The recent decision by the Appellate Division of State Supreme Court upholding the approval by the Adirondack Park Agency of the proposed Adirondack Club and Resort (ACR) project in Tupper Lake has generated intense controversy. Groups on both sides have weighed in with their views on the wisdom or folly of the APA’s approval of the massive project and the court’s affirmation of that approval.

Putting aside the merits of the controversy, what is striking about the court’s decision is the startling absence of any discussion of the uniqueness of the Adirondack Park, the history or purpose of the APA Act, or the special place the Park occupies in the hearts and minds of the people of New York. These omissions are all the more disturbing because of the court’s recognition that ACR is “the largest project ever proposed for New York’s 6,000,000-acre Adirondack Park.” Which leads one to wonder: have the courts fallen out of love with the Adirondack Park?

Consider the respectful and affectionate way in which earlier court decisions spoke about the Adirondack Park. In 1977, the New York Court of Appeals—the state’s highest court—had this to say in *Wambat Realty Corp. v. State*:

*To categorize as a matter of purely local concern the future of the forests, open spaces, and natural resources of the vast Adirondack Park region would*
doubtless offend aesthetic, ecological, and conservational principles. ... In the face of increasing threats to and concern with the environment, it is no longer, if it ever was, true that the preservation and development of the vast Adirondack spaces, with their unique abundance of natural resources—land, timber, wildlife, and water—should not be of the greatest moment to all the people of the State.

Later on, in the same unanimous opinion, the court went on to provide a ringing endorsement of the APA Act:

[P]reserving the priceless Adirondack Park through a comprehensive land use and development plan is most decidedly a substantial State concern. ... All but conclusive of this aspect of the issue is the constitutional and legislative history stretching over 80 years to preserve the Adirondack area from despoliation, exploitation, and destruction by a contemporary generation in disregard of the generations to come.

This was not the only New York court decision recognizing the uniqueness of the Park’s resources, the long-term commitment by the people of New York to protecting the Adirondacks, and the importance of the APA Act in preserving the Park’s resources for future generations. Building on the description of the historical development of Park protections, the Court of Appeals recognized in Long v. Adirondack Park Agency (1990) the unique function of the APA in protecting the Park’s resources. Discussing the agency’s role in implementing the Adirondack Park Land Use and Development Plan, the court characterized the APA’s task as “an awesome responsibility” that carries with it “formidable powers” to achieve the APA Act’s resource-protection goals.

In a similar vein, the Appellate Division, Third Department—an earlier incarnation of the court that years later issued the ACR decision—stated in Brown v. Glennon (1994) that the APA Act “clearly establishes the State’s interest in preserving and protecting the Adirondack Park and insuring the overall protection, preservation, development and use of the unique scenic, recreational, open space and natural resources of the park.”

The circumstances that led to these earlier judicial pronouncements—and the resource issues at stake—pale in comparison to ACR. Neither Wambat Realty (residential subdivision on 2,200 acres), Long (thirty-two-unit condominium on seven acres), nor Brown (shoreline setback violation on 0.12 acres) involved anything approaching the scale of the ACR project (construction of a hotel, over six hundred vacation homes, reopening of a ski area, and associated amenities and structures on 5,400 acres).

Yet despite the ACR court’s acknowledgement of the unprecedented magnitude of this type of development in the Adirondack Park, its opinion is strangely silent about the Park’s history, natural resources, or value to the people of New York. In fact, apart from a handful of direct quotes from the APA Act, the decision fails to even mention the Park. Nor does it cite or refer to Wambat
A casual reader could be excused for thinking that the ACR decision concerns a project in an area of the state that lacks a legacy of preservation extending for well over than a century, a constitutionally protected Forest Preserve, and a groundbreaking regional land-use plan—a place that is undeserving of any special attention, protection, or consideration at all.

The ACR decision marks a clear departure from prior judicial opinions that wax poetic about “preserving the priceless Adirondack Park” and the APA’s “awesome responsibility” to protect the Park’s resources and warn against destruction of the Park’s resources “by a contemporary generation in disregard of the generations to come.” We can only hope that the judicial retreat is not reflective of a broader malaise concerning the continuing need—and legal obligation—to preserve and protect the Park’s natural heritage.

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