

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

PRESENT: Hon. Doris Ling-Cohan
Ex Parte Judge

DOUGLAS ELLIMAN LLC,

Plaintiff,

- v -

INDEX NO. 112636/2011

21-45 DRIVE LLC, THE INDUSTRY LIC
CONDOMINIUM as successor in interest,

Defendants.

Administrative Order:

By letter dated March 9, 2012, counsel for defendants timely applies for a transfer of this action to the Commercial Division. Opposition has not been received to date.

Defendants contend that this action meets the standards for assignment to the Commercial Division, because their counterclaims arise out of a breach of an Exclusive Sales Agreement, granting plaintiff the exclusive right to sell residential condominium units at 21-45 44th Drive, Long Island City (the Property). Their counterclaims seek approximately \$2.1 million 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 residential real estate. Plaintiff seeks real estate brokerage commissions allegedly owed for the sale of residential condominium units at the Property, and defendants seek reimbursement of advances made to cover the costs of staffing the Sales Office at the Property. 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: March 12, 2012

ENTER: _____


HON. DORIS LING-COHAN

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION