

Supreme Court of the State of New York

Appellate Division: Third Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

TROY SAND & GRAVEL CO., INC. and
BONDED CONCRETE, INC.,

- against -

TOWN OF SAND LAKE and THE
TOWN BOARD OF THE TOWN OF SAND LAKE

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

Case Type	Filing Type
<input type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceedings <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278
<input checked="" type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Executive Law § 298 <input type="checkbox"/> CPLR 5704 Review

Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.

<input checked="" type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input checked="" type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Appeal

Paper Appealed From (Check one only): If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Amended Decree | <input type="checkbox"/> Determination | <input type="checkbox"/> Order | <input type="checkbox"/> Resettled Order |
| <input type="checkbox"/> Amended Judgement | <input type="checkbox"/> Finding | <input checked="" type="checkbox"/> Order & Judgment | <input type="checkbox"/> Ruling |
| <input type="checkbox"/> Amended Order | <input type="checkbox"/> Interlocutory Decree | <input type="checkbox"/> Partial Decree | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Decision | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree | |
| <input type="checkbox"/> Decree | <input type="checkbox"/> Judgment | <input type="checkbox"/> Resettled Judgment | |

Court: **Supreme Court** County: **Rensselaer**

Dated: **01/31/2019** Entered: **02/19/2019**

Judge (name in full): **Richard J. McNally, Jr., J.S.C.** Index No.: **257373-2017**

Stage: Interlocutory Final Post-Final Trial: Yes No If Yes: Jury Non-Jury

Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court? Yes No
If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

William H. Hoffay, et al. v. Town of Sand Lake, et al. (Rensselaer Co. Sup. Ct., Ind. No. 257385-2017) (Order/Judgment appealed from herein also dismissed this related proceeding)
Rifenburg Constr., Inc. v. Town of Sand Lake, et al. (Rensselaer Co. Sup. Ct., Ind. No. 257384-2017) (Order/Judgment appealed from herein also dismissed this related proceeding)

Original Proceeding

Commenced by: Order to Show Cause Notice of Petition Writ of Habeas Corpus Date Filed:

Statute authorizing commencement of proceeding in the Appellate Division:

Proceeding Transferred Pursuant to CPLR 7804(g)

Court: **Choose Court** County: **Choose County**

Judge (name in full): Order of Transfer Date:

CPLR 5704 Review of Ex Parte Order:

Court: **Choose Court** County: **Choose County**

Judge (name in full): Dated:

Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

The appeal is taken from a Decision and Order/Judgment that dismissed the Verified Petition.

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

1. Whether Local Law No. 4 of 2017 of the Town of Sand Lake was adopted in violation of the New York State Environmental Quality Review Act. Respondents violated SEQRA by failing to take a hard look at environmental impacts, failing to prepare a supplemental GEIS, adopting a Negative Declaration despite admitting that the action could result in significant adverse environmental impacts, and unlawfully segmenting the review of the action.

2. Whether Local Law No. 4 of 2017 of the Town of Sand Lake is illegal and defective. Local Law No. 4 of 2017 is internally inconsistent, fails to clearly place properties in zoning districts, fails to provide clear regulatory standards for zoning districts, and specifically fails to provide clear regulation with respect to commercial mineral extraction uses in the Town of Sand Lake.

3. Whether Local Law No. 4 of 2017 of the Town of Sand Lake was adopted in violation of Article 16 of the New York Town Law. The Town of Sand Lake Town Board violated Town Law 272-a (10) and (11) in adopting Local Law No. 4 of 2017.

4. Whether Local Law No. 4 of 2017 of the Town of Sand Lake illegally regulates market competition through purported zoning regulation. The Town of Sand Lake Town Board improperly used Local Law No. 4 of 2017 as a pretext to place Petitioners at a competitive disadvantage to its competitors without any rational basis.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Troy Sand & Gravel Co., Inc.	Petitioner	Appellant
2	Bonded Concrete, Inc.	Petitioner	Appellant
3	Town of Sand Lake	Respondent	Respondent
4	Town Board of the Town of Sand Lake	Respondent	Respondent
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Andrew W. Gilchrist, Esq. (Gilchrist Tingley, P.C.)

Address: 251 River Street, Suite 201

City: Troy	State: New York	Zip: 12180	Telephone No.: (518) 238-3759
-------------------	------------------------	-------------------	--------------------------------------

E-mail Address: agilchrist@gilchristtingley.com

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 1, 2

Attorney/Firm Name: John B. DuCharme, Esq. (DuCharme, Clark & Sovern, LLP)

Address: 10 Maxwell Drive, Suite 205

City: Clifton Park	State: New York	Zip: 12065	Telephone No.: (518) 373-1482
---------------------------	------------------------	-------------------	--------------------------------------

E-mail Address: dcs-law@nycap.rr.com

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 3, 4

Attorney/Firm Name:

Address:

City:	State:	Zip:	Telephone No.:
--------------	---------------	-------------	-----------------------

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:	State:	Zip:	Telephone No.:
--------------	---------------	-------------	-----------------------

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:	State:	Zip:	Telephone No.:
--------------	---------------	-------------	-----------------------

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:	State:	Zip:	Telephone No.:
--------------	---------------	-------------	-----------------------

E-mail Address:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):