

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

D23344  
W/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - April 17, 2009

ROBERT A. SPOLZINO, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
RUTH C. BALKIN, JJ.

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2007-08719

DECISION & ORDER

In the Matter of Ray River Co., Inc., et al., appellants,  
v Village of Haverstraw, respondent.

(Index No. 2074/07)

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

Watkins & Watkins, LLP, White Plains, N.Y. (John E. Watkins, Jr., and Liane V. Watkins of counsel), for respondent.

In a proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the Village of Haverstraw from taking title to certain real property pursuant to its powers of eminent domain, the petitioners appeal from a judgment of the Supreme Court, Rockland County (La Cava, J.), entered August 2, 2007, which, upon an order of the same court dated March 28, 2007, denied the petition and, in effect, dismissed the proceeding.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

The sole relief specifically requested by the appellants in the petition was for “a Writ of Prohibition prohibiting the Village of Haverstraw from taking, or attempting to take, fee title to the [subject] property.” During the pendency of this appeal, the Village commenced condemnation proceedings pursuant to EDPL 402, and the Supreme Court subsequently entered a judgment of condemnation (*see Matter of Village of Haverstraw v Ray River Co., Inc.*, \_\_\_\_\_ AD3d \_\_\_\_\_ [decided herewith]).

May 26, 2009

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MATTER OF RAY RIVER CO., INC. v VILLAGE OF HAVERSTRAW

Since the matter does not warrant the invocation of the exception to the mootness doctrine (see *Matter of Jablonski v Steinhaus*, 48 AD3d 465, 466-467), the appeal must be dismissed as academic (see *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714; *Andre v City of New York*, 47 AD3d 602, 604; *Warren v Mikle*, 40 AD3d 974, 975; *Sergio v Elmhurst Gardens, Inc.*, 8 AD3d 489, 490; *Collins v Barbaro*, 307 AD2d 906, 910).

SPOLZINO, J.P., SANTUCCI, FLORIO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court