

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

JANE ALEXANDER TAYLOR LLC,

Plaintiff,

- v -

INDEX NO. 650816/2012

N.H. LYONS TRUST through its co-trustees,
JUSTIN HOY and J.P. MORGAN CHASE, NEAL
GRAHAM, CANDACE MANDEL, HUGH GRAHAM,
1987 WESLEY ALEXANDER TRUST through its trustee,
STEPHEN ZECHE, WESLEY ALEXANDER, JR., JOHN
ALEXANDER, LORI RUSSO, and MARIANNE ODELL,

Defendants.

Administrative Order:

By letters dated May 10 and 11, 2010, plaintiff timely applies for a transfer of this action to the Commercial Division. Defendants 1987 Wesley Alexander Trust, through its Trustee, Stephen Zeche, Wesley Alexander Jr., John Alexander, Lori Russo and Marianne Odell oppose the application by letter dated May 11, 2012.

This action seeks the partition, pursuant to Article 9 of the Real Property Actions and Proceedings Law, of five properties that the parties jointly own as tenants in common located on Bowery Street in Manhattan. The properties are mixed-use, containing residential, loft, office, and retail space. Plaintiff allegedly owns a 25% interest, while the remaining defendants hold the remaining 75% in varying percentages. The parties ownership interests in these buildings stem from testamentary trusts created by their ancestor, the late Nathaniel Lyons, who died in 1946.

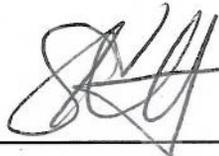
Uniform Rule 202.70(b) (3) provide that actions in which the principal claims arise out of “[t]ransactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only” will be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or the action seeks declaratory or equitable relief. However, pursuant to Uniform Rule 202.70 (c), “[r]esidential real estates disputes, including landlord-tenant matters, and commercial real estate disputes involving the payment of rent only” will not be heard in the Commercial Division. This is not a residential real estate dispute, but a

dispute about the partition of valuable real estate held for investment by the parties, and thus the subject matter of this action qualifies it for assignment to the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case from Part 63 (Coin, J.) at random to a Justice of the Commercial Division.

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Dated: May 15, 2012

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION