

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

608

CA 21-01357

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, AND NEMOYER, JJ.

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IN THE MATTER OF BRIGHTON GRASSROOTS, LLC,  
PETITIONER-PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

TOWN OF BRIGHTON PLANNING BOARD, TOWN OF  
BRIGHTON TOWN BOARD, TOWN OF BRIGHTON,  
M&F, LLC, DANIELE SPC, LLC, MUCCA MUCCA LLC,  
MARDANTH ENTERPRISES, INC., DANIELE  
MANAGEMENT, LLC, COLLECTIVELY DOING BUSINESS  
AS DANIELE FAMILY COMPANIES,  
RESPONDENTS-DEFENDANTS-RESPONDENTS,  
ET AL., RESPONDENTS-DEFENDANTS.  
(APPEAL NO. 1.)

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THE ZOGHLIN GROUP, PLLC, ROCHESTER (MINDY L. ZOGHLIN OF COUNSEL), FOR  
PETITIONER-PLAINTIFF-APPELLANT.

WEAVER MANCUSO BRIGHTMAN PLLC, ROCHESTER (JOHN A. MANCUSO OF COUNSEL),  
FOR RESPONDENTS-DEFENDANTS-RESPONDENTS TOWN OF BRIGHTON PLANNING  
BOARD, TOWN OF BRIGHTON TOWN BOARD, AND TOWN OF BRIGHTON.

WOODS OVIATT GILMAN LLP, ROCHESTER (WARREN B. ROSENBAUM OF COUNSEL),  
FOR RESPONDENTS-DEFENDANTS-RESPONDENTS M&F, LLC, DANIELE SPC, LLC,  
MUCCA MUCCA LLC, MARDANTH ENTERPRISES, INC., AND DANIELE MANAGEMENT,  
LLC, COLLECTIVELY DOING BUSINESS AS DANIELE FAMILY COMPANIES.

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Appeal from an order of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered September 8, 2021. The order denied the motion of petitioner-plaintiff for a preliminary injunction.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Petitioners and petitioners-plaintiffs (collectively, petitioners) commenced these related proceedings and hybrid CPLR article 78 proceedings and declaratory judgment actions to challenge the construction of a retail plaza on Monroe Avenue in the Town of Brighton. In these consolidated appeals, petitioners each appeal from orders, all of which were issued pursuant to a single "Global Decision," that collectively denied each of the 10 motions made by petitioners seeking preliminary injunctive relief pertaining to the ongoing construction.

It is well settled that "[p]reliminary injunctive relief is a drastic remedy [that] is not routinely granted" (*Delphi Hospitalist Servs. LLC v Patrick*, 163 AD3d 1441, 1441 [4th Dept 2018] [internal quotation marks omitted]). Upon a motion for a preliminary injunction, the party seeking injunctive relief "must demonstrate by clear and convincing evidence: (1) 'a probability of success on the merits;' (2) 'danger of irreparable injury in the absence of an injunction;' and (3) 'a balance of equities in its favor' " (*Cangemi v Yeager*, 185 AD3d 1397, 1398 [4th Dept 2020]). Here, Supreme Court did not abuse its discretion in denying petitioners' motions. Petitioners failed to establish irreparable injury or that a balance of equities favored them (see *Eastview Mall, LLC v Grace Holmes, Inc.*, 182 AD3d 1057, 1058 [4th Dept 2020]). We have considered petitioners' remaining contentions and conclude that none warrants modification or reversal of the orders.

Entered: September 30, 2022

Ann Dillon Flynn  
Clerk of the Court