

**State of New York - Court of Appeals
Supreme Court of the State of New York**

**Robert A. Ficalora as assignee of Montauk Friends of
Olmsted Parks, inc., a not-for-profit corporation established
under the laws of the State of New York**

Plaintiff,

- against -

**The town board government of East Hampton
and
Sunbeach Montauk II, inc., as claimant fee title holder to the
Hither Plain Reservation and Bathing Reservation
properties in Montauk.**

Defendants.

Petition

A. D. Case No.
99-02065

RETURN DATE

9/25/2000

FILED

SEP 13 2000

EDWARD P. ROMAINE
COUNTY CLERK

In that a superior court may issue a Writ of Prohibition upon an inferior court that has attempted to proceed by rules different than ought to be observed or, by exercising its jurisdiction, the inferior court would defeat a legal right, the Montauk Friends of Olmsted Parks corporation, as claimant successor to the corporation of the Proprietors of Montauk established at Chapter 139 of the Laws 1852 and corporate successor to the colonial patent and charter of the Town of East Hampton dated December 9th, 1686, does hold that:

Whereas, among the purposes for which the MFOP/Montauk Trustee corporation was established is "to maintain a non-partisan democratic caucus-process membership organization," a Town Meeting process which had traditionally been utilized for the governance of East Hampton, and

Whereas, annual attempts have been made to convene the Montauk community upon their commons at the Bathing Reservation in Montauk which have been unlawfully obstructed by the town board government of East Hampton, obstructions that are continuing (now with a locked gate!) and are the subject of the above captioned matter, and

Whereas, absent a convening of the proprietors of Montauk in Town Meeting assembled, the founding board of directors of the MFOP corporation and acting president have attempted to protect the proprietor's rights and interest through corporate resolutions and actions at law and in equity before this court, and

Whereas, MFOP/Montauk Trustee corp. has shown this court repeated assignments of its cause to its acting president, a non-attorney, as allowed by law to circumvent the requirements of CPLR 321(a), which said resolutions have been ignored in dismissing our matters pursuant to said statute denying the corporation equal protection under the law and due process of law, and

Whereas, the assignments in this matter were the subject of questioning at oral argument before the honorable justices Lawrence J. Bracken, J.P., Leo F. McGinity, Daniel F. Luciano and Sandra J. Feuerstein, J.J of the Appellate Division, Second Department on September 5th, 2000, and

Whereas, the defendants did then submit a copy of an order of this Higher Court dated June 20th, 2000, which dismissed by failing to judicially treat the assignments presented while citing CPLR 321(a) thereby avoiding conflict with existing law, and

Whereas, Plaintiff sought permission to orally introduce a new argument, properly denied, which pertained to the applicability of statute adverse to the resolution of the board of directors of the Montauk Trustee Corporation as successor under the colonial charter of 1686 of the Town of East Hampton, and

Whereas, the language of said 1686 charter, like that of the 1629 charter of the Massachusetts Bay colony argued by the honorable Mr. John Adams, Esq. (on behalf of the

colonial legislature) before the Superior Court there in 1773, conferred LEGISLATIVE SOVEREIGNTY unto the owners and inhabitants of land within the incorporated Township of East Hampton, and

Whereas, this grant of sovereign jurisdiction to the Town of East Hampton preceded the establishing of the State of New York and the United States of America, and

Whereas, the protection of this form of right was central to our national struggle for Independence, and

Whereas, the colonial charter of the Town of East Hampton was protected under the Constitution of the State of New York from its inception in 1777 until wrongfully and unconstitutionally repealed in 1962, and

Whereas, the rights under the 1686 patent remain protected from state interference under the Constitution of the United States of America, and

Whereas, in lieu of a resolution of a Town Meeting of Montauk which we continue to aspire to convene, a resolution of the board of directors of the claimant Montauk Trustee corporation made under emergency circumstances and which in no way can be construed as repugnant to the laws of this state, to protect the properties and interests of the Township of Montauk, must be considered HIGHER LAW more powerful than a statute passed by the state Assembly at Albany,

It is, therefore, respectfully submitted that no statute of the Assembly of the State of New York may be enforceable against a law or rule enacted by the Town Meeting of Montauk properly convened in lawful assembly, that the MFOP/Montauk Trustee corporation has made

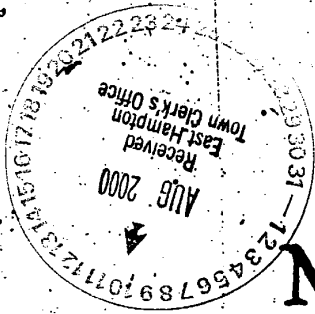
and will continue to make its best efforts to convene such assemblies according to its incorporated purposes, and that an interim and reasonable resolution by the founding and acting board of directors necessary to represent the corporation's legally established rights and purposes before this court must be considered and treated as higher law beyond the effect or application of statute,

Petitioner requests as a matter of right that this court immediately enter an order estopping and further prohibiting the application of CPLR 321(a) by the Appellate Division, Second Department, in this matter currently before them.



Robert A. Ficalora
Acting president, Assignee
Montauk Friends of Olmsted Parks / Montauk Trustee corporation.

- Cover, "Montauk" book published by authority of East Hampton Town Meeting and filed 4/14/1925 in the office of the Town Clerk.
- 1629 charter of the Massachusetts Bay Colony
- 1686 charter of the Town of East Hampton
- Resolution of assignment.



MONTAUK



Information Filed April 14, 1925, in Office of Town
Clerk of East Hampton, Long Island, N. Y.

This book is published by authority voted at a Town
Meeting held in 1925.

KENNETH E. DAVIS, Supervisor,

WM. T. VAUGHN, Justice of the Peace,

H. D. SLEIGHT, Historian.

TEXTS

Home Outlines Essays Presidents Biographies

Charter Of Massachusetts Bay (1629)

Quote

Context

And further, That the said Governour and Companye, and their Successors, maie have forever one comon Seale, to be used in all Causes and Occasions of the said Company, and the same Seale may alter, chaunge, breake, and newe make, from tyme to tyme, at their pleasures. And our Will and Pleasure is, and Wee doe hereby for Us, our Heires and Successors, ordeyne and graunte, That from henceforth for ever, there shalbe one Governor, one Deputy Governor, and eighteene Assistants of the same Company, to be from tyme to tyme constituted, elected and chosen out of the Freemen of the saide Company, for the twyme being, in such Manner and Forme as hereafter in this Presents is expressed, which said Officers shall applie themselves to take Care for the best disposing and ordering of the generall buysinnes and Affaires of, for, and concerning the said Landes and Premesses hereby mentioned, to be graunted, and the Plantation thereof, and the Government of the People there. And for the better Execution of our Royall Pleasure and Graunte in this Behalf, Wee doe, by this presents, for Us, our Heires and Successors, nominate, ordeyne, make, and constitute; our welbeloved the saide Mathewe Cradocke, to be the first and present Governor of the said Company, and the saide Thomas Goffe, to be Deputy Governor of the saide Company, and the saide Sir Richard Saltonstall, Isaack Johnson, Samuell Aldersey, John Ven, John Humfrey, John Endecott, Simon Whetcombe, Increase Noell, Richard Pery, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Adams, Thomas Hutchins, John Browne, George Foxcrofte, William Vassall, and William Pinchion, to be the present Assistants of the saide Company, to continue in the saide several Offices respectivelie for such tyme, and in such manner, as in and by this Presents is hereafter declared and appointed.

And further, Wee will, and by this Presents, for Us, our Heires and Successors, doe ordeyne and graunte, That the Governor of the saide Company for the tyme being, or in his Absence by Occasion of Sicknes or otherwise, the Deputie Governor for the tyme being, shall have Authoritie from tyme to tyme upon all Occasions, to give order for the assembling of the saide Company, and calling them together to consult and advise of the Bussinneses and Affaires of the saide Company, and that the said Governor, Deputie Governor, and Assistants of the saide Company, for the tyme being, shall or maie once every Moneth, or oftener at their Pleasures, assemble and houlde and keepe a Courte or Assemblie of

themselves, for the better ordering and directing of their Affaires, and that any seaven or more persons of the Assistants, together with the Governor, or Deputie Governor soe assembled, shalbe saide, taken, held, and reputed to be, and shalbe a full and sufficient Courte or Assemblie of the said Company, for the handling, ordering, and dispatching of all such Buysinneses and Occurrents as shall from tyme to tyme happen, touching or concerning the. said Company or Plantation; and that there shall or maie be held and kept by the Governor, or Deputie Governor of the said Company, and seaven or more of the said Assistants for the tyme being, upon every last Wednesday in Hillary, Easter, Trinity, and Michas Termes respectivelie forever, one greate generall and solemne assemblie, which foure generall assemblies shalbe stiled and called the foure greate and generall Courts of the saide Company.

In all and every, or any of which saide greate and generall Courts soe assembled, Wee doe for Us, our Heires and Successors, give and graunte to the said Governor and Company, and their Successors, That the Governor, or in his absence, the Deputie Governor of the saide Company for the tyme being, and such of the Assistants and Freeman of the saide Company as shalbe present, or the greater number of them so assembled, whereof the Governor or Deputie Governor and six of the Assistants at the least to be seaven, shall have full Power and authoritie to choose, nominate, and appointe, such and soe many others as they shall thinke fitt, and that shall be willing to accept the same, to be free of the said Company and Body, and them into the same to admitt; and to elect and constitute such officers as they shall thinke fill and requisite, for the ordering, mannaging, and dispatching of the Affaires of the saide Governor and Company, and their Successors; And to make Lawes and Ordinances for the Good and Welfare of the saide Company, and for the Government and ordering of the saide Landes and Plantation, and the People inhabiting and to inhabite the same, as to them from tyme to tyme shalbe thought meete, soe as such Lawes and Ordinances be not contrarie or repugnant to the Lawes and Statuts of this our Realme of England.

And, our Will and Pleasure is, and Wee doe hereby for Us, our Heires and Successors, establish and ordeyne, That yearly once in the yeare, for ever hereafter, namely, the last Wednesday in Easter Tearme, yearly, the Governor, Deputy-Governor, and Assistants of the saide Company and all other officers of the saide Company shalbe in the Generall Court or Assembly to be held for that Day or Tyme, newly chosen for the Yeare ensueing by such greater parte of the said Company, for the Tyme being, then and there present, as is aforesaide. And, if it shall happen the present governor, Deputy Governor, and assistants, by theis presents appointed, or such as shall hereafter be newly chosen into their Roomes, or any of them, or any other of the officers to be appointed for the said Company, to dye, or to be removed from his or their severall Offices or Places before the saide generall Day of Election (whome Wee doe hereby declare for any Misdemeanor or Defect to be removeable by the Governor, Deputie Governor, Assistants, and Company, or such greater Parte of them in any of the publique Courts to be

assembled as is aforesaid) That then, and in every such Case, it shall and maie be lawfull, to and for the Governor, Deputie Governor, Assistants, and Company aforesaide, or such greater Parte of them soe to be assembled as is aforesaide, in any of their Assemblies, to proceade to a new Election of one or more others of their Company in the Roome or Place, Roomes or Places of such Officer or Officers soe dyeing or removed according to their Discretions, And, immediately upon and after such Election and Elections made of such Governor, Deputie Governor, Assistant or Assistants, or any other officer of the saide Company, in Manner and Forme aforesaid, the Authoritie, Office, and Power, before given to the former Governor, Deputie Governor, or other Officer and Officers soe removed, in whose Steade and Place newe shalbe soe chosen, shall as to him and them, and everie of them, cease and determine

Provided alsoe, and our Will and Pleasure is, That aswell such as are by theis Presents appointed to be the present Governor, Deputie Governor, and Assistants of the said Company, as those that shall succeed them, and all other Officers to be appointed and chosen as aforesaid, shall, before they undertake the Execution of their saide Offices and Places respectivelie, take their Corporal Oathes for the due and faithfull Performance of their Duties in their severall Offices and Places, before such Person or Persons as are by theis Presents hereunder appointed to take and receive the same. . . .

And, further our Will and Pleasure is, and Wee doe hereby for Us, our Heires and Successors, ordeyne and declare, and graunte to the saide Governor and Company and their Successors, That all and every the Subjects of Us, our Heires or Successors, which shall goe to and inhabite within the saide Landes and Premisses hereby mentioned to be graunted, and every of their Children which shall happen to be borne there, or on the Seas in going thither, or retorning from thence, shall have and enjoy all liberties and Immunities of free and naturall Subjects within any of the Domyions of Us, our Heires or Successors, to all Intents, Constructions, and Purposes whatsoever, as if they and everie of them were borne within the Realme of England. And that the Governor and Deputie Governor of the said Company for the Tyme being, or either of them, and any two or more of such of the saide Assistants as shalbe thereunto appointed by the saide Governor and Company at any of their Courts or Assemblies to be held as aforesaide, shall and maie at all Tymes, and from tyme to tyme hereafter, have full Power and Authoritie to minister and give the Oathe and Oathes of Supremacie and Allegiance, or either of them, to all and everie Person and Persons, which shall at any Tyme or Tymes hereafter goe or passe to the Landes and Premisses hereby mentioned to be graunted to inhabite in the same.

And, Wee doe of our further Grace, certen Knowledg and meere Motion, give and graunte to the saide Governor and Company, and their Successors, That it shall and maie be lawfull, to and for the Governor or Deputie Governor, and such of the Assistants and Freemen of the said Company for the Tyme being as shalbe

assembled in any of their generall Courts aforesaide, or in any other Courtes to be specially sumoned and assembled for that Purpose, or the greater Parte of them (whereof the Governor or Deputie Governor, and six of the Assistants to be alwaies seaven) from tyme to tyme, to make, ordeine, and establishe all Manner of wholesome and reasonable Orders, Lawes, Statutes, and Ordinances, Directions, and Instructions, not contrairie to the Lawes of this our Realme of England, aswell for setling of the Formes and Ceremonies of Government and Magistracy, fitt and necessary for the said Plantation, and the Inhabitants there, and for nameing and setting of all sorts of Officers, both superior and inferior, which they shall finde needefull for that Governement and Plantation, and the distinguishing and setting forth of the severall duties, Powers, and Lymytts of every such Office and Place, and the Formes of such Oathes warrantable by the Lawes and Statutes of this our Realme of England, as shalbe respectivelie ministred unto them for the Execution of the said severall Offices and Places; as also, for the disposing and ordering of the Elections of such of the said Officers as shalbe annuall, and of such others as shalbe to succede in Case of Death or Removeall, and ministring the said Oathes to the newe elected Officers, and for Impositions of lawfull Fynes, Mulcts, Imprisonment, or other lawfull Correction, according to the Course of other Corporations in this our Realme of England, and for the directing, ruling, and disposing of all other Matters and Thinges, whereby our said People, Inhabitants there, may be soe religiously, peaceable, and civilly governed, as their good Life and orderlie Conversation, maie wynn and incite the Natives of Country, to the Knowledg and Obedience of the onlie true God and Savior of Mankinde, and the Christian Fayth, which in our Royall Intention, and the Adventurers free Profession, is the principall Ende of this Plantation.

Willing, commaunding, and requiring, and by theis Presents for Us, our Heires, and Successors, ordeyning and appointing, that all such Orders, Lawes, Statuts and Ordinances, Instructions and Directions, as shalbe soe made by the Governor, or Deputie Governor of the said Company, and such of the Assistants and Freemen as aforesaide, and published in Writing, under their common Seale, shalbe carefullie and dulle observed, kept, performed, and putt in Execution, according to the true Intent and Meaning of the same; and theis our Letters- patents, or the Duplicate or exemplification thereof, shalbe to all and everie such Officers, superior and inferior, from Tyme to Tyme, for the putting of the same Orders, Lawes, Statutes, and Ordinances, Instructions, and Directions, in due Execution against Us, our Heires and Successors, a sufficient Warrant and Discharge.

And Wee doe further, for Us, our Heires and Successors, give and graunt to the said Governor and Company, and their Successors by theis Presents, that all and everie such Chiefe Comaunders, Captaines, Governors, and other Officers and Ministers, as by the said Orders, Lawes, Statuts, Ordinances, Instructions, or Directions of the said Governor and Company for the Tyme being, shalbe from Tyme to Tyme hereafter imploied either in the Government of the saide Inhabitants and Plantation, or in the Waye by Sea thither, or from thence, according to the Natures and Lymitts

of their Offices and Places respectively, shall from Tyme to Tyme hereafter for ever, within the Precincts and Partes of Newe England hereby mentioned to be graunted and confirmed, or in the Waie by Sea thither, or from thence, have full and Absolute Power and Authoritie to correct, punishe, pardon, governe, and rule all such the Subjects of Us, our Heires and Successors, as shall from Tyme to Tyme adventure themselves in any Voyage thither or from thence, or that shall at any Tyme hereafter, inhabite within the Precincts and Partes of Newe England aforesaid, according to the Orders, Lawes, Ordinances, Instructions, and Directions aforesaid, not being repugnant to the Lawes and Statutes of our Realme of England as aforesaid. . . .



Quote

Context

Texts

Home Outlines Essays Presidents Biographies

*Text prepared by Danny Barnhoorn for The American Revolution - an .HTML project. (02/15/1999 09:15:12)
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Governor Thomas Dongan's Patent, December 9th, 1686

194

RECORDS: TOWN OF SOUTHAMPTON.

pay of this said Island then ye said Daniells shalbe Repossessed of his said estate & Deede of Title therto : But uppon Default by nonpayment within ye Limits in this assignment nominated : hee ye said Samuell Daniells is hereby obliged to surrender unto ye said Stephens all his Interest ye said estate as before expressed

In witnes whereof hee hesaid Samuell Daniells hath set to his hand and seale this Twenty Ninth day of November in ye yeere of our Lord one thousand six hundred Eighty & six :

SAMUELL DANIELLS [L. s.]

Signed sealed & Delivered in ye presence of us :

RICHARD STEERE :

JOHN PARSONS weaver.

The above written deedes are true Coppies Extracted & Compared By me Thomas Tallmage Recordr In ye Towne of Easthampton.

[Original Parchment.]—THOMAS DONGAN, Capt-Generall Governour in Chiefe and Vice Admirall of the Province of New yorke and its Dependenciey Under his Majesty James the Second by the grace of God of England Scotland france and Ireland King Defender of the faith &c

To all to whome this shall come Sendeth Greeting Whereas Richard Nicolls Esquire Governor Generall under his then Royall Highness James Duke of Yorke & Albany &c now his present Majesty of all his Territoryes in America did by a certaine writeing or Patent under his hand and seale bearing Date the thirteenth day of March in the ninetenth yeare of his Late Majestyes Reigne and in the yeare of our Lord One thousand six hundred sixty six Ratifie confirme and grant unto Mr John Mullford Justice of the peace Mr Thomas Backer Thomas Chatfield Jeremiah Conckling Steven Hedges Thomas Osborne Senior & John Osborne as Patentees for and in

the behalfe of themselves and their associates the freeholders and Inhabitants of the towne of Easthampton scituate lyeing and being in the East rideing of Yorkshire upon long Island in the eastermost part of the said Island and to their heires Successors and Assignes all that tract of Land which already hath been or that hereafter shall be Purchased for and on the behalfe of the said Towne whether from the natives Indyan Proprietors or others within the bounds and Limitts hereafter set forth and exprest That is to say their west bounds begining from the East Limitts of the bounds of Southampton as they are now laid out and staked according to agreement & consent so to stretch east to a certaine Pond comonly called the ffortpond which lyes within the old bounds of the lands belonging to the Muntauk Indyans and from thence to go on still east to the outmost extent of the Island on the north they are bounded by the Bay and on the South by the sea or Maine Ocean all which said tract of land within the bounds and limitts beforemenconed and all or any plantacon thereupon from henceforth are to belong and appertaine to the said Towne and be within the Jurisdiccon thereof Together with all havens harbours Creeks Quarries woodlands meadows pastures marshes waters lakes rivers fishing hawking hunting and fowling and all other profits Comodityes Emoluments & hereditaments to the said tract of land and premisses within the limitts and bounds afore menconed described belonging or in any wise appurtaineing.

To have and to hold all and singular the said lands hereditaments and premisses with their & every of their appurtenances and of every part and parcell thereof to the said Patentees and their associates their heires Successors and assignes to the propper use and behoofe of the said Patentees and their associates their heires Successors & assignes forever Moreover the sd Richard Nicolls Esqr Governor as aforesaid did thereby Ratifye confirme and grant unto the said Patentees

and their associates their heires Successors and assignes all the Priviledges belonging to a towne within this Government and that the place of their present habitacon shall continue and retaine the name of Easthampton by which name and stile it shall be distinguished and knowne in all bargaines and sales Deeds Records & writeings They the said Patentees and their associates their heires Successors and associates their heires Successors and assignes Rendring and paying such duties and acknowledgments as now are or hereafter shall be constituted and established by the laws of this Government under the obedience of his Royall Highness his heires and Successors as by the said writeing or Patent Recorded in the Secr*yes Office relacon being thereunto had may more fully appeare And Whereas There is part of a certaine Tract of land within the bounds and limitts aforesaid Comonly called Mountack which remaines yett unpurchased from the Indyans And Whereas Samuell Mullford and Thomas James some of the freeholders of the said towne of Easthampton by the request of the rest of the freeholders of said towne have made applicacon unto me that I would grant liberty unto the freeholders of said towne to purchase said tract of land off the Indyans and that the fee and inheritance thereof may only belong unto the freeholders of said towne their heires Successors and assignes forever And that I would confirme the premisses by Patent under the seale of the Province Now Know Yee That I the said Thomas Dongan by virtue of the power and authority to me derived from his most Sacred Majesty aforesaid and in pursuance of the same for and in consideracon of the Quittrent herein after reserved and other good and lawfull considerations me thereunto moveing have granted ratified released and confirmed and by these presents do grant ratifye release and confirme unto Thomas James Capt Josiah Hobart Capt Thomas Talmage Lieut John Wheeler Ensigne Samuell Mullord John Mullford Thomas Chatfield Senior Jeremiah Conk-

line Stephen Hand Robert Dayton Mr Thomas Backer & Thomas Osborne freeholders and Inhabitants of Easthampton herein after erected and made one body Corporate and politique and willed and determined to be called by the name of the trustees of the freeholders and Comonalty of the towne of Easthampton and their Successors all the aforesaid tracts and neckes of lands within the limitts and bounds aforesaid with all and singular the houses messuages Tenements build- ings milnes milnedams fencings inclosures gardens Orchards fields pastures woods underwoods trees timber feedings Com- on of pasture meadows marshes Swamps plaines rivers Rivo- lets waters lakes ponds brookes streames beaches Quarries mines mineralls Creekes harbours highwayes and easements fishing hawking hunting and fowling (Silver and gold mines Excepted) and all other franchises Profitts Comodities & hereditaments whatsoever to the said tracts and necks of land and premisses belonging or in any wise appartaining or there- withall used accepted reputed or taken to belong or in any wise to appurtaine to all intents purposes and constructions whatsoever as also all and singular the rents arreareedges of rents issues and profitts of the said tract of land and premisses heretofore due and payable As also I do by these presents give and grant full power lycence and authority unto the said Trustees of the freeholders and Comonalty of the towne of Easthampton and their Successors to purchase the said tract of land of the native Indyans Comonly called Mountack and if it should so happen that the said Indyans should be unwil- ling to make sale of the said tract of Land comonly called Mountack within the Limitts aforesaid Then I further will and determine on behalfe of his most Sacred Majesty his heires & Successors that the sd Trustees of the freeholders and Comonalty of the towne of Easthampton aforesaid and their Successors forever shall at all times hereafter be the only persons capable in the law for the purchase of the said tract

of land Comonly called Mountack and none others To have and to hold all the beforerecited tract of land and premisses with their and every of their appurtenances unto the said Thomas James Capt Josiah Hobart Capt Thomas Tc:mage Lievt John Wheeler Ensigne Samuel Mullford John Mullford Thomas Chatfield Senior Jeremiah Conkline Stephen Hand Robert Dayton Mr Thomas Backer Thomas Osborne Trustees of the freeholders and Comonalty of the towne of Easthampton and their successors for ever to and for the Severall and respective uses following and to no other use intent and purpose whatsoever that is to say as for and concerning all and Singular the severall and respective parcells of land and meadow part of the granted premisses in any wise taken up & appropriated before the day of the date hereof unto the severall and respective present freeholders or Inhabitants of the said towne of Easthampton by virtue of the before recited Deed or Patent To the only use benefite and behoofe of the said respective present freeholders and Inhabitants and their severall and respective heires and assignes forever And as for and concerning all and every such parcell or parcells tract or tracts of land remainder of the granted premises not yet taken up or appropriated to any particular person or persons by virtue of the beforerecited deed or Patent to the use benefite and behoof of such as have bene purchasers thereof and their heires and assignes forever in proporcon to their severall and respective purchases thereof made as Tennants in Comon without any lett hinderance or molestacon to be had or reserved upon pretence of joynt Tennancy or survivorship any thing contained herein to the contrary thereof in any ways notwithstanding And as for & concerning that part of the aforerecited tract of land that remains as yet unpurchased of the Indyans comonly called Montack together with all & singular the appurtenances thereto belonging unto the only propper use benefite and behoofe of the said Trus-

tees of the freeholders and Comonalty of the towne of East-Hampton & their Successors forever To be holden of his said Majesty his heires and Successors in free and Comon Soccage according to the Mannor of East Greenwich in the County of Kent within his Matyes Realme of England Yeilding rendring and paying therefore yearly and every yeare from henceforth unto our Sovereigne Lord the King his heires and Successors or to such officer or Officers as shall be appointed to receive the same the sume of one lamb or the value thereof in Currant money of this Province upon the five & twentyeth day of march at Newyorke in full of all rents or former reserved rents services acknowledgments and demands whatsoever. And further by vertue of the power and authority to me the said Thomas Dongan Given as aforesaid and in pursuance of the same and for the reasons and consideracons aboverecited I have willed determined declared and granted and by these presents do will declare determine and grant that the said Inhabitants and freeholders the freemen of Easthampton aforesaid Comonly called by the name of the freeholders and Inhabitants of the towne of Easthampton or by whatever name or names they are called or named and their heires and Successors forever henceforward are and shall be one body Corporate and politique in Deed and name by the name of the Trustees of the freeholders and Comonalty of the towne of Easthampton and them by the name of the Trustees of the freeholders and Comonalty of the town of Easthampton one body corporate and Politique in Deed and name I have really and fully for his said Majesty his heires & Successors Erected made ordained constituted and declared by these presents and that by the same name they have succession forever and that they and their successors by the name of the Trustees of the freeholders and Comonalty of the towne of Easthampton be and shall be forever in future times persons able and Capable in law to have perceive receive and possess not only all and singular

MONCAUK →

the premisses but other messuages lands Tenements Priviledges Juridicions franchises and hereditaments of whatsoever kinds or species they shall be to them and their Successors in fee forever or for the terme of a yeare or years or otherwise whatsoever manner it be and also goods Chattells and all other things of whatsoever name nature quality or Species they shall be and also to give grant release aliene assigne and dispose of lands tenements hereditaments and all and every other thing and things act and acts to do and execute by the name aforesaid and that by the same name of the Trustees of the freeholders and Comonalty of the towne of Easthampton to plead and be impleaded answer and be answered unto defend and be defended they are and may be capable in whatsoever place and places and before whatsoever judges & Justices or other persons or officials of his said Majesty his heires and Successors in all and all manner of actions plaints suites Complaints causes matters and demands whatsoever of what kind quality and species the same be and shall be in manner and forme as any other of his Majestyes Liedge people within this Province can or are able to have require receive possess enjoy retaine give grant release aliene assigne and dispose plead and be impleaded answer and be answered unto defend and be defended do permitt or execute

And for the better enabling the Trustees of the freeholders and Comonalty of the towne of Easthampton aforesaid in doing and executeing all and singular the premisses I have willed granted & determined and by these presents do will grant and determine that from henceforward and forever hereafter the said Trustees of the freeholders & comonalty of the towne of Easthampton do & may have and use a Comon seale which shall serve to Execute the causes and affaires whatsoever of them and their Successors And further I will and by these presents in be halfe of his said Majesty his heires and Succes-

sors that henceforward forevermore there be and shall be Trustees of the freeholders & comonalty of the towne of Easthampton aforesaid to be chosen and elected as in these presents hereafter in menconed who shall be and shall be called the Trustees of the freeholders & comonalty of the towne of Easthampton and they and their Successors shall and may at all convenient times hereafter upon a publique Sumons to be obtained at the request of any three of the Trustees aforesaid from any of his Matyes Justices of the peace of the said Towne or for default thereof from any of the Justices of the County of Suffolke for the time being assemble and meet together in the towne house of the said towne or in such other publique place as shall be from time to time appointed to make such acts and orders in writeing for the more orderly doing of the premisses as they the said Trustees of the freeholders and Comonalty of the towne of Easthampton aforesaid and their Successors from time to time shall and may think convenient so alwayes as the said acts and order be in nowayes repugnant to the laws of England and of this Province which now are or hereafter may be established and that they be not in any wise against the true intent and meaning of these presents

And also I will ordaine and determine that all and singular the aforesaid acts & orders from time to time shall be made and ordered by the vote of the Major part of the said Trustees of the freeholders and comonalty of the towne of Easthampton aforesaid or at least by the Major part of such of them as shall from time to time assemble and meet together in manner as aforesaid so alwayes there be not fewer in number then seven of the said trustees present at such meetings so to be held as aforesaid And for the better Execuon of this grant in this behalfe I have assigned nominated created constituted and made and by these presents do assigne nominate Create constitute and make Thomas James Capt Josiah Hobart Capt



Thomas Talmage Lievt John Wheeler Ensigne Samuell Mullford John Mullford Thomas Chatfield Senior Jeremiah Conkline Stephen Hand Robert Dayton Mr Thomas Backer Thomas Osborne to Stand and be the first moderne Trustees of the freeholders & Comonalty of the towne of Easthampton to continue in the aforesaid office from and after the date of these presents untill the time that others be elected and chosen in their stead According to the manner and forme herein after expressed And moreover I do by these presents for and on behalfe of his most Sacred Majesty aforesaid his heires and Successors appoint that the Trustees of the freeholders & Comonalty of the towne of Easthampton Constables and assessors within the towne of Easthampton aforesaid Be yearly chosen on the first tuesday of Aprill forever (Vigt :) twelve Trustees of the freeholders and Comonalty of the towne of Easthampton two Constables and two Assessors in such publique place as the Trustees for the time being shall appoint and direct and that the Trustees Constables and Assessors be Chosen by the Majority of voices of the freeholders and freemen of the towne of Easthampton aforesaid And Lastly I give and grant For and on behalfe of his said Majesty his heires and Successors by those presents to all and every person and persons and to whatsoever person subject to his said Majesty his heires and Successors free and lawfull power ability and authority that they or any of them any messuages Tenements lands meadows feedings pastures woods underwoods rents revercons services and other hereditaments whatsoever within the said County of Suffolke which they hold of his said Majesty his heires & Successors unto the aforesaid Trustees of the freeholders and Comonalty of the towne of Easthampton and their Successors shall and may give grant bargaine sell and alienate To have hold & enjoy unto the said Trustees of the freeholders and Comonalty of the towne of Easthampton and their Successors forever Yeilding and paying therefore unto his said

The Attorney Genll Hath perused this Patent And Finds
Nothing Contained therein prejudiciall to his Majtys Interest
Examd dcmber 9 1686

JA GRAHAM

Recorded in the Secryes office for the Province of New
yorke Lib : No 2 Book of Patents begunn 1686

J. S. SWINTON

D. SECRY

Januarie 24th 1686-7

BOOK A Page c-1.—At a meeting of ye Trustees of ye free-
holders & Comonaltie of ye Towne of Easthampton it is
agreed & ordered by them yt there should a Rate bee made to
the vallue of Two hundred Pounds in currant money of this
Province yt is one Hundred & Twentie pounds upon ye al-
lotments of ye Purchasors & Proprietors of this Towne at
home according to every mans allotment in devision of land
And fourescore Pounds to bee Raised upon ye land at Mean-
taucut according to every mans share or Interest there & this
to be Raised to defray Charge about the Patten of such as
have Interest as above specified & by noe others Alsoe it was
agreed & ordered yt a rate bee made to defray Charge yt did
arise about mens Protests to ye vallue of soe much as ye
Charge shall arise unto and this to bee Levied uppon ye Pur-
chasors and Proprietors according to their allottments at home

March 21th : 1686-7

BOOK 4 page 15.—At a meeting of the Trustees of ye free
houlders & Commonaltie of ye Towne of Easthampton being
Lawfullie asembled together : It is ordered yt there shall not
any sheepe goe uppon ye Comon Eastward of gorgica when
ye generall heard of shepe are at Meantakut uppon ye penaltie

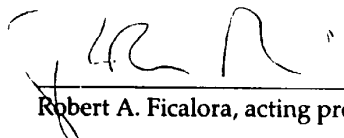
Resolution of Assignment

The directors of the Montauk Friends of Olmsted Parks corporation, in considering its position before the Supreme Court of the State of New York at this time, does resolve that:

- 1.) The attorney retained by our resolution of October 25th, 1997, has relocated and is unavailable, and
- 2.) The corporation has insufficient funds to hire or otherwise retain council, and
- 3.) Our acting president, Bob Ficalora, does continue the action before the court on behalf of the corporation *pro se*, and
- 4.) Mr. Ficalora is competent to represent the corporation in these matters and has been successful in obtaining important orders from the court on the corporation's behalf, and
- 5.) We have full faith and trust in Mr. Ficalora to uphold both the purposes for which the corporation was established and the trust which the corporation has taken action to assume,

FILED
 JUN 05 1998
 EDWARD P. ROMAINE
 CLERK OF SUFFOLK COUNTY

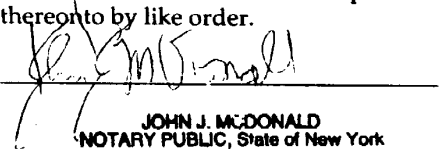
It is, therefore, resolved that this board does continue to assign to Robert A. Ficalora the power to represent this corporation before the courts of the State of New York with full indemnity by the corporation.



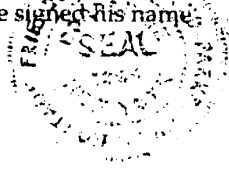
Robert A. Ficalora, acting president, MFOP

State of New York, County of Suffolk

On this day of June 5th, 1998, before me personally came Robert A. Ficalora to me known, who, being by me duly sworn, did depose and say that he resides at 6753 Bellevista Pl NW, Olympia Washington, 98502, that he is the acting president of the Montauk Friends of Olmsted Parks corporation, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation dated 6/3/98, and that he signed his name thereon to by like order.



JOHN J. McDONALD
 NOTARY PUBLIC, State of New York
 No. 01MC5037739, Suffolk County
 Commission Expires 1999



Supreme Court of the State of New York
Court of Appeals

Robert A. Ficalora as assignee of Montauk Friends of
Olmsted Parks, inc., a not-for-profit corporation established
under the laws of the State of New York

Plaintiff,

- against -

The town board government of East Hampton
and
Sunbeach Montauk II, inc., as claimant fee title holder to the
Hither Plain Reservation and Bathing Reservation
properties in Montauk.

Defendants.

Affirmation of
Service

Case No.
99-02065

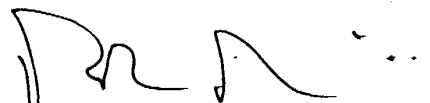
Robert A. Ficalora does herewith affirm under the penalty of perjury that I did
send a copies of a petition for a writ of prohibition with attachments by enclosing said
motions in a sealed postpaid Priority Mail envelope and depositing it with the United
States Postal Service on this ^{9/13/2000} ~~eighth day of November, 1999~~ addressed to:

ESSEKS, HEFTER & ANGEL, ESQS.
Attorneys for
Sunbeach Montauk Two, inc.
108 East Main Street - P.O. Box 279
Riverhead, New York 11901

JAMES EDWARD PELZER, ESQ.
Clerk of the Court
45 Monroe Place
Brooklyn, NY 11201
718- 875- 1300

CAHN, WISHOD & KNAUER
Attorneys for the town board
government of East Hampton,
425 Broad Hollow Road - Suite 315
Melville, N.Y. 11747

w/connected cover
SHOWING STAMP & RETURN
DATE SENT U.S. MAIL.


Robert A. Ficalora, 9/13/2000
assignee, acting president
MFOP/Montauk Trustee Corp.