

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

M245572
U/afa

RUTH C. BALKIN, J.P.
LEONARD B. AUSTIN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2016-12854

DECISION & ORDER ON MOTION

In the Matter of Ferncliff Cemetery Association,
appellant, v Town of Greenburgh, et al., respondents.

(Index No. 2868/15)

On the Court's own motion, it is

ORDERED that the decision and order on motion of this Court dated January 29, 2018, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by the respondents to strike stated portions of the record on an appeal from an order and judgment (one paper) of the Supreme Court, Westchester County, dated November 15, 2016, to enlarge the record to include the motion papers concerning their pre-answer motion to dismiss, and to enlarge the time to serve and file a brief. Cross motion by the appellant, inter alia, in effect, for leave to make corrections to the record.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the papers filed in support of the cross motion and the papers filed in opposition thereto, it is

ORDERED that the matter is remitted to the Supreme Court, Westchester County, to report on whether that court considered the material contained on pages 158, 176-177, 179-181, 294, 317, 342, 346, 1258, 1354-1355, 1358, 1360, 1368-1369, 1385, 1390-1391, 1395-1398, and 1400 of the record on appeal in connection with the petition and motion which were determined by the order and judgment dated November 15, 2016; the Supreme Court, Westchester County, shall file its report to this Court with all convenient speed; and it is further,

January 30, 2018

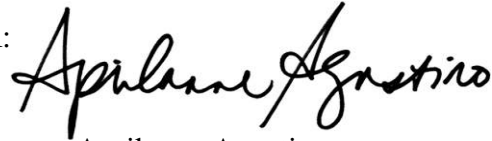
Page 1.

MATTER OF FERNCLIFF CEMETERY ASSOCIATION v TOWN OF GREENBURGH

ORDERED that the motion and the cross motion are held in abeyance in the interim.

BALKIN, J.P., AUSTIN, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court