

Property Owner Found To Be Within Zone Of Interest For Standing To Challenge Development

An appellate court reversed a lower court decision dismissing, for lack of standing, a challenge brought by a nearby property owner to a development over 1,000 feet from his property. In [Matter of Ontario Heights Homeowners Association v. Town of Oswego Planning Board](#), the Appellate Division Fourth Department held that the property owner was within the "zone of interest" under the Environmental Conservation Law and therefore had standing to raise a challenge to a proposed development on environmental grounds.

The lower court had dismissed the action by the property owner across the street whose property is 697 feet from the property line of the development and 1,242 feet from the actual development. However, the Appellate Division held:

"Supreme Court erred in determining that he lacks standing to bring this proceeding. Dunsmoor, who resides across the street from the proposed development, has alleged that he may suffer environmental harm as a result of the Planning Board's decision to permit the developer to utilize a private sewage treatment plant on the proposed development, rather than utilizing the City of Oswego's public sewer system.... he is " arguably within the zone of interest to be protected by [article 8 of the Environmental Conservation Law]' . . . and [has] standing to seek judicial review without pleading and proving special damage, because adverse effect or aggrievement can be inferred from the proximity' "

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