

Matter of Rose Mount Vernon Corp. v Assessor of the City of Mount Vernon
2005 NY Slip Op 01364
Decided on February 22, 2005
Appellate Division, Second Department
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Decided on February 22, 2005

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL
DEPARMENT**

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
GLORIA GOLDSTEIN
WILLIAM F. MASTRO, JJ.

DECISION & ORDER

2004-01269

[*1]In the Matter of Rose Mount Vernon Corp., appellant,

v

**Assessor of the City of Mount Vernon, et al., respondents.
(Index Nos. 20011/96, 15294/97, 15062/98, 14735/99,
16665/00, 14269/01, and 19530/02)**

Podell, Schwartz, Schechter & Banfield, LLP, New York, N.Y. (William E. Banfield and Gary Schuller of counsel), for appellant.

Huff Wilkes, LLP, Tarrytown, N.Y. (Jean Smiertka Huff, David C. Wilkes, and Thomas A. McTigue of counsel), for respondents.

In seven related tax certiorari proceedings, the petitioner appeals, as limited by its brief, from so much of an order of the Supreme Court, Westchester County (Dickerson, J.), entered December 29, 2003, as granted those branches of the respondents' motion which were to vacate the notes of issue and dismiss the petitions in the proceedings bearing Index Nos. 20011/96, 15294/97, 15062/98, and 14735/99.

ORDERED that the order is affirmed insofar as appealed from, with costs.

Contrary to the petitioner's contention, the record supports the Supreme Court's conclusion that the petitioner failed to comply with the requirements for the proper and timely service and

filing of the requisite income and expense statements pursuant to 22 NYCRR 202.59. Accordingly, under the circumstances presented, the Supreme Court properly granted those branches of the respondents' motion which were to vacate the notes of issue and dismiss the petitions (*see* RPTL 718; *Matter of Sullivan LaFarge v Town of Mamakating*, 94 NY2d 802; *Matter of Pyramid Crossgates Co. v Board of Assessors of Town of Guilderland*, 302 AD2d 826; *May v Assessor of Town of Lancaster*, 179 AD2d 1006).

FLORIO, J.P., KRAUSMAN, GOLDSTEIN and MASTRO,
JJ., concur.

ENTER:

James Edward Pelzer

Clerk of the Court

[Return to Decision List](#)