

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D16834  
G/kmg

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Submitted - September 21, 2007

REINALDO E. RIVERA, J.P.  
JOSEPH COVELLO  
RUTH C. BALKIN  
WILLIAM E. McCARTHY, JJ.

2006-10255

DECISION & ORDER

County of Nassau, respondent, v William R.  
Kilcommons, et al., defendants, Robert  
W. Bader, appellant.

(Index No. 05/16010)

George Nager, Mineola, N.Y., for appellant.

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Gerald R. Podlesak of  
counsel), for respondent.

In a civil forfeiture action pursuant to Administrative Code of the County of Nassau § 8-7.0(g), the defendant Robert W. Bader appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Woodard, J.), dated October 6, 2006, as denied his motion to dismiss the complaint insofar as asserted against him.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The defendant William R. Kilcommons was convicted of driving while ability impaired, in violation of Vehicle and Traffic Law § 1192(1). Thereafter, pursuant to Administrative Code of the County of Nassau § 8-7.0(g) (hereinafter Code section 8-7.0[g]), the County of Nassau commenced this civil forfeiture action seeking title to the vehicle Kilcommons was driving when he was arrested for the subject offense, which was held, in part, by the defendant Robert W. Bader, and financed by the defendant GMAC. Following joinder of issue by Bader and GMAC, Bader moved to dismiss the complaint insofar as asserted against him, arguing that the County lacked authority to enact Code section 8-7.0(g). The Supreme Court denied Bader's motion, and we affirm.

November 7, 2007

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As pertinent here, and except as provided in CPLR article 13-A, Code section 8-7.0(g) “authorizes the County to commence a civil forfeiture action to obtain title to the instrumentality of a crime[,] including violations of Vehicle and Traffic Law § 1192 that constitute ‘traffic infractions’” (*County of Nassau v Pazmino*, 40 AD3d 905, 906; *see County of Nassau v Wildermuth*, 295 AD2d 553, 554). Contrary to Bader’s argument, the County had authority to enact such a provision, which is neither inconsistent with nor preempted by State law (*see Matter of Penny Lane/E. Hampton v County of Suffolk*, 191 AD2d 19, 23; *see also County of Nassau v Canavan*, 1 NY3d 134, 138).

Bader’s remaining contentions either are unpreserved for appellate review, are without merit, or need not be addressed in light of our determination.

RIVERA, J.P., COVELLO, BALKIN and McCARTHY, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court