SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : IAS PART 2

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In the Matter of the Application of NEW YORK CITY COALITION TO END LEAD POISONING, INC., et al.,

Petitioners,

INDEX NO. 120911/99

For a Judgment Pursuant to CPLR Article 78 and 3001

-against-

PETER VALLONE, as Speaker of the New York City Council, et al.,

Respondents.

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LOUIS YORK, J.:

Petitioners, public interest groups, community-based organizations, environmental watchdogs and affected individuals, brought this proceeding to nullify New York City's new lead-poisoning prevention law, Local Law 38 of 1999 ("Local Law 38," NYC Administrative Code § 27-2056.1, et seq.), which became effective on November 12, 1999, on the ground that the environmental impact review required by law was not conducted as part of the legislative process.

Petitioners allege that Local Law 38, which has been widely and hotly criticized in the media as a concession to the City's powerful landlord lobby, is not as exigent as the law it

replaced, Local Law 1 of 1982 ("Local Law 1," Admin Code § 27-2013[h]), and was rushed through the New York City Council (the "Council") without an adequate environmental review.

It is evident from the transcript of the Council's stated meeting of June 30, 1999, in which Local Law 38 was passed (petitioners' exhibit 79), that each councilmember, whether voting for or against the legislation, voted for what he or she thought would be in the best interests of the City's children after a full discussion of the many issues involved. At the outset, it must be emphasized that it is not the role of this court to second-guess the councilmembers and decide whether or not Local Law 38 helps or hurts the children, or to in any other way impinge on the City's legislative process. This court is charged solely with determining whether in this particular instance the process itself, rather than its outcome, ran afoul of the applicable environmental protection laws.

Background

In 1985, petitioners brought an action (NYC Coalition to End Lead Poisoning v. Giuliani, index no. 42780/85) to compel the City to enforce the provisions of Local Law 1, the lead-poisoning prevention statute then in effect. During the 15-year pendency of that action, various justices of this court held the City in contempt for not promulgating the requisite regulations. Despite the passage of years, however, the City still proved unable to fully comply with its mandate under Local Law 1. After many conferences with the court, respondents decided that the best way to resolve an untenable situation was for the City to amend Local Law 1 so as to

fashion a way to protect the children at risk without having to remove intact lead-based paint from their dwellings.

In order to give the City the time it needed to accomplish this goal, petitioners consented to multiple stays of this court's contempt orders. Instead of the anticipated amendment of this one facet of the law, however, on the eve of the expiration of the final stay granted by this court respondents repealed Local Law 1 and enacted Local Law 38, thereby averting enforcement of the final contempt order by rendering compliance with Local Law 1 a moot issue.

All parties agree that if petitioners prevail in the instant proceeding and Local Law 38 is struck down, Local Law 1 would again become the applicable law. If this happens, the City will automatically be in contempt of court effective upon the resuscitation of Local Law 1, since no stay is currently in effect.

Applicable Law

The state's Environmental Quality Review Act ("SEQRA," Environmental Conservation Law § 8-0101, et seq.) requires all state and local agencies to prepare an environmental impact statement ("EIS") "on any action they propose or approve which may have a significant effect on the environment" (ECL § 8-0109[2]). "The purpose of an [EIS] is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision whether or not to undertake or approve such action" (Coalition for Responsible Planning, Inc. v. Koch, 148 AD2d

230, 234 [1st Dept 1989], lv den 75 NY2d 704 [1990], quoting ECL § 8-0109[2][i] and citing Matter of Town of Henrietta [NYS Department of Environmental Conservation, 76 AD2d 215 [4th Dept 1980]). The criteria for determining whether an EIS is required is set forth at 6 NYCRR § 617.7[c].

SEQRA's municipal counterpart, the City Environmental Quality Review ("CEQR," 43 RCNY § 6-01, et seq and 62 RCNY § 5-01, et seq), also requires completion of an EIS prior to any municipal action which would significantly affect the environment (43 RCNY § 6-12[a]). The criteria to be used in determining whether the environment will be significantly affected for purposes of CEQR, which substantially parallel the criteria to be considered under SEQRA, are set forth at 43 RCNY § 6-06.

Although legislative action by the governor and the state legislators is explicitly exempt from compliance with SEQRA (6 NYCRR § 617.5[c][37]; Matter of West Village Committee Inc. [Zagata], 242 AD2d 91, 98-99 [3d Dept 1998], lv den 92 NY2d 802 [1998]; Matter of Cerro [Town of Kingsbury], 250 AD2d 978, 979 [3d Dept 1998], app dism 92 NY2d 875 [1998], lv den 92 NY2d 812 [1998]), no such exemption is afforded to the City's lawmakers (see 6 NYCRR § 617.2[v]). Under CEQR, when the action at issue is the adoption of a local law, the Council has primary responsibility for conducting the requisite environmental reviews (62 RCNY §§ 5-03[d], 5-05[a]).

Under SEQRA, "the creation of a hazard to human health" is "considered [an] indicator[ ] of significant adverse impacts on the environment" (6 NYCRR § 617.7[c][1][vii]).

Similarly, under CEQR "[a]n action may have a significant effect on the environment if it can reasonably be expected to lead to ... the creation of a hazard to human health or safety" (43 RCNY § 6-06[a][7]).

> It is well documented and beyond dispute that lead is a highly toxic metal which, when introduced into the human body, produces a wide range of adverse health effects, especially with regard to children and developing fetuses.... [T]hese consequences include: nervous and reproductive system disorders; delays in neurological and physical development; cognitive and behavioral changes; and hypertension. Most of these physical maladies are irreversible.
>
> Further, it appears that young children are more sensitive to lead exposure than adults, particularly their brain and nervous system, which are especially vulnerable in their developmental stages. Lead exposure as low as two micrograms per deciliter in children under seven years old lowers IQ, stunts growth and causes behavioral disorders

(Williamsburg Around the Bridge Block Association v. Giuliani, 223 AD2d 64, 66 [1st Dept 1996]). "Children under the age of six, whose nervous systems are still developing, are particularly vulnerable to the damage caused by lead poisoning. High blood lead levels can produce brain damage, coma or death, and even relatively low levels can lead to significant nervous system damage" (Juarez v. Wavecrest Management Team, 88 NY2d 628, 640-641 [1996]). The widespread impact of lead poisoning is evident from the creation last month of a specialized part in the Bronx Supreme Court dedicated exclusively to lead-paint cases (NYLJ Sept 28, 2000, Court Notes).

There can be no doubt that this potential danger to children, which prompted the enactment of Local Law 1, constitutes the "hazard to human health" contemplated by both SEQRA (6 NYCRR § 617.7[c][1][vii]) and CEQR (43 RCNY § 6-06[a][7]). The key question in

both this proceeding and the review required by the Council thus becomes whether the changes to Local Law 1 wrought by Local Law 38 may increase the likelihood of lead being introduced into the bodies of children living in affected housing units, thereby creating a possible hazard to the health of those children.

Allegedly Hazardous Changes Effected by Local Law 38

The main policy change wrought by Local Law 38 is its disavowal of Local Law 1's underlying premise that all lead-based paint should be removed from dwellings inhabited by children under seven years of age. Instead, Local Law 38 prescribes that intact paint should be left alone and peeling lead-based paint should be "repaired" rather than removed or permanently covered. It is apparently the general consensus, shared by petitioners, that since the enactment of Local Law 1 experts have made a philosophical U-turn and removal of intact lead-based paint is now considered to have more detrimental consequences than its non-removal. Thus, it is not Local Law 38's basic premise but rather its particulars which petitioners contend may pose adverse environmental effects warranting an EIS.

Under Local Law 1, as interpreted by the Court of Appeals in Juarez v. Wavecrest Management Team, supra, a landlord was "charged with constructive notice of the [lead-based paint] hazard as of the date ... he had actual or constructive notice" of the infant's residence in the premises (Rivas v. 1340 Hudson Realty Corp., 234 AD2d 132, 136 [1st Dept 1996]). In other words, the minute the landlord learned a child under seven was living in an apartment, he became

responsible for removing or covering any paint with hazardous levels of lead in that apartment (Woolfalk v. NYC Housing Authority, 263 AD2d 355 [1st Dept 1999]). Paint was deemed lead-based and immediately hazardous if it had lead levels of 0.7 milligrams per square centimeter or greater, or more than 0.5 milligrams of metallic lead in its non-volatile content (Admin Code § 27-2013[h][3]). In addition, all peeling paint in pre-1960 buildings was presumed to be hazardous (Admin Code § 27-2013[h][2]).

These core provisions have been altered by Local Law 38. Six-year-old children are no longer protected ("children six years of age and under" was changed to "a child under six years of age"). Instead of removing or covering all lead-based paint, the landlord's duty is to conduct a "visual inspection" of affected dwellings and to correct any lead-based paint hazards so discovered by "addressing" them "on a case-by-case basis" (Local Law 38 § 2; Admin Code § 27-2056.3[e]). The burden of ascertaining whether a protectable child lives in an apartment is shifted from the landlord to the tenant (Admin Code § 27-2056.3[c]). Paint is deemed to be lead-based if it contains 1.0 milligrams or more of lead per square centimeter, or more than 0.5 milligrams of metallic lead in its non-volatile content (Admin Code § 27-2056.1[3]). Lead-based paint is considered an immediately hazardous condition only if it is peeling or located on a "deteriorated subsurface" (Admin Code § 27-2056.1[2]). A landlord may obtain an exception to the presumption that all peeling paint in pre-1960 buildings is lead-based (Admin Code § 27-2056.4[b]).

Specifically, petitioners argue that Local Law 38 poses potential hazards to human life and health in that it: (i) eliminated lead dust and related conditions from the definition of lead-paint hazards; (ii) removed six-year olds from the class to be protected from lead-based paint; (iii) established a 21-day period in which landlords cited for violations could escape the Health Code standards for safe lead-based paint removal; (iv) allowed inordinately long periods for lead hazard removal and enforcement; and (v) eliminated the deadline for HPD's enforcement of lead-based paint violations in one- and two-family dwellings.

Whether all these changes pose a possible hazard to human health is something to be determined by careful consideration of expert opinion, available scientific data and pertinent statistical information -- a review properly made by respondents through the SEQRA rather than by this court. For purposes of the issues before the court, it suffices that on their face these changes could pose such a hazard. The fact that Local Law 38 lowers the age of children to be protected and raises the lead content required to deem paint lead-based, without any explanation for such change, is enough to raise questions that must be answered. The remaining question to be decided by this court is thus whether respondents sufficiently addressed these potential hazards prior to enacting Local Law 38 so as to satisfy the requirements of SEQRA and CEQR.

The Negative Declaration

It is undisputed that respondents did not prepare an EIS prior to the enactment of Local Law 38. Instead, the Council issued a negative declaration stating that it had conducted an

environmental assessment and determined that the repeal of Local Law 1 and enactment of Local Law 38 would have "no significant adverse impact on the quality of the environment." Petitioner's core contention in this proceeding is that the Council should have prepared an EIS instead of issuing the negative declaration.

Under SEQRA, if the lead agency determines that the proposed action has no possible significant adverse impact, it may satisfy its statutory duty without having to prepare an EIS by issuing a "negative declaration" (ECL § 8-0109[2]; Matter of Cathedral Church of Saint John the Divine [Dormitory Authority of the State of New York], 224 AD2d 95 [3d Dept 1996], lv den 89 NY2d 802 [1996]). However, prior to issuing a negative declaration the lead agency, in this case the Council, is obligated to

> make an initial determination of whether the regulations 'may have a significant effect on the environment' ... and, if so, to prepare an EIS. The use of the word 'may' in ECL 8-0109(2) has been interpreted as meaning that only a very low threshold is needed to trigger the preparation of an EIS.... Before the EIS requirement can be dispensed with, the agency 'must identify the relevant areas of environmental concern, take a hard look at them, and make a reasoned elaboration of the basis for its declaration of environmental nonsignificance.... Only after an agency thoroughly investigates the problems involved and reasonably concludes that the proposed action 'will not result in any significant environmental effects' can a negative declaration be properly prepared and filed

(Matter of Desmond-Americana [Jorling], 153 AD2d 4, 10 [3d Dept 1989], lv den 75 NY2d 709 [1990], citations omitted). The First Department has specifically held that this requirement of taking a hard look through a threshold environmental assessment is particularly applicable where, as here, the measure at issue is the replacement of one problem-solving methodology with another (see Matter of Powis [Giuliani], 216 AD2d 107, 108-109 [1st Dept 1995]).

Petitioners contend that the Council did not take a "hard look," and argue that the negative declaration filed by the Council should be annulled because it flies in the face of all the medical and expert testimony submitted to the Council prior to its passage of Local Law 38. If substantiated by the facts, this would constitute sufficient grounds to afford petitioners the relief they seek. If the evidence adduced through the public comment process "decisively demonstrate[d] that the [proposed local law] would have a major adverse impact" it became the Council's statutory "duty to address these concerns thoroughly by way of an EIS" (Matter of Desmond-Americana [Jorling], supra, 153 AD2d at 11).

In fact, the Court of Appeals has enunciated the details of a process which satisfies SEQRA's "hard look" requirement: "Pursuant to the statutory procedure, a draft EIS (DEIS) is prepared and, after a comment period and any public hearings deemed necessary by the agency, is reevaluated to determine in what way, if any, the EIS should be revised or supplemented so as to adequately address issues raised by the comments.... The agency then files a final EIS (FEIS) and, after a final comment period and any appropriate public hearings, the agency must make express findings that SEQRA's requirements have been met.... In addition to these procedural requirements, SEQRA also imposes substantive requirements, delineating the content of the EIS ... and requiring the lead agency to 'act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects'" (Apkan v. Koch, 75 NY2d 561, 569-570 [1990], mot to amend remittitur den 75 NY2d 561 [1990]).

The Council's environmental review of Local Law 38 is in sharp contrast to this process. Indeed, as detailed by petitioners, the Council's entire legislative review process was mostly perfunctory, only occasionally rising to the level of cursory, with the operative word being alacrity rather than analysis.

Council's Review of Proposed Legislation

The idea of amending Local Law 1 was first proposed in December 1998. At that time, petitioners, in connection with their pending action, agreed to a stay of the contempt orders and fines then in effect until April 1999 so as to give the City sufficient time to thoughtfully amend the law. A bill to amend Local Law 1, first introduced in 1997 by councilmember Stanley Michels ("Michels"), the chair of the Council's environmental protection committee who had also authored Local Law 1, was pending at that time. No forward-going action was taken on that bill, however, and in mid-April 1999 petitioners were advised that the Council would be drafting a different bill.

Nothing happened until May 3, when Council Speaker Peter Vallone ("Vallone") circulated information about the new bill to the Council. On May 19 various Council staff members met with petitioners' representative to discuss the new legislation, which they informed him would likely not require removal of lead paint and would afford landlords a period in which to evade compliance with the Health Code's applicable safety standards. A few days later, twelve medical experts wrote to Vallone urging him to provide the opportunity for a thorough review of the legislation, but did not receive a response.

Council staff developed a draft bill by May 28, 1999, with the expectation that it would

be passed by the Council before June 30, 1999, the date the last stay extension was due to expire. Learning of the draft's existence, various interested parties expressed to Vallone their concern that the proposed legislation, which had not yet been made available to the public, was being rushed through. On June 8 several members of the New York State Trial Lawyers Association met with Council staff to discuss the May 28 drafts. They received copies of a different draft bill, printed on June 7, and were told that a hearing on it would be held on June 9, 11 or 14. Representatives of the association met with Council staff again on June 10 to discuss the June 7 draft, and were told that the bill to be considered was the May 28 draft, not the June 7 draft, and that the hearing might be held on June 17. On June 15, the Association's public policy director was told that the hearing would be either June 21 or June 22. On June 17, Council staff advised several interested organizations that the hearing would be held on Monday June 21. The draft legislation to be considered at that hearing, consistent with the May 28 draft, was labelled "preconsidered" rather than numbered, and was sponsored by the chair of the Council's committee on housing and buildings in conjunction with the Mayor. This bill was not printed and released to interested parties until the afternoon of Friday, June 18.

At the June 21 hearing held by the Council's committee on housing and buildings, most of petitioners testified despite the very short notice given of the hearings (see petitioner's exhibit 77 at pp 331-332, 357-358, 423-424, 427) and, along with various experts in the field, raised substantive concerns about the proposed legislation. The draft was amended that very same day. Petitioners argue that the amendments, clearly made before anyone had time to consider the

overwhelmingly negative testimony adduced at the hearing, did little to address the concerns raised, much less eliminate them.

A second hearing, with only selected telephone calls on June 23 as notice, was held on June 24. As at the June 21 hearing, the testimony given at the June 24 hearing was overwhelmingly negative. The negative declaration was distributed to the committee members during the hearing, but was not made available to members of the public (compare 6 NYCRR § 617.12(b)[3]). Upon the conclusion of the testimony, the committee proceeded to consider the proposed legislation.

At the outset, Michels proposed several amendments to the bill, some of which addressed concerns raised by petitioners herein, particularly with respect to the inclusion of lead dust as a hazard, the removal of lead-based paint from common areas and window and door frames, and the dilution of landlords' abatement responsibilities and civil liability for personal injuries caused by lead poisoning (see petitioners' exhibit 78, pp 206-226). Essentially, Michels' proposed amendments fundamentally changed the nature of the proposed bill so as to make it very close to the bill originally introduced by Michels on which no action was taken (id. at pp 229-230) and, in Michels' own words, render the legislation "an effective child protection bill" instead of "a landlord protection bill" (id. at p 227). The amendments, which if passed might have substantially eliminated the potential environmental hazards identified at the hearings (see Merson v. McNally, supra, 90 NY2d 742), were overwhelmingly defeated at the committee stage (id. at p 236).

The next item addressed by the committee was the negative declaration, which the committee chair noted had been placed on the members' desks "for members who wish to review it" (id. at p 238). Apparently no one did, because the vote was taken immediately thereafter, with the negative declaration approved by a vote of 7-2 (id. at pp 238-240). The bill itself was then also approved by the committee, although several members argued that more time was needed to consider it carefully before it was enacted and objected to the rushed nature of the process (id. at pp 241-244).

On June 30, 1999, less than a week after being approved by the committee, the negative declaration and the bill were brought up at a stated meeting of the full Council. Initially, four amendments to the legislation were proposed, most significant from an environmental viewpoint to include lead dust as a hazard and make the definition of 'lead hazard' consistent with federal law, and to provide for state-of-the-art post-clean-up safety testing (petitioners' exhibit 79, pp 116-135). Again, passage of these amendments might have sufficiently addressed the environmental concerns raised so as to obviate the need for an EIS. However, the amendments were defeated (id. at pp 145-154), with several members either voting against them or abstaining only because they had not had adequate time to review them (id. at pp 146-147, 150-151). In the immediately following discussion of the bill itself, several councilmembers identified specific health hazards that would be created by the proposed law (see, e.g., id. at pp 161-168, 174-175, 193-194). These were not addressed beyond general assurances by Council leadership that the

legislation at hand was but a starting place and any resulting health hazards or implementation problems would be addressed if and when they developed. Although virtually no councilmember who spoke at the meeting was fully satisfied with the proposed legislation, the bill was passed. The resolution approving the negative declaration was passed as an adjunct to the bill without any discussion, or even acknowledgment as a separate matter to be considered.

After the Council's approval of the bill, the Mayor held another public hearing on the proposed legislation, on July 15, 1999. The testimony adduced was consistent with the testimony offered at the two prior hearings, again raising the issue of lead dust as a hazard. Nonetheless, the Mayor signed the bill into Local Law 38 at the conclusion of the testimony.

Standard of Review

"In reviewing an agency's SEQRA determination, the standard of review is whether the determination was arbitrary and capricious or an abuse of discretion" (Matter of Cathedral Church of Saint John the Divine [Dormitory Authority of the State of New York], supra, 224 AD2d at 100, citations omitted). "[T]he role of the courts is not to weigh the desirability of any action or to choose among alternatives, but to review the agency procedures, to determine whether they were lawful, and the record, to determine whether the agency identified the relevant areas of environmental concern, took a 'hard look' at them and made a 'reasoned elaboration of the basis for its determination" (Coalition for Responsible Planning, Inc. v. Koch, supra, 148 AD2d at 233, citing Matter of Jackson [NYS Urban Development Corp.], 67 NY2d 400 [1986] and HOMES v.

NYS Urban Development Corp., 69 AD2d 222 [4th Dept 1979]). "Court review, while supervisory only, insures that the agencies will honor their mandate regarding environmental protection by complying strictly with prescribed procedures and giving reasoned consideration to all pertinent issues revealed in the process" (Matter of Jackson [NYS Urban Development Corp.], supra, 67 NY2d at 416-417, citations omitted). "SEQRA prescribes that the required environmental review be made before the agency acts" (Matter of Har Enterprises [Town of Brookhaven], 74 NY2d 524, 530-531 [1989], citations omitted).

"In reviewing the issuance of a negative declaration [the court's] task is to determine whether the agency 'made a thorough investigation of the problems involved and reasonably exercised its discretion'.... In making such review, the agency's obligations under SEQRA 'must be viewed in light of a rule of reason'" (Id. at 530, citations omitted). "The initial determination to be made under SEQRA and CEQR is whether an EIS is required, which in turn depends on whether an action may or will not have a significant effect on the environment.... In making this initial environmental analysis, the lead agencies must study the same areas of environmental impacts as would be contained in an EIS, including both the short-term and long-term effects ... as well as the primary and secondary effects ... of an action on the environment. The threshold at which the requirement that an EIS be prepared is triggered is relatively low: it need only be demonstrated that the action may have a significant effect on the environment" (Chinese Staff and Workers Association v. City of New York, 68 NY2d 359, 364-365 [1986], citations omitted).

Again, it must be emphasized that "the limited issue presented for [this judicial] review is whether the respondents identified the relevant areas of environmental concern, took a 'hard look' at them, and made a 'reasoned elaboration' of the basis for their determination" (Id. at 363-364, citations omitted). "[A]n agency, acting as a rational decision maker, must have conducted an investigation and reasonably exercised its discretion so as to make a reasoned elaboration as to the effect of a proposed action on a particular environmental concern.... Thus, while a court is not free to substitute its judgment for that of the agency on substantive matters, the court must ensure that, in light of the circumstances of a particular case, the agency has given due consideration to pertinent environmental factors. This determination is best made on a case-by-case basis" (Apkan v. Koch, supra, 75 NY2d at 571).

As discussed above, the record does not indicate that the Council gave such reasoned consideration to the environmental concerns raised at the public hearings or even through its own discussion of the proposed legislation. Indeed, the transcript of the Council's June 30 session clearly shows that almost all concerns raised by councilmembers were answered with "we know the legislation is not perfect, but we can address any problems with it as they come up." As recently noted by another justice of this state's Supreme Court, "[b]y issuing a negative declaration on the basis that these issues would be worked out in the future, the [Council] abdicated its decision making authority" (Rewind, Inc. v. Town of Erwin, ___ Misc 2d ___, NYLJ Sept 20, 2000, p 34, col 5, at p 36, col 1 [Sup Ct, Steuben Co, Furfure, J]). "Clearly [the

Council] failed to take a 'hard look' at the problems and adverse potential effects.... Not only did it fail to analyze the ... problems entailed, but it vaguely recognized their existence and relied upon general assurances that after the problems developed the ... City ... would adequately mitigate them by some unspecified appropriate action.... It is inconceivable that the Legislature envisioned or intended that its EIS requirements could be avoided by an ... agency which ... declined to recognize egregious environmental problems. In Alice-in-Wonderland manner, respondents separated and put aside the realities of the ... problems" (HOMES v. NYS Urban Development Corp., supra, 69 AD2d at 232).

Finally, only one of the appellate decisions cited by the parties directly addresses the issue of whether an EIS is necessary before approval of lead-based paint removal procedures. In 1996, the Appellate Division, First Department ruled that under SEQRA and CEQR the City had to prepare an EIS prior to establishing procedures for removing lead paint from bridges (Williamsburg Around the Bridge Block Association v. Giuliani, supra, 223 AD2d 64). In that case, the main hazard which the Appellate Division found necessary to address through an EIS was that lead dust would be released through the densely populated neighborhoods in the vicinity of the Williamsburg Bridge. In the wake of such ruling, this court cannot now tell the Appellate Division that a regulatory scheme for lead paint abatement which does not even include lead dust in the definition of a hazard was adequately reviewed by the Council.

Accordingly, petitioner's application is granted. Counsel shall appear for a conference

in Part 2 on Oct. 27, 2000 at ~~2:00~~ 3:30 p.m. to discuss the status of all pending litigation.

Settle judgment.[1]

DATED: Oct. 11, 2000

Lby
J.S.C.

LOUIS B. YORK

[1]The court gratefully acknowledges the assistance of Cathy Seidner, Esq. of this court's law department in the preparation of this decision.