



*State of New York
Court of Appeals*

*Stuart M. Cohen
Clerk of the Court*

*Clerk's Office
Albany, New York 12207-1095*

October 27, 2005

Jason B. Kolodny, Esq.
21 Hereford Road
Great Neck, New York 11021

Re: Town of Montauk, Inc. v Pataki, Motion No. 05/1089

Dear Mr. Kolodny:

Enclosed is this Court's order and decision in the above-referenced appeal. The transfer of the appeal does not relieve appellant of responsibility to timely pursue the appeal, if desired, to the Appellate Division. You may wish to contact the Clerk of the Appellate Division, Second Department regarding the appropriate procedure to follow in that court.

Very truly yours,

A handwritten signature in cursive script that reads "Stuart M. Cohen".

Stuart M. Cohen

HD:jh

Enc.

cc: Hon. Eliot Spitzer
Christine Malafi, Esq.
Cullen & Dukman, LLP
John T. McCarron, P.C.
Greg Allen, Esq.
Cahn & Cahn, LLP
John Courtney, Esq.
511 Equities Corp.
Brooklyn Historical Society
William J. Fleming, Esq.

State of New York, Court of Appeals

*At a session of the Court, held at Court of
Appeals Hall in the City of Albany
on the.....twenty-seventh.....day
of.....October..... 2005*

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

Mo. No. 1089 SSD 57

In the Matter of Town of Montauk,
Inc.,


Appellant,

v.

Hon. George E. Pataki, Esq.,
Governor of the State of New
York, et al.,

Respondents.

The appellant having filed notice of appeal in the above title and due consideration having been thereupon had, it is ORDERED, that the appeal be and the same hereby is transferred without costs, by the Court sua sponte, to the Appellate Division, Second Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3 [b] [2], 5 [b]; CPLR 5601 [b] [2]).


Stuart M. Cohen
Clerk of the Court