

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

D33773  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - January 5, 2012

DANIEL D. ANGIOLILLO, J.P.  
ANITA R. FLORIO  
CHERYL E. CHAMBERS  
L. PRISCILLA HALL, JJ.

2010-09871

DECISION & ORDER

In the Matter of Prospect Heights Housing  
Development Fund Corporation, etc.  
Denise Taylor, et al., nonparty-appellants;  
Sela-Lincoln Realty Corp., et al., nonparty-respondents.

(Index No. 8883/04)

Kaye Scholer LLP, New York, N.Y. (Aaron F. Miner, Andrew Davin Stillufsen,  
Amanda Croushore, and Evan Elan of counsel), for nonparty-appellants.

Thomas G. Sherwood, LLC, Garden City, N.Y., for nonparty-respondent Sela-  
Lincoln Realty Corp.

In a proceeding pursuant to Not-For-Profit Corporation Law § 511 for permission to sell certain real property to Sela-Lincoln Realty Corp., nonparties Denise Taylor and Linda Caldwell appeal from an order of the Supreme Court, Kings County (Schmidt, J.), dated July 29, 2010, which, after a hearing, denied their motion pursuant to CPLR 2221(a) to vacate a prior order of the same court dated March 26, 2004, granting the petition and authorizing the sale.

ORDERED that the order dated July 29, 2010, is affirmed, with costs.

Contrary to the appellants' contention, the evidence did not establish that the appellant Linda Caldwell was a member of the petitioner's board of directors (hereinafter the board) during any relevant time period. Moreover, even if the appellant Denise Taylor were a member of the board at the time that the board approved the sale of the subject property, the evidence established that the other three members of the board approved that sale in compliance with Not-For-

Profit Corporation Law § 510(a). Further, the evidence established that the terms of the sale were fair and reasonable, and in the furtherance of the petitioner's purpose and the interests of its members (*see* N-PCL 511[d]; *Scher v Yeshivath Makowa Corp.*, 54 AD3d 839).

The appellants' remaining contentions are without merit.

ANGIOLILLO, J.P., FLORIO, CHAMBERS and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court