

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

D24737
W/prt

_____AD3d_____

Argued - September 29, 2009

PETER B. SKELOS, J.P.
JOSEPH COVELLO
FRED T. SANTUCCI
RUTH C. BALKIN, JJ.

2007-09917
2008-01637

DECISION & ORDER

In the Matter of Myron H. Temares, et al., appellants,
v County of Nassau, et al., respondents.

(Index No. 10488/07)

Berkman, Henoch, Peterson & Peddy, P.C., Garden City, N.Y. (Peter Sullivan of counsel), for appellants.

Mastroianni & Mastroianni, Westbury, N.Y. (Mary Ellen O'Brien of counsel), for respondents Arax Minassian and Heros Minassian.

In a proceeding pursuant to CPLR article 78 in the nature of mandamus to compel the Nassau County Department of Assessment to correct the Nassau County Land and Tax Map dated March 5, 2007, the petitioners appeal, as limited by their brief, from (1) so much of a judgment of the Supreme Court, Nassau County (Adams, J.), entered October 11, 2007, as denied that branch of the petition which was to compel the Nassau County Department of Assessment to correct the Nassau County Land and Tax Map dated March 5, 2007, to reflect their ownership of a two-foot strip of land west of the center line of a private roadway abutting their property, and (2) so much of an order of the same court dated January 18, 2008, as, upon reargument, adhered to its original determination.

ORDERED that the judgment entered October 11, 2007, and the order dated January 18, 2008, are affirmed insofar as appealed from, with one bill of costs payable to the respondents Arax Minassian and Heros Minassian.

October 27, 2009

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MATTER OF TEMARES v COUNTY OF NASSAU

“The extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act and only when there exists a clear legal right to the relief sought” (*Matter of Brownlee v Kohm*, 61 AD3d 972, 973; see *Matter of Legal Aid Socy. of Sullivan County v Scheinman*, 53 NY2d 12, 16). Here, the petitioners failed to demonstrate a clear legal right to the relief sought.

SKELOS, J.P., COVELLO, SANTUCCI and BALKIN, 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