

This Appeals Court Ruling Could Have a Big Impact on Sellers Who Break Contract—Or Not

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A recent appeals court ruling on whether a company can void property contracts that were not formally approved by the seller's corporate leaders has left real estate attorneys divided over how far-reaching its impact will be.

The case concerned the sale of 28-34 St. Mark's Place from the closely held corporation St. Marks Assets to investor Elliot Sohayegh. Sohayegh went under contract in 2016 to buy the properties for \$44 million, but St. Marks then wanted to declare the contracts void because they were not formally approved by a shareholder vote.

Adam Swanson, a partner at McCarter & English, said this could cast doubt on several New York property sales from real estate companies with only one asset.

"When a single-asset real estate holding company sells its property without following sec. 909 formalities, nobody can know for sure if it is valid," he said. "Naturally, people with ulterior motives may use this uncertainty as leverage to back out of and/or cancel deals."