

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 11-01807

PRESENT: SCUDDER, P.J., SMITH, FAHEY, CARNI, AND SCONIERS, JJ.

IN THE MATTER OF PETER S. DUCHMANN AND DUKE
DISTRIBUTING COMPANY, INC., DOING BUSINESS AS
ADVANCED AUTO ELECTRONICS,
PETITIONERS-APPELLANTS,

V

MEMORANDUM AND ORDER

TOWN OF HAMBURG, TOWN OF HAMBURG TOWN BOARD,
TOWN OF HAMBURG BOARD OF ZONING APPEALS,
KURT ALLEN, ENFORCEMENT OFFICER, BUILDINGS
INSPECTIONS AND CODE ENFORCEMENT,
RESPONDENTS-RESPONDENTS,
LAMAR ADVERTISING OF PENN, LLC, TLC
PROPERTIES, INC., LAMAR COMPANY, LLC,
AND LAMAR TEXAS LIMITED PARTNERSHIP,
RESPONDENTS.

HARTER SECREST & EMERY LLP, BUFFALO (MARC A. ROMANOWSKI OF COUNSEL),
FOR PETITIONERS-APPELLANTS.

HISCOCK & BARCLAY, LLP, BUFFALO (NICHOLAS J. DICESARE OF COUNSEL), FOR
RESPONDENTS-RESPONDENTS.

Appeal from a judgment (denominated order and judgment) of the Supreme Court, Erie County (John A. Michalek, J.), entered August 22, 2011 in a proceeding pursuant to CPLR article 78. The judgment, among other things, dismissed the petition against respondents Town of Hamburg, Town of Hamburg Town Board, Town of Hamburg Board of Zoning Appeals and Kurt Allen, Enforcement Officer, Buildings Inspections and Code Enforcement.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Petitioners appeal from a judgment in this CPLR article 78 proceeding that, inter alia, dismissed the petition against respondents Town of Hamburg (Town), Town of Hamburg Town Board, Town of Hamburg Board of Zoning Appeals and Kurt Allen, Enforcement Officer, Buildings Inspections and Code Enforcement. All but one of petitioners' contentions herein were previously before us on their appeal from the judgment that, inter alia, dismissed the petition in this proceeding against respondents Lamar Advertising of Penn, LLC, TLC Properties, Inc., Lamar Company, LLC and Lamar Texas Limited Partnership. We affirm the judgment for the reasons stated in our

decision in *Matter of Duchmann v Town of Hamburg* (90 AD3d 1642), in which we affirmed the judgment in that prior appeal.

We add only that petitioners' remaining contention that the Town failed to provide "a certified transcript of the record of the proceedings under consideration" pursuant to CPLR 7804 (e) is without merit inasmuch as the Town "provided Supreme Court with sufficient material necessary to render a decision in this matter" (*Matter of Argyle Conservation League v Town of Argyle*, 223 AD2d 796, 798).

Entered: March 23, 2012

Frances E. Cafarell
Clerk of the Court