



Press Statement
First Court Decision
Based on the New York Green Amendment
Article 1, Section 19 is issued

Contact:

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On December 7, 2022, *Fresh Air For The Eastside v. the State of New York, et. al.*, the Supreme Court of New York, the trial court level in New York State, issued the first decision based on the New York Green Amendment since it was added to the state's constitutional Bill of Rights. In this ruling, the Court offered important points clarifying the meaning of the amendment.

The case was brought by neighbors of a landfill. The legal arguments focused on emissions from the landfill, including greenhouse gas and noxious odor emissions, and challenged the state environmental agency's failure to prevent a violation of the Green Amendment, the constitutional right to clean water and air, and a healthful environment, of neighbors to the landfill.

In its decision refusing the state's request that the action be dismissed, the court made a few critical legal determinations regarding New Yorker's newly secured environmental rights. According to the Court's decision:

- The New York Green Amendment is self-executing and requires no additional legislation to be enforceable.
- The New York Green Amendment is enforceable against government action and not intended to be used in direct actions against private parties.
- The New York Green Amendment is enforceable against government action and omissions/inaction when they result in a constitutional environmental rights violation.
- Filing with the court to make a claim of a constitutional violation of Article 1 Section 19 and the environmental rights it protects, is appropriate, and plaintiffs are not required to exhaust administrative remedies before invoking the court's jurisdiction;
- It is appropriate for a court to grant declaratory relief (i.e. a judgment that constitutional rights have been violated and must be remedied) in response to a claim that constitutional environmental rights recognized in Article 1 Section 19 (i.e. the New York Green Amendment) have been violated.
- "Complying with the constitution is not optional for state agencies."
- The state lacks discretion to violate the Constitution, thus the court has the ability to compel the state to comply with the New York Green Amendment when a violation has been found.

Notably, the court adopted the terminology calling New York’s constitutional environmental rights amendment to be a “Green Amendment,” a term coined in the 2017 book titled The Green Amendment which identifies key criteria for giving environmental rights highest constitutional standing and protection. The book’s author, Maya van Rossum, who has also founded the national Green Amendments For The Generations organization and movement working nationwide, applauds the court’s decision as an important first step in advancing the environmental rights of all New Yorkers.

“This decision demonstrates the power and importance of recognizing the inalienable rights of all New Yorkers to clean water and air, and a healthful environment. But for the constitutionally recognized right, the Eastside community would appear to have no remedy for being overwhelmed by the air contamination emanating from the landfill, including the knowledge that greenhouse gas emissions released from the landfill were contributing to the climate crisis and the very direct and real ramifications climate change is inflicting on New York communities,” stated **Maya van Rossum, Founder of the national Green Amendments For The Generations movement**. “Green Amendments For The Generations was instrumental in securing New York’s constitutional environmental rights and is working nationwide to secure similar protections in every state constitution and ultimately at the federal level.”

Green Amendments For The Generations was a leader in securing Article 1 Section 19, passed with over 70% of the vote in 2021, that ensures a right of all New Yorkers to clean water and air, and a healthful environment – i.e. New York’s Green Amendment.

A second edition of the book, The Green Amendment, The People’s Fight For A Clean, Safe & Healthy Environment, was released this year on November 1, 2022.

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