

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D13311
O/mv

_____AD3d_____

Argued - November 9, 2006

HOWARD MILLER, J.P.
ROBERT A. SPOLZINO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2006-01927

DECISION & ORDER

In the Matter of Commerce Drive Associates, LLC,
respondent, v Board of Assessment Review, etc., et al.,
appellants.

(Index No. 5198/05)

Tarshis, Catania, Liberth, Mahon & Milligram, PLLC, Newburgh, N.Y. (John D. Minehan of counsel), for appellants.

Blustein, Shapiro & Rich, LLP, Middletown, N.Y. (Burt J. Blustein of counsel), for respondent.

In a proceeding pursuant to Real Property Tax Law article 7 to review a real property tax assessment, the appeal is from an order of the Supreme Court, Westchester County (Dickerson, J.) , entered January 26, 2006, which denied the motion of the Board of Assessment Review and /or the Board of Assessors of the Town of Woodbury to dismiss the proceeding for lack of personal jurisdiction and granted the petitioner's cross motion to extend its time to serve the petition pursuant to CPLR 306-b.

ORDERED that the order is affirmed, with costs.

The Supreme Court providently exercised its discretion in denying the appellants' motion to dismiss the proceeding for lack of personal jurisdiction and in granting the petitioner's cross motion to extend its time to serve the petition pursuant to CPLR 306-b (*see Leader v Maroney, Ponzini & Spencer*, 97 NY2d 95, 104-106; *Irwin v La Guardia Hosp.*, 23 AD3d 349).

December 26, 2006

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The appellants' remaining contention is without merit.

MILLER, J.P., SPOLZINO, FISHER and DILLON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court