

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

D32503  
H/kmb

AD3d

PETER B. SKELOS, J.P.  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL, JJ.

2011-08175

DECISION & JUDGMENT

In the Matter of Hack-Green Pound Ridge Properties,  
LLC, petitioner, v Mary H. Smith, respondent.

Belair & Evans LLP, New York, N.Y. (James B. Reich of counsel), for petitioner.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Susan Anspach of counsel), for respondent.

Jaffe and Asher LLP, New York, N.Y. (Marshall T. Potashner of counsel), for nonparty Liberty Mutual Fire Insurance Company.

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel Mary H. Smith, a Justice of the Supreme Court, Westchester County, to grant a certain motion of the petitioner in an action entitled *Hack-Green Pound Ridge Properties, LLC v Liberty Mutual Fire Insurance Company*, commenced in the Supreme Court, Westchester County, under Index No. 13979/09.

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

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 (*see Matter of Legal Aid Society of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to demonstrate a clear legal right to the relief sought.

SKELOS, J.P., BALKIN, LEVENTHAL and HALL, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court

October 11, 2011

MATTER OF HACK-GREEN POUND RIDGE PROPERTIES, LLC v SMITH