

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 24-01765

PRESENT: LINDLEY, J.P., BANNISTER, OGDEN, NOWAK, AND DELCONTE, JJ.

IN THE MATTER OF NIAGARA METALS, LLC,
ALSO KNOWN AS DIAMOND HURWITZ SCRAP, LLC,
THOMAS FISHER, TIMOTHY W. EICK, ANDREW BANKOWSKI,
IRENE ISCH, TIMOTHY AND JOYCE RODGERS AND
MARSHA EICK, PETITIONERS-APPELLANTS,

V

ORDER

CITY OF BUFFALO ZONING BOARD OF APPEALS,
ET AL., RESPONDENTS,
AND AIM ERIE RECYCLING, LLC, RESPONDENT-RESPONDENT.

PHILLIPS LYTTLE LLP, BUFFALO (LINDSEY E. HAUBENREICH OF COUNSEL), FOR
PETITIONERS-APPELLANTS.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP, NEW YORK CITY (JAY COHEN
OF COUNSEL), FOR RESPONDENT-RESPONDENT.

ROBERT E. QUINN, ACTING CORPORATION COUNSEL, BUFFALO (DAVID M. LEE OF
COUNSEL), FOR RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court,
Erie County (Amy C. Martoche, J.), entered September 16, 2024, in a
proceeding pursuant to CPLR article 78. The judgment, insofar as
appealed from, granted in part the motion of respondent Aim Recycling
Erie, LLC, to dismiss the petitions.

It is hereby ORDERED that the judgment so appealed from is
unanimously affirmed without costs for reasons stated in the decision
at Supreme Court.

Entered: February 11, 2026

Ann Dillon Flynn
Clerk of the Court