

church and school in a building it occupies in Manhattan. Petitioner commenced this CPLR article 78 proceeding seeking to annul the determination of the Department of Environmental Protection of the City of New York denying it a full exemption from water and sewer charges under Chapter 893 of the New York Laws of 1887, as amended by the Laws of 1980, and section 24-514(e) of the Administrative Code of the City of New York, respectively.

Respondents do not now dispute the denial of their pre-answer motion to dismiss the proceeding. They only challenge that Supreme Court proceeded to the merits without permitting them to submit an answer. Supreme Court erred in granting the petition without first affording respondents an opportunity to answer (see CLPR 7804[f]; Matter of BOCES Cent. Council of Teachers v Board of Coop. Educ. Servs. of Nassau County, 63 NY2d 100, 102-104 [1984]). Accordingly, this case must be remitted to Supreme Court to allow respondents to submit an answer and for further proceedings on the pleadings.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and matter remitted to Supreme Court, New York County, for further proceedings in accordance with the memorandum herein. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 7, 2007