

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

D28770
Y/prt

____AD3d____

Submitted - October 6, 2010

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2010-04229

DECISION & ORDER

In the Matter of Gerardo C. Villani, respondent,
v Village of Pleasantville, appellant.

(Index No. 2917/10)

Henderson & Brennan (Congdon, Flaherty, O'Callaghan, Reid, Donlon, Travis & Fishlinger, Uniondale, N.Y. [Gregory A. Cascino], of counsel), for appellant.

In a proceeding pursuant to General Municipal Law § 50-e(5) for leave to serve a late notice of claim, the Village of Pleasantville appeals from an order of the Supreme Court, Westchester County (Liebowitz, J.), entered April 13, 2010, which granted the petition.

ORDERED that the order is affirmed, without costs or disbursements.

Under the circumstances of this case, it was not an improvident exercise of discretion to grant the petition for leave to serve a late notice of claim (*see* General Municipal Law § 50-e[5]; *Matter of Vicari v Grand Ave. Middle School*, 52 AD3d 838).

MASTRO, J.P., FLORIO, DICKERSON, BELEN and LOTT, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

October 26, 2010

MATTER OF VILLANI v VILLAGE OF PLEASANTVILLE