

Oneida Tribal Judicial System

Onayote ʔ a·ka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

**Looney and Lizzie Mouse,
Petitioners**

Docket No: 14-TC-002

v.

**Division of Land Management
Oneida Land Commission,
Respondents**

DECISION AND ORDER DENYING MOTION FOR INJUNCTION

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Kathy Hughes, and Sandra L. Skenadore, presiding.

I Background

On January 27, 2014 Petitioners filed a Notice That Immediate/Irreparable Harm Has Occurred and that the facts have been ignored. Petitioners are requesting the Court to immediately issue an Injunction/Restraining Order to prevent the Appellate Court's decision in the matter of 13-AC-009, Looney & Lizzie Mouse v. Oneida Division of Land Management, Oneida Land Commission, 11/19/13. Petitioners' request is denied.

According to Petitioners' version of the *facts* in their pleadings Respondents, Division of Land Management and the Land Commission, issued a decision to evict Petitioner. Petitioner appealed that decision to the Appeals Commission (OAC). OAC issued its opinion on November 19, 2013, for Petitioners to vacate the premises by January 27, 2014. Therefore the OAC gave Petitioners sixty (60) days to vacate their residence. They failed to do so. The Oneida Tribal Judicial System Trial Court is an original hearing body and according to

Resolution #8-19-91-A a subcommittee of the OAC shall have the authority to hold hearings, review the facts, issue subpoenas, and based on their findings issue its decision when there is no specified hearing forum within the Oneida Tribe. Since the Land Commission is an original hearing body they are the appropriate forum.

II Issues

Does Petitioners have cause to file for an Injunctive/Temporary Restraining Order?

III Analysis

Does Petitioner have cause to file for an Injunctive/Temporary Restraining Order? No.

Petitioners followed the proper procedures with their claim. Once they received the decision from an entity of the Oneida Tribe (it may have been from DOLM), they filed a case with the appropriate original hearing body – Land Commission, who adjudicated the case. When dissatisfied with Respondents' decision Petitioners appealed to the Appellate Court of the Oneida Tribal Judicial System. The OTJS is bound by several procedures within the APA, for acceptance of an appeal and for their final opinion. The Appellate Court issued its opinion on November 19, 2013. Given that this same matter between these same parties has already been adjudicated, it is improper for the trial to issue a stay at this time. Collateral estoppel applies here. Collateral estoppel is the doctrine which precludes a party from re-litigating an issue that was previously decided in another case between the same parties. Black's Law Dictionary, at 261, 6th ed., 1990.

Petitioners claim the Respondents wrongfully “usurp” their rights, and that Petitioners have the right to bring the matter before the Oneida General Tribal Council and to be afforded complete and thorough due process, to receive fundamental fairness, to receive consistency in the application of our tribal laws and receive consistency in treatment. Petitioners failed to clearly establish the grounds for preliminary injunctive relief. Petitioners request the Court to immediately issue an injunction and/or temporary restraining order preventing the enforcement of the Oneida Appeals Commission decision dated November 19, 2013.

According to Petitioners' own pleadings, the action of the Oneida Land Commission to take possession already occurred. Petitioners had sixty (60) days to comply. Petitioners' *facts* show that due process was provided with each court hearing and with each decision. Our review of the record shows fundamental fairness and the application of tribal law have guided the eviction process through the decisions of Oneida Land Management, Oneida Land Commission and the Appellate Court.

Petitioners assert it is cruel and unusual to evict tenants during the winter. On November 19, 2013 Petitioner was given sixty (60) days to vacate the premises. The Land Commission has to consider the interests of *all* people and proceed with evictions when violations occur. The Land Commission has been empowered through the laws of the Tribe to consistently and fairly operate the Tribe's housing programs. This case has been litigated and a final decision has been issued and upheld on appeal. The Land Commission has acted in accordance with Tribal law and that decision cannot be overruled.

Again, due to the alleged *facts* Petitioners presented, this Court lacks the authority to issue an Injunction/Temporary Restraining Order to prevent the lawful eviction.

IV Decision

The court denies Petitioner's request for an Injunction/Restraining. All other issues are moot.

IT IS SO ORDERED.