

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

1194

CA 12-02343

PRESENT: SMITH, J.P., CENTRA, FAHEY, CARNI, AND WHALEN, JJ.

ELLISON HEIGHTS HOMEOWNERS ASSOCIATION, INC.,
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ELLISON HEIGHTS LLC AND TOWN OF PENFIELD,
DEFENDANTS-RESPONDENTS,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

HARRIS BEACH PLLC, PITTSFORD (DOUGLAS A. FOSS OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

NIXON PEABODY LLP, ROCHESTER (CHRISTOPHER D. THOMAS OF COUNSEL), FOR
DEFENDANT-RESPONDENT ELLISON HEIGHTS LLC.

MCCONVILLE, CONSIDINE, COOMAN & MORIN, P.C., ROCHESTER (PETER J.
WEISHAAR OF COUNSEL), FOR DEFENDANT-RESPONDENT TOWN OF PENFIELD.

Appeal from an order and judgment (one paper) of the Supreme Court, Monroe County (William P. Polito, J.), entered December 3, 2012. The order and judgment denied the motion of plaintiff for leave to amend its amended complaint.

It is hereby ORDERED that the order and judgment so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Ellison Hgts. Homeowners Assoc., Inc. v Ellison Hgts. LLC* ([appeal No. 1] ___ AD3d ___ [Dec. 27, 2013]).

Entered: December 27, 2013

Frances E. Cafarell
Clerk of the Court