

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

GABRIELLA VELARDI-WARD,

Appellant-Petitioner,

-against-

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Respondent-Appellee

-and-

JOSIF A. LLC,

Intervenor-Respondent-Appellee

Appellate Case No: 2020-06757

Docket Number: 705019/2020

STATE OF NEW YORK)
 : ss
COUNTY OF QUEENS)

**AFFIDAVIT OF GABRIELLA VELARDI-WARD IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

GABRIELLA VELARDI-WARD, being duly sworn, deposes and says:

1. I am the Petitioner-Appellant in the above-captioned case.
2. I submit this affidavit in support of Petitioner-Appellant's motion to enjoin Intervenor Respondent Josif A. LLC from beginning construction and all related activities pursuant to CPLR Section 6312.
3. I reside at 40 Wolkoff Lane, within the Borough of Staten Island, County of Richmond and State of New York. My residence is 0.4 miles from the Graniteville Wetlands and site of the South Avenue Retail Development at issue in the above captioned case, located at 534 South Avenue, Block 1707, Lot 1 (formerly mapped as Lots 1 and 5),

within the Borough of Staten Island, County of Richmond and State of New York. I often observe the Graniteville Wetlands when I drive by them, which occurs on a frequent basis.

4. I have spent significant time on the Graniteville Wetlands, and continue to frequently enjoy the wetlands for recreational activities, aesthetic enjoyment, and professional endeavors concerning my membership in the Staten Island Coalition for Wetlands and Forest.
5. Approximately once a month, I am out on the Graniteville Wetlands, at or near the location of the South Avenue Retail Development at issue in this case. I patrol the Graniteville Wetlands as part of my responsibilities for the Staten Island Coalition for Wetlands and Forest, and in my capacity as a citizen of the local government. I greatly enjoy hiking/walking and recreating upon the Graniteville Wetlands and am pleasantly surprised whenever I encounter flora and fauna in or along the wetlands.
6. As an artist and a former professional photographer, I also enjoy photographing the beauty of the vernal ponds as well as the flora and fauna present there.
7. I received an email December 17, 2020 alerting me to the fact that Rampulla Associates Architects, on behalf of Intervenor-Respondent Josif A. LLC, received approval for land clearing on December 11, 2020 from the NYC DOB.
8. This approval was posted on the NYC DOB Website, which is attached hereto as Exhibit 1.
9. As a result, I kept an eye on the DOB website to monitor when and if the developer obtained permission to move forward with construction. Based on my sixteen years of construction supervision in the public and private spheres, my seven years of construction

design working with developers and contractors, and my reading of the NYC Building Code Chapter 33, Section 3307.7, it is my understanding that no construction activities can commence until the developer gets final approval for and establishes a construction fence, which as of this filing has not happened. Evidence that no construction fence permit has yet been issued is taken from the DOB website for this project and attached hereto as Exhibit 2.

10. Nevertheless, on or about March 7, 2021, I visited the Graniteville Wetlands and saw for the first time trees that were both cut up and dead, some of which were marked with red numbers. Some of the logs were organized into piles. I also saw survey sticks around the area, trenches that seemed to have been dug, and idle construction machinery.

Photographs taken during this visit are attached hereto as Exhibit 3.

11. As a result of these activities and because I discovered on March 7, 2021 that the wetland had been significantly altered through tree cutting, I am seeking an injunction to preserve the status quo of this case until my appeal is resolved.

12. Harms caused by construction of the South Avenue Retail Development, if construction moves forward, include, but are not limited to, 1) the loss of flood preventing/mitigating land, 2) a significant decrease in the land's effectiveness against flooding and/or major weathering events, 3) the loss of land vital to the process of carbon sequestration and the release of the carbon already stored in that soil 4) expenses arising from purchasing flood insurance, 5) an even more congested local traffic situation, 6) an increase in carbon dioxide emissions caused by cutting down more than 1,700 trees and higher automobile congestion, 7) an increase in noise pollution (the area already has significant noise pollution issue caused from Newark Airport and the Staten Island Expressway), 8) the

loss of aesthetic enjoyment of flora and fauna and 9) potential ground water contamination from gas spills/leaks, and the oil and gas run off from the over 800 car parking lot. This is especially concerning for the vernal pond that is under the jurisdiction of the Army Corps of Engineers and for Old Place Creek, both waters of the United States.

13. Upon information and belief, twenty-four residents of the South Shore of Staten Island lost their lives as a direct result of superstorm Sandy. I fear that the Graniteville community is not in the position to sustain another event like Super Storm Sandy, especially with the effects of climate change increasing daily, and removal of crucial tree covering from the Graniteville Wetlands will drastically increase the area's susceptibility to flooding risk.
14. Upon information and belief, the surrounding community will also lose the only protection it has from the major sources of air pollution, the Staten Island Expressway, Newark Airport and the Chemical Refineries off the coast of New Jersey with the prevailing winds moving in the direction of Graniteville.
15. These environmental harms cannot be undone, and commencement of construction, including the cutting down of trees through land clearing will permanently and irrevocably harm my interest, and the public interest, in this case before I am able to bring my appeal to this court.
16. I am a co-founder of the Staten Island Coalition for Wetlands and Forest, a coalition of community and environmental groups whose mission is to: 1) raise awareness of the issues concerning Staten Island Wetlands and 2) save the Graniteville Wetlands and

Forest. See *Contact Us*, COALITION FOR WETLANDS & FOREST STATEN ISLAND, NY,
<http://www.sicwf.org/contact-us/> (last visited Feb. 11, 2020).

17. My aesthetic, environmental and recreational interests in the Graniteville Wetlands would be directly affected by the construction of the South Avenue Retail Development, which will result in the destruction of the majority of the Graniteville Wetlands.

18. As a result, I seek an injunction of any construction at the site to preserve the status quo pending appeal.

DATED: March ___, 2021
Queens, NY

GABRIELLA VELARDI-WARD

Sworn to before me this
___ day of March, 2021

Notary Public

