

At a Motion Term of the Supreme Court of the State of New York, held in and for the County of Niagara at the Niagara County Building in the City of Niagara Falls, New York on the 8th day of July, 1994.

ORIGINAL FILED

JUL 14 1994

PRESENT: HON. JOSEPH D. MINTZ,  
Justice Presiding

GEORGE D. MAZIARZ  
NIAGARA COUNTY CLERK  
LOCKPORT NEW YORK 14094

STATE OF NEW YORK

SUPREME COURT

COUNTY OF NIAGARA

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APPLICATION OF FLEVIE DANIELEWICZ

Petitioner

For a judgment pursuant to  
Article 78 of the CPLR

JUDGMENT  
Index No. 086188

- against -

JOHN HIGH, TOWN OF WILSON BUILDING INSPECTOR  
AND ZONING ADMINISTRATOR AND THE TOWN BOARD  
OF THE TOWN OF WILSON, NEW YORK

Respondents

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An application having been made pursuant to CPLR Article 78 to direct the Respondents in the above entitled proceeding to issue a building permit to the Petitioner for construction of a new building consisting of a cow barn at No. 3071 Wilson-Youngstown Road in the Town of Wilson, County of Niagara and State of New York and to rescind the order by Respondents that the Petitioner make

application for a special use permit for the maintenance of a manure storage lagoon at No. 3071 Wilson-Youngstown Road in the Town of Wilson, County of Niagara and State New York and to rescind the order by Respondents that Petitioner terminate his use of said manure lagoon, and said application having duly come on to be heard on the 8th day of July, 1994,

NOW, upon reading and filing the Notice of Petition and Petition dated the 31st day of March, 1994, and the exhibits annexed thereto, the Verified Reply dated the 8th day of June, 1994, the Reply Affidavit by JENNIE M. MUSCARELLA, ESQ., dated the 7th day of June, 1994, and the Affidavit of FLEVIE DANIELEWICZ, sworn to the 8th day of June, 1994, submitted in support of said Petition and the Verified Answer and Counterclaims of Respondents dated the 4th day of May, 1994, and the Answering Affidavit of JOHN HIGH dated the 4th day of May, 1994, and the Answering Affirmation of STEPHEN SACCA, ESQ., dated the 4th day of May, 1994, submitted in support of said Answer and Counterclaims and after hearing GROSSMAN, LEVINE & CIVILETTO, JENNIE M. MUSCARELLA, ESQ., of counsel, in support of said application and KNAUF, CRAIG & DORAN, ALAN KNAUF, ESQ., of counsel, in opposition thereto and due deliberation having been had in the premises, it is

ORDERED, ADJUDGED AND DECREED, that the Respondents be and they hereby are ordered to issue the Petitioner a building permit for construction of a new building consisting of a cow barn

at No. 3071 Wilson-Youngstown Road in the Town of Wilson, County of Niagara and State of New York pursuant to his application therefor and it is further

ORDERED, ADJUDGED AND DECREED, that the Respondents' order requiring Petitioner to file a special use permit for the manure storage lagoon maintained by the Petitioner at No. 3071 Wilson-Youngstown Road in the Town of Wilson, County of Niagara and State of New York be and the same hereby is in all respects vacated and set aside, and it is further

ORDERED, ADJUDGED AND DECREED, that the Respondents' order requiring the Petitioner to cease use of the said manure lagoon at No. 3071 Wilson-Youngstown Road in the Town of Wilson, County of Niagara and State of New York be and the same hereby is in all respects vacated and set aside, and it is further

ORDERED, ADJUDGED AND DECREED, that the Respondents' counterclaims be and the same hereby are in all respects denied.

Signed this 13<sup>th</sup> day of July, 1994, in Niagara Falls, New York.

  
JOSEPH D. MINTZ,  
Justice of the Supreme Court

ENTER in Niagara County

GRANTED

July 14 1994  
P. Bell