

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

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CECNY HOLDING, LLC,

Petitioner-Plaintiff,

For a judgment pursuant to Article 78 of the Civil
Practice Law and Rules and for a Declaratory Judgment
Pursuant to Section 3001 of the Civil Practice Law and
Rules

-against-

TOWN OF HYDE PARK, TOWN OF HYDE PARK
TOWN BOARD, TOWN OF HYDE PARK ZONING
BOARD OF APPEALS, KATHLEEN MOSS, in her
capacity as ZONING ADMINISTRATOR OF THE
TOWN OF HYDE PARK, TOWN OF CLINTON and
TOWN OF CLINTON TOWN BOARD,

Defendants-Respondents.
-----X

SO-ORDERED
STIPULATION OF
SETTLEMENT

Index No. 2024-53500

Assigned Justice:
Edward McLaughlin, A.J.S.C.

WHEREAS, Plaintiff-Petitioner CECNY Land Holdings, LLC owns property located
at 2450 Route 9G in the Town of Hyde Park identified as tax parcel # 133200-6268 -03-
461408-0000 ("the Hyde Park Parcel"), and 76-100 Millhouse Lane f/k/a 68 Naylor Road in
the Town of Clinton identified as tax parcel l 32400-6268-00-59l 367-0000 ("the Clinton
Parcel") (collectively "the Property"); and

WHEREAS, Plaintiff-Petitioner is the owner of a conference center ("the Conference
Center") in the Town of Clinton which is solely subject to the zoning jurisdiction of that
Town; and

WHEREAS, the sole means of access to the Conference Center is an existing private
driveway that traverses a portion of the Property situated on the Hyde Park Parcel and directly

accesses New York State Route 9G ("the Access Drive"); and

WHEREAS, the Access Drive is the sole means of access for the Clinton Parcel to a public highway; and

WHEREAS, the Plaintiff-Petitioner wishes to construct a secondary emergency access drive ("the Proposed Emergency Drive"), on the Hyde Park Parcel and otherwise modify the Access Drive; and

WHEREAS, Defendant Respondent Kathleen Moss, in her capacity as Zoning Administrator of the Town of Hyde Park ("the Hyde Park ZA"), rejected Plaintiff-Petitioner's application to modify the existing Access Drive and construct an Emergency Drive, on the grounds that these improvements would provide access to a use which is permitted by the Town of Clinton and not permitted in Hyde Park's Greenbelt District in which the Hyde Park Parcel is located; and

WHEREAS, Plaintiff-Petitioner appealed the decision of the Hyde Park ZA to Defendant-Respondent Town of Hyde Park Zoning Board of Appeals ("the Hyde Park ZBA"); and

WHEREAS, on June 26, 2024, the Hyde Park ZBA adopted a decision upholding the determination of the Hyde Park ZA which held, in part, that the Access Drive could not support the use, lawfully permitted by the Town of Clinton, solely because that use was not permitted in Hyde Park's Greenbelt District in which the Hyde Park Parcel is located (the "Hyde Park ZBA Decision"); and

WHEREAS, Article IX of the Constitution of the State of New York authorizes

"effective local self-government" and "intergovernmental cooperation." *See* NY Constitution of the State of New York, Art IX, Section 1; and

WHEREAS, Article IX, Section 1(d) of the Constitution of the State of New York provides, in relevant part:

No local government or any part of the territory thereof shall be annexed to another until the People, if any, of the territory proposed to be annexed shall have consented thereto by majority vote on a referendum.

WHEREAS, Hyde Park denied use of the Hyde Park Parcel solely because the Access Drive led to the Conference Center, which is a use lawfully permitted in the Town of Clinton but not one that is permitted in Hyde Park's Greenbelt District in which the Hyde Park Parcel is located; and

WHEREAS, said Plaintiff-Petitioner filed this hybrid proceeding on July 26, 2024, seeking reversal of the Hyde Park ZBA Decision under Article IX of the New York Constitution, and other grounds (*CECNY Land Holdings, LLC v. Town of Hyde Park, et al.*, Supreme Court of the State of New York County of Dutchess, Index No.: 2024-53500, hereinafter, the "Litigation"); and

WHEREAS, the Town of Hyde Park adopted Local Law 1 of 2025 on January 13, 2025, which creates the exclusive authority of the Town of Hyde Park Town Board over whether a private road, wholly located within the Town of Hyde Park, may provide access to a use in an adjacent municipality which is permitted within that adjacent municipality; and

WHEREAS, Local Law 1 of 2025 states that nothing in the Code of the Town of Hyde Park shall be construed to prevent access over any private road or driveway, through the Town

of Hyde Park and to a property located outside of the municipal boundaries of the Town of Hyde Park when that access is serving a use which is permitted by the adjacent municipality and the Town Board of Hyde Park has not adopted a resolution prohibiting the use of that access for the use permitted in the adjacent municipality pursuant to the terms of Article III of Chapter 1 of the Town Code of Hyde Park; and

WHEREAS, Local Law 1 of 2025 declares its retroactive effect so that any determination made, or action taken, by either an administrative board or an administrative officer, prior to the adoption of Local Law 1 of 2025, which does not comply with Article III of Chapter 1 of the Hyde Park Code, is deemed null and void and without force or effect as of the date it was taken; and

WHEREAS, the parties agree that the Plaintiff-Petitioner now has the right to access the Clinton Parcel through the Access Drive across the Hyde Park Parcel for the use of the Clinton Parcel as a Conference Center subject to provisions of Local Law 1 of 2025; and

WHEREAS, the retroactive nullification, by Local Law 1 of 2025, of the Hyde Park ZBA Decision, which is the subject of this Litigation, has rendered this Litigation moot; and

WHEREAS, the Parties acknowledge that the claims and Constitutional grounds, advanced in the Litigation may serve as a separate basis for setting aside the Feb. 9, 2024, Hyde Park ZA Determination and the Dec. 21, 2023, Hyde Park ZA Determination if this Litigation were to continue.

NOW THEREFORE, it is stipulated by and between the Parties hereto as follows:

- I. The introductory paragraph of this Stipulation shall be deemed incorporated into

the same as if set forth herein at length; and

2. The jurisdiction of the Hyde Park ZBA and Hyde Park ZA is controlled by Article IX of the New York State Constitution which establishes the right of municipal home rule; and
3. The Access Drive, and the proposed modifications to it on the Hyde Park Parcel, are permitted to serve the Conference Center Use in Clinton as-of-right (which is a use that has existed since 2005), subject to Local Law 1 of 2025.
4. Modifications to the Access Drive and the Proposed Emergency Drive are permitted on the Hyde Park Parcel pursuant to the provisions of Local Law 1 of 2025 provided said modifications do not violate the Town of Hyde Park Code and all other state and local regulations; and
5. The Parties agree that the following are the only approvals from the Town of Hyde Park, which are currently known, as required for the Access Drive and the Proposed Emergency Drive to allow access across the Hyde Park parcel to and from the Clinton Parcel which, subject to the approval the Town of Clinton, may be used as a Conference Center:
 - a. Floodplain Development Permit; and
 - b. Storm Water Pollution Prevention Plan Review; and
 - c. Site Plan Approval for proposed bridge in proposed driveway.
6. The Parties agree that these above-referenced permits will be timely processed upon the submission of completed applications for the same, together with any

fees, to the Town of Hyde Park; and

7. The Parties acknowledge that prior to improvements being made to the Access Drive and prior to the construction of the Proposed Emergency Drive, review and approvals may be required from the New York State Department of Transportation, the New York State Department of Environmental Conservation and the United States Army Corps of Engineers which all have jurisdiction over the Access Drive and the Proposed Emergency Drive; and
8. Each party agrees that upon service of this So Ordered Stipulation, with Notice of Entry by Plaintiff-Petitioner on the Defendants-Respondents, that this So Ordered Stipulation constitutes a "non-appealable decision" as that term is used in the June 4, 2024, decision made by the Town of Clinton Zoning Board of Appeals regarding access to the Plaintiff-Petitioner's proposed use of the Property within its jurisdiction. The Parties acknowledge that there is no right of appeal from this "So Ordered" Stipulation.
9. This Stipulation shall be binding upon, and enforceable by, the Parties to this Stipulation and their respective successors and assigns.
10. If any provision of this Stipulation is invalidated, deemed, or adjudged unenforceable, the remaining provisions of this Stipulation shall remain in full force and effect, except to the extent the absence or unenforceability of the provision deemed or adjudged invalid or unenforceable is material to the purpose or intent of any remaining provision(s) of this Stipulation.

11. No provision of this Stipulation may be waived or modified except by a writing signed by or on behalf of all the Parties and "so ordered" by a Justice of the Supreme Court, Dutchess County; and
12. Except to the extent rights are specifically limited by this Stipulation, nothing in this Stipulation shall be deemed to constitute a waiver of, or to preclude any party from exercising or asserting, any and all causes of action, claims, rights, and remedies that Plaintiff-Petitioner may have with respect to the Property, the Project or any other matter; and
13. In the event Local Law 1 of 2025 is judicially overturned, (the ZBA resolution, which was the basis for this hybrid action), shall not be deemed reinstated, but instead, the Town of Hyde Park ZBA may reconsider the issues addressed in the same on a de novo basis, and, after a Public Hearing, may take such action as it may deem necessary under the facts and circumstances as may then and there exist.
14. Following its execution by all the Parties and their respective attorneys, this Stipulation shall be submitted by any party to the Court for "So-Ordering". The Court shall retain jurisdiction of the Parties to, and the issues in, this Stipulation for the purpose of enforcement of the terms and conditions of this Stipulation.
15. The parties may execute this Stipulation in two or more counterparts. The use of electronic signatures, including PDF signatures, shall be of the same legal effect, validity and enforceability as an original signature to the fullest extent

permitted by law.

16. Immediately upon the Court "So Ordering" this Stipulation, the Plaintiff-Petitioner shall file a discontinuance of this action/proceeding which shall be subject to the terms of this stipulation.

Dated: Poughkeepsie, New York
_____, 2025

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SO ORDERED:

Hon. Edward McLaughlin

DATE: _____