

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

M244076
E/afa

JOHN M. LEVENTHAL, J.P.
BETSY BARROS
VALERIE BRATHWAITE NELSON
LINDA CHRISTOPHER, JJ.

2017-08976

DECISION & ORDER ON MOTION

834 Pacific Street Owner, LLC, appellant,
v St. Joseph's Roman Catholic Church
of Brooklyn, respondent.

(Index No. 510123/17)

Motion by the respondent on an appeal from an order of the Supreme Court, Kings County, dated June 1, 2017, on the ground that the record and the appellant's brief contain or refer to matter dehors the record, to vacate the stay granted by a decision and order on motion of this Court dated September 26, 2017, and for an award of costs and an attorney's fee. Cross motion by the appellant to enlarge the record, take judicial notice of certain material, or for leave to serve and file a replacement record and brief, and for an award of costs and an attorney's fee. Application by the respondent pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a brief.

Upon the papers filed in support of the motion and the cross motion, and the papers filed in opposition thereto, and upon the papers filed in support of the application, and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the branch of the cross motion which is for leave to serve and file a replacement record and brief is granted, and on or before February 5, 2018, the appellant shall serve and file a replacement record that does not contain the material on pages R134 through R193 of the original record and a replacement brief that does not refer to the material contained on those pages of the original record; and it is further,

ORDERED that the cross motion is otherwise denied; and it is further,

ORDERED that motion is denied; and it is further,

January 4, 2018

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OF BROOKLYN

ORDERED that the application is granted, the respondent's time to serve and file a brief is enlarged until March 12, 2018, and the respondent's brief shall be served and filed on or before that date.

LEVENTHAL, J.P., BARROS, BRATHWAITE NELSON and CHRISTOPHER, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court