TAX COURT OF NEW JERSEY

Joshua D. Novin
Judge

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NOT FOR PUBLICATION WITHOUT THE APPROVAL
OF THE TAX COURT COMMITTEE ON OPINIONS

February 3, 2017

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Re: Trocki Hotels LP v. Egg Harbor Township
Docket Nos. 014922-2010, 006656-2011 and 003247-2012

Dear Mr. Perillo and Mr. Bergman:

This letter constitutes the court's opinion with respect to Trocki Hotels LP's ("plaintiff") motion for reconsideration of the court's November 30, 2016 letter opinion following trial in the above matters ("motion for reconsideration").

For the reasons set forth below, plaintiff's motion for reconsideration is denied.

I. Findings of Fact & Procedural History

Plaintiff challenged the 2010, 2011, and 2012 local property tax assessments on the real property and improvements located at 6821 Black Horse Pike, Egg Harbor Township, New Jersey (the "subject property"). As of the October 1, 2009, October 1, 2010, and October 1, 2011 valuation dates, the subject property was improved with two structures, a six-story Clarion Hotel

containing 213 guest rooms, a restaurant and bar, and an adjacent convention center, totaling approximately 191,785 square feet.

During trial plaintiff and defendant each offered the testimony of State of New Jersey certified general real estate appraisers, who were accepted by the court, without objection, as experts in the field of property valuation. Plaintiff's appraiser opined that the subject property was a "failed or failing hotel" and that its highest and best use was demolition of the existing hotel and convention center structures and redevelopment of the subject property consistent with existing zoning requirements for "commercial uses." Conversely, defendant's appraiser concluded that the "hotel operates marginally" and was "not operating as a maximally productive facility." In the opinion of defendant's appraiser, the hotel and convention center represented "an interim use pending redevelopment." Therefore, defendant's appraiser concluded that the highest and best use of the subject property was for "redevelopment and/or gutting and retrifitting [sic] of the existing hotel as a multi-family residential complex" in accordance with Zoning Board approvals secured by plaintiff in January 2010 and pursuant to a May 2013 Contract of Sale entered into by plaintiff.

Following trial, on November 30, 2016, the court issued a letter opinion affirming the 2010, 2011, and 2012 local property tax assessments on the subject property. Without restating in its entirety the substance of the court's November 30, 2016 letter opinion, the court systematically and methodically analyzed and evaluated the testimony and evidence offered during trial, concluding that plaintiff's and defendant's appraisers' highest and best use analyses suffered from substantial flaws which materially affected their reliability and credibility. Those flaws, coupled with other deficiencies and shortcomings identified in the opinion, caused the court to reject the appraisers' opinions of value for the subject property.

On December 19, 2016, plaintiff filed a motion for reconsideration of the court's November 30, 2016 letter opinion. The return date of the motion was adjourned twice, once due to the court's unavailability, and once due to plaintiff's counsel's unavailability.

On February 3, 2017, the court heard oral argument on the motion for reconsideration.

I. Conclusions of Law

A. Highest and Best Use

An indispensable element not only to principles of property valuation, but also to the determination of the true market value of property is discerning its highest and best use. Ford Motor Co. v. Edison Township, 10 N.J. Tax 153, 161 (Tax 1988), aff'd o.b., 12 N.J. Tax 244 (App. Div. 1990), aff'd, 127 N.J. 290 (1992). The highest and best use analysis requires sequential consideration of "the following four criteria, determining whether the use of the subject property is: 1) legally permissible; 2) physically possible; 3) financially feasible; and 4) maximally productive." Clemente v. Township of South Hackensack, 27 N.J. Tax 255, 267-269 (Tax 2013), aff'd 28 N.J. Tax 337 (App. Div. 2015). Thus, the highest and best use analysis is often referred to as "the first and most important step in the valuation process." Ford Motor Co., supra, 10 N.J. Tax at 161. In conducting a highest and best use analysis a property "should be examined for all possible uses and that use which will yield the highest return should be selected." General Motors Corp. v. City of Linden, 22 N.J. Tax 95, 125 (Tax 2005) (quoting Owens-Illinois Glass Co. v. Bridgeton, 8 N.J. Tax 495 (Tax 1986)).

However, the "proposed [highest and best] use must not be remote, speculative, or conjectural." Clemente, supra, 27 N.J. Tax at 269 (citing Six Cherry Hill, Inc. v. Township of Cherry Hill, 7 N.J. Tax 120, 131 (Tax 1984), aff'd, 8 N.J. Tax 334 (App. Div. 1986)); see also Inmar Associates Inc. v. Edison Township, 2 N.J. Tax 59, 65 (Tax 1980). When a party "seeks to

demonstrate that a property's highest and best use is other than its current use, it is incumbent upon the party to establish that proposition by a fair preponderance of the evidence." Ibid. (citing Penns Grove Gardens, Ltd. v. Borough of Penns Grove, 18 N.J. Tax 253, 263 (Tax 1999); Ford Motor Co., supra, 10 N.J. Tax at 167).

During trial, plaintiff's appraiser opined that the subject property was a "failed or failing hotel" and that its highest and best use was demolition of the existing improvements and redevelopment of the vacant land consistent with existing zoning requirements for "commercial uses." However, during direct and cross-examination, plaintiff's appraiser acknowledged that the subject property was located in defendant's Regional Commercial Development zone ("RCD"), which required a minimum lot width of 300 feet. Plaintiff's appraiser observed that the subject property "has a relatively small frontage" of only 92.72 feet, or approximately one-third of the RCD zone minimum bulk requirements for lot width. Thus, plaintiff's appraiser expressed his uncertainty whether the subject property "has the [requisite] frontage" to satisfy the [minimum] lot width requirements in the RCD zone. Plaintiff's appraiser candidly acknowledged that he was "not sure about whether it's [the subject property] fully conforming in the lot width [requirements], but I assume that at one point or another variances were granted for the subject building to be erected." Nonetheless, plaintiff's appraiser postulated that the subject property's highest and best use was demolition of the existing hotel, restaurant, bar and convention center and redevelopment of the vacant land for "commercial uses."

In the November 30, 2016 opinion, the court highlighted that plaintiff's alternate highest and best use advocated abandonment of the use of the subject property as a hotel and convention center and demolition of the existing improvements on the subject property. However, plaintiff's appraiser failed to furnish any evidence to the court which supported his bare conclusion that

variances were granted for the subject property, or that approval of a bulk variance from the minimum lot width requirements would not be required, or that it was reasonably probable a bulk variance would issue, thereby permitting his proposed alternate highest and best use of the property for "commercial uses." A proposed highest and best use must not be provisional, remote, speculative, or conjectural. Clemente, supra, 27 N.J. Tax at 269; Six Cherry Hill, Inc., supra, 7 N.J. Tax at 129; Inmar Associates Inc., supra, 2 N.J. Tax at 65 (Tax 1980). Generally, "property should be valued for tax assessment purposes based upon what was known and reasonably anticipated as of the assessment date and not upon speculation or conjecture." Linwood Properties, Inc. v. Ft. Lee Borough, 7 N.J. Tax 320, 328 (Tax 1985). Thus, when a proposed alternate highest and best use of a property is provisional, qualified or conditional, requiring use or other bulk variance relief from zoning ordinance requirements, it is incumbent upon the party offering such evidence of highest and best use to establish, by a fair preponderance of the evidence, that variance relief for such proposed use is reasonably probable. Clemente, supra, 27 N.J. Tax at 269, Penns Grove Gardens, Ltd., supra, 18 N.J. Tax at 263; Ford Motor Co., supra, 10 N.J. Tax at 167).

Here, no meaningful testimony or evidence was presented by plaintiff or plaintiff's appraiser during trial that, for his proposed alternate highest and best use, bulk variance relief would be unnecessary, or it was reasonably probable defendant would grant such bulk variance relief, or that such bulk variance relief had been afforded other similarly situated properties.

B. Standard for Reconsideration

A motion for rehearing or reconsideration is governed by R. 4:49-2. See also R. 8:10. The rule provides, in part, that:

> a motion for rehearing or reconsideration seeking to alter or amend a judgment or order. . . shall state with specificity the basis on which it is made, including a statement of the matters or controlling

> decisions which counsel believes the court has overlooked or as to which it has erred. . .
>
> [R. 4:49-2.]

A motion for reconsideration must be supported by "a statement 'of the matters or controlling decisions which counsel believes the court has overlooked or as to which it has erred.' The basis to such a motion, thus, focuses upon what was before the court in the first instance." Lahue v. Pio Costa, 263 N.J. Super. 575, 598 (App. Div. 1993) (citations omitted).

A motion for rehearing or reconsideration is sparingly granted. Nevertheless, reconsideration "is a matter within the sound discretion of the Court, to be exercised in the interest of justice." Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). However, reconsideration should not be used simply as a vehicle to reiterate the merits of a legal position. Capital Fin. Co. of Delaware Valley, Inc. v. Asterbadi, 398 N.J. Super. 299, 310 (App. Div.), certif. denied, 195 N.J. 521 (2008). A motion for reconsideration should be granted "only for those cases which fall into that narrow corridor in which either: (1) the Court has expressed its decision based upon a palpably incorrect or irrational basis, or (2) it is obvious that the Court either did not consider, or failed to appreciate the significance of probative, competent evidence . . ." D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990); see also Fusco v. Bd. of Educ. of the City of Newark, 349 N.J. Super. 455, 462 (App. Div.), certif. denied, 174 N.J. 544 (2002). A motion for reconsideration is not fitting because a litigant has expressed dissatisfaction with the court's decision, the appropriate setting for such arguments are on appeal. D'Atria, supra, 242 N.J. Super. at 401. Although a motion for reconsideration should be narrowly construed, a court may "in the interest of justice" consider any "evidence" that the litigant claims is "new or additional . . . which it could not have provided" during the initial hearing. Id. at 401. However, consideration of such evidence is in the court's "sound discretion." Ibid. "[R]epetitive bites at the apple" should not be

tolerated or "the core will swiftly sour." Ibid. Accordingly, a court must "be sensitive and scrupulous in its analysis of the issues in a motion for reconsideration." Id. at 402.

1. Factual Record and Bulk Variance

In the motion for reconsideration plaintiff argues that the "Court *sua sponte* for the first time in its opinion" raised "any criticism of the taxpayer's appraisal. . . [and had the court raised this criticism during or following trial] we would have pointed to documents in the record and the applicable law dealing with variances and legally permissible as a criteria for highest and best use." In support of such contention, plaintiff offers the following documents for the court's review: (1) Decision and Resolution of the Township of Egg Harbor Zoning Board of Adjustment adopted March 6, 2006; (2) Doran Engineering, P.A.'s December 8, 2005 letter to the Egg Harbor Township Zoning Board; (3) Remington & Vernick Engineers November 30, 2005 report to the Egg Harbor Township Zoning Board; (4) Decision and Resolution of the Township of Egg Harbor Zoning Board of Adjustment adopted January 4, 2010; (5) Remington & Vernick Engineers November 24, 2009 report to the Egg Harbor Township Zoning Board; and (6) Doran Engineering, P.A.'s November 20, 2009 letter to the Egg Harbor Township Zoning Board.

Plaintiff charges that these documents, which address plaintiff's 2006 Zoning Board application to transform the existing hotel into 192 age-restricted dwelling units, and subsequent 2010 Zoning Board application to convert the 2006 approval into 213 non-age restricted multi-family dwelling units, demonstrates that a lot width variance was not required during these approvals because it was an "existing non-conformity." Plaintiff further argues that plaintiff's appraiser's conclusion that "the subject is considered to be a legal, pre-existing nonconforming use," was identical to the conclusion reached by defendant's engineer, which conclusion plaintiff asserts, was not attacked by defendant.

In opposition to plaintiff's motion, defendant submits that the six documents which plaintiff has argued constitute part of the "record" and allegedly demonstrate the "granting" of a variance were never marked as exhibits or placed into evidence. As such, these documents were not evidentiary and are hearsay. Therefore, defendant maintains, at trial plaintiff failed to meet its burden of establishing, by a fair preponderance of the evidence, that variance relief was granted or would be granted with reasonable probability.

Moreover, defendant asserts that the court's opinion did not "solely" reject plaintiff's appraiser's conclusions of value because he failed to present evidence that bulk variance relief would be granted for his proposed alternate highest and best use. Defendant highlights that the court's opinion also focused on other rational and legitimate reasons to reject plaintiff's appraiser's testimony and appraisal report: (1) plaintiff's appraiser's failure to attribute any "interim use value" to the hotel and convention center; and (2) plaintiff's appraiser's failure to provide sufficient proofs that the costs to convert the subject property from a hotel into multi-family dwellings were "unfeasible." Thus, defendant submits that the court's opinion was not palpably incorrect or irrational based on the evidence presented.

At the outset, the court must reject plaintiff's argument that the "court *sua sponte* for the first time in its opinion" raised the issue of the subject property's noncompliance with the RCD zone minimum bulk requirements for lot width. As set forth in the court's opinion, the issue of the subject property's lack of conformity with the zoning ordinance's minimum bulk requirements was raised during direct examination and cross-examination of plaintiff's appraiser in connection with his highest and best use analysis. Moreover, the issue of the subject property's nonconformity with the zoning ordinance was addressed in plaintiff's appraisal report wherein he stated that the "subject parcel has a small frontage, and it is unclear whether it conforms to the lot width

requirements." Contrary to plaintiff's assertions, both plaintiff and defendant were afforded notice and the opportunity to develop the record with respect to the issue of the subject property's highest and best use and its lack of conformity with the zoning ordinance during trial.

Next, the court highlights that none of the six documents now being proffered by plaintiff, in support of its motion for reconsideration, was marked by plaintiff or defendant as exhibits during trial, nor was any offered into evidence for consideration by the court. Nonetheless, in the interests of justice, it is within the court's sound discretion to review additional evidence submitted in support of a motion for reconsideration. Accordingly, the court will review the contents of said six documents to consider the merits of plaintiff's argument.

The court's review of the documents reveals the following information: (a) the Decision and Resolution of the Township of Egg Harbor Zoning Board of Adjustment adopted March 6, 2006 concerns plaintiff's application for a "D" variance to convert use of the existing hotel and convention center into a 192 unit, age restricted residence; (b) Doran Engineering, P.A.'s December 8, 2005 and November 20, 2009 letters state that the subject property "DNC" or does not conform with Egg Harbor Township's minimum lot width "bulk [zoning] requirements"; (c) Doran Engineering, P.A.'s December 8, 2005 letter concerns plaintiff's "application for [a] use variance and site plan approval to allow for the conversion of the existing Clarion Hotel to 192 unit age restricted residence"; (d) Remington & Vernick Engineers November 30, 2005 and November 24, 2009 reports state that the subject property is "ENC" or is an "existing non-conformance" with Egg Harbor Township's bulk zoning requirements for lot width; (e) Decision and Resolution of the Township of Egg Harbor Zoning Board of Adjustment dated January 4, 2010 involves plaintiff's application for a "D" variance to convert the existing 2006 Zoning Board

approvals from a 192 unit, age restricted residence into 213 non-age restricted multi family dwelling units.

Thus, the six documents offered by plaintiff in support of its motion for reconsideration demonstrate that the subject property did not conform with the RCD zone minimum bulk requirements for lot width, as observed by plaintiff's appraiser during direct and cross-examination, and that such nonconformity existed as of the date of plaintiff's 2006 and 2010 Zoning Board applications.

Although municipal land laws "may confer a right to continue a pre-existing nonconforming use, 'the policy of the law is to restrict them closely[.]'" Motley v. Borough of Seaside Park Zoning Bd. of Adjustment, 430 N.J. Super. 132, 143 (App. Div. 2013) (quoting Hay, supra, 37 N.J. Super. at 464). However, municipalities are prohibited from taking "'active' steps to eliminate nonconforming uses, and must wait with 'fervent hope that they would in time wither and die and be replaced by conforming uses.'" Id. at 144 (quoting Fred McDowell, Inc. v. Bd. of Adjustment, 334 N.J. Super. 201, 214 (App. Div. 2000)). Nonetheless, in general, once the nonconforming use or improvement has been abandoned or totally destroyed the property owner must conform to the minimum requirements of the zoning ordinance. See Hay, supra, 37 N.J. Super. at 465; S & S Auto Sales, Inc. v. Zoning Bd. of Adjustment for Borough of Stratford, 373 N.J. Super. 603, 619-620 (App. Div. 2004); Poulathas v. Atlantic City Zoning Bd. of Adj., 282 N.J. Super. 310, 313 (App. Div. 1995); Camara v. Bd. of Adjustment, 239 N.J. Super. 51, 56 (App. Div. 1990).

Nothing in the six documents proffered by plaintiff clearly demonstrates that upon abandonment of the hotel use and demolition of the existing structures, as proposed by plaintiff's appraiser, a bulk variance from the minimum lot width requirement would not be required to

redevelop the vacant land for commercial uses. Further, none of the six documents establishes that it was reasonably probable a bulk variance would issue permitting redevelopment of the subject property for commercial uses following demolition of the existing structures. During oral argument plaintiff's counsel offered that even if a bulk variance was required to redevelop the subject property, it would have been a "no brainer." However, the court observes that is the type of testimony which was required to be furnished by plaintiff or plaintiff's appraiser during trial and not, in the first instance, in a motion for reconsideration.

Here, plaintiff's appraiser testified that the subject property was a "failed or failing hotel" and that its highest and best use was demolition of the existing improvements and redevelopment of the vacant land consistent with existing zoning requirements for "commercial uses." Thus, in plaintiff's appraiser's opinion, the "As Improved" use of the subject property as a hotel and convention center should be abandoned and the existing hotel and convention center demolished. In fact, plaintiff's appraisal report and the appraiser's testimony during trial offered an estimated cost for the demolition of the hotel and convention center. However, by concluding a highest and best use of the subject property which was foreign to the current use of the subject property, it was incumbent upon plaintiff to prove, by a fair preponderance of the evidence, that the alternate highest and best use satisfied the four critical criteria of highest and best use: reasonably probable and legally permissible; physically possible; financially feasible; and maximally productive. Plaintiff's appraiser failed to fulfill that obligation and provide credible testimony that the alternate highest and best use was reasonably probable and legally permissible, and not provisional, qualified or conditional.

2. Reasonably Probable

Plaintiff next submits that the bulk variance in this matter which could be required is a "C" variance and not a "D" variance. Thus, due to the strong public policy principles which disfavor "D" or use variances, our courts should only impose "a higher burden on appraisers who postulate their highest and best use on the granting of a ["D" or] use variance," and not impose the reasonably probable standard upon appraisers when only a "C" bulk variance is necessary.

The court finds a lack of support for such proposition. The very definition of highest and best use requires an appraiser examine: "[t]he reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. . ." Appraisal Institute, The Dictionary of Real Estate Appraisal (5th ed. 2010) (emphasis added). Thus, critical to any highest and best use analysis is not only that the use be legally permitted, but is reasonably probable. "As with zoning ordinances, if there are land use limitations inherent in any applicable codes, ordinances, and regulations, an appraiser should investigate whether there is a reasonable probability of a change relative to the subject property along with any timing and cost considerations. . ." Appraisal Institute, The Appraisal of Real Estate, 340 (14th ed. 2013). "A concomitant of a highest and best use [analysis], however, is that consideration of the use has as a prerequisite a probability of achievement. 'The projected use cannot be remote, speculative or conjectural.'" Ford Motor Co., supra, 127 N.J. at 300 (1992) (quoting Inmar Associates, Inc., supra, 2 N.J. Tax at 64.). Thus, when a proposed alternate highest and best use could be restricted, limited, or constrained by zoning ordinance or land use limitations, it is incumbent upon the appraiser advancing such alternate highest and best as evidence of market value to thoroughly investigate the reasonable probability that the legal use can be achieved.

Moreover, our Supreme Court has concluded that the "reasonableness of a use of. . . property, including its highest and best use, must be considered in light of any zoning restrictions that apply to the property." State v. Caoili, 135 N.J. 252, 260 (1994) (emphasis added). Similarly, in State by Com'r of Transp. v. Van Nortwick, 287 N.J. Super. 59, 70 (App. Div. 1995), our Appellate Division observed that the "[m]ost relevant [factor] in determining fair market value is the property's highest and best use, which must be considered in light of the applicable zoning restrictions." Therefore, our courts should afford wide latitude in considering evidence of market value, ". . .including those that have a bearing on the available future use of the property." Ibid.

As stated above, the standard of review which has been consistently adopted by our courts, and against which we measure an alternate highest and best use analysis, requires the party seeking to "demonstrate that a property's highest and best use is other than its current use, . . . to establish that proposition by a fair preponderance of the evidence." Clemente, supra, 27 N.J. Tax at 269; see also Penns Grove Gardens, Ltd., supra, 18 N.J. Tax at 263; Ford Motor Co., supra, 10 N.J. Tax at 167; Highview Estates, supra, 6 N.J. Tax at 200.

The court readily observes that the quality of evidence which must be presented by an appraiser to prove the reasonable probability of a zoning change or granting a "D" use variance, would be more substantial than the evidence required to prove the reasonable probability of granting a "C" bulk variance. However, that does not mean that an appraiser, in conducting a highest and best use analysis, can refrain from making any inquiry into the reasonable probability that a variance will be granted, thereby permitting the proposed legal use to be accomplished.

Here, plaintiff's appraiser presented no evidence during trial that he investigated whether a bulk variance was necessary, or that it was reasonably probable one would be granted, once the existing improvements were demolished and redevelopment of the vacant land was sought.

Although he recognized that the subject property did not conform to the RCD zone bulk requirements for lot width, he assumed "that at one point or another variances were granted for the subject building to be erected." He offered no testimony or evidence during trial that a variance was granted or that it was reasonably probable for a bulk variance to issue, thereby permitting his proposed alternate highest and best use of the subject property. Moreover, the six documents now offered by plaintiff for the first time, in support of its motion for reconsideration, do not warrant reconsideration of the conclusions set forth in the court's November 30, 2016 letter opinion.

3. Interim Use

Finally, although plaintiff's motion papers raised no challenges to those portions of the court's opinion which addressed the lack of credibility and sparse evidence presented by plaintiff's appraiser in support of his opinions of value, during oral argument plaintiff charged that the court's decision to reject plaintiff's appraiser's opinions was based solely upon his highest and best use analysis.

In opposition, defendant highlights that the court's November 30, 2016 opinion also addressed: (1) plaintiff's appraiser's failure to provide sufficient proofs to demonstrate that the costs to convert the hotel into multi family dwelling units were "unfeasibile"; (2) plaintiff's appraiser's ascription of no value to the hotel, restaurant, bar and convention center on the subject property; and (3) plaintiff's appraiser's attribution of no interim use value to the hotel operations.

The testimony and evidence offered during trial disclosed that as of the October 1, 2009, October 1, 2010, and October 1, 2011 valuation dates plaintiff continued to operate the hotel, restaurant, bar and convention center and generate revenue from those business operations. Although plaintiff offered evidence that the hotel's annual operating revenue was insufficient to meet its expenses, plaintiff continued to operate the subject property as a hotel because, in

plaintiff's principal's opinion, he did not want to terminate the employment of his employees. However, testimony was also offered during trial by plaintiff's principal that he received advice from his accountant that, from an income tax perspective, it was advantageous for plaintiff to continue to operate the hotel.

Moreover, on January 4, 2010, three months following the October 1, 2009 valuation date, plaintiff made application for and received approval from Egg Harbor Township to convert the hotel into a 213-unit multi-family apartment complex. Thereafter, plaintiff began to convert and renovate rooms on the 6th floor of the hotel into one and two-bedroom apartment-style dwellings.

In the November 30, 2016 opinion, the court concluded that due to plaintiff's continued operation of the subject property as a hotel and conversion of parts of the existing improvements into proposed multi-family dwelling units, plaintiff's appraiser's characterization of the improvements as having no value or as detracting from the value of the subject property was not credible. Thus, as a result of plaintiff's appraiser's failure to, as of each valuation date, attribute any value to the improvements or any interim use value to the continuing operation of the subject property as a hotel, restaurant, bar and convention center, the court deemed his overall conclusions of value for the subject property unreliable.

In conclusion, the court observes that a motion for reconsideration should only be granted when the court's opinion was patently incorrect or was founded on groundless standards, or the court failed to consider or appreciate the significance of probative evidence presented during trial. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Here, the court concludes that plaintiff's motion for reconsideration fails to satisfy either prong of those reconsideration elements and denies plaintiff's motion for reconsideration.

III. Conclusion

For the above stated reasons, the court denies plaintiff's motion for reconsideration of the court's November 30, 2016 letter opinion following trial in the above matters.

An Order reflecting this opinion will be simultaneously entered herewith.

Very truly yours,

/s/Hon. Joshua D. Novin, J.T.C.