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## Appellate Court says SMI can still challenge Local Law 3

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SENECA FALLS — Seneca Meadows Inc.'s legal challenge to a Seneca Falls Town Board local law that would force it to close its landfill by the end of 2025 can move forward.

The Fourth Judicial Department's Appellate Division in Rochester has voted unanimously to reverse a lower court ruling that dismissed SMI's challenge to Local Law 3 of 2016.

State Supreme Court Judge Daniel Doyle ruled in May 2020 that the petition filed by SMI over the Town Board's enactment of the local law should be dismissed. The five-judge Appellate Court panel tossed out that ruling and reinstates the original lawsuit against the town.

SMI appealed Doyle's ruling to the Appellate Court.

"We agree with petitioner (SMI) that the court erred in granting those parts of the motions seeking to dismiss the first, second and fourth causes of action as untimely," the Appellate Court decision stated. "In saying SMI acted in a timely manner, the court said it is rejecting the contention of the town and Concerned Citizens that the second lawsuit as untimely because it was begun more than four months after Dec. 30, 2016."

In February 2017, SMI filed a legal challenge to Local Law 3 of 2016. But a new Town Board seated Jan. 1, 2017, approved Local Law 2 of 2017 in May 2017 that rescinded the 2016 local law. SMI then voluntarily discontinued its lawsuit, believing the matter was moot.

However, Concerned Citizens of Seneca County filed a lawsuit seeking to overturn Local Law 2 of 2017. Supreme Court Judge William Kocher granted the petition annulling the 2017 local law and reinstating the 2016 law.

SMI challenged Kocher's decision and Doyle dismissed that challenge, which led SMI to appeal to the Appellate Court.

"We conclude that the Town Board, by enacting the 2017 local law that repealed the 2016 law, created ambiguity and uncertainty as to when the statute of limitations began to run with respect to the 2016 law," the latest decision stated. "The burden is on the administrative agency to demonstrate the existence of a final and binding termination and any ambiguity or uncertainty created by the agency must be construed against it."

The judges said enactment of the 2017 law rendered the first proceeding moot and it was properly discontinued by the SMI. When the 2016 law was effectively reinstated after the 2017 law was annulled, the petitioner had four months from that time to commence the second proceeding.



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“Although intervenors and the town contend that the limitation period began to run when the 2016 law was enacted and the petitioner failed to protect its rights with respect to the 2016 law because there were other steps petitioner could have taken instead of voluntarily discontinuing the first proceeding, we conclude that the blame must be cast upon the Town Board for creating the uncertainty regarding the finality of the 2016 law by enacting the 2017 law. We must resolve the ambiguity against it and not deny the petitioner its day in court,” they ruled.

The judges also said the lower court was wrong in agreeing to reject SMI’s claim that it was denied due process in three causes of action.

“We conclude the petitioner made sufficient allegations that the 2016 law was without legal justification and motivated entirely by political concerns in making its claims of denial of due process,” they said in the ruling.

Town Attorney Patrick Morrell said the Town Board will discuss the decision at its Sept. 7 meeting. One option is to file an appeal with the state Court of Appeals, the highest court in the state. But that court only selects certain cases to hear, and the 5-0 vote by the Appellate Court will hurt the chances of it being considered.

The town and the intervenors have 30 days from when they are served with the Appellate Court order to file a notice of appeal. As of Friday, that time clock had not started to run.

The ruling doesn’t affect Local Law 3, which remains in effect, but allows SMI’s legal challenge to the law to proceed.

The town hired the Boylan Code law firm to defend Local Law 3, while joined by intervenors Concerned Citizens of Seneca County, represented by Douglas Zamelis.

SMI was represented by the Nixon Peabody law firm of Rochester.