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APPELLATE COURT DECISION CLEARS WAY FOR DEVELOPER TO SUE CITY OF LONG BEACH, NY FOR DAMAGES OF \$50M+

Herrick Feinstein Leads Successful Appeal in Protracted Battle for Waterfront Development Site

New York, April 25, 2012 - A New York State Supreme Court, Appellate Division, Second Department panel ruled unanimously that the City of Long Beach could be sued by developer Sinclair Haberman for upwards of \$50 million in damages for the revocation of a previously issued building permit for the construction of a residential condominium/co-op development along the city's waterfront.

In 1985 Mr. Haberman received a variance from the city of Long Beach that permitted construction of four, 10-story residential condo/coop buildings on a waterfront block of Shore Road, totaling 432 units. Litigation was first commenced by Mr. Haberman in 1987, after the City amended its zoning laws and reduced the maximum permitted building heights to seven stories. The action was settled by a stipulation which permitted Mr. Haberman and his firm, Belair Building, LLC to construct two 10-story towers and one seven-story tower. After completion of the first 10-story project, the building permit was revoked for the rest of the site in 2003.

Mr. Haberman alleges in his lawsuit that the Zoning Board bowed to political pressure from owners in the first tower whose views would be obstructed by the construction of the remaining buildings. Additionally, these owners would have to share access to a swimming pool on the property with residents of the planned towers. The claim states that the Zoning Board's revocation of the permit constitutes a gross abuse of governmental authority, a deprivation of his fundamental property rights and a blatant breach of contract. Haberman's suit also claims that the revocation followed a public hearing that was chaired by a member of the Zoning Board who failed to disclose that he was a tenant of the first tower and failed to recuse himself from the of the deliberations.

The Appellate Division reversed an earlier decision of the Supreme Court, Nassau County, reinstating Mr. Haberman's claims for deprivation of his due process and property rights, as well as his claim against the City of Long Beach for its breach of contract.

Scott Mollen of Herrick, Feinstein, LLP, who was part of the legal team which successfully represented Mr. Haberman in the appeal, said, "Mr. Haberman is grateful to have a court system that recognizes the need to protect citizens from irresponsible public officials who place political expediency above individual property rights."

Mr. Mollen added that his client intends to pursue all legal and equitable remedies against the City of Long Beach, including reinstatement of the permit and significant damages incurred by the year-long construction delay.

Founded in 1928, Herrick, Feinstein is a 165-lawyer firm providing a full range of legal services, including real estate, litigation, bankruptcy, employment, corporate, tax and personal planning, government relations, insurance and intellectual property law.