

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

D55622
O/htr

_____AD3d_____

Argued - February 5, 2018

ALAN D. SCHEINKMAN, P.J.
JOHN M. LEVENTHAL
ROBERT J. MILLER
VALERIE BRATHWAITE NELSON, JJ.

2016-02440

DECISION & ORDER

In the Matter of Peter Saoulis, appellant, v New York
City Environmental Control Board, respondent.

(Index No. 12403/13)

Leavitt & Kerson, Forest Hills, NY (Paul E. Kerson of counsel), for appellant.

Zachary W. Carter, Corporation Counsel, New York, NY (Richard Dearing and
Megan E.K. Montcalm of counsel), for respondent.

In a proceeding pursuant to CPLR article 78 to vacate fines assessed against the
petitioner by the New York City Environmental Control Board, the petitioner appeals from a
judgment of the Supreme Court, Queens County (Robert J. McDonald, J.), entered January 25, 2016.
The judgment denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Upon attending the closing of the sale of a condominium unit that he owned, the
petitioner was advised that there was in excess of \$132,000 in outstanding fines against him which
had been assessed by the New York City Environmental Control Board (hereinafter ECB) in
connection with other real property he owned. He paid the outstanding fines so that the closing
could be consummated, but then commenced this CPLR article 78 proceeding, contending that he
did not receive notice of the violations and that the fines imposed were arbitrary and capricious.

The proceeding was properly dismissed on the ground that the petitioner failed to
exhaust his administrative remedies (*see Matter of New York Youth Club v New York City Envntl.
Control Bd.*, 131 AD3d 615, 616; *Matter of Gottlieb v City of New York*, 126 AD3d 903; *Matter of
Vataksi v Environmental Control Bd.*, 107 AD3d 905).

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The petitioner's remaining contentions either are improperly raised for the first time on appeal or need not be reached in light of our determination.

SCHEINKMAN, P.J., LEVENTHAL, MILLER and BRATHWAITE NELSON, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court