

Court Denies Injunction in Battle of Titans of New York Real Estate and Allows UCC Sale of Pledged Equity Interests to Proceed

Timothy E. Davis, Thomas M. Pinney, Ralph E. Arpajian

Real Estate Alert

1.29.26

On January 27, 2026, Justice Andrea Masley, of the Supreme Court of the State of New York, County of New York: Commercial Division Part 48, issued her Decision + Order on Motion, vacating her prior temporary restraining order ("TRO") delaying the scheduled Uniform Commercial Code ("UCC") sale of limited liability company interests in the fee owner of Worldwide Plaza pledged as collateral for a mezzanine loan, and denying SL Green's request for a preliminary injunction stopping the sale.

In reaching her decision, Justice Masley determined that the terms of the proposed sale were "commercially reasonable" under Section 9-610(b) of the Uniform Commercial Code.

This decision is a major win for mezzanine lenders in structured finance real estate transactions.

The Plaintiff in the case, WWP Mezz LLC (the "Mezz Borrower"), is indirectly owned by SL Green. The Mezz Borrower owns all of the limited liability company interests in the fee owner of Worldwide Plaza. Worldwide Plaza, a premier New York City commercial property, is a 49-story office tower located on Eighth Avenue between 49th and 50th Streets in New York City.

These limited liability company interests had been pledged as collateral (the "Mezz Collateral") for a mezzanine loan. The Defendant in the case, WWP Mezz Investment Company LLC (the "Mezz Lender"), indirectly owned by Gary Barnett's Extell Development Company, is the current owner of the mezzanine loan.

As the Court stated, "[t]his is a battle between two titans in the New York real estate community..."

The Mezz Lender purchased the defaulted mezzanine loan in September, 2025. In October, 2025, the Mezz Lender sent a formal Notice of Default and acceleration demanding repayment by the Mezz Borrower. The Mezz Lender then began the process of pursuing foreclosure under 9-610 of the UCC, and a sale of the Mezz Collateral was scheduled for January 15, 2026.

In its Notice of Sale, the Mezz Lender stated that only "Qualified Bidders" would be permitted to bid on the Mezz Collateral. A Qualified Bidder was required, among other things, to meet the definition of a "Qualified Transferee" ("QT") under, and as defined in, the intercreditor agreement (the "ICA"). The ICA governs the rights and obligations of the senior mortgage lender and the Mezzanine Lender.

Given the size of the mortgage loan and the aggregate debt stack, the QT requirements under the ICA were financially substantial.

In seeking to enjoin the sale, the Mezz Borrower argued, among other things, that requiring all Qualified Bidders to meet the QT definition was commercially unreasonable and therefore a violation of 9-610(b), which requires that "every aspect" of a disposition of collateral at a UCC sale be commercially reasonable. Underlying this challenge was the Mezz Borrower's argument that, notwithstanding the terms of the ICA, the QT definition was unduly restrictive and not in conformity with current market practice, and therefore its inclusion was not commercially reasonable in the context of 9-610(b).

In determining that the sale was commercially reasonable, the Court stated, among other things:

[T]he court rejects plaintiff's invitation to rewrite the Intercreditor Agreement's definition of "Qualified Bidder" [sic] because the parties could have anticipated a downturn in the market when they negotiated the Agreement. A fundamental rule of contract interpretation provides that "clear, complete writings should generally be enforced according to their terms" particularly "where, as here, the instrument was negotiated between sophisticated, counseled businesspeople negotiating at arm's length."

The Court then held that, given this ruling, the Mezz Borrower was unlikely to prevail on the merits of its claims. The Court vacated the pending TRO and denied the requested preliminary injunction. The sale is currently scheduled for January 29, 2026.

This decision is a significant win in the New York courts for mezzanine lenders and affirms the collateral regime, rights and remedies prevalent in current multi-tiered commercial real estate financings.

If you have questions or would like additional information, please contact the authors: Timothy E. Davis, Managing Partner (davist@whiteandwilliams.com; 215.864.6829); Thomas M. Pinney, Partner (pinneyt@whiteandwilliams.com; 215.864.6371); or Ralph E. Arpajian, Partner (arpajianr@whiteandwilliams.com; 215.864.6232), or your White and Williams LLP Attorney.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.