

County of Rockland v New City Spa, Inc.

2016 NY Slip Op 31608(U)

August 1, 2016

Supreme Court, Rockland County

Docket Number: 031656/2014

Judge: Gerald E. Loehr

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various state and local government websites. These include the New York State Unified Court System's E-Courts Service, and the Bronx County Clerk's office.

This opinion is uncorrected and not selected for official publication.

[*1]

To commence the statutory time period of appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order with notice of entry, upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

-----X
COUNTY OF ROCKLAND,

Plaintiff,

DECISION AND ORDER

Index No.: 031656/2014

-against-

NEW CITY SPA, INC., 55-71 SOUTH MAIN STREET,
NEW CITY, NEW YORK (Tax ID No.: Sec 43.19 Lot 1
Block 5), HIGHVIEW INVESTMENT CO.,
SAMUEL SCHWIMMER and EVA SCHWIMMER,

Defendants.

-----X

LOEHR, J.

The Court having conducted a non-jury trial in this matter on February 5, 8 and 9, 2016, now makes the following findings of fact and conclusions of law.

Highview Investments Co. ("Highview") owns the property locate at 51-71 South Main Street, New City, New York (the "Premises"). Samuel and Eva Schwimmer are the principals of Highview. From April 1, 2011 through the date of trial, 21 Smile Corp. (sued herein as New City Spa, Inc.), occupied a portion of the Premises known as 59 S. Main Street. The business conducted there was that of an unlicensed massage parlor and/or house of prostitution. Over this period, there were several arrests for prostitution, some of which resulted in convictions therefor, others which pleaded to lesser offenses. On April 8, 2014, the County commenced this action seeking, inter alia, to enjoin the operation of this nuisance and for civil penalties pursuant to Rockland County Code § 309. With respect to Defendant 21 Smile Corp., the evidence showed that the business which operated there was that of an unlicensed massage parlor, house of

prostitution or both. The defense, based on the testimony of its principal, Soon Ho Bea, was that the women who worked there were independent contractors and that if they engaged in acts of prostitution, it was without the knowledge of 21 Smile Corp. The Court finds this testimony to be devoid of credibility. After trial, the action was settled against Highview and the Schwimmers. As part of that settlement, it was noted that 21 Smile Corp.'s lease had expired and that Highview agreed not to renew the lease and to evict 21 Smile Corp. Whether that has since happened does not appear. Assuming 21 Smile Corp. is still in possession of 59 S. Main, it is enjoined from operating an unlicensed massage parlor/house of prostitution and 21 Smile Corp. is hereby fined \$1,000 a day from April 8, 2014 through the date hereof pursuant to Rockland County Code § 309-5(H)..

This constitutes the decision and order of the Court.

Dated: New City, New York
August 1, 2016



HON. GERALD E. LOEHR
J.S.C.

THOMAS E. HUMBACH
Rockland County Attorney
11 New Hempstead Road
New City, NY 10956

CONDON & ASSOCIATES, PLLC
Attorneys for Defendant 21 Smile Corp. (i/s/a New City Spa, Inc.)
55 Old Turnpike Road, Suite 502
Nanuet, NY 10954

[*3]