

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

-----X
In the Matter of the Petition of:

TOWN OF MIDDLEBURGH,

Petitioner,

To Review Under Section 101 of the Labor Law:
A Failure to Abate Violation Notice and Order to Comply
dated December 16, 2020,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
-----X

DOCKET NO. PES 21-002

RESOLUTION OF DECISION

APPEARANCES

Wesley Laraway, Town Supervisor, Middleburgh, for petitioner.

WHEREAS:

1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and the Industrial Board of Appeals Rules of Procedure and Practice (hereinafter “Board Rules”) (12 NYCRR) Part 66, on February 1, 2021, seeking to review a notice to abate a violation and an order to comply issued by the respondent Commissioner of Labor against petitioner on December 16, 2020; and
2. The petition is deficient because a complete copy of the order to be reviewed is not attached as required by Board Rule (12 NYCRR) § 66.3 (d); and
3. By letter dated July 21, 2021, the Board notified petitioner at the email address provided in the petition that they must file an amended petition that includes a complete copy of the order for which petitioner seeks review by August 23, 2021, or the petition might be dismissed without further notice; and
4. By letter dated September 20, 2021, the Board further advised petitioner, pursuant to Board Rules (12 NYCRR) § 65.14, that petitioners must move on or before September 27, 2021, to request permission to file an untimely amended petition outlining the specific reason or reasons for the failure to timely file an amended petition; and

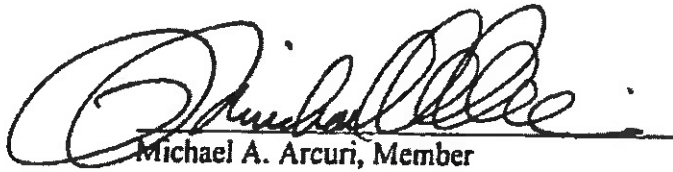
5. Pursuant to Board Rules (12 NYCRR) § 65.14, "the failure to file any pleading pursuant to these rules when due may . . . constitute a waiver of the right to further participation in the proceeding"; and
6. Petitioners have not filed an amended petition or moved to request permission to file an untimely amended petition, as directed by the Board; and
7. The petition, therefore, must be dismissed for failing to comply with Board Rules (12 NYCRR) § 66.3.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:


The petition for review be, and the same hereby is, dismissed in accordance with the Board's Rules.

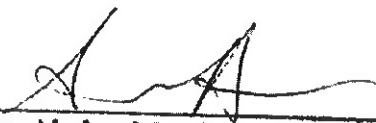
Dated and signed by the Members
of the Industrial Board of Appeals
on November 10, 2021.


Molly Doherty, Chairperson


Michael A. Arcuri, Member


Patricia Kakalec, Member


Najah Farley, Member


Sandra Abeles, Member