

Index Number 622697/2017

SUPREME COURT - STATE OF NEW YORK
I.A.S. PART 12 - SUFFOLK COUNTY

PRESENT:

Hon. John H. Rouse
Acting Supreme Court Justice

MOTION DATE: 09/23/2020
ADJ. DATE: 11/25/2020
Mot. Seq. 004-MD

MOTION DATE: 10/28/2020
ADJ. DATE: 11/25/2020
Mot. Seq. 005-MG

MOTION DATE: 10/28/2020
ADJ. DATE: 11/25/2020
Mot. Seq. 006-MD

MOTION DATE: 10/28/2020
ADJ. DATE: 11/25/2020
Mot. Seq. 007-MD

MOTION DATE: 10/28/2020
ADJ. DATE: 11/25/2020
Mot. Seq. 008-MD
e-filed full participation

Long Island Power Authority, Long Island Lighting
Company d/b/a LIPA

Plaintiff

-against-

DECISION AND ORDER

County Of Suffolk, Suffolk County Comptroller,

Defendants

County Of Suffolk, Suffolk County Comptroller,

Third-Party Plaintiff

-against-

TOWN OF BABYLON; JOAN M BALL Assessor of the Town of Babylon; CORINNE DISOMMA Receiver of Taxes for the Town of Babylon; TOWN OF BROOKHAVEN; RONALD F DEVINE JR. Assessor of the Town of Brookhaven LOUIS J MAROCCIA Receiver of Taxes for the Town of Brookhaven TOWN OF EAST HAMPTON; THE BOARD OF ASSESSORS OF THE TOWN OF EAST HAMPTON; REBECCA RAHN Receiver of Taxes for the Town of East Hampton; TOWN OF HUNTINGTON; ROGER RAMM Assessor of the Town of Huntington; JILLIAN GUTHMAN ESQ. Receiver of Taxes for the Town of Huntington; TOWN OF ISLIP; ANNE M DANZIGER Assessor of the Town of Islip; ALEXIS WEIK Receiver of Taxes for the Town of Islip; TOWN OF RIVERHEAD; THE BOARD OF ASSESSORS OF THE TOWN OF RIVERHEAD; LAURIE A ZANESKI Receiver of Taxes for the Town of Riverhead; TOWN OF SHELTER ISLAND; THE BOARD OF ASSESSORS OF THE TOWN OF SHELTER ISLAND; ANNMARIE SEDDIO Receiver of Taxes for the Town of Shelter Island; TOWN OF SMITHTOWN; PETER D JOHNSON ESQ. Assessor of the Town of Smithtown; Third Party Respondent DEANNA VARRICCHIO Receiver of Taxes for the Town of Smithtown; TOWN OF SOUTHAMPTON JAMES M. BURKE; LISA GOREE Assessor of the Town of Southampton; HON. THERESA A KIERNAN Receiver of Taxes for the Town of Southampton; TOWN OF SOUTHDOLD JAMES RYAN; THE BOARD OF ASSESSORS FOR THE TOWN OF SOUTHDOLD; GEORGE R SULLIVAN Receiver of Taxes for the Town of Southold,

Third-Party Defendants

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Upon the reading and filing of the following papers in this matter: (1) Notice of Motion (Sequence 004) by Plaintiffs for an Order pursuant to CPLR 3212 in favor of Plaintiffs, Long Island Power Authority and Long Island Lighting Company d/b/a LIPA (collectively "LIPA"), declaring that: (1) any tax liens held by the County of Suffolk and the Suffolk County Comptroller (collectively the "County") on LIPA's properties located in Suffolk County are illegal and void; (2) such tax liens shall be cancelled immediately; (3) any purported tax lien sale on LIPA's properties be immediately rescinded; (4) LIPA's properties are exempt from taxation and thereby, as a matter of law, removed from the tax rolls; and (5) LIPA is only required to make payments in lieu of taxes ("PILOT") on its properties in amounts equal to the taxes and assessments that the Long Island Lighting Company ("LILCO") would have paid had LILCO continued to own the properties provided that for the calendar year starting on January 1, 2015, and for each calendar year thereafter, such PILOTs shall not exceed by more than 2% the PILOTs made in the preceding year and that LIPA complied with its statutory obligation by making its PILOTs to the Third-Party Defendants. LIPA also requests that a permanent injunction be issued enjoining the County from: (1) taking a tax deed to any of LIPA's properties located in Suffolk County; and (2) selling any tax liens on LIPA properties in Suffolk County. Summary judgment should also be entered in favor of LIPA dismissing all counterclaims asserted against LIPA and for such other and further relief that the Court deems just and proper;

(2) Notice of Cross Motion (Sequence 005) by Defendants County of Suffolk and Suffolk County Comptroller for an Order pursuant to CPLR 3212 in favor of the County and against the Plaintiffs, the Long Island Power Authority ("LIPA") and the Long Island Lighting Company d/b/a/ LIPA ("LILCO"), and in favor of the County and against the Third-Party Defendants, the Towns of Babylon, Brookhaven, East Hampton, Huntington, Islip, Riverhead, Shelter Island, Smithtown, Southampton and Southold (each a "Town", and collectively the "Towns"), and their respective assessors or boards of assessment (each a "Town Assessor"), and collectively the "Town Assessors"), and their respective receivers of taxes (each a "Town Receiver", and collectively the "Town Receivers") (the Towns, the Town Assessors and the Town Receivers are hereinafter collectively referred to as the "Third-Party Defendants"):

A. dismissing the Plaintiffs' Verified Amended Complaint;

B. declaring that, pursuant to the Defendants' First Counterclaim, LIPA's transmission and distribution properties (the "T&D Properties"), which are owned by LILCO, a wholly

owned subsidiary of LIPA, are not exempt from real-property taxation for tax years 2014/15 through 2019/20 by reason of the Plaintiffs' failure to timely challenge their unlawful assessment as non-exempt, taxable properties by the Town Assessors during those tax years;

C. compelling the Plaintiffs, pursuant to the Defendants' Third Counterclaim, to pay over to the County the unpaid real-property taxes levied against the T&D Properties for tax years 2014/15 through 2019/20, with interest and penalties.

D. alternatively, if the Court finds that the tax liens held by the County on the T&D Properties are invalid and/or ineffectual, declaring that, pursuant to the Defendants' First Third-Party Cause of Action:

(i) the error in the taxation of the T&D Properties originated with the Town Assessors' unlawful assessment of the T&D Properties as non-exempt, taxable properties on their respective assessment rolls;

(ii) the invalidated taxes shall be a charge against each Town from which they were returned; and

(iii) the County Legislature shall cause the same to be assessed, levied and collected and paid to the Comptroller pursuant to Section 40-c of the Suffolk County Tax Act;

E. enjoining the Town Assessors, pursuant to the Defendants' Fourth Third Party Cause of Action, from continuing to assess the T&D Properties as non-exempt, taxable properties on their respective assessment rolls and directing them to remove such properties from the taxable portions of their respective assessment rolls for tax year 2020/21, and for all future tax years for so long as such properties are owned and/or controlled by LIPA and remain tax exempt under the LIPA Act;

F. directing the Towns, pursuant to the Defendants' Fourth Third-Party Cause of Action, not to extend any real-property taxes on to the T&D Properties for tax year 2020/21, and for any future tax years for so long as such properties are owned and/or controlled by LIPA and remain tax exempt under the LIPA Act;

G. declaring, in opposition to Plaintiffs' request for declaratory relief, that LIPA failed to comply with its statutory obligations under the LIPA Act, as amended by the LIPA Reform Act, because:

(i) the LIPA Reform Act's 2% annual growth cap on the PILOTs that LIPA must pay to taxing jurisdictions on the T&D Properties in Suffolk County commenced on December 1, 2015, the first date in calendar year 2015 on which PILOTs became due on the T&D Properties in Suffolk County, and not, as LIPA contends, with the second-half 2014/15 payments made by LIPA in May 2015, which became due on December 1, 2014;

(ii) the correct methodology for calculating the PILOTs on the T&D Properties is on a "taxing jurisdiction by taxing jurisdiction" basis by capping the annual growth of each taxing jurisdiction's real-property taxes on the T&D Properties to no more than 2%, and not, as LIPA contends, on a "parcel-by-parcel" basis by capping the annual growth of the total sum of all of the taxing jurisdictions' real-property taxes on each T&D Property to no more than 2%;

(iii) LIPA remitted its improperly calculated PILOTs to the Town Receivers, who had no authority under the LIPA Act or the Suffolk County Tax Act to receive and distribute such payments; and

(iv) LIPA failed to provide instructions to the Town Receivers on how to distribute its PILOTs to the taxing jurisdictions in Suffolk County in accordance with the LIPA Act, as amended by the LIPA Reform Act, and to otherwise ensure their correct distribution in Suffolk County. As a result, the Town Receivers distributed the PILOTs as real-property taxes under the Suffolk County Tax Act, resulting in: (a) the County not receiving the PILOTs that it was entitled to receive on the T&D Properties on which LIPA capped its payments; and (b) the County receiving Tax Liens on the T&D Properties, funding the tax shortages on the T&D Properties out of its general fund, and thereby absorbing all of the revenue losses that were generated by LIPA's incorrect application of the 2% growth cap to the real-property taxes that were levied on the T&D Properties in Suffolk County; and

H. awarding the County such other and further relief as this Court deems just and proper, including, but not limited to an award of costs and disbursements.

(3) Notice of Motion (Sequences 006 007 and 008) by Third-Party Defendants for an order in favor of the Towns pursuant to CPLR § 3212:

(i) dismissing all claims against the Towns set forth in Plaintiffs-Long Island Power Authority and Long Island Lighting Company d/b/a LIPA's Amended Complaint with Direct Claims Against Third-Party Defendants dated January 15, 2020, pursuant to CPLR §§ 3212, 3211(a)(5), 3211(a)(7), 3211(a)(10), the doctrines of laches and unclean hands, and as otherwise set forth in the Towns' accompanying papers; and

(ii) dismissing all claims against the Towns set forth in Defendants-the County of Suffolk and the Comptroller of the County of Suffolk's Counterclaims and Third-Party Complaint dated March 20, 2020, pursuant to CPLR §§ 3212, 3211(a)(S), 3211(a)(7), 3211(a)(10) and the doctrines of laches, and as otherwise set forth in the Towns' accompanying papers; and

(iii) issuing a declaratory judgment in favor of the Towns on their Counterclaim dated April 21, 2020, declaring that the provisions of the Suffolk County Tax Act govern the interpretation and administration of Public Authorities Law § 1020-q; and

(iv) for such other and further relief that this Court may deem just and proper.

it is:

ORDERED that the motion (Sequence 004) by Plaintiffs for an Order pursuant to CPLR § 3212 in favor of Plaintiffs, Long Island Power Authority and Long Island Lighting Company d/b/a LIPA (collectively "LIPA"), declaring that: (1) any tax liens held by the County of Suffolk and the Suffolk County Comptroller (collectively the "County") on LIPA's properties located in Suffolk County are illegal and void is in every respect denied; and it is further

ORDERED that the Cross Motion (Sequence 005) by Defendants County of Suffolk and Suffolk County Comptroller for an Order pursuant to CPLR 3212 in favor of the County and against the Plaintiffs, the Long Island Power Authority ("LIPA") and the Long Island Lighting Company d/b/a/ LIPA ("LILCO") (collectively, the "Defendants"), and in favor of the County and against the Third-Party Defendants, the Towns of Babylon, Brookhaven, East Hampton, Huntington, Islip, Riverhead, Shelter Island, Smithtown, Southampton and Southold (each a "Town", and collectively the "Towns"), and their respective assessors or boards of assessment (each a "Town Assessor"), and collectively the "Town Assessors"), and their respective receivers of taxes (each a "Town Receiver", and collectively the "Town Receivers") (the Towns, the Town Assessors and the Town Receivers are hereinafter collectively referred to as the "Third-Party Defendants"):

A. dismissing the Plaintiffs' Verified Amended Complaint;

B. declaring that, pursuant to the Defendants' First Counterclaim, LIPA's transmission and distribution properties (the "T&D Properties"), which are owned by LILCO, a wholly owned subsidiary of LIPA, are not exempt from real-property taxation for tax years 2014/15 through 2019/20 by reason of the Plaintiffs' failure to timely challenge their unlawful assessment as non-exempt, taxable properties by the Town Assessors during those tax years;

C. compelling the Plaintiffs, pursuant to the Defendants' Third Counterclaim, to pay over to the County the unpaid real-property taxes levied against the T&D Properties for tax years 2014/15 through 2019/20, with interest and penalties is in every single respect granted, and the alternative request for relief is denied as moot; and it is further

ORDERED that the Third-Party Complaint is dismissed, and the motions by the Third-Party Defendants (Sequences 006 007 and 008) are denied as now moot.

SUBMIT JUDGMENT ON NOTICE

DECISION

Plaintiff commenced this action for a declaratory judgment on November 27, 2017 seeking: (i) a declaration under CPLR §3001 that any purported tax liens held by the County on LIPA's properties, including its real and utility property located in Suffolk County, are illegal and void, that any such tax lien(s) shall be cancelled immediately, and that any purported tax sale of LIPA's properties shall be immediately rescinded; (ii) an injunction permanently enjoining the County from taking a tax deed to any of LIPA's properties located in Suffolk County as a result of any tax lien; and (iii) an injunction permanently enjoining the sale of any tax liens on LIPA's properties in the future.

Plaintiff contends that, under New York Public Authorities Law § 1020-p (2), it is exempt from paying taxes or assessments "upon any of the property acquired or controlled by it or upon its activities in the operation or maintenance thereof. . . ." As a result, Plaintiff argues LIPA is exempt from paying property taxes on all of its properties, including its real and utility property, located in Suffolk County, and property owned by it must be removed from the tax rolls.

Defendant County of Suffolk and the Comptroller for the County of Suffolk commenced a Third-Party action by filing a summons together with its verified answer with counterclaims and third-party complaint on July 12, 2018. [See e-filed document 72.](#) This Court granted Plaintiff, LIPA, a preliminary injunction against the enforcement of the tax liens held by Defendant Suffolk County pending a final resolution of this case. [e-filed document 86.](#) This was followed by filing an Amended Verified Answer, Counterclaims and Third-Party Complaint on October 3, 2018. [See e-filed document 88.](#)

SUFFOLK COUNTY'S THIRD-PARTY COMPLAINT

Defendant Suffolk County makes the following allegations:

Upon information and belief, the Town Assessors erroneously classified Plaintiffs' Transmission and Distribution Properties "T&D Properties" as non-exempt, taxable properties on their Towns' respective final assessment rolls for tax years 2014/15 through 2017/18, and, as a result, such properties were erroneously listed and included on the taxable portions of the Towns' respective final assessment rolls for those tax years.

Upon information and belief, the Towns extended the tax levies of the various taxing jurisdictions lying within their respective Towns on to the taxable properties shown on their respective final assessment rolls for tax years 2014/15 through 2017/18, including, but not limited to, onto the T&D Properties, resulting in the erroneous extension of taxes on to the T&D Properties.

Pursuant to the Suffolk County Tax Act "SCTA," these erroneously assessed taxes became liens on the T&D Properties on December 1 of each tax year. For tax years 2014/15 through 2017/18, the Town Receivers of Taxes filed returns of unpaid taxes with the County under the SCTA showing unpaid taxes due and owing on the T&D Properties totaling \$22,279,490.44, exclusive of statutory interest and penalties.

The County, pursuant to the SCTA, credited each Town with the amount of the unpaid taxes pending against the T&D Properties in such Town and proceeded to enforce the unpaid taxes under the provisions of the SCTA. Pursuant to the SCTA and Resolution 936-1972, the County enforced the unpaid taxes pending against the T&D Properties by purchasing the 2014/15 through 2017/18 tax liens on the T&D Properties at its annual tax sale held in December of each year.

If the Court declares that the tax liens currently held by the County on the T&D Properties for tax years 2014/15 through 2017/18 are null and void because the T&D Properties were exempt from taxation during those tax years as a matter of law under the LIPA Act, then the County, pursuant SCTA § 40-c, must cancel the tax liens and recharge the unpaid taxes back to the Towns because the error in taxing the properties originated with the officers of the Towns in that the Town Assessors erroneously classified the T&D Properties as non-exempt taxable properties on their Towns' respective final assessment rolls for such tax years, and the Town Supervisors erroneously extended real property taxes on to the T&D Properties for such tax years.

Upon information and belief, the Towns dispute that the error in taxing the T&D Properties originated with the officers of the Towns, and that the County can recharge the unpaid taxes back to the Towns under SCTA § 40-c.

Thus, there is an actual controversy existing between the County and the Towns with respect to whether the erroneous classification of the T&D Properties and the extension of real property taxes to the T&D Properties as such properties are shown on the Towns' final assessment rolls for tax years 2014/15 through 2017/18 originated with the Towns, and whether the County can recharge the unpaid taxes for such tax years back to the Towns pursuant to SCTA § 40-c.

The County demands and is entitled to judgment against the Towns declaring that the erroneous classification and extension of taxes to the T&D Properties shown on the Towns' final assessment rolls for tax years 2014/15 through 2017/18 originated with the Towns, and that the County can recharge the invalid unpaid taxes for those tax years back to the Towns pursuant to SCTA § 40-c.

AS AND FOR A SECOND THIRD-PARTY CAUSE OF ACTION

If the Court determines that the T&D Properties were tax exempt for tax years 2014/15 through 2017/18 under the LIPA Act, then the payments that the Plaintiffs made to the Town Receivers of Taxes on the T&D Properties during those tax years constituted PILOT payments made under the LIPA Act, and not taxes paid under the SCTA.

The Town Receivers of Taxes received the PILOT payments on behalf of each of the taxing jurisdictions within their respective Towns, including the County, and held such PILOT payments in trust on behalf of each such taxing jurisdiction within their respective Towns, including the County.

Pursuant to the LIPA Act, the County was entitled to receive from the PILOT payments made by the Plaintiffs to the Town Receivers of Taxes, PILOT payments equal to the taxes and

assessments which the County would have received on the T&D Properties if such properties had not been acquired by LIPA, subject to the 2% cap set forth in the LIPA Reform Act.

Upon information and belief, the Town Receivers of Taxes failed, neglected and refused to remit to the County from the PILOT payments that they received from the Plaintiffs the full amount of the PILOT payments due and owing the County under the LIPA Reform Act, and, instead, paid some or all of the PILOT payments due and owing to the County under the LIPA Reform Act over to the other taxing jurisdictions within their respective Towns, including, but not limited to, to the Towns themselves.

As a result of the foregoing, the County is entitled to the remedy of an equitable accounting and demands judgment as follows: (i) directing each Town Receiver of Taxes to produce copies of all tax bills and/or PILOT invoices issued by such Town Receiver of Taxes for the T&D Properties for tax years 2013/14 to the present; (ii) directing each Town Receiver of Taxes to account to the County for all PILOT payments received by such Town Receiver of Taxes on the T&D Properties for tax years 2013/14 to the present; (iii) directing each Town Receiver of Taxes to account to the County for the disbursement of all PILOT payments received by such Town Receiver of Taxes on the T&D Properties for tax years 2013/14 to the present; and (iv) if it is determined that any Town Receiver of Taxes failed to remit to the County from the PILOT payments such Town Receiver of Taxes received on the T&D Properties the full amount of the PILOT payments due and owing the County under the LIPA Reform Act, entry of a money judgment against such Town Receiver of Taxes and Town for the amount of the PILOT payments that such Town Receiver of Taxes should have remitted to the County under the LIPA Reform Act.

AS AND FOR A THIRD THIRD-PARTY CAUSE OF ACTION

Upon information and belief, under the LIPA Act, the Town Receivers of Taxes received PILOT payments from the Plaintiffs rightfully belonging to the County for tax years 2014/15 through 2017/18.

Upon information and belief, the Town Receivers of Taxes failed to remit to the County the full amount of the PILOT payments that the County was entitled to receive under the LIPA Reform Act, and instead paid some or all of the PILOT payments rightfully belonging to the County under the LIPA Reform Act over to the other taxing jurisdictions within their respective Towns, including, but not limited to, to the Towns themselves.

Upon information and belief, as a result of the foregoing, the Towns have benefitted from their retention of some or all of the PILOT payments that rightfully belong to the County under the LIPA Reform Act.

Under principles of equity and good conscience, the Towns should not be permitted to keep any portion of the PILOT payments that the County was rightfully entitled to receive under the LIPA Reform Act.

AS AND FOR A FOURTH THIRD-PARTY CAUSE OF ACTION

Plaintiffs' T&D Properties are exempt from real property taxation under the LIPA Act and are required to be removed from the Towns' assessment rolls. The Town Assessors, however, have not removed the T&D Properties from their Towns' respective assessment rolls, and, upon information and belief, have not removed the T&D Properties from their respective tentative and final assessment rolls for the 2018/19 tax year. The failure to remove the T&D Properties from the Towns' respective assessment rolls has caused and will continue to cause injury to the County in that the Towns are wrongfully extending taxes on to the T&D Properties and wrongfully passing off all of the losses in tax revenue caused by the 2% cap in the LIPA Reform Act to the County in the form of unpaid taxes.

In order to prevent continued financial harm to the County, the County is entitled to and demands judgment: (i) enjoining the Town Assessors from classifying the T&D Properties as non-exempt, taxable properties on their respective final assessment rolls, and directing them to remove such properties from their respective final assessment rolls for tax year 2018/19 and all future tax years for so long as the properties are owned and/or controlled by Plaintiffs; (ii) directing the Towns not to extend any real property taxes on to such properties; and (iii) directing the Town Receivers of Taxes to remit to the County the County's portion of any and all PILOT payments received by them on such properties in accordance with the LIPA Reform Act.

Defendant Suffolk County seeks judgment on the Third-Party Action as follows:

On the First Third-Party Cause of Action, in the event that the Court determines that the T&D Properties were exempt from taxation for tax years 2014/15 through 2017/18 and invalidates the tax liens that the County has purchased on the T&D Properties for such tax years, a judgment declaring that the erroneous classification of the T&D Properties and the extension of taxes on to the T&D Properties as such properties are shown on the Towns' final assessment rolls for tax years 2014/15 through 2017/18 originated with the Towns, and that the County can recharge the unpaid taxes for those tax years back to the Towns pursuant to SCTA § 40-c;

On the Second Third-Party Cause of Action, in the event the Court determines that the T&D Properties were tax exempt in tax years 2014/15 through 2017/18, then the County is entitled to the remedy of any equitable accounting and demands judgment as follows: (i) directing each Town Receiver of Taxes to produce copies of all tax bills and/or PILOT invoices issued by such Town Receiver of Taxes for the T&D Properties for tax years 2013/2014 to the present; (ii) directing each Town Receiver of Taxes to account to the County for all PILOT payments received by such Town Receiver of Taxes on the T&D Properties for tax years 2013/2014 to the present; (iii) directing each Town Receiver of Taxes to account to the County for the disbursement of all PILOT payments received by such Town Receiver of Taxes on the T&D Properties for tax years 2013/2014 to the present; and (iv) if it is determined that any Town Receiver of Taxes failed to remit to the County from the PILOT payments such Town Receiver of Taxes received on the T&D Properties the full amount of the PILOT payments due and owing the County under the LIPA Reform Act, entry of a money judgment against such Town Receiver of Taxes and Town for the amount of the PILOT payments that such Town Receiver of Taxes

should have remitted to the County under the LIPA Reform Act, with pre- and post-judgment interest;

On the Third Third-Party Cause of Action, a money judgment in an amount to be determined at trial, with pre- and post-judgment interest.

On the Fourth Third-Party Cause of Action, judgment: (i) enjoining the Town Assessors from classifying the T&D Properties as non-exempt, taxable properties on their respective 2018/19 tax rolls and directing them to remove such properties from their respective assessment rolls for tax year 2018/19 and all future tax years for so long as the properties are owned and/or controlled by Plaintiffs; (ii) directing the Towns not to extend any real property taxes on to such properties in 2018/19 and all future tax years for so long as the properties are owned and controlled by the Plaintiffs; and (iii) directing the Town Receivers of Taxes to remit to the County the County's share of any and all future PILOT payments received by them on such properties in accordance with the LIPA Reform Act.

Upon review of all the submissions, the Suffolk County Comptroller has submitted an affidavit that is cogent, compelling, factually undisputed, and correct. [See e-filed document 37](#). In its Memorandum of Law, Defendant Suffolk County argued, [e-filed document 277](#), as have the Plaintiffs, that the Transmission and Distribution Property, under New York Public Authorities Law § 1020-p (2), is exempt from paying taxes or assessments “upon any of the property acquired or controlled by it or upon its activities in the operation or maintenance thereof. . . .” Upon this point the Plaintiffs and Defendant are correct.

Nonetheless, the Third-Party Defendants included such property on assessment rolls and the Plaintiff was taxed upon that assessment. The proper remedy for the Plaintiffs was to challenge those rolls when the assessment occurred. RPTL Article 7 or CPLR Article 78. Instead, Plaintiffs delayed in challenging the assessments until now, after Defendant Suffolk County had paid the Plaintiffs’ delinquent tax obligations to the Third-Party Defendant Towns. This failure by Plaintiffs was improper and the challenge raised now is untimely. RPTL § 702 and CPLR § 217. Accordingly, the Cross Motion (Sequence 005) by the Defendants is granted as provided in the orders above. The Plaintiffs’ Motion (Sequence 004) is denied and the Motion by Third-Party Defendants (Sequences 006 007 and 008) are denied as being moot.

Dated: April 1, 2021

ENTER:



JOHN H. ROUSE
ACTING J.S.C.

NON-FINAL DISPOSITION