

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

D18808
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_____AD3d_____

Argued - March 14, 2008

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RANDALL T. ENG
JOHN M. LEVENTHAL, JJ.

2007-05309

DECISION & JUDGMENT

In the Matter of Janice Alexander, petitioner,
v New York State Office of Children and Family
Services, et al., respondents.

(Index No. 20906/06)

Lovett & Gould, LLP, White Plains, N.Y. (Drita Nicaj of counsel), for petitioner.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Benjamin N. Gutman,
Cecelia C. Chang, and Monica Wagner of counsel), for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of David Molik, designee of the Commissioner of the New York State Office of Children and Family Services, dated June 21, 2006, which, after a hearing, found that the petitioner violated certain regulations concerning the supervision of children in group family day care homes, and revoked the petitioner's license.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with costs.

Contrary to the petitioner's contention, the determination that she violated certain regulations concerning the supervision of children in group family day care homes is supported by substantial evidence in the record (*see Matter of Berenhous v Ward*, 70 NY2d 436, 443; *300 Gramatan Ave. Assocs. v State Div. of Human Rights*, 45 NY2d 176, 180-181; *Matter of Tender Loving Day Care, Inc. v New York State Off. of Children & Family Servs.*, 47 AD3d 940, 940-941). Furthermore, the penalty of license revocation was neither arbitrary and capricious, nor

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disproportionate to the misconduct (see *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 234; *Matter of Tender Loving Day Care, Inc. v New York State Off. of Children & Family Servs.*, 47 AD3d at 941).

SKELOS, J.P., COVELLO, ENG and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court