

**Belok v New York City Dept. of Hous. Preserv. &
Dev.**

2010 NY Slip Op 33182(U)

November 9, 2010

Supreme Court, New York County

Docket Number: 106944/09

Judge: Saliann Scarpulla

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SUPREME COURT OF THE STATE OF NEW YORK -- NEW YORK COUNTY

PRESENT: Saliann Scarpulla
Justice

PART 19

Adam Belok

INDEX NO. 106944/09

- v -
New York City of Department of HPD

MOTION DATE _____

MOTION SEQ. NO. 002

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion to/for _____

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause -- Affidavits -- Exhibits ...

Answering Affidavits -- Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

decided per the memorandum decision dated 11/9/10
which disposes of motion sequence(s) no. 002

FILED

NOV 15 2010

NEW YORK
COUNTY CLERK'S OFFICE

Dated: 11/9/10

Saliann Scarpulla
SALIANN SCARPULLA
J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CIVIL TERM: PART 19

-----X
ADAM BELOK,

Petitioner,
-against-

Index No.: 106944/09
Submission Date: 9/1/2010

NEW YORK CITY OF DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT AND
MUTUAL REDEVELOPMENT HOUSES, INC.,

DECISION AND ORDER

Respondents.

-----X
For Petitioner:
Grimble & Loguidice, LLC
217 Broadway, Suite 304
New York, NY 10007

For Respondent Mutual Redevelopment Houses, Inc.:
Barry Mallin & Associates, P.C.
132 Nassau Street, Suite 522
New York, NY 10038

For Respondent NYC HPD:
Michael A. Cardozo, Corporation Counsel
100 Church Street, Room 5-179
New York, NY 10007

FILED

NOV 15 2010

Papers considered in review of this motion to reargue and motion to file a supplementary reply:

- Notice of Motion 1
- Order to Show Cause 2
- Affs in Opp 3, 4, 5
- Reply 6

NEW YORK
COUNTY CLERK'S OFFICE

HON. SALIANN SCARPULLA, J.:

In this Article 78 proceeding, petitioner Adam Belok ("Belok") moves to reargue and/or renew the court's December 16, 2009 decision and judgment (Figueroa, J.), which denied Belok's petition and dismissed his proceeding. Belok also moves for permission to file a supplementary reply to his reargument/renewal motion.

Belok commenced this proceeding seeking to annul a determination by respondent New York City Department of Housing Preservation & Development ("HPD"), which

affirmed respondent Mutual Redevelopment Houses, Inc.'s denial of Belok's application for succession rights to his deceased parents' cooperative apartment. In a decision and judgment dated December 16, 2009, the court (Figueroa, J.) denied the petition and dismissed the proceeding, holding that no cause was shown to set aside the HPD determination.

Belok now moves to reargue and/or renew the December 16, 2009 decision and judgment and also moves for permission to file a supplementary reply to his reargument/renewal motion. Belok argues, inter alia, that the hearing officer's decision was overreaching in its discretion and ignored relevant case law regarding succession rights.

In determining Belok's motion to renew and/or reargue, the Court has carefully considered all papers submitted in connection with the motion, including the supplementary reply submitted by Belok, and upon such consideration, the Court denies Belok's motion to renew and/or reargue.

Pursuant to CPLR 2221(d)(2), a motion to reargue must "be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion." It is well settled that a motion to reargue is not an appropriate vehicle for raising new questions which were not previously advanced nor is its purpose to allow the unsuccessful party to argue once again the very questions previously decided. *See Pro Brokerage, Inc. v. Home Ins. Co.*, 99 A.D.2d 971 (1st Dept. 1984). In his motion, Belok

fails to demonstrate that the court overlooked or misapprehended controlling law or material factual matters that were before the court on the underlying petition and therefore, his motion is denied. *See McGill v Goldman*, 261 A.D.2d 593 (2nd Dept. 1999).

Pursuant to CPLR 2221(c), a motion to renew shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination. A motion to renew shall also contain reasonable justification for the failure to present such facts on the prior motion. Renewal is not available when it is predicated on legal theories not advanced in the prior motion. *See Venuti v. Novelli*, 179 A.D.2d 477 (1st Dept. 1992). Here, Belok's motion to renew is denied because he has failed to point to new facts that were not available at the time of his petition that would change the prior determination and has not demonstrated that there has been a change in the law that would change the prior determination.

In accordance with the foregoing, it is

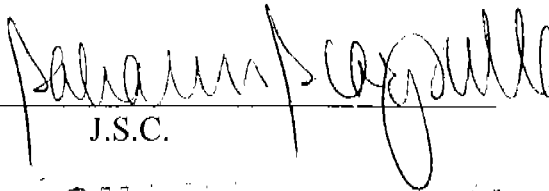
ORDERED that petitioner Adam Belok's motion for permission to file a supplementary reply to his reargument/renewal motion is granted; and it is further

ORDERED that petitioner Adam Belok's motion to reargue and/or renew the court's December 16, 2009 decision and judgment is denied.

This constitutes the decision and order of the Court.

Dated: New York, New York
November 9, 2010

ENTER:



J.S.C.

FILED

NOV 15 2010

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COUNTY CLERK'S OFFICE