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To be submitted by:
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NEW YORK SUPREME COURT
APPELLATE DIVISION: THIRD DEPARTMENT

In the Matter of

THE CITY OF NEW YORK,
Petitioner-Appellant,

-against-

RICHARD A. BALL, as Commissioner of Agriculture and
Markets of the State of New York, and the NEW YORK
STATE DEPARTMENT OF AGRICULTURE AND
MARKETS,
Respondents-Respondents,

Case No.
CV-24-1310

-and-

LA BELLE FARM, INC. and HVFG, LLC d/b/a Hudson
Valley Foie Gras,
Intervenors-Respondents-Respondents.

**BRIEF OF PROPOSED *AMICI CURIAE* NEW YORK ASSOCIATION OF
TOWNS; CITY OF AUBURN; TOWN OF OWASCO; ROBERT MANLEY,
in his official capacity as Town Supervisor of the Town of Cameron; AND
MICHAEL VOLINO, in his official capacity as Town Supervisor of the Town
of Thurston**

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PRELIMINARY STATEMENT

New York Agriculture and Markets Law (“AML”) § 305-a reflects the legislature’s careful balancing of two important goals: preserving the state’s agricultural lands from development and respecting local governments’ well-established, constitutionally and statutorily enshrined authority to protect their residents’ health, safety, and welfare. Supreme Court’s admittedly expansive interpretation of AML § 305-a upends that balance. Indeed, in concluding that AML § 305-a can preempt local laws that have only indirect financial effects on far-away farm operations, Supreme Court gives AML § 305-a nearly unlimited reach, leaving little room for local lawmaking. This interpretation is contrary to the legislature’s intent to preempt only a narrow set of local laws that directly and unreasonably govern farm operations,¹ and it significantly hinders local governments’ efforts to protect health, safety, and welfare. To restore the balance that the legislature intended, this Court should reject Supreme Court’s erroneous and disruptive interpretation of AML § 305-a.

¹ AML § 305-a does not apply when the local government at issue has not established an agricultural district. *See* Br. for Appellant 14–17. Thus, AML § 305-a preempts local laws only when the local government has established an agricultural district *and* enacted a local law that would directly and unreasonably govern farm operations in that agricultural district, without showing a threat to public health or safety. Because Appellant provides a fulsome argument that AML § 305-a does not apply when the local government has not established an agricultural district, Proposed *Amici* do not repeat that argument here.

INTEREST OF PROPOSED *AMICI CURIAE*

The New York Association of Towns (the “Association”) is a voluntary membership organization that trains, educates, and advocates for town governments and officials. The Association’s membership consists of 908 of New York State’s 933 towns, ranging from rural to suburban, from upstate to downstate, from western New York to Long Island, and from bedroom communities to large, booming towns. The Association’s members rely on their home rule authority to deliver critical, front-line services to their residents. Accordingly, the Association works tirelessly at the state and federal levels to uphold and strengthen the principles of home rule and oppose initiatives that would weaken or threaten towns’ home rule authority. A broad reading of AML § 305-a will undermine the Association’s efforts and interfere with towns’ ability to protect their residents’ health, safety, and welfare.

The City of Auburn, New York is located in Cayuga County and is home to approximately 26,800 residents. Auburn features numerous historical sites and national landmarks, such as the Harriet Tubman National Historic Park and the Seward House Museum. Pursuant to its home rule power, Auburn has enacted local laws to protect its residents’ health and welfare, including laws to preserve its historical and cultural resources for residents’ enjoyment. For example, Auburn provides for the designation, protection, and enhancement of historical sites within

the city. Code of City of Auburn § 178 (2023). Auburn is also located in the heart of the Finger Lakes Region and borders Owasco Lake. Auburn and other local governments have asked the New York State Department of Health to promulgate regulations to increase protections against agricultural pollution in Owasco Lake, but the agency has asserted that a provision of the Agriculture and Markets Law precludes it from adopting the regulations. Auburn is concerned that an expansive reading of AML § 305-a will disrupt its efforts to protect its residents, historical sites, and natural resources.

The Town of Owasco, New York, located in Cayuga County, has a population of approximately 3,500 residents. Owasco borders Owasco Lake, which is an important natural resource that contributes to public health and welfare in the town. Code of Town of Owasco § 75-1 (2025) (describing the importance of Owasco Lake to the town and the public). Owasco sources and distributes water from Owasco Lake to supply drinking water to 5,000 residents of Cayuga County. Pursuant to its home rule authority, Owasco has enacted numerous local laws to protect the lake and the ability of its residents to enjoy it. For example, Owasco prohibits the use of lawn fertilizer that contains phosphorus, because phosphorus-laden stormwater runoff causes algal outbreaks that threaten the lake's ecological health, recreational quality, and aesthetic value. *Id.* §§ 75-1, 75-4. Together with the City of Auburn, Owasco asked the New York State

Department of Health to promulgate regulations to increase protections against agricultural pollution in Owasco Lake, but the agency has asserted that a provision of the Agriculture and Markets Law precludes it from adopting the regulations. Owasco is concerned that a broad interpretation of AML § 305-a will further hinder its efforts to protect the health and welfare of both its residents and its natural resources.

Robert Manley is the Town Supervisor of the Town of Cameron, New York, which is located in Steuben County and is home to approximately 900 residents. Supervisor Manley joins as an *amicus curiae* in his official capacity. As Town Supervisor, Supervisor Manley is familiar with Cameron's exercise of its home rule power to enact local laws that protect residents' health and welfare. For instance, Cameron has established a one-year moratorium on the construction or expansion of solid waste management facilities in order to protect the town's drinking water sources and air quality, Local Law No. 1 of Town of Cameron (2025); prohibited the running at large of farm and domestic animals, Local Law No. 1 of Town of Cameron (2020); and regulated the construction and operation of wind energy facilities to ensure that they do not harm neighboring properties, farmland, or wildlife, Local Law No. 1 of Town of Cameron (2019). Supervisor Manley is also familiar with the state's reliance on AML § 305-a to call into question the validity of local laws. Accordingly, he is concerned that a sweeping

interpretation of AML § 305-a will impede Cameron's use of its home rule authority to protect the health and welfare of its residents.

Michael Volino is the Town Supervisor of the Town of Thurston, New York, which is located in Steuben County and is home to approximately 1,250 residents. Supervisor Volino joins as an *amicus curiae* in his official capacity. Supervisor Volino is familiar with Thurston's use of its home rule authority to enact local laws that protect its residents' health and welfare. For example, Thurston has opted out of allowing cannabis retail dispensaries and on-site consumption sites, Local Law No. 2 of Town of Thurston (2021); provided for special oversight of solar energy facilities to ensure a proper balance between the benefits of these facilities and potential risks to property values and important natural resources, such as agricultural lands, Local Law No. 1 of Town of Thurston (2025); and regulated the land application of sewage sludge, which can contaminate soil and water with dangerous "forever chemicals," threatening public health and rendering land unsuitable for agriculture, Local Law No. 4 of Town of Thurston (2025). Supervisor Volino also is familiar with Thurston's efforts to navigate the occasionally opaque review process for local laws alleged to run afoul of AML § 305-a, and he is concerned that an expansive interpretation of AML § 305-a will interfere with Thurston's constitutional and statutory home rule authority, jeopardizing the health and welfare of Thurston residents.

LEGAL FRAMEWORK

The Home Rule Principle Grants Local Governments Broad Power to Protect Health and Welfare, Including Moral Welfare.

For over 100 years, the Constitution of the State of New York has recognized and preserved the principle of home rule, which grants local governments the power to adopt laws related to their property, affairs, and government—and limits the state’s ability to interfere with that power. *See* N.Y. Const., art. IX, § 2.² In this way, home rule “vest[s] actual legislative power concerning local affairs with [local governments]” and “curb[s] the Legislature from imposing unwanted laws upon them.” *City of New York v. Patrolmen’s Benevolent Ass’n of the City of N.Y., Inc.*, 169 Misc.2d 566, 574 (Sup. Ct., N.Y. Cnty. 1996), *aff’d*, 647 N.Y.S.2d 728 (1996). To implement the constitutional home rule provision, in 1963, the legislature enacted the Municipal Home Rule Law. *See* Municipal Home Rule Law § 10 (2024) (adding to the constitution’s list of powers reserved for local governments and limiting the state’s ability to restrict those powers). “The unquestioned purpose behind [both] home rule [provisions] was to ‘expand and secure the powers enjoyed by local governments.’” *Matter of Town of East Hampton v. State*, 263 A.D.2d 94, 96 (3d Dept. 1999) (quoting *Wambat Realty Corp. v. State*, 41 N.Y.2d 490, 496 (1977)). Accordingly, the powers that these

² The principle of home rule was first incorporated into the constitution in 1923. Note, *Home Rule and the New York Constitution*, 66 Colum. L. Rev. 1145, 1147–48 (1966).

provisions grant to local governments must be “liberally construed.” *Bracker v. Cohen*, 204 A.D.2d 115, 115 (1st Dept. 1994) (quoting N.Y. Const., art. IX, § 3(c); Municipal Home Rule Law § 51).

A local government’s core home rule authority includes “enact[ing] local legislation concerning the health, safety, welfare and morals of their residents.” *Oil Heat Inst. of Long Island, Inc. v. Town of Babylon*, 156 A.D.2d 352, 352 (2d Dept. 1989); see *City of Rochester v. Gutberlett*, 211 N.Y. 309, 320 (1914). Local governments have exercised their authority to protect moral welfare by, for example, prohibiting public consumption of alcohol, discrimination, and public lewdness. See *People v. Finch*, 88 Misc.2d 581, 585–86 (Monticello Just. Ct. 1976) (upholding a ban on public consumption of alcohol because “the conduct prohibited would be unnecessarily offensive to the visual sensibilities as well as the safety, comfort and general welfare of its citizens and inhabitants”); *Patrolmen’s Benevolent Ass’n of the City of N.Y., Inc. v. City of New York*, 142 A.D.3d 53, 59 (1st Dept. 2016) (upholding a ban on discriminatory policing because the law enacting the ban was “unquestionably valid insofar as it regulates within [the municipality’s home rule power]”); *Engelman v. Rofe*, 194 A.D.3d 26, 31 (1st Dept. 2021) (explaining that a local law creating a private right of action against gender-motivated violence falls within a municipality’s home rule power to “enact legislation to protect its residents from discrimination, including gender-related

violence”); *People v. Hoyt*, 54 Misc.3d 382, 383–85 (Crim. Ct., N.Y. Cnty. 2016) (upholding a ban on serial public lewdness). “It is not the province of the courts, except in clear cases, to interfere with the exercise of the power reposed by law in municipal corporations for the protection of local rights and the health and welfare of the people in the community.” *City of Rochester*, 211 N.Y. at 320 (quoting *Cal. Reduction Co. v. Sanitary Reduction Works of S.F.*, 199 U.S. 306, 319 (1905)).

Local Law 202 Protects Moral Welfare.

In prohibiting the sale of foie gras and the “stor[ing], keep[ing], maintain[ing], [or] offer[ing] [it] for sale” by “retail food establishment[s] [and] food service establishment[s]” within New York City, Record on Appeal (“R”) 66, Local Law 202 represents an exercise of the City’s home rule authority to protect moral welfare. The law stems from and addresses residents’ widespread rejection of an unhealthful food, the production of which involves “egregious cruelty that is outside the bounds of acceptable conduct in our society.” R3584. Consistent with New York City’s home rule authority, Local Law 202 regulates conduct *only* at retail food establishments and food service establishments *in New York City*. Thus, in accordance with Local Law 202, farms can continue to produce foie gras using whatever practices they choose. Farms also can sell foie gras to retail food establishments, food service establishments, and consumers outside of New York

City. And even within New York City, farms can sell foie gras to consumers directly, for example, through internet transactions.

AML § 305-a Facilitates Coordination of Local Lawmaking with the State’s Agricultural Districts Program.

Article 25-AA of the Agriculture and Markets Law is the legislature’s response to the expansion of “nonagricultural development . . . into farm areas,” which can lead to “the idling or conversion of potentially productive agricultural land.” AML § 300. To counter the threat of nonagricultural development, Article 25-AA allows local governments to create agricultural districts and sets out certain protections and benefits for those agricultural districts. *See* AML §§ 302–10. The protections include AML § 305-a, which provides for “[c]oordination of local planning and land use decision-making with the agricultural districts program.” Specifically, AML § 305-a directs that “[l]ocal governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, . . . shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of [the] article unless it can be shown that the public health or safety is threatened.” Upon request, the Commissioner of Agriculture and Markets will review a local law for compliance with AML § 305-a and will issue an opinion to the local government. AML § 305-a(b). The Commissioner may also bring an action to enforce AML § 305-a. *Id.* § 305-a(c).

ARGUMENT

By Supreme Court’s own admission, it “broadly constru[ed]” AML § 305-a to reach its conclusion that AML § 305-a preempts Local Law 202. R29. This broad construction runs afoul of two key principles of statutory interpretation. First, Supreme Court presumed legislative intent to preempt Local Law 202 where there is none, and second, it brushed aside the unreasonable and absurd consequences of its broad reading. This flawed reasoning led to an interpretation of AML § 305-a that could preempt nearly every local law, a result that would undermine New York’s longstanding and robust home rule principle, impose significant burdens on local governments, and jeopardize New Yorkers’ health, safety, and welfare. This Court should not adopt the same overbroad reading.

I. AML § 305-a Is an Express Preemption Clause That Calls for Statutory Interpretation.

“State law can preempt local law in one of two ways: either through conflict preemption . . . or field preemption”³ *Glen Oaks Vill. Owners, Inc. v. City of*

³ Conflict preemption does not arise in this case. Conflict preemption occurs when there is a “head-on collision” between a local and state law—that is, when the local law prohibits what the state law explicitly allows, or when the state law prohibits what the local law explicitly allows. *Matter of Highway Superintendent Ass’n of Rockland, Inc. v. Town of Clarkstown*, 150 A.D.3d 731, 733 (2d Dept. 2017) (quoting *Matter of Chwick v. Mulvey*, 81 A.D.3d 161, 168 (2d Dept. 2010)). For example, in *McGrath v. Suffolk County*, 232 A.D.3d 879, 884–85 (2d Dept. 2024), the court found conflict preemption where the state law prohibited counties from imposing fines in excess of \$50 for violations of red light camera programs, and the local law imposed fines greater than that amount. Here, there is no such head-on collision. Local Law 202 does not prohibit what AML § 305-a explicitly allows, because Local Law 202 prohibits New York City’s retail food establishments and food service establishments from selling foie gras, while AML § 305-a says nothing about those establishments or their sales of foie gras. And AML § 305-a does

New York, 2025 WL 1458090, at *2 (May 22, 2025). Field preemption arises when a state law expressly or impliedly indicates the state’s intent to assume full responsibility over a particular subject matter, to the exclusion of local laws on that subject. *See id.* A state law expressly indicates such intent when it “specifically bars local authorities from acting on a particular subject matter.” Eugene McQuillin, *The Law of Municipal Corporations* § 15:19 (3d ed. 2004). Here, AML § 305-a specifically bars local governments from acting to unreasonably restrict or regulate farm operations within agricultural districts, unless public health or safety is threatened. As such, AML § 305-a expressly indicates the state’s intent to preempt local laws with that effect.⁴

When there is a question about whether an express preemption clause reaches a particular local law, resolving the question is a matter of statutory interpretation. *See Matter of Gernatt Asphalt Prods., Inc. v. Town of Sardinia*, 87 N.Y.2d 668, 681 (1996); *Matter of Frew Run Gravel Prods., Inc. v. Town of Carroll*, 71 N.Y.2d 126, 130–31 (1987). Here, two key principles of statutory interpretation make clear that the scope of AML § 305-a’s preemption is narrow.

not prohibit what Local Law 202 explicitly allows, because AML § 305-a prohibits local governments from unreasonably restricting or regulating farm operations within agricultural districts, while Local Law 202 says nothing about local governments or their lawmaking.

⁴ Because AML § 305-a is an express indication of the state’s intent to preempt, the Court need not search for any implied intent. *See Matter of Gernatt Asphalt Prods., Inc. v. Town of Sardinia*, 87 N.Y.2d 668, 681 (1996).

First, courts must identify a clear expression of legislative intent to preempt the local law in question. *Matter of Wallach v. Town of Dryden*, 23 N.Y.3d 728, 743 (2014). And second, courts must not adopt an interpretation that produces “objectionable, unreasonable or absurd consequences.” *Roberts v. Tishman Speyer Properties, L.P.*, 62 A.D.3d 71, 81 (1st Dept. 2009), *aff’d*, 13 N.Y.3d 270 (2009) (quoting *Long v. State of New York*, 7 N.Y.3d 269, 273 (2006)).

II. AML § 305-a Reflects the Legislature’s Intent to Preempt a Narrow Set of Local Laws That Directly and Unreasonably Govern Farm Operations.

“The primary consideration in matters of statutory interpretation ‘is to ascertain and give effect to the intention of the Legislature.’” *Matter of Norse Energy Corp. USA v. Town of Dryden*, 108 A.D.3d 25, 31 (3d Dept. 2013), *aff’d sub nom., Wallach*, 23 N.Y.3d 728 (quoting *Riley v. County of Broome*, 95 N.Y.2d 455, 463 (2000)). When an express preemption clause threatens to preempt a local law enacted under one of the local government’s core home rule powers, which include protecting health and welfare, courts “do not lightly presume preemption”; instead, they require “a ‘clear expression of legislative intent to preempt local control.’” *Wallach*, 23 N.Y.3d at 743 (quoting *Gernatt Asphalt Prods., Inc.*, 87 N.Y.2d at 682); *see also People v. Winner’s Circle Flea Mkt., Inc.*, 102 Misc.2d 355, 357 (Suffolk Dist. Ct. 1979) (reasoning that “preemption should be denied unless such intent [to preempt] is clearly expressed”). Caution is necessary

because interpreting legislative silence as an expression of intent to preempt “would vitiate the concept of home rule.” *Council for Owner Occupied Hous., Inc. v. Koch*, 119 Misc.2d 241, 245 (Sup. Ct., N.Y. Cnty. 1983), *aff’d*, 61 N.Y.2d 942 (1984). It is also necessary to fulfill the command that the powers granted to local governments be “liberally construed.” *Bracker*, 204 A.D.2d at 115 (quoting N.Y. Const., art. IX, § 3(c); Municipal Home Rule Law § 51).

To determine whether there is a clear expression of legislative intent to preempt local control, courts consider three factors: “(1) the plain language of the [preemption] clause; (2) the statutory scheme as a whole; and (3) the relevant legislative history.” *Wallach*, 23 N.Y.3d at 744. “The goal of this three-part inquiry, as with any statutory interpretation analysis, is to discern the legislature’s intent.” *Id.* Here, New York City enacted Local Law 202 under its core home rule power to protect moral welfare. Accordingly, a court may find preemption *only if* the plain language, statutory structure, and legislative history of AML § 305-a reflect a clear expression of legislative intent to preempt Local Law 202. They do not.

A. AML § 305-a’s Plain Language, Statutory Scheme, and History Reflect the Legislature’s Intent to Preempt Only Local Laws That Directly and Unreasonably Govern Farm Operations.

By its plain language, AML § 305-a preempts only the narrow set of local laws that “unreasonably restrict or regulate farm operations within agricultural

districts,” and it does so only if the local government cannot show “that the public health or safety is threatened.” As Supreme Court itself concluded, “it seems doubtful” that the phrase “restrict or regulate” refers to “anything more than the governance of certain types of conduct (*i.e.*, ‘farm operations’).” R25. In other words, the plain language of AML § 305-a reaches only local laws that directly govern farm operations, and it preempts those laws only if they impose unreasonable burdens on farm operations. *See id.* (explaining that “the Legislature was focused on traditional forms of *direct* regulation that posed a threat to farming at the time” (emphasis added)). Because AML § 305-a prohibits only this narrow set of local laws, it permits other local control of farm operations. *See Winner’s Circle Flea Mkt., Inc.*, 102 Misc.2d at 357 (explaining that a state law identifying for exclusive state regulation only certain activities related to horse racing “implicitly contemplated local control” of other activities at racetracks).

The statutory scheme confirms that AML § 305-a extends only to local laws that directly and unreasonably govern farm operations. The subsection immediately following AML § 305-a’s preemption clause allows certain parties to seek the Commissioner’s review of proposed changes to local land use regulations, ordinances, or laws that may unreasonably restrict or regulate farm operations. *See* AML §305-a(b). Upon a request for review, the Commissioner must render an opinion to the appropriate government officials “as to whether farm operations

would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances[,], or local laws *pertaining to agricultural practices.*” AML § 305-a(b) (emphasis added). Likewise, the Commissioner shall render the opinion to local land use enforcement officials that are “administering local land use regulations, ordinances, or local laws or reviewing a permit *pertaining to agricultural practices.*” *Id.* (emphasis added). If there were any ambiguity in AML § 305-a’s language as to the scope of its reach—which there is not—AML § 305-a(b) makes clear that it extends only to local laws that directly and unreasonably govern farm operations.

Lastly, the legislative history aligns with this understanding. As Supreme Court recognized, “the history shows that the Legislature was focused on traditional forms of *direct* regulation that posed a threat to farming at the time.” R25 (emphasis added). This focus is reflected in the declaration of legislative findings and intent for the article in which AML § 305-a appears. The article is intended to protect agricultural lands from “nonagricultural development extend[ing] into farm areas,” as well as the “[o]rdinances [unreasonably] inhibiting farming” and farm tax increases that tend to follow. AML § 300. That is, the article is designed to protect against direct and unreasonable impositions on farm operations.

Under *Matter of Wallach v. Town of Dryden*, 23 N.Y.3d 728 (2014), AML § 305-a’s preemption of local laws extends only as far as the legislature clearly expressed. *See* 23 N.Y.3d at 743. AML § 305-a’s plain language, statutory scheme, and legislative history reflect the legislature’s clear expression of intent to preempt local laws that directly and unreasonably govern farm operations. Local Law 202 does not directly govern farm operations, so it falls outside of AML § 305-a’s preemptive reach.

B. Supreme Court Impermissibly Presumed Intent to Preempt Where None Is Clear.

Supreme Court concluded that AML § 305-a preempts Local Law 202 by doing precisely what *Wallach* forbids: presuming intent where none is clear. *See* R27. According to Supreme Court, “[a]lthough the Legislature that adopted and amended AML § 305-a was *unfamiliar* with the concept of sales bans like Local Law 202, the Legislature was familiar with the ‘venerable prohibition on public officials doing indirectly what they are forbidden from doing directly.’” *Id.* (quoting *People v. Grasso*, 42 A.D.3d 126, 140 n.9 (1st Dept. 2007)) (emphasis added). But venerable or not, this prohibition has no place in the statutory interpretation of preemption clauses.⁵ Not only does Supreme Court’s decision to apply the prohibition in this context flout *Wallach*’s requirement that local laws be

⁵ Indeed, none of the cases that Supreme Court cited for the prohibition concern state statutes that preempt local laws.

preempted only if preemption is supported by clear legislative intent, *see Wallach*, 23 N.Y.3d at 743, but it also bears out the concern articulated in *Council for Owner Occupied Housing, Inc.*, that interpreting legislative silence as an expression of intent to preempt “would vitiate” home rule, *see* 119 Misc.2d at 245. As discussed below, presuming that the legislature intended to preempt local laws that have only indirect financial effects on farm operations gives AML § 305-a’s preemption a nearly unlimited reach.

Supreme Court justified its presumption of legislative intent by citing *Matter of Lansdown Entertainment Corp. v. New York City Department of Consumer Affairs*, which instructed that “application of the preemption doctrine does not turn on semantics.”⁶ 74 N.Y.2d 761, 764 (1989). But *Lansdown* lends no support to Supreme Court’s expansive reading of AML § 305-a. *Lansdown* concerned preemption under New York’s Alcoholic Beverage Control Law, which preempts local laws governing manufacturing, selling, distributing, and consuming alcoholic beverages. *See Lansdown Ent. Corp.*, 74 N.Y.2d at 762–64. The local law at issue required certain establishments that sold alcohol for consumption on their premises to close at 4:00 a.m. *Id.* at 762. The court concluded that the local law was preempted, despite the fact that it was not “explicitly directed at the sale or

⁶ Supreme Court also relied on the U.S. Supreme Court’s decision in *National Meat Ass’n v. Harris*, 565 U.S. 452 (2012), which is inapposite for the reasons set out in Appellant’s brief. *See* Br. for Appellant 38–40.

consumption of alcoholic beverages,” because “[c]ompelling a business licensed by the State Liquor Authority to close at a time at which customers are otherwise permitted to remain on the premises and consume alcoholic beverages *directly regulates* subject matter within the exclusive jurisdiction of the State.” *Id.* at 764 (emphasis added). In other words, setting semantics aside, the local law directly regulated an entity that sells alcoholic beverages for consumption, which falls squarely within the legislature’s clear intent to preempt local laws governing the sale or consumption of alcoholic beverages. *See id.* at 763–64. The same is not true here. Local Law 202 directly regulates New York City’s retail food establishments and food service establishments, not farms, and no setting aside of semantics can bring Local Law 202 within the legislature’s intent to preempt local laws that directly and unreasonably govern farm operations.

What is more, *Lansdown* confirms that courts should focus on local laws’ direct effects, as opposed to their indirect effects, when determining whether local laws are preempted. The *Lansdown* court instructed that “the *direct* consequences of a local ordinance should be examined to ensure that it does not ‘render illegal what is specifically allowed by State law.’” *Id.* at 764 (quoting *People v. De Jesus*, 54 N.Y.2d 465, 472 (1981)). And the court explained that local laws of general application that “do not directly affect the field preempted by State law . . . would not be preempted if their enforcement *incidentally* infringed on [that field].” *Id.* at

763 (emphasis added). Under *Lansdown*, then, Local Law 202’s indirect financial effects on farm operations do not bring it within the scope of AML § 305-a’s preemption.

III. Supreme Court’s Interpretation of AML § 305-a Creates Objectionable, Unreasonable, and Absurd Consequences for Local Governments.

In addition to identifying and effectuating the legislature’s intent, “in discerning the meaning of statutory language, [courts] must ‘avoid objectionable, unreasonable or absurd consequences.’” *Roberts*, 62 A.D.3d at 81 (quoting *Long*, 7 N.Y.3d at 273). Supreme Court’s sweeping interpretation of AML § 305-a fails this requirement. Interpreting AML § 305-a to preempt local laws that have indirect financial effects on farm operations allows the provision to reach *nearly all* local laws. “Every local prohibition on particular goods or services has the effect of preventing distant merchants from employing their capital and labor to sell those goods or services within the boundaries of the restrictive locality, and local merchants with distant contacts from doing the same.” *Portland Pipe Line Corp. v. City of South Portland*, 332 F. Supp. 3d 264, 297 (D. Me. 2018). Indeed, “[i]t is difficult to conceive of *any area* of local regulation . . . which would not create an economic ripple effect extending throughout the region, state, [and] nation.” *Associated Builders & Contractors, Inc. v. S.F. Airports Comm’n*, 68 Cal. Rptr. 2d 737, 742 (Cal. Ct. App. 1997), *aff’d*, 21 Cal. 4th 352 (Cal. 1999) (emphasis added).

Interpreting AML § 305-a to reach virtually every local law necessarily will lead to objectionable, unreasonable, and absurd consequences. In particular, endowing AML § 305-a with such broad reach will make many more local laws subject to review under the provision, and as a result, the Commissioner likely will determine that many more laws are preempted, a determination that requires a lawsuit to resolve. At least one Proposed *Amicus* has had to resort to a lawsuit to challenge a state agency's determination under a similar provision of the Agriculture and Markets Law. Review under AML § 305-a can be a lengthy and burdensome process, as this case shows. The Commissioner's review of Local Law 202 took more than two years, required two responses from the City, and generated three different lawsuits. *See* Br. for Appellant 9–12. Another Proposed *Amicus* is familiar with a review process under AML § 305-a that has stretched past its second year, without updates from the Commissioner, despite requests for information. Review under AML § 305-a likely will move even more slowly as requests for review increase. For local governments, the threat of a lengthy and opaque review process may have a chilling effect on lawmaking, and engaging with the process may divert time and resources from other important business.

Supreme Court itself acknowledged the partial extent of its far-reaching interpretation, but it dismissed any concern that the interpretation produced unreasonable or absurd consequences. *See* R29. According to Supreme Court, its

interpretation of AML § 305-a will reach bans on “the sale of eggs produced by caged chickens, or the sale of beef produced by corn-fed cattle,” as well as bans “based on concerns . . . such as the treatment of farm workers or the effect of agricultural practices on the environment.” *See id.* n.8. Extending AML § 305-a to local laws meant to protect the environment threatens to undercut New Yorkers’ constitutional “right to clean air and water, and a healthful environment.” N.Y. Const., art. I, § 19. It is highly unlikely that the legislature intended to produce such a drastic result without saying so—after all, “legislative bodies generally do not ‘hide elephants in mouseholes.’” *Cruz v. TD Bank, N.A.*, 22 N.Y.3d 61, 72 (2013) (quoting *Whitman v. Am. Trucking Ass’ns, Inc.*, 531 U.S. 457, 468 (2001)). Yet Supreme Court offered no explanation for its conclusion that extending AML § 305-a to such laws is neither unreasonable nor absurd.

The local laws that Supreme Court identified are just some of the many laws that likely will be subject to AML § 305-a under Supreme Court’s interpretation. For example, AML § 305-a could reach local laws banning smoking in public places, such as New York City’s Smoke-Free Air Act, N.Y.C. Admin. Code § 17-503, because smoking bans could reduce demand for tobacco products and thereby have an indirect financial effect on tobacco farms. AML § 305-a could also reach local laws requiring restaurants to disclose calorie information, which have been enacted in New York City and elsewhere. *See* N.Y.C. Health Code § 81.50; King

Cnty., Wash., Bd. of Health Code § 5.10.016. After King County, Washington’s calorie disclosure law took effect, chain restaurants in the county voluntarily decreased the calorie content of menu items by using different ingredients, which almost certainly had ripple effects on the restaurants’ supply chains, including farms. *See* Barbara Bruemmer et al., *Energy, Saturated Fat, and Sodium Were Lower in Entrées at Chain Restaurants at 18 Months Compared with 6 Months Following the Implementation of Mandatory Menu Labeling Regulation in King County, Washington*, 112 J. Acad. Nutrition & Dietetics 1169, 1174 (2012). And AML § 305-a could reach local laws like New York City’s historic ban on trans-fat. *See* N.Y.C. Health Code § 81.08. Trans-fats are found mostly in processed and fried foods, especially fast food.⁷ A ban could reduce the need for agricultural goods that are often used in products with trans-fat, such as milk, sugar, wheat, and potatoes, and thereby have an indirect financial effect on farms that produce those goods. Subjecting these and many other local laws to lengthy review and possible preemption under AML § 305-a poses a serious threat to local governments’ efforts to protect health, safety, and welfare.

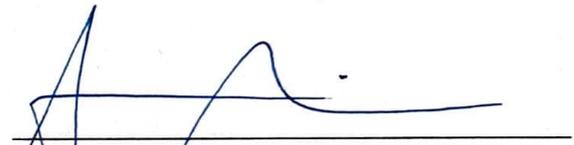
⁷ *See Trans Fat Is Double Trouble for Heart Health*, Mayo Clinic (Feb. 1, 2025), <https://www.mayoclinic.org/diseases-conditions/high-blood-cholesterol/in-depth/trans-fat/art-20046114>.

CONCLUSION

Supreme Court's broad interpretation of AML § 305-a undoes the purposeful balance that the legislature struck between preserving agricultural lands and respecting local governments' home rule authority. Overturning Supreme Court's decision will restore that balance while still achieving both goals. Accordingly, Proposed *Amici* urge this Court to reject Supreme Court's erroneous and disruptive interpretation of AML § 305-a.

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