

Before I was a Supervisor, I was a trial lawyer. I represented a lot of clients who were charged with serious crimes. Many of them, in spite of my best attempts were found guilty. One thing I learned is that the clients who had had their day in Court, who exercised their right to a trial, were more satisfied as they went to do their sentence, than those who had accepted a plea deal and gotten less time.

Because here's the thing: Due process is important. The right to an impartial hearing with sworn testimony and the right to cross examine is important. The right to be heard is important. The right to a trial is important.

Recently I read a statement from Alex Campbell of Hecate Energy in which he lauded 94-C, the process by which Hecate Energy is applying for a permit to build an industrial solar plant in Copake. Mr. Campbell called the process "one of the country's most rigorous [siting] programs". Mr. Campbell claimed that the "process requires extensive review of the projects' environmental impacts and input from the local community".

The problem is, 94-C is not a rigorous process. 94-C does not provide for meaningful opportunity for the public to be heard. Most fundamentally, 94-C does not require a trial.

Prior to the passage of 94-C, Hecate was proceeding by way of Article 10. Although Article 10 bypassed local processes, at least it required numerous rigorous findings on environmental impact – and required the Board to find cause before overriding local laws.

In March 2020, as New York State was considering legislation to create a process faster than Article 10, the Copake Town Board and the County Board of Supervisors passed a resolution opposing the proposed legislation, decrying the loss of Home Rule.

In April 2020, over these objections, the NYS Legislature passed the new law, creating the process now called "94-C". The purpose of 94-C was not to increase the rigor with which proposed renewable energy applications were reviewed. On the contrary, the new process was meant to speed up approval by inhibiting public participation. The process was meant remove the "red tape" in order to to ease the way for corporations like Hecate to more quickly obtain permits.

In this case, "the red tape" includes the right to a trial. Under 94-C there is no "siting board" which considers the specifics of each case, hears testimony and arguments. 94-C is an administrative, not judicial process, where ORES, like a clerk, checks the developer's application to make sure it has a minimum number of studies. The standards applied are uniform statewide standards- not specific to the location where the installation is to be sited. A draft permit is forthcoming as long as the developer has filed the minimum number of studies – without any objective examination of the findings of the studies. A final permit is issued unless local parties and municipalities can

convince the agency that a hearing is necessary. The burden is on the local entities to convince a state agency that they are entitled to a trial.

We started down this path afraid that local government's right to Home Rule would be trampled. Instead, or really additionally, the rights of individuals have been sacrificed on the altar of expediency.

And then things got worse. This March, New York State proposed that part of the State budget would exempt the 94-C process from the requirements of SEQRA. SEQRA is the New York State Environmental Quality Review Act which requires all state and local government agencies to consider environmental impacts of every project.

Again, both the Town and Board of Supervisors passed a Resolution opposing the proposed law.

At first we heard, no worries, the SEQRA exemption was off the table. And then after the Budget was approved, we heard that the exemption was slipped back in at the last moment. As if 94-C was not already a rubber stamp for developers- now they are given free rein to ignore environmental impact on local farmland, wildlife, natural resources.

Before I was a lawyer, I was a kid growing up in Copake, riding on calls with my father who was a large animal vet. We rode from barn to barn through these beautiful hills and farms.

I fully understand the urgency to protect the planet. Confronting climate change is the challenge of our generation. But I also understand that we are stewards of this place we call home. It is our responsibility to protect the local environment here in Copake.

We still insist that if Hecate would come to the town prepared to listen and actually address our concerns we could agree to a more compact, more carefully sited solar installation. Given that New York State has given them free rein to do as they please, it is no wonder that they do not care about Copake.