

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

BROWN HARRIS STEVENS RESIDENTIAL
SALES LLC,

Plaintiff,

- v -

INDEX NO. 101387/2012

LMS 1420 LLC,

Defendant.

Administrative Order:

By letter dated April 12, 2012, counsel for plaintiff timely applies for a transfer of this action to the Commercial Division. Defendant opposes this request.

Plaintiff contends that this action meets the standards for assignment to the Commercial Division, because the complaint asserts a claim for breach of an exclusive sales agreement, granting plaintiff the exclusive right to sell the real property located at 1420 Second Avenue, New York, New York, and seeks \$450,000 in damages.

Uniform Rule 202.70 (b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings, or transactions involving commercial real property not involving the payment of rent, will be heard in the Commercial Division. However, Uniform Rule 202.70 (c) (3) specifically provides that cases involving residential real estate disputes are non-commercial. This action involves a breach of an exclusive sales agreement involving a predominantly residential building. Therefore, this action does not qualify for assignment to the Commercial Division.

For the foregoing reasons, the request to transfer this case to the Commercial Division is denied.

Dated: April 18, 2012

ENTER: _____



Check one: FINAL DISPOSITION NON-FINAL DISPOSITION