

OYSTER BAY

Restaurateur awarded \$1.3M

BY TED PHILLIPS
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A jury awarded the former owner of an Oyster Bay cafe \$1.3 million on Wednesday for violations of his right to due process by the Town of Oyster Bay and a former town official.

The jury verdict in the civil case brought in U.S. Eastern District Court in Central Islip found that former Oyster Bay Planning and Development Commissioner Frederick Ippolito was personally liable for denying Café Al Dente owner Philip Morizio his 14th Amendment right to due process when the town padlocked his restaurant in 2013. The jury also found the town and building inspector Gary Blanchard were liable.

Morizio's attorney John Palmer of Mineola said that Ippolito had "engaged in an abuse of power that the jury found shocked the conscience."

Attorney Richard Hutchinson of Oyster Bay, who also represented Morizio, said the jury verdict after the three-day trial

recognized "the long-term pattern of abuse that Ippolito was inflicting on people when he was running the planning department."

The verdict said that Ippolito was personally liable to pay Morizio \$650,000 in punitive damages and Blanchard was personally liable to pay \$1 in punitive damages. The jury found that Ippolito, Blanchard and the town were jointly liable to pay an additional \$650,000 in compensatory damages.

Ippolito was forced out of his job this year after pleading guilty in a felony federal tax evasion case. He is due to be sentenced next month.

The town had alleged that Morizio had failed to resolve building and health violations at the restaurant in the hamlet of Oyster Bay for 18 months, Newsday has previously reported.

"A three-year nightmare is over," Morizio said in an interview yesterday. But he said his celebratory mood was tempered by the fact that the jury award hasn't been paid yet.

"I got a good night's sleep and so did my wife for the first time in three years," Morizio said.

The town's outside legal counsel, Christopher Kendric of Garden City-based Kendric Law Group PC, said he made a motion after the verdict on Wednesday to overturn it on the grounds that it was contrary to the law. "It was also against the weight of the credible evidence," Kendric said.

He said U.S. District Court Judge Leonard D. Wexler gave them 30 days to file a memorandum to argue for overturning the jury verdict.

Ippolito's criminal-defense lawyer, Brian Griffin of Garden City-based Foley Griffin LLP, did not return requests for comment.

Palmer argued that Ippolito shuttered Café Al Dente in retaliation for Morizio going around him to approach Town Supervisor John Venditto directly to try to get permission to renovate his restaurant to be in a reality television show on the Food Network. Morizio said the network had



RAYCHEL BRIGHTMAN

Philip Morizio, at the site of the former Café Al Dente, won lawsuit against the town and officials for violating his right to due process.

been ready to work with Ippolito to address any problems, but the commissioner wouldn't meet with them.

The town padlocked the restaurant on the grounds that a dangerous condition existed but, according to the suit, didn't identify those conditions and the town board didn't give him

a hearing when petitioned by Morizio, as required by law.

Palmer said this was an abuse of power that deprived Morizio of his right to due process and his livelihood.

Morizio, who owned Café Al Dente for 20 years, said he wants to open another restaurant in Oyster Bay.

Coasting into summer



BARRY SLOAN

MEDFORD. In the front car, Helen Zavala, 9, left, and Alyssa Maravilla, 9, ride at Boomers Family Fun Center yesterday. Co-sponsored by Gershow Recycling, the Patchogue Lions Club held its 16th annual "Christmas in June" for 141 students from seven elementary schools in the Patchogue-Medford district. ■ **More LI top photos:** newsday.com/topphotos

RIVERHEAD

Town: Bunker die-off averted

BY WILL JAMES
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Fishermen who hauled roughly 700,000 pounds of bunker from the Peconic River this spring have helped avert another major fish kill, a town supervisor said.

Will Caldwell led three crews who set seine nets from early April through mid-June to prevent another die-off of bunker, also known as menhaden, after last year's fish kills left hundreds of thousands rotting on the riverbanks.

"If he didn't do that, we would have probably had one or two massive fish kills" this year, Riverhead Town Supervisor Sean Walter said yesterday. "We averted a pretty nasty June along the Peconic River."

Most of the bunker harvested from the river and other areas of Peconic Bay were shipped to Maine for lobster bait or sold locally for bait, fishermen said.

One minor die-off of about 1,000 fish occurred this month, but none since, Caldwell said Wednesday.

Caldwell said he and the five fishermen working with him felt they were netting just enough bunker to keep the fish from again overwhelming the river,

depleting the oxygen and dying of asphyxiation.

"It was so close," said Caldwell, owner of C Well Fish LLC in Aquebogue.

Riverhead officials budgeted \$30,000 to subsidize the fishermen's work at a rate of 4 cents per pound, saying the low price of bunker would not otherwise warrant such intense fishing.

Officials in Southampton Town, which borders the river to the south, have agreed to reimburse Riverhead at a rate of 1 cent per pound, and state officials have agreed to contribute 2 cents per pound, Walter said.

In 2015, nearly 300,000 bunker suffocated in May and June as they crowded the river and found themselves trapped by predators. Researchers said algal blooms linked to nitrogen pollution also contributed to the die-offs.

Walter said town officials will continue to monitor concentrations of fish in the river. Caldwell said he believes a similar effort will be necessary in the fall because bunker populations have swelled along the East Coast, including in Peconic Bay.

"If you flew over the bay in a plane today, you would see schools of bunker," he said.