

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 23-01596

PRESENT: SMITH, J.P., CURRAN, MONTOUR, GREENWOOD, AND KEANE, JJ.

IN THE MATTER OF RUMSEYFALL LLC,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

PETER PORCELLI, TOWN ZONING OFFICER, WILLIAM
ROBERT BAILEY, DANIEL EMMO, CHAIRMAN OF THE
ZONING BOARD OF APPEALS OF THE TOWN OF SENECA
FALLS, RESPONDENTS-RESPONDENTS,
THE TOWN HERITAGE PRESERVATION COMMISSION AND
CHARLES GENCO, AS CHAIRMAN OF THE TOWN
HERITAGE PRESERVATION COMMISSION,
RESPONDENTS-APPELLANTS.

RUMSEYFALL LLC, SENECA FALLS (EMIL J. BOVE, JR., OF COUNSEL), FOR
PETITIONER-APPELLANT.

RUPP PFALZGRAF LLC, BUFFALO (MARC A. ROMANOWSKI OF COUNSEL), FOR
RESPONDENTS-APPELLANTS.

Appeals from a judgment (denominated order) of the Supreme Court, Seneca County (Craig J. Doran, J.), entered September 11, 2023, in a proceeding pursuant to CPLR article 78. The judgment, inter alia, granted in part the amended petition and annulled a determination of the Zoning Board of Appeals of the Town of Seneca Falls.

It is hereby ORDERED that said appeals are unanimously dismissed without costs.

Memorandum: Petitioner Rumseyfall LLC (Rumseyfall) appeals from a judgment that, inter alia, granted its CPLR article 78 amended petition in part and annulled a determination of the Zoning Board of Appeals of the Town of Seneca Falls (ZBA), and respondents Town Heritage Preservation Commission and Charles Genco, as Chairman of the Town Heritage Preservation Commission, appeal from those parts of the same judgment that dismissed their second and fourth cross-claims, seeking annulment of the determination on alternative grounds. We conclude that the appeals must be dismissed.

A "party [that] has successfully obtained a judgment or order in [its] favor is not aggrieved by it, and, consequently, has no need and, in fact, no right to appeal" (*Parochial Bus Sys. v Board of Educ. of City of N.Y.*, 60 NY2d 539, 544 [1983]; see CPLR 5511). Indeed, "the concept of aggrievement is about whether relief was granted or

withheld, and not about the reasons therefor" (*Mixon v TBV, Inc.*, 76 AD3d 144, 149 [2d Dept 2010]; see *Benedetti v Erie County Med. Ctr. Corp.*, 126 AD3d 1322, 1323 [4th Dept 2015]). Here, appellants received the relief they requested in their amended petition and cross-claims, which was the annulment of the determination of the ZBA (see generally *Gross v Kurk*, 224 AD2d 582, 583 [2d Dept 1996]).

Entered: January 31, 2025

Ann Dillon Flynn
Clerk of the Court