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

D19002
W/kmg

_____AD3d_____ Submitted - April 1, 2008

WILLIAM F. MASTRO, J.P.
DAVID S. RITTER
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2007-02278 DECISION & ORDER

In the Matter of Town of Southold [Town Hall Expansion Project]. Town of Southold, petitioner-respondent; George C. Stankevich, et al., appellants; Attorney General of the State of New York, intervenor-respondent.

(Index No. 23054/06)

George C. Stankevich, East Hampton, N.Y., appellant pro se and for appellant Margaret A. Stankevich.

Goldstein, Goldstein, Rikon & Gottlieb, P.C., New York, N.Y. (Michael Rikon of counsel), for petitioner-respondent.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Andrew D. Bing, Peter H. Schiff, and Michael S. Buskus of counsel), intervenor-respondent pro se.

In a condemnation proceeding pursuant to EDPL 402, inter alia, for authorization to file an acquisition map, the claimants George C. Stankevich and Margaret A. Stankevich appeal from an order and judgment (one paper) of the Supreme Court, Suffolk County (Bivona, J.), dated February 2, 2007, which, among other things, denied their motion, inter alia, to dismiss the petition, and granted the petition.

ORDERED that the order and judgment is affirmed, with costs.

The appellants' challenge to the petitioner's condemnation determination on the

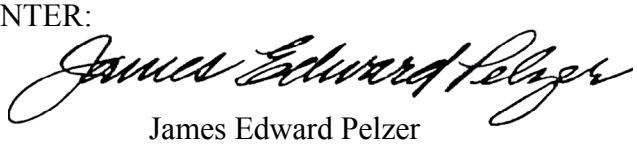
grounds of bad faith and lack of public purpose was properly raised and addressed in their proceeding pursuant to EDPL 207 (*see Matter of Stankevich v Town of Southold*, 29 AD3d 810) and cannot be raised in this proceeding pursuant to EDPL 402 (*see Matter of City of New York* [*Grand Lafayette Props. LLC*], 6 NY3d 540; *Matter of 49 WB LLC v Village of Haverstraw*, 44 AD3d 226; *Matter of City of New Rochelle v O. Mueller, Inc*., 191 AD2d 435; *Matter of Village of Johnson City v Bolas*, 157 AD2d 1009; *Metropolitan Transp. Auth. v Pinelawn Cemetery*, 135 AD2d 686; *City of Buffalo Urban Renewal Agency v Moreton*, 100 AD2d 20).

The appellants' remaining contentions are without merit.

Under the circumstances presented, we decline the petitioner's request to impose sanctions upon the appellants.

MASTRO, J.P., RITTER, CARNI and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court