

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D21726
W/prt

_____AD3d_____

Submitted - December 8, 2008

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-09813

DECISION & ORDER

Board of Managers of Park Regent Condominium, etc.,
respondent, v Park Regent Unit Owners Associates,
a/k/a Park Regent Unit Owners Association, et al.,
defendants, David Doo, appellant.

(Index No. 14404/06)

David Doo, New York, N.Y., appellant pro se.

Schechter & Brucker, P.C., New York, N.Y. (Kenneth H. Amorello of counsel), for
respondent.

In an action, inter alia, for a judgment declaring that a purported annual meeting of the unit owners of a condominium held on June 26, 2006, was invalid and that the individual defendants were not elected to the condominium's board of managers on that date, the defendant David Doo appeals, as limited by his brief, from so much of an order of the Supreme Court, Queens County (Taylor, J.), entered September 10, 2007, as denied the defendants' motion pursuant to Real Property Law § 339-w to inspect the books and records of the condominium.

ORDERED that the order is affirmed insofar as appealed from, with costs.

This action concerns a dispute among unit owners over the control of the board of managers of a condominium. On June 26, 2006, the individual defendants participated in a meeting where they were purportedly elected as members of a new board of managers. The old board of managers commenced this action, inter alia, for a judgment declaring that the purported election was

January 13, 2009

Page 1.

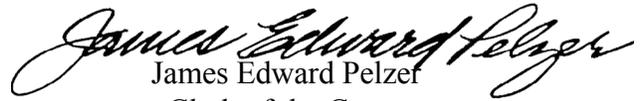
BOARD OF MANAGERS OF PARK REGENT CONDOMINIUM v
PARK REGENT UNIT OWNERS ASSOCIATES, a/k/a
PARK REGENT UNIT OWNERS ASSOCIATION

invalid and that the individual defendants were not elected to the board of managers on that date. The defendants did not make any formal discovery demands. Instead, they moved pursuant to Real Property Law § 339-w to inspect the books and records of the condominium. Inasmuch as the defendants did not assert any counterclaim based on Real Property Law § 339-w, there is no jurisdictional predicate for granting relief pursuant to that statute in this action (*see Seebaugh v Borruso*, 220 AD2d 573). Accordingly, the Supreme Court properly denied the motion.

The appellant's remaining contentions are without merit.

RIVERA, J.P., ANGIOLILLO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court