BLINDS TO GO (U.S.), INC, Plaintiff	SUPERIOR COURT OF NEW JERSEY LAW DIVISION CBLP
v.	Docket No. OCN-L-3541-25
LAKEWOOD DEVELOPMENT CO. and THE INDUSTRIAL COMMISSION OF THE TOWNSHIP OF LAKEWOOD, Defendants	CIVIL ACTION OPINION

Decided: December 15, 2025

CRAIG L. WELLERSON, P.J. Ch.

STATEMENT OF FACTS

This action comes before the Court on Motion for Reconsideration by Lakewood Development Co. ("Defendant") and a Cross Motion to Enforce Litigants Rights by Blinds to Go (U.S.), Inc. ("Plaintiff").

The Complaint filed on July 26, 2024, sets out two Counts: Breach of Contract and Breach of Implied Duty of Good Faith and Fair Dealing. The Complaint seeks a variety of damages, including compensatory damages, pre-and post-judgment Interest, the Appointment of a qualified and impartial Third Appraiser, Specific Performance, and attorney's fees and costs.

On or about November 3, 1997, Plaintiff and Defendant, the Industrial Commission of the Township of Lakewood ("ICL"), entered into a Lease for the property located at lot 247, Block 1160 and more commonly referred to as 1800 Cedar Bridge Avenue, Lakewood, NJ 08701 (the "Property"). The Lease began with an initial 20-year term that commenced once Plaintiff (Tenant) obtained all required permits for demolition and construction. The Tenant maintained the option to extend the Lease for up to three additional 10-year terms. The Lease contained an automatic renewal clause which could be terminated only upon written notice to the landlord.

LDC acquired the property from ICL in December 1999 and as ICL's successor, is bound by the terms of the Ground Lease and Option Agreement originally made between the Plaintiff and ICL. The Option Agreement gave Plaintiff the right to purchase the property for $550,000 during the first year of the lease, with the price increasing by $10,000 each year thereafter. If Plaintiff exercises the option to purchase, during a renewal term, the purchase price shall be calculated at the current fair market value of the land (excluding improvements), as determined by a specified appraisal. The contract language indicates:

> That, for and in consideration of the Ground Lease between LIC as "Landlord" and Purchaser as "Tenant"… LIC does hereby grant unto Purchaser an option to purchase ("this Option") those two (2) certain tracts of parcels of land, and the privileges and appurtenances thereto… together with the improvements now or hereafter located thereon (said Land and improvements are collectively referred t as the "Subject Premises") for the sum of FIVE HUNDRED AND FIFTY THOUSAND AND 00/100 ($550,000.00) DOLLARS (the "Purchase Price") during the first year of the term of this Option which shall run continuously with the Term of the Lease (including the Initial Term and each Renewal Term as may be exercised by Purchaser as Tenant, as those terms are defined in the Lease). Thereafter the Purchase Price shall be increased by TEN THOUSAND AND 00/100 ($10,000.00) DOLLARS on the first day of each successive year of the Initial Term of the Lease effective on the first day of each year.
>
> In the event that (i) Purchaser has not exercised the Option upon the expiration of the Initial Term of the Lease, and (ii) Purchaser exercises this Option during any Renewal Term of the Lease, then the Purchase Price to be paid by Purchaser to Seller for the Subject Premises shall be the then-current fair market value of the Land, exclusive of all improvements thereon and thereunder (the "Appraised Value"), to be determined by the following procedure:
> (a) Purchaser's notice of its exercise of this Option ("Option Notice") shall designate the name and address of the real estate appraiser selected by Purchaser to determine the Appraised Value of the Land (the "First Appraiser").
> (b) Within fifteen (15) days after the service of the Option Notice referred to in Paragraph (a) hereof, Seller shall give written notice to Purchaser designating the second appraiser ("Second Appraiser").
> (c) The appraisers shall determine the appraised Value of the Land based upon the fair market value of the Land at the time such appraisal is made. A decision joined in by two of the three appraisers shall be the decision of the appraisers. After reaching a decision the appraisers shall give written notice thereof to both Parties. The Purchaser shall thereupon have the right to withdraw its exercise of this Option or to purchase the subject Premises for a cash price equal to the Appraised Value.

Plaintiff can withdraw or proceed with the purchase after the appraisal. The Option Agreement lasts for the length of the lease (from November 3, 1997, through at least the first renewal term) and requires written notice to exercise the option. Upon exercising the option, the property must be conveyed with clear title and no liens.

On or about June 18, 2024, Blinds To Go notified Lakewood of its election to exercise its option as provided under the Option Agreement. In its notice, Blinds To Go designated Colliers International to provide a land appraisal. Colliers subsequently submitted an appraisal report valuing Lakewood's leased fee interest in the property, rather than the fee simple interest in the land. Colliers's appraised value of the leased fee interest of the property is $1,200,000. Lakewood then obtained an appraisal from Amerival Realty Consultants, which valued the fee simple interest in the land exclusive of the leased fee interest and improvements on the property at $10,200,000.

Disagreement arose between the parties regarding the proper methodology for valuing the property. Blinds To Go initiated legal action, alleging breach of contract and seeking specific performance to compel a sale of the property based upon the language of the Option Agreement.

Both parties moved for summary judgment. On December 26, 2024, the Court granted Blinds To Go's motion in part, ruling that the required valuation should include the existing lease as an encumbrance and ordering Lakewood to obtain a new appraisal reflecting leased fee interest. The Court denied Blinds To Go's requests to compel the sale or award damages for rent payments since exercising the option.

Lakewood attempted to obtain a new appraisal, but experienced delays due to the appraiser's health, prompting the parties and the Court to agree to extended deadlines and rent abatements. On April 18, 2025, Lakewood provided a new appraisal from Gagliano & Company, valuing the leased fee interest at $1,300,000. Blinds To Go initially declined the appraisal but later agreed to purchase at that price. Negotiations continued without resolution.

Blinds To Go subsequently moved to enforce litigant's rights, requesting the Court to grant specific performance of the Option Agreement at a price of $1,300,000. Plaintiff further sought to compel the execution of a purchase agreement, and terminate Blinds To Go's rent obligation. Lakewood cross-moved for reconsideration.

Legal Standard

A motion for reconsideration seeking to alter or amend a judgment or order is governed by Rule 4:49-2. The purpose of the rule "is not to reargue the motion that has already been heard for the purpose of

taking the proverbial second bite of the apple." *State v. Fitzsimmons*, 286 N.J. Super. 141, 147 (App. Div. 1995). Rather, it "should be utilized 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." *Id.*; *D'Atria v. D'Atria*, 242 N.J. Super. 392, 401 (Ch. Div. 1990). The preferred course for one unsatisfied with a judicial determination is to seek an appeal. *D'Atria*, 242 N.J. Super. at 401.

This rule is only applicable when the court's decision is based on plainly incorrect reasoning, when the court failed to consider evidence, or there is good reason for it to reconsider new information. *Town of Phillipsburg v. Block*, 380 N.J. Super. 159, 175 (App. Div. 2005); *Casino Reinvestment v. Teller*, 384 N.J. Super. 408, 413 (App. Div. 2006). Moreover, it is improper for the court to consider new arguments on a motion for reconsideration that were not raised in the original motion. *Lahue v. Pio Costa*, 263 N.J. Super 575, 598 (App. Div. 1993).

The Court has stated, however:

> Alternatively, if a litigant wishes to bring new or additional information to the Court's attention which it could not have provided on the first application, the Court should, in the interest of justice (and in the exercise of sound discretion), consider the evidence. Nevertheless, motion practice must come to an end at some point, and if repetitive bites at the apple are allowed, the core will swiftly sour. Thus, the Court must be sensitive and scrupulous in its analysis of the issues in a motion for reconsideration.

[*Cummings v. Bahr*, 295 N.J. Super. 374, 384 (App. Div. 1996) (quoting *D'Atria v. D'Atria*, 242 N.J. Super. 392, 401-02 (Ch. Div. 1990).]

"[T]he magnitude of the error cited must be a game-changer for reconsideration to be appropriate." *Palombi v. Palombi*, 414 N.J. Super. 274, 289 (App. Div. 2010). Reconsideration "is not appropriate merely because a litigant is dissatisfied with a decision of the court or wishes to reargue a motion." *Palombi v. Palombi*, 414 N.J. Super. 274, 288 (App. Div. 2010).

A motion for reconsideration under Rule 4:49-2 "is not the vehicle for raising a new issue" that was not previously raised. *Naik v. Naik*, 399 N.J. Super. 390, 395 (App. Div. 2008). The basis of a motion

for reconsideration "focuses upon what was before the court in the first instance." *Lahue v. Pio Costa*, 263 N.J. Super. 575, 598 (App. Div. 1993) (citing *D'Atria v. D'Atria*, 242 N.J. Super. 392, 401 (Ch. Div. 1990)).

A. Defendant's Motion for Reconsideration

Defendant seeks a Reconsideration of the Court's Order denying Summary Judgment. The argument claims that the Court's prior summary judgment ruling misapplied well-established principles of contractual interpretation in construing the Option Agreement between the parties. Under New Jersey law, courts enforce contracts according to the intent of the parties as reflected in the express terms of the agreement, together with surrounding circumstances and the contract's underlying purpose. See *Manahawkin Convalescent v. O'Neill*, 217 N.J. 99, 118 (2014) (quoting *Caruso v. Ravenswood Developers, Inc.*, 337 N.J. Super. 499, 506 (App. Div. 2001)). Contractual language must be interpreted "in the context of the circumstances at the time of drafting and [courts should] apply a rational meaning in keeping with the expressed general purpose." *In re County of Atlantic*, 230 N.J. 237, 254 (2017) (quoting *Sachau v. Sachau*, 206 N.J. 1, 5–6 (2011)).

The Defendant contends that the Option Agreement, by specifying that the "Purchase Price ... shall be the then-current fair market value of the Land," clearly requires an appraisal of the fee simple interest in the land, not the landlord's leased fee interest. The contract defines "Land" using its fee simple deed description, referring to the property and its appurtenances as outlined in Exhibit A, but does not reference encumbrances such as the ongoing lease. *See Amerival Valuation* at 17 (defining fee simple market value); *Colliers Valuation* at 7 (defining leased fee interest as a lesser property interest). The absence of language regarding encumbrances in the definition of "Land" supports a reading consistent with fee simple ownership: "absolute ownership unencumbered by any other interest or estate." *Amerival Valuation* at 17.

Defendant submits that the Court's order, which required appraisal of Lakewood's leased fee interest, was not contemplated by the parties and is contrary to basic principles of contract construction. *See Borough of Princeton v. Board of Chosen Freeholders of County of Mercer*, 333 N.J. Super. 310, 325 (App. Div. 2000) (interpretation should accord "with justice and common sense"; "literalism must give way to context"), aff'd, 169 N.J. 135 (2001); *Graziano v. Grant*, 326 N.J. Super. 328, 342 (App. Div. 1999)

(court "should not supply terms that have not been agreed upon"). If contract terms are ambiguous, courts may look to the parties' own practical construction of the agreement in determining intent. *County of Atlantic*, 230 N.J. at 255 (quoting *County of Morris v. Fauver*, 153 N.J. 80, 103 (1998)). Construing the Option Agreement to allow valuation of a lesser interest—the leased fee—would lead to an absurd and unjust result, conferring a windfall to the tenant at the expense of the landlord. *See Barila v. Bd. of Educ. of Cliffside Park*, 241 N.J. 595, 616 (2020).

Defendant further notes that Blinds To Go, as tenant, is entitled under the Option Agreement to acquire the fee simple interest, free of the current lease encumbrance. Upon purchase, the lease would be extinguished and Blinds To Go could sell the land unencumbered. Thus, the fair market value determination must reflect the interest actually acquired—namely, the unburdened fee simple estate—not the leased fee interest reserved to the landlord. This construction is consistent with commercial practice and tax assessment procedures, where the "fair market value" is calculated based on the property's fee simple interest at its highest and best use, rather than its encumbered value. *County of Atlantic*, supra; *Borough of Princeton*, supra.

Finally, Defendant asserts that the contract specifically excludes improvements from the appraisal but intended that Blinds To Go pay for the fee simple value of the land itself, not a discounted amount reflecting the effect of a soon-to-be-terminated lease. Any contrary reading would disturb the parties' bargained-for exchange, defeat the Option Agreement's purpose, and neglect the actual transaction contemplated—namely, the purchase of the property in fee simple, with all attendant rights and privileges.

Motion to Enforce Litigant's Rights

The parties' Option Agreement provides that the property's "Purchase Price ... shall be the then-current fair market value of the Land, exclusive of all improvements thereon and thereunder." The Option Agreement does not define the term "fair market value." It is argued, consistent with established contract principles, that where contract language is unambiguous, it must be enforced according to its plain terms. *See Kampf v. Franklin Life Ins. Co.*, 33 N.J. 36, 43 (1960) ("When the terms of a ... contract are clear, it is

the function of a court to enforce it as written and not to make a better contract for either of the parties."); *Cypress Point Condo. Ass'n v. Adria Towers, L.L.C.*, 226 N.J. 403, 415 (2016) ("When the language of a contract is plain and capable of legal construction, the language alone must determine the agreement's force and effect.").

Because the Option Agreement does not supply a unique or alternative definition of "fair market value," the term must be construed according to its ordinary and commonly accepted meaning. Black's Law Dictionary defines "fair market value" as "the price that a seller is willing to accept and a buyer is willing to pay on the open market and in an arm's-length transaction; the point at which supply and demand intersect." This definition is consistent with the valuation standard adopted in the parties' appraisals, including Amerival's report, which defined fair market value as "the most probable price, as of a specific date, in cash, or in terms equivalent to cash ... for which the specific property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeable, and for self-interest, and assuming neither is under undue duress."

In *Multi Mgmt. Realty, LLC v. Union*, the Court turned to standard criteria for determining fair market value: (1) both buyer and seller are typically motivated and neither is under duress; (2) both are well informed or well advised and act prudently and knowledgeably in their self-interest; (3) the property has been exposed to an open and competitive market for a reasonable time; (4) the purchase price is paid in cash or its equivalent; and (5) the price is unaffected by special financing, factors, or agreements. N.J. Tax Unpub. LEXIS 59. Additionally, fair market value generally contemplates the highest and best use of the property: the use that is legally permissible, physically possible, financially feasible, and maximally productive. *See Twp. of Manalapan v. Gentile*, 242 N.J. 295, 299 (2020).

Plaintiff contends that both appraisers agreed that the property's highest and best use is industrial development consistent with the applicable zoning. Both experts independently concluded that the appropriate valuation method was the income approach. Their resulting appraisals were within $100,000 of each other, reinforcing the appropriateness and reliability of the adopted methodology and the resulting

valuation range between $1,200,000 and $1,300,000. Plaintiff argues that, pursuant to longstanding New Jersey precedent, any valuation of the subject Property must account for the existing Ground Lease. Specifically, *Humble Oil & Refining Co. v. Englewood Cliffs*, 135 N.J. Super. 26, 33 (App. Div. 1975), aff'd, 71 N.J. 401 (1976), established that ground leases are material to property value and must be considered in its appraised value. In line with the generally accepted definition of fair market value, being the price a willing buyer and seller would agree upon, the presence of the Ground Lease is a critical factor that affects any prospective buyer's expected return on investment. In this case, the lease provisions, which provide for below-market rent through November 2047, diminish the market value of the land, since a buyer would be unable to realize a return for many years. The purchaser's ability to generate income from the property is restricted by the terms of the below market annual lease payments for the next twenty-two years. Moreover, the purchaser would ultimately inherit an aging structure.

The Lease provides that annual rent of the Property is fixed at $50,000 for a term of twenty years, then increased by fifty percent of the Consumer Price Index ("CPI"):

> Second: Rent
> (a) Subject to the provisions of Paragraph 13 of this Article and Section 4B of the DA Agreement, annual fixed rent ("Fixed Rent") of FIFTY THOUSBAND AND 00/100 ($50,000.00) DOLLARS in equal monthly installments of $4,166.66 for the entire Term in advance on or before the first day of each and every calendar month during the Initial Term….
> C. In the event that Tenant shall exercise its option to extend the Term of this Lease for any Renewal Term, the annual Fixed Rent to be paid by Tenant to Landlord shall be computed annually pursuant to the following formula.
> (4) Commencing on the first day of each Renewal Term by the annual Fixed Rent shall be increased or decreased by the amount resulting from multiplying the annual Fixed Rent for the immediately preceding year by fifty (50%) percent of the CPI increases. Provided, however, that in no event shall the annual Fixed Rent be less than $50,000.

Plaintiff further asserts that Defendant's argument for excluding the Ground Lease from the valuation is contrary to both the plain language of the Option Agreement and prevailing legal definitions of "fair market value." While the Option Agreement expressly excludes improvements from its valuation, it does not similarly exclude the Ground Lease. Plaintiff contends that a contractual exclusion of the lease could have been made by simple language in the contract, as was done with improvements, but no such exclusion exists. Thus, the appraisal must make "professionally appropriate adjustments" for the Ground Lease.

Plaintiff also argues that Defendant misinterprets the requirements of the Court's December 2024 Order. The Order does not specify that a "leased fee interest" be appraised; rather, it required Defendant to produce an appraisal which excluded improvements and accounted for the Ground Lease, in line with the proper definition of fair market value.

Plaintiff asserts that the parties' respective appraisers have agreed on a valuation of $1,300,000 for the land, exclusive of improvements, and that Defendant's continued refusal to approve the sale and transfer title constitutes obstruction and breach of the Option Agreement. *Citing Wolf v. Marlton Corp.*, 57 N.J. Super. 278, 285 (App. Div. 1959), Plaintiff maintains that where one party's conduct makes it impossible for the other to perform, the latter may treat the contract as breached. Further, Plaintiff argues that specific performance is the presumptive remedy for breach of a contract to convey real estate. *See Friendship Manor, Inc. v. Greiman*, 244 N.J. Super. 104, 113 (App. Div. 1990), certif. denied, 126 N.J. 321 (1991); *Pruitt v. Graziano*, 215 N.J. Super. 330 (App. Div. 1987).

Plaintiff thus requests the Court to order specific performance by compelling the sale of the Property for the agreed price of $1,300,000. Plaintiff further seeks termination of its rental obligations as of August 18, 2024 (i.e., 60 days following Plaintiff's exercise of the purchase option) and imposing appropriate sanctions for Defendant's alleged continued delay and obstruction.

Analysis

When the parties entered into the contract in 1997, neither party anticipated the extraordinary growth of Lakewood Township. In order to bring business to the town, Lakewood provided businesses with incentives to locate within its industrial park. Among those to partake in such advantages was Blinds to Go.

The Option Agreement permits: "the Purchase Price to be paid by Purchaser to Seller for the Subject Premises shall be the then-current fair market value of the Land, exclusive of all improvements thereon and thereunder ... ". Thus, the primary question before the Court is whether the evaluation of the Property's fair market value includes the encumbrance of the Lease under the terms of the Option

Agreement. The Court finds that the fair market value of the Property requires the inclusion of the lease terms.

When determining fair market value, courts look to a series of factors, including: 1) buyer and seller are typically motivated and neither is under duress; 2) buyer and seller are well informed or well advised and are acting prudently, knowledgeably and in their respective self-interests; 3) the property has been reasonably exposed to an open, relevant and competitive market for a reasonable period of time; 4) the purchase price is paid in cash or its equivalent; and 5) the purchase price is unaffected by special or creative financing or by other special factors, agreements or considerations. *Multi Mgmt. Realty, LLC v. Union*, 2015 N.J. Tax Unpub. LEXIS 59. Ground leases are relevant to a property's value. *Humble Oil & Refinin g Co. v. Englewood Cliffs*, 135 N.J. Super. 26, 33 (App. Div. 1975), affd at 71 N.J. 401, 365 (1976).

Here, a third-party purchaser would purchase the property subject to the existing below market lease. All parties recognize that the Lease is drastically below fair market value. In the open market, a potential buyer would consider the impact of the Ground Lease on their return of investment.

The terms of the Option Agreement are unambiguous. The Ground Lease is an asset and valuable commodity held by Blinds To Go. The Lease and Option Agreement were bargained for between the parties. Here, excluding improvements but not the lease from valuation signals the parties' intent to include the lease as part of the valuation. While Defendant argues that the Lease should not be included in the valuation because the Option Agreement does not refer to the Lease's impact in the Lease's valuation, the Court finds that its absence from the Agreement speaks for itself. The Agreement could have specifically declared that its valuation does not include encumbrances like the Lease, yet it did not. As such, the terms of the Option Agreement are clear and unambiguous.

Defendant argues that permitting Plaintiff to purchase the Property at a valuation subject to the Ground Lease, equating to approximately one-eight of its fair market value will produce an absurd result. However, the absurd result of the greatly reduced sales price is generated by the rental income as defined by lease itself. There is no dispute between the parties over the amount of the annual rental fees. The

contractually bargained for reduced rental payments was the incentive offered by Lakewood to lure Blinds To Go to locate within its industrial park. The absurd result is created by the rental terms of the lease itself; it provides Blinds To Go the benefit of leasing the Property at a severely depressed rate.

The Court is well satisfied that neither party anticipated the explosive growth in real estate value experienced by Lakewood Township over the past twenty-eight years. This radical increase in real estate prices led to absurdly favorable terms for Blinds To Go when the language of the contract is enforced. While the Court recognizes the harsh result suffered by the Defendant when selling its property at a price far below market value, the amount of the annual lease payments are a clear, definite and bargained for condition of the contract. The reduced sale price of the property is a consequence of restricting the owner's receipt of annual rental payments to an amount far below market rate for the next twenty-two years. The fair market value of this property is appropriately impacted by below market annual lease payments agreed upon by the parties.

This Court has determined that the fair market value of the property is $1,300,000. Both experts have concluded that this amount is a fair representation of the value of the property after evaluating the impact of the ground lease executed by the parties. The valuation must properly account for the Ground Lease as an existing encumbrance, in accordance with established law, appraisal practice, and the plain and unambiguous language of the Option Agreement.

Applying the standard for reconsideration pursuant to Rule 4:49-2, Defendant has not demonstrated that the Court's prior ruling rested on a palpably incorrect or irrational basis.

Conclusion

For all the aforementioned reasons, the motion for reconsideration is DENIED and the Plaintiff's motion to enforce the Option Agreement is GRANTED. A contract of sale for the established price shall be executed by the parties within sixty days of this decision. Transfer of fee simple title to the Plaintiff shall occur on or before April 3, 2026.

BLINDS TO GO (U.S.), INC, Plaintiff	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION GENERAL EQUITY
v.	Docket No. OCN-C-131-24
LAKEWOOD DEVELOPMENT CO. and THE INDUSTRIAL COMMISSION OF THE TOWNSHIP OF LAKEWOOD, Defendants	CIVIL ACTION ORDER

IT IS on this 15 day of December 2025 ORDERED as follows:

1. Defendant shall execute the Real Estate Purchase Contract providing the Plaintiff with fee simple title to the property located on the Official Tax Map of the Township of Lakewood at Lots 247.01 and 247.02 in Block 1160 and more commonly referred to as 1800 Cedar Bridge Ave, Lakewood, NJ 08701 (the "Property") for the purchase price of $1,300,000.
2. Contract for the transfer of fee simple property rights shall occur on or before February 17, 2026.
3. Transfer of title to occur on or before April 3, 2026.

____/s_____
HON. CRAIG L. WELLERSON, P.J. Ch.

Opposed _X_
Unopposed __