate Justice
Appellate Division 2nd Dept.

NOTE: On the return date all motions and proceedings are deemed submitted. Oral argument is not permitted (22 NYCRR 670.5[b]).