

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

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_____AD3d_____

Submitted - March 16, 2007

ROBERT W. SCHMIDT, J.P.
WILLIAM F. MASTRO
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2006-10272

DECISION, ORDER & JUDGMENT

In the Matter of West End Neighborhood Taxpayers,
Inc., petitioners, v New York State Board of Real
Property Services, et al., respondents.

David O. Wright, Yorktown Heights, N.Y., for petitioners.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Lewis A. Polishook of
counsel), for respondent New York State Board of Real Property Services.

Proceeding pursuant to CPLR article 78 and RPTL 1218 and 1314 to review a determination of the New York State Board of Real Property Services, dated July 27, 2006, which, inter alia, denied the petitioners' application for a segment special equalization rate for the 2006-2007 school year for that segment of the Ossining Union Free School District which is located in the Town of New Castle. Motion by the respondent New York State Board of Real Property Services to dismiss the petition on the ground that the petitioners lack standing.

ORDERED that the motion is granted; and it is further,

ADJUDGED that the proceeding is dismissed, without costs or disbursements.

The proceeding must be dismissed because the petitioners lack standing to sue. "The question of standing to challenge particular governmental action may . . . be answered by the statute at issue, which may identify the class of persons entitled to seek review" (*Socy. of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 769). Here, the statute at issue, RPTL 1218, "the sole statute authorizing judicial review of equalization rates" (*Matter of Town of Riverhead v New York State Bd.*

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of Real Prop., 5 NY3d 36, 42) “creates a right to seek review of a certain determination made by the New York State Board of Real Property . . . only upon the municipality whose equalization rate was established” (*Matter of Town of Riverhead v New York State Office of Real Property Services*, 21 AD3d 1116, 1117). The petitioners fall outside of the limited class authorized by the statute (*see Matter of Town of Riverhead v New York State Office of Real Property Services, supra* 21 AD3d at 1118; *see generally Matter of Feiner v New York State Office of Real Property Services*, 25 AD3d 1005, 1006-1007; *Matter of the Town of Riverhead v New York State Board of Real Property Services*, 7 AD3d 934, 935, *affd* 5 NY3d 36).

SCHMIDT, J.P., MASTRO, CARNI and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court