

Town New Dev. Sales & Mktg. LLC v Price
2015 NY Slip Op 31456(U)
August 3, 2015
Supreme Court, New York County
Docket Number: 653281/2013
Judge: Eileen Bransten
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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY
PRESENT: Hon. Eileen Bransten, Justice** **PART 3**

-----X
**TOWN NEW DEVELOPMENT SALES &
MARKETING LLC and TOWN FLATIRON LLC,**

Plaintiffs,

**Index No. 653281/2013
Motion Seq. No.: 005
Motion Date: 7/31/2015**

- against -

CHARLES REID PRICE,

Defendant.

-----X

The following papers, numbered 1 to 3, were read on this motion for summary judgment.

Notice of Motion/Order to Show Cause - Affidavits - Exhibits No(s) 1

Answering Affidavits - Exhibits No(s) 2

Replying Affidavits No(s) 3

Cross-Motion: Yes No

Upon the foregoing papers, it is

ORDERED that Plaintiffs Town New Development Sales & Marketing LLC and Town Flatiron LLC's motion for summary judgment is granted for the reasons stated on the July 13, 2015 record (Nina Koss, CSR) and the Clerk is directed to enter judgment in favor of Plaintiffs and against Defendant Charles Reid Price in the amount of \$460,000, together with interest as set forth below on the following Notes from the following dates through the date of decision on this motion, and thereafter at the statutory rate, as calculated by the Clerk, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs:

1. Note dated March 3, 2011 in the principal amount of \$20,000, with interest at 2% per annum until March 3, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

2. Note dated April 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum until April 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

3. Note dated May 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum until May 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

4. Note dated June 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on June 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

5. Note dated July 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on July 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

6. Note dated August 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on August 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

7. Note dated September 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on September 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

8. Note dated October 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on October 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

9. Note dated November 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on November 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

10. Note dated December 1, 2011 in the principal amount of \$20,000, with interest at 2% per annum, payable on December 1, 2012, and thereafter until the date of decision on this motion, with interest at 12% per annum;

11. Note dated January 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

12. Note dated February 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

13. Note dated April 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

14. Note dated July 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

15. Note dated August 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

16. Note dated September 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

17. Note dated October 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

18. Note dated November 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

19. Note dated December 1, 2012 in the principal amount of \$20,000, with interest at 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

20. Note dated January 1, 2013 in the principal amount of \$20,000, with interest at the rate of 2% per annum, payable on January 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum;

21. Note dated February 1, 2013 in the principal amount of \$20,000, with interest at the rate of 2% per annum, with principal and interest payable on February 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum; and,

22. Note dated March 1, 2013 in the principal amount of \$20,000, with interest at the rate of 2% per annum, with principal and interest payable on March 1, 2013, and thereafter until the date of decision on this motion, with interest at 12% per annum

and it is further

ORDERED that Plaintiff's motion for attorney's fees is granted as to liability for the reasons stated by the Court on the July 13, 2015 record; and it is further

ORDERED that Defendant's cross-motion to amend the answer is denied for the reasons stated by the Court on the July 13, 2015 record; and it is further

ORDERED that the issue of the amount of attorney's fees is hereby severed and continued against Defendant; and it is further

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to determine the amount of attorney's fees due to Plaintiffs; and it is further

ORDERED that the powers of the JHO/Special Referee to determine shall not be limited further than as set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119 M, 646-386-3028 or spref@courts.state.ny.us) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this Court at www.nycourts.gov/suptctmanh at the "Local Rules" link), shall assign this matter to an available Special Referee to determine as specified above; and it is further

ORDERED that plaintiffs' counsel shall serve a copy of this order with notice of entry on defendant and that counsel for plaintiffs shall, after thirty days from service of those papers, submit to the Special Referee Clerk by fax (212-401-9186) or email an Information Sheet (which can be accessed at

<http://www.nycourts.gov/courts/1jd/supctmanh/refpart-infosheet-10-09.pdf>

containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the hearing will be conducted in the same manner as a trial before a Justice without a jury (CPLR 4318) (the proceeding will be recorded by a court reporter, the rules of evidence apply, etc.) and that the parties shall appear for the reference hearing, including with all such witnesses and evidence as they may seek to present, and shall be ready to proceed, on the date first fixed by the Special Referee Clerk subject only to any adjournment that may be authorized by the Special Referee's Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue specified above shall proceed from day to day until completion.

Dated: August 3, 2015


Hon. Eileen Bransten

- 1. CHECK ONE:X CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: Motion Is: X GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
 DO NOT POST FIDUCIARY APPOINTMENT REFERENCE