

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

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Argued - March 12, 2009

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2008-08781

DECISION & ORDER

Nastasi & Associates, Inc., plaintiff, v TAG Court Square, LLC, respondent, Pavarini McGovern, LLC, appellant, et al., defendants.

(Index No. 6483/08)

Peckar & Abramson, P.C., New York, N.Y. (Gregory H. Chertoff of counsel), for appellant.

Holland & Knight LLP, New York, N.Y. (Harry P. Sacks and Henry A.H. Rosenzweig of counsel), for respondent.

In an action to foreclose a mechanic's lien, the defendant Pavarini McGovern, LLC, appeals from an order of the Supreme Court, Queens County (Kitzes, J.), entered September 19, 2008, which granted the motion of the defendant TAG Court Square, LLC, to reduce the amount of the mechanic's lien it filed against the property of TAG Court Square, LLC, from the sum of \$13,145,629.30 to the sum of \$5,601,966.18.

ORDERED that the order is affirmed, with costs.

In this action to foreclose a mechanic's lien filed against certain real property in Long Island City, the property owner, TAG Court Square, LLC (hereinafter TAG), moved to reduce the amount of the mechanic's lien filed by the general contractor, Pavarini McGovern, LLC (hereinafter PMG), submitting evidence that PMG's mechanic's lien included claims of various subcontractors whom TAG paid directly, and who entered into agreements with TAG assigning any rights they may have had against PMG to TAG and agreeing not to pursue any claim against PMG. The Supreme Court granted the motion. We affirm.

April 28, 2009

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While PMG correctly included the claims of its subcontractors in its mechanic's lien, upon the submission of proof that TAG paid the claims of some of the subcontractors and required those subcontractors to release PMG from any liability to them, the court properly granted TAG's motion to reduce PMG's mechanic's lien by the amounts included therein for those subcontractors whom TAG paid (*see Clifford Broman & Son v Town of Babylon*, 222 AD2d 643; *Bevy Contr. v Sinrod*, 188 AD2d 576; *Sehlbert Mech. Corp. v Kessel/Duff Constr. Corp.*, 79 AD2d 680).

MASTRO, J.P., DILLON, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court