

<b>480 Flushing LLC v 480 Sanz LLC</b>
2026 NY Slip Op 31545(U)
April 15, 2026
Supreme Court, Kings County
Docket Number: Index No. 500194/2025
Judge: Gina Abadi
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At an IAS Term, Part 18 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse thereof at 360 Adams St., Brooklyn, New York, on the 15<sup>th</sup> day of April, 2026.

PRESENT:

HON. GINA ABADI,  
J.S.C.

480 FLUSHING LLC,

Plaintiff,

-against-

480 SANZ LLC,

Defendant.

Index No.: 500194/2025  
Motion Seq.: 6-7

DECISION AND ORDER

480 Flushing Avenue  
Brooklyn New York 11205  
Block 1716, Lot 30

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of this motion and order to show cause:

Papers

NYSCEF Numbered

Notice of Motion/Cross Motion/Order to Show Cause and Affidavits (Affirmations) Annexed .....	<u>127-128; 159-183, 186</u>
Opposing Affidavits (Affirmations) .....	<u>154; 192</u>
Reply Affidavits (Affirmations) .....	_____
Other Papers .....	_____

Upon the foregoing cited papers and after oral argument, plaintiff 480 Flushing LLC (plaintiff) moves in Motion Seq. 6 for leave, pursuant to CPLR § 2221 (d), to reargue its prior motion for summary judgment in Motion Seq. 3 (the prior motion) declaring that the purported deed, dated December 10, 2024, and recorded on December 16, 2024 in the Office of the City Register of the City of New York (the City Register’s Office) under CRFN 2024000325922, from plaintiff as the purported grantor to defendant 480 Sanz LLC (defendant) as the purported grantee (the challenged deed) for the underlying property at 480 Flushing Avenue, Brooklyn, New York 11205, Block 1716, Lot 30 (the underlying property), is null and void, and directing the City Register’s Office to cancel the challenged

deed; and, upon reargument, granting the prior motion and vacating the portion of the order, dated November 12, 2025, which, in relevant part, denied the prior motion (the prior order) (NYSCEF Doc No. 112). Concurrently, defendant moves in Motion Seq. 7, by order to show cause, dated January 12, 2026, for an order modifying and/or vacating the preliminary injunction order, dated December 17, 2025, and for additional relief (NYSCEF Doc No. 186).

By way of background, plaintiff owned the underlying property, pursuant to the deed, dated November 12, 2015, and recorded on November 27, 2015 by the City Register under CRFN 2015000421217 (NYSCEF Doc No. 3). The underlying property – a vacant lot in the Williamsburg section of Brooklyn – was (and still is) plaintiff's sole asset (Affirmation of Chaim Silberman, dated April 11, 2025, ¶ 9 at NYSCEF Doc No. 73). Approximately nine years later on December 16, 2024, the challenged deed purporting to convey the underlying property by plaintiff to defendant was recorded with the City Register's Office.

Before the Court, there are two versions of plaintiff's operating agreement, one dated August 11, 2016, which named Chaim Silberman (Silberman) as the sole Managing Member (the Silberman version), and the other, dated September [blank date], 2017, which named Shimon Schwartz (Schwartz), rather than Silberman, as the sole Managing Member (the Schwartz version) (NYSCEF Doc Nos. 8 and 17, respectively). Several relevant

provisions of the Silberman version are identical to those of the Schwartz version. In particular, the Silberman version provides that:

“The business and affairs of the Company [*i.e.*, plaintiff] shall be managed by the Managing Member and/or the Manager. Managing Member and Manager shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise possessed by member(s) under the LLC.”

(Silberman version, unnumbered page 1, § 6 at NYSCEF Doc No. 17).

The corresponding provision in the Schwartz version is identical; namely, that:

“The business and affairs of the Company [*i.e.*, plaintiff] shall be managed by the Managing Member and/or the Manager. Managing Member and Manager shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise possessed by member(s) under the LLC.”

(Schwartz version, unnumbered page 1, § 6 at NYSCEF Doc No. 8).

Both versions of the operating agreement further provide in identical language (in § 16 of their respective version) that “[t]his Agreement shall be governed by, and construed under, the laws of the State of New York, all rights and remedies being governed by said laws” (Silberman version, unnumbered page 3; Schwartz version, unnumbered page 3). Both versions of the operating agreement (whether the Silberman version or the Schwartz version) further provide that Silberman is plaintiff’s “Member” (Silberman version, § 4; Schwartz version, § 4).

The two operating agreements, however, differ as to the identity of plaintiff’s “Managing Member.” Whereas the *Silberman* version provides (in § 5 thereof) that *Silberman* is plaintiff’s sole “[M]anaging [M]ember,” the *Schwartz* version (in place of § 5

thereof) provides that *Schwartz* (rather than *Silberman*) is plaintiff's sole "[M]anaging [M]ember." In addition, the *Schwartz* version provides (in § 4 thereof) that *Schwartz* is a minority (or the 9%) Member of plaintiff, whereas *Silberman* is a majority (or the 91%) Member of plaintiff. Conversely, the *Silberman* version provides (in § 4 thereof) that *Silberman* is the sole (100%) Member of plaintiff.

Upon reargument and a de novo review of the record and applicable law, the Court finds that the parties' dispute as to which version of the operating agreement applied at the time of the challenged conveyance is *not* dispositive. Neither version of the operating agreement authorized the applicable "Managing Member" (either *Silberman* under the *Silberman* version, or *Schwartz* under the *Schwartz* version) to convey plaintiff's sole asset without the vote of a majority interest of its members. In this regard Limited Liability Company (LLC) Law § 402 (d) (2) provides that:

*"Except as provided in the operating agreement, . . . the vote of at least a majority in interest of the members entitled to vote thereon shall be required to . . . approve the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited liability company. . . ."*

(LLC Law § 402 [d] [2] [emphasis added]).

As stated, § 6 of the *Schwartz* version of the operating agreement provides that the "Managing Member [*i.e.*, defendant's principal] . . . shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise possessed by member(s) under the LLC." The aforementioned language did *not* authorize *Schwartz* as the Managing Member of plaintiff under the *Schwartz* version of the operating agreement to engage in *extraordinary*

*transactions* on plaintiff's behalf, such as (as was the instance here) the conveyance of its sole asset. Nor can the aforementioned language override the statutory prohibition in LLC Law § 402 (d) (2) on the conveyance of all or substantially all of the LLC's assets without "the vote of at least a majority in interest of the members [of the LLC]." Nowhere in the record before the Court is there any evidence that a vote of a majority in interest of plaintiff's members was taken either before (to authorize) or thereafter (to ratify) the challenged conveyance.

The court's determination, on reargument, is supported by ample case law. *See TIC Holdings v HR Software Acquisitions Group*, 301 AD2d 414, 414-415 (1st Dept 2003) ("The motion court correctly determined that the purported asset transfer by defendant . . . in his claimed capacity as plaintiff's manager was void because the transfer of a substantial portion of plaintiff's assets was not in the ordinary course of business, and was therefore not authorized under plaintiff's operating agreement or Limited Liability Company Law § 402 [d].") (internal citation omitted); *Stuart's LLC v Edelman*, 59 Misc 3d 1211(A), 2018 NY Slip Op 50508(U), \*36 (Sup Ct, Nassau County 2018) (a minority member of the LLC violated LLC Law § 402 [d] [2] by approving the transfer of the LLC's assets to another entity without the majority holder's vote or approval), *affd as modified on other grounds* 196 AD3d 711 (2d Dept 2021). *Cf. Ahmed v Fulton St. Bros. Realty, LLC*, 107 AD3d 832, 833 (2d Dept 2013) (the operating agreement for the LLC expressly authorized the managing member to "make decisions relating to: the . . . sale . . . or other disposition of the Property"); *Manitaras v Beusman*, 56 AD3d 735, 736 (2d Dept 2008) (the statutory requirement of the vote of at least the majority in interest of the members

entitled to vote to approve the sale of all the assets of an LLC was satisfied). *See generally Garcia v Garcia*, 187 AD3d 859, 861 (2d Dept 2020) (“[The LLC Law] reflects legislative deference to the parties’ contractual agreement, while also providing a default procedure when there is no operating agreement in place or such agreement does not address certain subjects.”).

Contrary to defendant’s contention, reargument of plaintiff’s prior motion for summary judgment and, upon reargument, the grant of the prior motion, are warranted. *See Quartararo v Quartararo*, 221 AD3d 627, 628 (2d Dept 2023). “Motions for reargument are addressed to the sound discretion of the court which decided the prior motion and may be granted upon a showing that the court overlooked or misapprehended the facts or law or for some [other] reason mistakenly arrived at its earlier decision.” *Carrillo v PM Realty Group*, 16 AD3d 611, 611 (2d Dept 2005). After a thorough review of the record and controlling authority, the Court finds, on reargument, that the portion of its prior order which denied the prior motion was incorrect as a matter of law.

Accordingly, it is

ORDERED that in Motion Seq. 6, leave to reargue, pursuant to CPLR § 2221 (d), is *granted*, and, upon reargument, the prior motion is *granted to the extent* that the challenged deed is declared null and void, and the City Register’s Office is directed to cancel the challenged deed, and the portion of the prior order which denied the prior motion (NYSCEF Doc No. 112) is *vacated*; and it is further

ORDERED AND ADJUDGED that the deed, dated December 10, 2024, and recorded on December 16, 2024 in the Office of the City Register of the City of New York under CRFN 2024000325922, from 480 Flushing LLC as grantor to 480 Sanz LLC as grantee for the property known as 480 Flushing Avenue, Brooklyn, New York 11205, Block 1716, Lot 30, is hereby declared *null and void*; and it is further

ORDERED that, upon presentation of a certified copy of this Decision and Order, the Office of the City Register of the City of New York is directed, forthwith, to *cancel* the deed, dated December 10, 2024, and recorded on December 16, 2024 in the Office of the City Register of the City of New York under CRFN 2024000325922, from 480 Flushing LLC as grantor to 480 Sanz LLC as grantee, and to so expressly indicate in the City Register's records; and it is further

ORDERED that defendant's order to show cause in Motion Seq. 7 is *denied as moot*; and it is further

ORDERED that each/all previously imposed stays, temporary restraining orders, and preliminary injunctions under the Order to Show Cause, dated December 3, 2025, the Order, dated December 17, 2025, and the Order to Show Cause with TRO, dated January 12, 2026 (NYSCEF Doc No. 125, 152, and 186, respectively), are hereby *rescinded and vacated*; and it is further

ORDERED, upon presentation of a certified copy of this Decision and Order, Atlantic Specialty Insurance Company as the surety on the bond in the principal sum of \$1,845,000 (NYSCEF Doc No. 196), which was posted by plaintiff, pursuant to the Order,

dated January 9, 2026 (NYSCEF Doc No. 187), is hereby directed to cancel the bond forthwith, pursuant to the terms and conditions of the bonding agreement; and it is further

ORDERED that, upon presentation of a certified copy of this Decision and Order, Atlantic Specialty Insurance Company as the surety on the aforementioned bond is hereby directed to release all collateral underlying the bond to plaintiff or its designee forthwith, pursuant to the terms and conditions of the collateral agreement; and it is further

ORDERED that in Motion Seq. 8, the “So-Ordered Subpoena Ad Testificandum and Duces Tecum,” dated January 8, 2026, and addressed to Chaim Silberman (NYSCEF Doc No. 201), is hereby *quashed as moot*; and it is further

ORDERED that in Motion Seq. 9, the Court’s Order to Show Cause, dated March 25, 2026, is hereby *rescinded and vacated as moot*, and the parties’ next scheduled appearance on Motion Seq. 9 on April 22, 2026 in Part 18 is canceled; and it is further

ORDERED that nothing herein affects any claims and/or defenses raised (or to be raised) in the action titled *Congregation Darkei Avos Sanz, Inc. v Chaim Silberman*, index No. 514308/2025 (Sup Ct, Kings County),<sup>1</sup> which is pending before this Court.


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<sup>1</sup> See Israel T. Appel’s Reply Affirmation in Support of Plaintiff’s Motion to Reargue, dated January 8, 2026[6], ¶ 18 (“[G]ranted summary judgment in this action . . . does not adjudicate any claims between the non-party Congregation and non-party Chaim Silberman, which [claims] concern separate alleged rights and obligations[,] and are the subject of a different pending action.”) (NYSCEF Doc No. 158).

ORDERED that plaintiff's counsel is directed to electronically serve a copy of this Decision and Order with notice of its entry on defendant's counsel and to electronically file an affidavit of service thereof with the Kings County Clerk.

The foregoing constitutes the Decision and Order of this Court.

ENTER,

  
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HON. GINA ABADI  
J. S. C.

Hon. Gina Abadi  
J.S.C.

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