

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

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LANDMARK WEST! INC., 91 CENTRAL : Index No. 650354/08
PARK WEST CORPORATION and THOMAS :
HANSEN, :

Petitioners, :

- against - :

CITY OF NEW YORK BOARD OF STANDARDS : AFFIRMATION
AND APPEALS, NEW YORK CITY PLANNING : IN OPPOSITION
COMMISSION, HON. ANDREW CUOMO, as : TO MOTION FOR
Attorney General of the State of New York, : LEAVE TO
and CONGREGATION SHEARITH ISRAEL, : INTERVENE
also described as the Trustees of Congregation :
Shearith Israel, :

Respondents. :

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DAVID ROSENBERG, an attorney admitted to practice in the courts of
New York, under penalty of perjury, affirms:

1. I am a member of Marcus Rosenberg & Diamond LLP, attorneys for
Petitioners Landmark West!, 91 Central Park West Corporation and Thomas Hansen
(together, "Petitioners").

2. I submit this affirmation in opposition to the motion by petitioners (the "*Kettaneh* Petitioners") in the proceeding encaptioned Peter Nizam Kettaneh, et al. v. Board of Standards and Appeals of the City of New York, et al., Index No. 113227/08 (the "*Kettaneh* Proceeding") for leave to intervene in this proceeding, specifically on the present motion by Petitioners for leave to reargue.

3. The motion papers served by the *Kettaneh* Petitioners effectively constitute an attempt to reargue the order dismissing the *Kettaneh* Proceeding. Such relief was not sought by the *Kettaneh* Petitioners and is time-barred now. CPLR 2221(d)(3).

4. The *Kettaneh* Petitioners also could have sought intervention or consolidation when the two proceedings were being briefed, but chose not to do so. Their belated attempt to "piggy back" on Petitioners' motion should be rejected.

5. Nor can the *Kettaneh* Petitioners show any prejudice, since they have noticed an appeal from this Court's judgment dismissing the *Kettaneh* Proceeding.

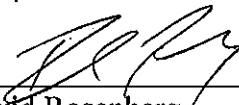
6. While the *Kettaneh* Petitioners claim that I misstated whether they had raised certain claims, it could not have affected their proceeding because the *Kettaneh* Proceeding was dismissed before the Court even considered the motion to dismiss this case.

Moreover, were there any misstatements, it would not have been intentional but due solely to the prolix nature of the papers submitted by the *Kettaneh* Petitioners.

7. Even had such claims been raised by the *Kettaneh* Petitioners, they were not addressed by the Court and, hopefully, will be addressed on this motion.

8. For the foregoing reasons, the motion by the *Kettaneh* Petitioners to intervene in the instant action should be denied.

Dated: New York, New York
December 23, 2009



David Rosenberg