

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

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CA 08-02314

PRESENT: HURLBUTT, J.P., MARTOCHE, CENTRA, PINE, AND GORSKI, JJ.

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IN THE MATTER OF DDR ORCHARD PARK, LLC,  
PETITIONER-APPELLANT,

V

ORDER

ASSESSOR OF TOWN OF ORCHARD PARK, TOWN OF  
ORCHARD PARK, RESPONDENTS-RESPONDENTS,  
AND ORCHARD PARK CENTRAL SCHOOL DISTRICT,  
INTERVENOR-RESPONDENT.

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GILBERTI STINZIANO HEINTZ & SMITH, P.C., SYRACUSE (KEVIN G. ROE OF  
COUNSEL), FOR PETITIONER-APPELLANT.

BENNETT, DIFILIPPO & KURTZHALTS, LLP, EAST AURORA (JOEL R. KURTZHALTS  
OF COUNSEL), FOR RESPONDENTS-RESPONDENTS.

HODGSON RUSS LLP, BUFFALO (MICHAEL B. RISMAN OF COUNSEL), FOR  
INTERVENOR-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Patrick  
H. NeMoyer, J.), entered December 21, 2007 in a proceeding pursuant to  
RPTL article 7. The order, insofar as appealed from, denied in part  
the petitions.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs.

Entered: April 24, 2009

Patricia L. Morgan  
Deputy Clerk of the Court