

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Hon. EILEEN A. RAKOWER
Justice

PART 15

**THE BOARD OF MANAGERS OF THE GROSVENOR
HOUSE CONDOMINIUM on its own behalf and on
behalf of the individual unit owners,**

Petitioner,

- v -

**NMR REALTY LLC, PHILIP SIMON and
TANYA PUCCINI,**

Respondents.

INDEX NO. **151520/2013**

MOTION DATE _____

MOTION SEQ. NO. _____

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion for/to

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answer — Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

1

2

Petitioner brings this Order to Show Cause pursuant to Section 881 of the New York Real Property Actions and Proceedings Law (“RPAPL”) for a license to enter upon Respondents’ property, which abuts Petitioner’s property, for a period of at least two months, to install protective material on portions of the adjacent property, 20 West 15th Street, New York, NY, including on the terrace appurtenant to apartment #2 therein, in order to comply with obligations pursuant to New York City Local Law 11 of 1998. Local Law 11 of 1998 requires that buildings greater than six stories inspect the facade of the building every five years and to undertake necessary repair work on the facade if the investigation uncovers conditions that mandate such repairs.

NMR Realty, LLC asserts that it did nothing to prevent Petitioners from performing the work they require under Local Law 11. They state, that while they have allowed Petitioner to enter their building to perform work on the adjoining premises, they “have no control over the interior of the apartment that is rented to the Tenants, Philip Simon and Tanya Puccini”, and cannot allow people into Philip

Simon and Tanya Puccini's apartment without their permission.

Philip Simon and Tanya Puccini, tenants of Apartment #2, have allegedly taken various steps to prevent Petitioners from entering their apartment. However, they do not submit opposition to this Order to Show Cause.

RPAPL §881 provides,

When an owner or lessee seeks to make improvements or repairs to real property so situated that such improvements or repairs cannot be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make such improvements or repairs may commence a special proceeding for a license so to enter pursuant to article four of the civil practice law and rules. The petition and affidavits, if any, shall state the facts making such entry necessary and the date or dates on which entry is sought. Such license shall be granted by the court in an appropriate case upon such terms as justice requires. The licensee shall be liable to the adjoining owner or his lessee for actual damages occurring as a result of the entry.

Here, Petitioner has satisfied the above criteria for the granting of a license to enter Respondent's property to make the necessary repairs to Petitioner's eastern facade in order to comply with New York City Local Law 11 of 1998.

Wherefore, it is hereby,

ORDERED that the Petitioner is hereby granted a license pursuant to RPAPL §881 to enter 20 West 15th Street, Apartment #2, including the terrace, necessary for the purpose of complying with Petitioner's obligations under New York City Local Law 11; and it is further,

ORDERED that the granting of such license is subject to the following terms and conditions:

Petitioners shall be entitled to such license for a period of two months,

commencing upon the entry of this decision and order, subject to extension on notice to Respondents, and upon submission to the court of proof regarding the need for such extension.

Petitioners shall be liable to Respondents for any damages, which may occur as a result of granting the within license, and at the end of the lease, Respondents may seek a hearing before a Special Referee pursuant to CPLR §4317 to determine the amount of actual damages incurred by Respondents, if any, as a result of Petitioner's entry upon its property.

Dated: March 19, 2013


HON. EILEEN A. RAKOW, J.C.

Check one: FINAL DISPOSITION X NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE