

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

PRESENT: Hon. Joan B. Carey, Administrative Judge
Administrative Order

In the Matter of the Application of SAVTA YONA LLC
and 653 ELEVENTH AVE LLC for an Order of Disclosure
by PRUDENTIAL INSURANCE COMPANY OF AMERICA
and PR II HORIZEN NYC LLC Prior to Instituting Suit.

INDEX NO. 103028/2009

Administrative Order:

By letter dated March 18, 2009, counsel for respondents Prudential Insurance Company of America and PR II Horizen NYC LLC applies for a transfer of this special proceeding from I.A.S. Part 5 (Rakower, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Petitioners Savta Yona LLC and 653 Eleventh Ave LLC oppose the application, arguing that this proceeding was properly assigned to Justice Rakower as it is related to a foreclosure action entitled U.S. Bank National Association v 653 Eleventh Ave LLC, Marin in NYC, LLC, Troystar Corp., and John Does #1-12, Index Number 117015/08 (U.S. Bank action), currently before Justice Rakower.

This proceeding was assigned to Justice Rakower, because the Request For Judicial Intervention (RJI) petitioners' counsel filed listed the U.S. Bank action as a related matter. Since the decision as to whether this proceeding is properly related to the U.S. Bank action must be raised, in the first instance, with Justice Rakower (see Section I(B) of the "Summary of Courthouse Procedures"), the parties are referred to Justice Rakower.

There is also an issue as to whether this application is timely. The RJI was filed on March 4th, and the order to show cause specifies personal service of the papers by March 6th. An application to transfer a case into the Commercial Division must be made within 10 days after receipt of the RJI. See Uniform Rule 202.70(e). In his letter dated March 18, 2009, respondents' counsel does not state when he received the RJI, thus the court presumes he was served in accordance with Judge Rakower's order on or before March 6th, rendering this application untimely.

Accordingly, respondents' application to transfer this proceeding to the Commercial Division is denied.

Dated: March 30, 2009

ENTER: 

, A.J.

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION