



**Green Amendment Victories**  
**How Green Amendments Are**  
**Recognizing & Protecting**  
**Environmental Rights**



Pennsylvania, Montana, New York, are the only three states in the U.S. that currently promise, protect and respect constitutional environmental rights protected on par with other fundamental human, civil and political rights we hold as inviolate, inherent, inalienable and inalienable rights protected from government infringement and transgression. In this series we share the varied ways that constitutional recognition is providing meaningful and transformative protection in the states where they exist, thereby making the case for constitutional Green Amendments in states across our nation and ultimately at the federal level.

**Councilmember Christopher Marte et.al. v. City of New York**  
**Decided March 28, 2023**  
**(New York Supreme Court of the State of New York, New York County)**

Plaintiffs were concerned about a housing development project proposed for the Two Bridges neighborhood located in Manhattan. Plaintiffs asserted the Final Environmental Impact Statement (FEIS) considering the project pursuant to the State Environmental Quality Review Act (SEQRA) had been finalized in November of 2018 and did not include consideration of the effects of the COVID pandemic. Plaintiffs asserted the project would negatively affect air quality, open space and available light. Plaintiffs claimed the development would impinge upon their constitutional environmental rights as enshrined in Article 1 Section 19 of the New York state constitution.

Defendants moved to have the case dismissed asserting the FEIS had been completed four years previous to the case being brought and that the project would provide much needed affordable housing.

There had been two previous legal challenges to the project on alternative grounds that were unsuccessful as of February 2021. Defendants argued that plaintiffs had identified nothing new or changed about the

project to warrant a reopening of the already completed process. Plaintiff argued that there had been changed circumstances that occurred after the original FEIS was finalized and as a result a Supplemental EIS is required.

The New York Green Amendment was ratified in November 2021 and took effect thereafter on January 1, 2022.

Given that nothing substantive had changed with regards to the project since it received its approvals and the last legal challenges had already been rejected years before, in the court's view: "Plaintiffs here do not seek relief under the Green Amendment as part of the initial effort to challenge a development. Instead, they seek yet another 'bite at the apple'..." Concerns raised with regards to air quality and other issues were addressed in the environmental analysis completed and no basis was provided to revisit those considerations.

*"The court [] declines to find that the Green Amendment has retroactive effect, at least in a situation where, as here, there have been multiple unsuccessful challenges exploring the same exact issues. Moreover, defendants here have established that there have not been significant changes to the development that might require a second look."*

*"The Court's decision in this case is limited. It merely finds that the Green Amendment cannot be used to bring challenges that were already unsuccessful ... The instant opinion does not stand for the proposition that the Green Amendment is merely a statement of principles."*