



Law Offices
120 White Plains Road, Suite 305
Tarrytown, New York 10591
Tel. (914) 682-0707
Fax. (914) 682-0708
www.szlawfirm.net

September 16, 2022

VIA NYSCEF

Hon. William Giacomo, J.S.C.
Westchester County Courthouse
111 Dr. Martin Luther King Jr. Blvd, Courtroom 102
White Plains, New York 10601

Re: *City of New Rochelle v. Flavio La Rocca, Maria La Rocca, Flavio LaRocca & Sons, Inc. a.k.a. F. LaRocca & Sons, Inc. and FMLR Realty Management LLC*, Index No. 54190/2016

Dear Justice Giacomo:

We represent the Defendants in the above-referenced action and object to the City's request to file a sur-reply to Defendant's motion for summary judgment.

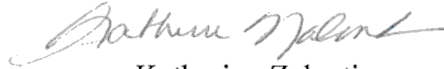
First, Defendants do not raise advice of counsel as a new defense in Mr. La Rocca's reply affidavit. Rather, in summarizing Defendants' legal position, Mr. La Rocca refers to his counsel advising him of the law, which legal positions are detailed in Defendants' memoranda of law in support to their motion for summary judgment.

Second, Mr. La Rocca's affidavit raises no new issue. By discussing the City's harassment about alleged noise, Mr. La Rocca's affidavit merely expands upon and demonstrates how the City singles out Defendants for disparate treatment. As originally discussed in Defendants' moving papers, the City only sued Defendants for alleged use of City property despite photographic evidence that business owners all along East Street (but not Defendants) used City property as a parking area. In line with that, the City is now only apparently concerned about alleged noise from Defendants' contractor yard and not the other contractor yards along East Street.

Respectfully, this Court should reject the City's request to submit a sur-reply.

Very truly yours,

SILVERBERG ZALANTIS LLC

A handwritten signature in cursive script, appearing to read "Katherine Zalantis".

Katherine Zalantis

KZ:

cc (by NYSCEF) Peter A, Meisels, Esq.