

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

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CA 16-02077

PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND SCUDDER, JJ.

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IN THE MATTER OF MARGARET WOOSTER, CLAYTON S.  
"JAY" BURNEY, JR., LYNDA K. STEPHENS AND JAMES E.  
CARR, PETITIONERS-APPELLANTS,

V

MEMORANDUM AND ORDER

QUEEN CITY LANDING, LLC, CITY OF BUFFALO PLANNING  
BOARD AND CITY OF BUFFALO COMMON COUNCIL,  
RESPONDENTS-RESPONDENTS.  
(APPEAL NO. 2.)

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ARTHUR J. GIACALONE, BUFFALO, AND LIPPES & LIPPES, FOR  
PETITIONERS-APPELLANTS.

HOPKINS SORGI & ROMANOWSKI PLLC, BUFFALO (MARC A. ROMANOWSKI OF  
COUNSEL), FOR RESPONDENT-RESPONDENT QUEEN CITY LANDING, LLC.

TIMOTHY A. BALL, CORPORATION COUNSEL, BUFFALO (JESSICA M. LAZARIN OF  
COUNSEL), FOR RESPONDENTS-RESPONDENTS CITY OF BUFFALO PLANNING  
BOARD AND CITY OF BUFFALO COMMON COUNCIL.

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Appeal from a judgment (denominated order and judgment) of the  
Supreme Court, Erie County (Donna M. Siwek, J.), entered November 9,  
2016 in this CPLR article 78 proceeding. The judgment granted those  
parts of respondents' motions to dismiss the claim of petitioners  
alleging that respondents violated the performance bond provisions of  
General City Law §§ 27-a (7) and 33 (8) (a).

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

Same memorandum as in *Matter of Wooster v Queen City Landing, LLC*  
([appeal No. 1] \_\_\_ AD3d \_\_\_ [May 5, 2017]).

Entered: May 5, 2017

Frances E. Cafarell  
Clerk of the Court