

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

D24917
W/kmg

_____AD3d_____

Argued - October 13, 2009

MARK C. DILLON, J.P.
HOWARD MILLER
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2008-10541

DECISION & ORDER

In the Matter of Suzanne J. McCrory, appellant, v
Village of Scarsdale, respondent.

(Index No. 12036/08)

Suzanne J. McCrory, Mamaroneck, N.Y., appellant pro se.

Wayne D. Esannason, Village Attorney, Scarsdale, N.Y., for respondent.

In a proceeding pursuant to CPLR article 78, in effect, to compel the Village of Scarsdale to disclose certain records pursuant to the Freedom of Information Law (Public Officers Law art 6), the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Westchester County (DiBella, J.), dated October 7, 2008, which granted the motion of the Village of Scarsdale pursuant to 3211(a)(5) and 7804(f) to dismiss the petition as time-barred, and dismissed the proceeding.

ORDERED that the order and judgment is affirmed, with costs.

The Supreme Court properly granted the motion of the Village of Scarsdale pursuant to CPLR 3211(a)(5) and 7804(f) to dismiss the petition as time-barred. The challenged determination became final and binding on December 27, 2007, when the Village informed the petitioner that it would not disclose certain public records (*see Walton v New York State Dept. of Correctional Servs.*, 8 NY3d 186, 194; *Matter of Comptroller of the City of N.Y. v Mayor of City of N.Y.*, 7 NY3d 256, 262; *Matter of Best Payphones, Inc. v Department of Info. Tech. & Telecom. of City of N.Y.*, 5 NY3d 30, 34). This proceeding was not commenced until approximately five months later, beyond the

November 4, 2009

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applicable four-month statute of limitations provided by CPLR 217(1).

The petitioner's remaining contentions are without merit.

DILLON, J.P., MILLER, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court