

# COURT DENIES SUFFOLK'S BID TO RECOUP \$7M

Judge rules against insurance relief citing intentional breach of contract

BY RICK BRAND

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A state Supreme Court justice has denied Suffolk County's effort to recoup \$7.8 million from its insurance companies after losing a federal lawsuit for refusing to honor a contract to allow a private firm to install solar panels at the Ronkonkoma Long Island Rail Road station.

State Supreme Court Justice David T. Reilly in a seven-page decision found the county is "clearly not entitled to the relief" because it "intentionally breached the lease agreement" to permit EDF Renewable Development Inc. of San Diego to build solar carports at the 3,000-car parking lot.

"The county of Suffolk's intentional breach of the lease agreements with EDF was not and cannot be construed as a negligent act which would implicate insurance policy considerations," said Reilly.

"Each of the policies specially exclude recovery for actions for breach of contract," Reilly wrote.

Suffolk, which is self-insured for claims up to \$3 million but carries coverage for catastrophic claims, sued insurers Ironshore Indemity Inc., Lexington Insurance Co. and Starr Indemnity and Liability Co., claiming they failed to issue proper notices denying the county claims.

Suffolk in November paid EDF \$3 million in cash and got legislative approval to borrow the remaining \$7.8 million, with hopes of recouping insurance money in the lawsuit. Reilly's ruling was dated March 28, shortly before County Execu-

tive Steve Bellone launched a surprise initiative for a 17,000 seat mega-sports arena on the same property.

Legis. Tom Cilmi, leader of the Republican caucus, said the losses will total nearly \$15 million when interest costs, legal fees and lost revenue from the electricity that was to be produced are added in.

"The bottom line is that this is a disaster for our taxpayers," Cilmi said. "The Democrats on the legislature seem intent to let this unbelievably irresponsible decision slide, but \$15 million is a lot of money to flush down the toilet. And someone needs to be held responsible . . . the buck stops with the county executive."

Presiding Officer DuWayne Gregory could not be reached for immediate comment.

Jason Elan, a spokesman for Bellone, said the county will appeal the insurance ruling.

"We take comfort in knowing that multiple private sector parties have submitted billion dollar proposals to unlock the true potential of one of the most significant economic development sites in the region," Elan said.

The dispute arose when Bellone, shortly after taking office in 2012, balked at using the Ronkonkoma site as one of seven county parking sites in a \$120 million deal negotiated by GOP predecessor Steve Levy.

Bellone, a Democrat, feared the solar project would interfere with the 1,450-unit transit-related Ronkonkoma Hub. Efforts to find an alternative site stalled and EDF sued in 2013. In 2016, EDF won the lawsuit, which was upheld on appeal in July 2017.



## FORECAST



TUESDAY

HI 50° LO 36°



WEDNESDAY

HI 56° LO 43°

## It'll be cool, cloudy

BY PATRICIA KITCHEN

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Following a day that brought more than 3 inches of rain to some areas of Long Island, Tuesday was expected to bring cloudy skies, with just a slight chance of afternoon showers, forecasters said.

The front that carried 40 to 60 mph gusts to the region Monday also carried a pelting rainfall that tallied up to 3.28 inches in Hewlett; 3.05 inches in Plainview; 2.65 in Centerport; and 2.19 at the airport, according to unofficial observations reported to the National Weather Service.

With the storm moved out, temperatures for the entire week are forecast to be mostly below normal. That will continue a streak — apart from two days last

week in the 70s — of cooler-than-average weather.

Tuesday was forecast to see highs in the upper 40s, with following days heading up to the low- to mid-50s. Overnight lows in the mid-30s to low 40s were expected.

The average monthly temperature at Long Island MacArthur Airport as of day-end Sunday was 3.8 degrees below normal.

That's as 58 to 60 degrees are the airport's normal highs at this time of year, with 41 to 42 degrees normal lows.

Wednesday, then, brings mostly sunny skies, the weather service said, but back we go to chances of rain for Thursday.

**A pedestrian walks through heavy rain on Atlantic Avenue in Lynbrook on Monday.**

