

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

M71671
E/sl

A. GAIL PRUDENTI, P.J.
ROBERT A. SPOLZINO
ANITA R. FLORIO
MARK C. DILLON, JJ.

2008-02006

DECISION & ORDER ON MOTION

In the Matter of Mona Herman, et al., respondents,
v Incorporated Village of Tivoli, appellant.

(Index No. 1577/06)

Motion by the respondents to dismiss an appeal from an order of the Supreme Court, Dutchess County, dated January 28, 2008, “and/or deny [the] appeal and enforce [a certain] order and enjoin [the] operation of [the subject transmission] tower and/or vacate the stay and/or rule on the ... Petition’s 13 claims”.

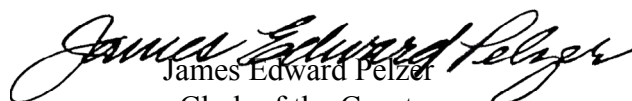
Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is to dismiss the appeal is granted and the appeal is dismissed, without costs or disbursements on the ground that the order is not appealable as of right and leave to appeal has not been granted (*see* CPLR 5701[b][1]); and it is further,

ORDERED that the branches of the motion are “to deny the appeal and enforce [a certain] order and enjoin the operation of the transmission tower and/or vacate the stay and/or rule on Petition’s 13 claims” are denied.

PRUDENTI, P.J., SPOLZINO, FLORIO and DILLON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

June 11, 2008

MATTER OF HERMAN v INCORPORATED VILLAGE OF TIVOLI