

**Greens at Half Hollow Home Owners Assn., Inc. v  
Greens Golf Club, LLC**

2014 NY Slip Op 33689(U)

October 6, 2014

Supreme Court, Suffolk County

Docket Number: 22049-2011

Judge: Emily Pines

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Original

SHORT FORM ORDER

Index No. 22049-2011

SUPREME COURT - STATE OF NEW YORK  
COMMERCIAL DIVISION, PART 46, SUFFOLK COUNTY

PUBLISH

Present:

HON. EMILY PINES  
J. S. C.

Motion Dates: 08-12-2014; 08-19-2014  
Submit Date: 08-19-2014  
Motion No.: 004 MOTD  
005 MOTD

[ ] Final  
[ x ] Non Final

X

GREENS AT HALF HOLLOW HOME OWNERS ASSOCIATION, INC., for  
Itself and on Behalf of the Residents of the Greens at Half Hollow, BOARD  
OF MANAGERS OF THE GREENS AT HALF HOLLOW CONDOMINIUM  
I, BOARD OF MANAGERS OF THE GREENS AT HALF HOLLOW  
CONDOMINIUM II, BOARD OF MANAGERS OF THE GREENS AT  
HALF HOLLOW CONDOMINIUM III, BOARD OF MANAGERS OF THE  
GREENS AT HALF HOLLOW CONDOMINIUM IV, BOARD OF  
MANAGERS OF THE GREENS AT HALF HOLLOW CONDOMINIUM V,  
MARVIN RICHMAN, JOEL WEISENFELD, HOWARD SCHULMAN, and  
SHEILA PARISER,

Plaintiff,

- against -

GREENS GOLD CLUB, LLC., And GREENS AT HALF HOLLOW, LLC,

Defendants.

X

**ORDERED** that the plaintiffs' motion pursuant to CPLR 3124 to compel defendants to  
respond to Plaintiffs' First Demand for Discovery and Inspection (Mot. Seq. 004) is granted to the  
extent set forth herein and is otherwise denied; and it is further

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**ORDERED** that the cross-motion by the defendants for, among other things, a protective order pursuant to CPLR 3103(a) (Mot. Seq. 005), is granted to the extent set forth herein and is otherwise denied.

Familiarity with the factual and procedural background of this action as set forth in this Court's order dated June 5, 2013, is presumed.

As recently stated by the Appellate Division, Second Department in *Levine v City Med. Assocs., P.C.*, 108 AD3d 746, 746-747 [2d Dept 2013]:

“The basic rule of discovery is set forth in CPLR 3101(a), which states, broadly, that ‘[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof’ (CPLR 3101[a]). Although the discovery statutes are to be construed ‘liberally’ so that there should be disclosure of any material that is even arguably relevant (*see Shanahan v Bambino*, 271 AD2d 519, 519 [2000]), ‘unlimited disclosure is not required, and supervision of disclosure is generally left to the Supreme Court’s discretion’ (*Mironer v City of New York*, 79 AD3d 1106, 1108 [2010]; *see Palermo Mason Constr. v Aark Holding Corp.*, 300 AD2d 460, 461 [2002]). The essential test is ‘usefulness and reason’ (*Andon v 302-304 Mott St. Assoc.*, 94 NY2d 740, 746 [2000][internal quotation marks omitted]; *see Allen v Crowell-Collier Publ. Co.*, 21 NY2d 403, 406 [1968]). Tax returns generally are not discoverable ‘in the absence of a strong showing that the information is indispensable to the claim and cannot be obtained from other sources’ (*Latture v Smith*, 304 AD2d 534, 536 [2003]; *see Gitlin v Chirinkin*, 71 AD3d 728, 729 [2010]; *Pugliese v Mondello*, 57 AD3d 637, 639-640 [2008]; *Briton v Knott Hotels Corp.*, 111 AD2d 62, 62 [1985]).

Here, one of the issues remaining for trial is the appropriate additional relief to be awarded

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plaintiffs regarding the future ownership of the combined building and the appropriate manner for the parties to equitably share in the future expenses associated therewith. Additionally, the amount of monetary damages to be awarded plaintiffs, if any, on the fifth and sixth causes of action for defendant Greens Golf Club, LLC's ("GGC") violation of the Code of the Town of Huntington will also be decided at trial. It is undisputed that all causes of action against defendant Greens at Half Hollow LLC ("GHH") were dismissed by prior order of the Court.

Upon a review of the submissions in support of and in opposition to the motion and cross-motion, and construing CPLR 3101(a) liberally, the Court finds that the documents sought in Plaintiffs' First Demand for Discovery and Inspection dated December 16, 2013, are material and necessary in the prosecution of this action as they seek information regarding the operation of the combined building and the expenses associated therewith, as well as information regarding payments to GGC by HOA members for use of the "community building" portions of the combined building. Such information is clearly relevant in determining the future ownership of the building and the appropriate manner for the parties to equitably share the future expenses associated therewith and the amount of money, if any, that should be refunded to HOA members. However, at this time the plaintiffs have not made a strong showing that the information contained within the tax returns of GGC is indispensable to the remaining claims and cannot be obtained from other sources. Accordingly, GGC shall respond to Plaintiffs' First Demand for Discovery and Inspection dated December 16, 2013, except for paragraph 1 thereof which seeks tax returns, within 60 days of the date of this order.

The defendants' alternative request for a stay of discovery pending the determination of

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defendants' appeal from this Court's order dated June 5, 2013, is denied.

Finally, the plaintiffs shall provide a supplemental response to Document Request No. 3 in Defendants' First Notice of Discovery and Inspection dated December 9, 2013, within 90 days after GGC has fully responded to Plaintiffs' First Demand for Discovery and Inspection dated December 16, 2013.

This constitutes the *DECISION* and *ORDER* of the Court.

Dated: October 6, 2014

Riverhead, New York

  
EMILY PINES

J. S. C.

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