

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

D33216
H/kmb

_____AD3d_____

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2011-09730

DECISION, ORDER & JUDGMENT

In the Matter of Daniel Haase, et al., petitioners,
v Christopher DelVecchio, respondent.

Stanley E. Orzechowski, P.C., Nesconset, N.Y., for petitioners.

Frank M. Scalera, Farmingdale, N.Y., for respondent.

Proceeding pursuant to Public Officers Law § 36 to remove Christopher DelVecchio from public office in the Mastic Fire Department, Town of Brookhaven, Suffolk County. Motion by Christopher DelVecchio, inter alia, pursuant to CPLR 3211(a)(7) to dismiss the petition for failure to state a cause of action and to impose sanctions upon the petitioners.

ORDERED that the branch of the motion which is pursuant to CPLR 3211(a)(7) to dismiss the petition for failure to state a cause of action is granted, and the motion is otherwise denied; and it is further,

ADJUDGED that the proceeding is dismissed; and it is further,

ORDERED that one bill of costs is awarded to the respondent.

The allegations in the petition do not rise to the level of misconduct, maladministration, malfeasance, or malversation necessary to justify the extreme remedy of removal from office pursuant to Public Officers Law § 36 (see *Matter of Futia v Weaver*, 85 AD3d 1165; *Matter of Montanino v Rowley*, 39 AD3d 653; *Matter of Deats v Carpenter*, 61 AD2d 320, 322).

We decline the respondent's request for the imposition of sanctions against the

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petitioners in connection with this proceeding (*see* Rules of Chief Administrator of Cts [22 NYCRR] § 130-1.1).

In light of our determination, the respondent's remaining contention has been rendered academic.

RIVERA, J.P., LEVENTHAL, ROMAN and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court