

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

D31776
C/prt

_____AD3d_____

Argued - May 26, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2010-04743

DECISION & ORDER

In the Matter of Sinclair Haberman, et al., petitioners/
plaintiffs-respondents, v Zoning Board of Appeals of
City of Long Beach, et al., respondents/defendants-
appellants, et al., respondent/defendant.

(Index No. 1138/04)

Meyer, Suozzi, English & Klein, P.C., Garden City, N.Y. (Jeffrey G. Stark of counsel), and Corey E. Klein, Corporation Counsel, Long Beach, N.Y.), for respondents/defendants-appellants (one brief filed).

Jaspan Schlesinger LLP, Garden City, N.Y. (Steven R. Schlesinger of counsel), Herrick Feinstein, New York, N.Y. (Scott Mollen of counsel), Davis Wright Tremaine LLP, New York, N.Y. (Victor A. Kovner and Lance Koonce of counsel), Duane Morris, LLP, New York, N.Y. (Thomas R. Newman of counsel), and Jacob Haberman, New York, N.Y., for petitioners/plaintiffs-respondents (one brief filed).

In a hybrid proceeding pursuant to CPLR article 78 to review a determination of the Zoning Board of Appeals of the City of Long Beach dated December 29, 2003, which revoked a building permit previously issued to the petitioners/plaintiffs on August 12, 2003, and action, inter alia, for a judgment declaring that the petitioners/plaintiffs are entitled to the building permit, the appeal is from an order of the Supreme Court, Nassau County (Marber, J.), entered February 1, 2010, which granted the motion of the petitioners/plaintiffs to disqualify the firm of Meyer, Suozzi, English & Klein, P.C., as the respondents/defendants' cocounsel.

June 14, 2011

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ORDERED that the order is affirmed, with costs.

Under the circumstances, the Supreme Court providently exercised its discretion in granting the motion to disqualify the firm of Meyer, Suozzi, English & Klein, P.C., as cocounsel for the respondents/defendants (*see Kassis v Teacher's Ins. & Annuity Assn.*, 93 NY2d 611; *Solow v W. R. Grace & Co.*, 83 NY2d 303; *M.A.C. Duff, Inc. v ASMAC, LLC*, 61 AD3d 828; *Columbus Const. Co., Inc. v Petrillo Bldrs. Supply Corp.*, 20 AD3d 383).

RIVERA, J.P., FLORIO, DICKERSON and ENG, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court