

building and the entire party wall and put a definitive end to the party wall easement created under the 1867 agreement (see 357 *E. Seventy-sixth St. Corp. v Knickerbocker Ice Co.*, 263 NY 63 [1933]). Defendant's "use" of the wall to provide privacy and an ornamental backdrop to its garden is not a "necessity," but a "mere convenience or advantage" that was not contemplated by the 1867 agreement and does not require continuation of the easement (*id.* at 66).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: NOVEMBER 30, 2006

Catherine O'Hagan Wolfe

CLERK