

COURT OF APPEALS
STATE OF NEW YORK

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IN THE MATTER OF THE APPLICATION :

of :

CONSOLIDATED EDISON COMPANY OF NEW YORK, : NOTICE OF MOTION
INC., : TO DISMISS APPEAL

Petitioner-Respondent, :

To review a determination of, and for an
Order and Judgment pursuant to Article :
78 of the CPLR to annul the determina- :
tion denying a variance, :

- against - :

WALTER HOFFMAN, GERALD MAROLLO, JOHN :
MORAITIS, WILLIAM MURRAY and JOHN :
KOBIEROWSKI, as the Zoning Board of :
Appeals of the Village of Buchanan, :
New York, :

Respondents-Appellants, :

HUDSON RIVER FISHERMAN'S ASSOCIATION, :

Intervenor-Petitioner-Respondent. :

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S I R :

PLEASE TAKE NOTICE that upon the annexed affidavit
of Edward J. Sack, Esq., dated December 16, 1976, the
annexed decision of the Supreme Court, Special Term, dated

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November 14, 1975, the annexed decision of the Appellate Division, Second Department, dated October 26, 1976, the annexed notice of appeal served by respondents-appellants on December 1, 1976, the annexed jurisdictional statement and supplemental jurisdictional statement served by respondents-appellants on December 3, 1976, and December 14, 1976, respectively, and the annexed letter of December 7, 1976 written by the Clerk of the Court of Appeals, the undersigned will move this court at Court of Appeals Hall, Albany, New York, on the 3rd day of January, 1977, at 2 PM, for an order dismissing the appeal in this case on the ground that no appeal as of right lies under CPLR 5601(a) because respondents-appellants are not aggrieved by the modification made by the Appellate Division in the order of the Special Term, and for such other, further and different relief as to the court may seem just and proper. The grounds in support of this motion are more fully set forth in the memorandum which is attached hereto.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 2214(b), answering affidavits, if any, must be served upon the undersigned at least five (5) days before the

return date of this motion.

Dated: New York, New York
December 16, 1976

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Inc.

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