

Bond Case Briefs

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TAX EXEMPTION - NEW YORK

Drug Policy Alliance v. New York City Tax Com'n

Supreme Court, Appellate Division, First Department, New York - September 1, 2015 - N.Y.S.3d - 2015 WL 5098407 - 2015 N.Y. Slip Op. 06693

Applicant for real property tax exemption petitioned under article 78 for order to annul determination of the New York City Department of Finance to deny that application. The Supreme Court, New York County, denied Department's motion to dismiss and directed Department to grant exemption. Department appealed.

The Supreme Court, Appellate Division, held that Department was entitled to answer petition after denial of its motion.

After court denied its motion to dismiss article 78 petition by applicant for real property tax exemption, seeking to annul determination by New York City Department of Finance to deny application, Department was entitled to answer petition prior to court effectively granting summary judgment to applicant, even though record was arguably substantial and Department had conceded that its motion would be same whether viewed as pre-answer motion to dismiss or one for summary judgment, where parties were not given adequate notice that court would indeed treat motion as one for summary judgment.