

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

D23496
C/prt

_____AD3d_____

Argued - April 27, 2009

ROBERT A. SPOLZINO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2008-04437

DECISION & ORDER

In the Matter of Ehlers Real Estate Holding, LLC,
appellant, v Brian X. Foley, et al., respondents.

(Index No. 20558/06)

Scheyer & Jellenik, Nesconset, N.Y. (Richard I. Scheyer of counsel), for appellant.

Jaspan Schlesinger, LLP, Garden City, N.Y. (Maureen T. Liccione and John C. Farrell of counsel), for respondents.

In a proceeding pursuant to CPLR article 78, inter alia, to review a comprehensive land use plan for the Town of Brookhaven, the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Suffolk County (Costello, J.), dated April 14, 2008, which granted that branch of the respondents' motion which was to dismiss the petition on the ground that it was not ripe for judicial review, denied the petition, and, in effect, dismissed the proceeding.

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

The Supreme Court properly granted that branch of the respondents' motion which was to dismiss the petition on the ground that it was not ripe for judicial review (*see Matter of Gordon v Rush*, 100 NY2d 236, 242; *Matter of Pirog v Cockburn*, 34 AD3d 819, 820; *Matter of Alamt Props. Co. v Planning Bd. of Town of Harrison*, 159 AD2d 703, 704).

SPOLZINO, J.P., COVELLO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 9, 2009

MATTER OF EHLERS REAL ESTATE HOLDING, LLC v FOLEY