

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

D21247
W/hu

_____AD3d_____

Argued - November 3, 2008

PETER B. SKELOS, J.P.
ROBERT A. LIFSON
FRED T. SANTUCCI
EDWARD D. CARNI, JJ.

2008-00757

DECISION & ORDER

In the Matter of East End Property Company #1,
LLC, et al., appellants, v Town Board of Town of
Brookhaven, et al., respondents; Long Island Power
Authority, additional respondent.

(Index No. 17956/07)

Rosenberg Calica & Birney LLP, Garden City, N.Y. (Robert M. Calica and Judah Serfaty of counsel), for appellants.

Devitt Spellman Barrett, Smithtown, N.Y. (John M. Denby and Jeltje DeJong of counsel), for respondents Town Board of Town of Brookhaven and Planning Board of the Town of Brookhaven.

Westerman Ball Ederer Miller & Sharfstein, LLP, Mineola, N.Y. (Jeffrey A. Miller and Richard Gabriele of counsel), and Beveridge & Diamond, P.C., New York, N.Y. (Stephen L. Gordon and Michael Murphy of counsel), for respondent Caithness Long Island, LLC (one brief filed).

Carter Ledyard & Milburn LLP, New York, N.Y. (Christine A. Fazio, Stephen L. Kass, and Judith M. Wallace of counsel), for additional respondent Long Island Power Authority.

In a proceeding, inter alia, pursuant to CPLR article 78 to review a determination of the Town Board of Town of Brookhaven dated June 5, 2007, made upon remittitur from the

November 25, 2008

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MATTER OF EAST END PROPERTY COMPANY #1, LLC v
TOWN BOARD OF TOWN OF BROOKHAVEN

Supreme Court, Suffolk County, which adopted a findings statement pursuant to the State Environmental Quality Review Act (ECL article 8) regarding the approval of the construction of a 350-megawatt dual-fuel, combined cycle combustion turbine electric power generator, the petitioners appeal, as limited by their brief, from so much of an order and judgment (one paper) of the Supreme Court, Suffolk County (Spinner, J.), dated January 2, 2008, as denied the petition and dismissed the proceeding.

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

In light of our decision and order on a companion appeal from an order and judgment (one paper) of the Supreme Court, Suffolk County, dated May 22, 2007 (*see East End Prop. Co. #1, LLC v Town Bd. of Town of Brookhaven*, _____AD3d_____ [Appellate Division Docket No. 2007-05041, decided herewith]), this appeal has been rendered academic.

SKELOS, J.P., LIFSON, SANTUCCI and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court