

Matter of Trinity NYC Hotel, LLC v 11 Rector St., LLC
2018 NY Slip Op 33630(U)
October 25, 2018
Supreme Court, New York County
Docket Number: 158071/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES

PART

IAS MOTION 59EFM

Justice

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INDEX NO. 158071/2018

In Matter of the Application of

MOTION DATE 10/18/2018

TRINITY NYC HOTEL, LLC,

MOTION SEQ. NO. 001

Petitioner,

For an Order and Judgment pursuant to RPAPL § 881,
Granting Petitioner a License to enter the adjoining
Property of

- v -

DECISION AND ORDER

11 RECTOR STREET, LLC,

Respondent.

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DECISION

The petition for a license pursuant to RPAPL § 881 shall be granted. See Van Dorn Holdings, LLC v 152 W. 58th Owners Corp., 149 AD3d 518 (1st Dept. 2017); and Moskowitz v Pavarini McGovern, LLC, 83 AD3d 438 (1st Dept 2011).

ORDER

Upon the foregoing documents, it is

ORDERED that petitioner (Property) is hereby granted a license, pursuant to RPAPL 881, to enter upon a portion of respondent's land (Adjacent Property), specifically the area of Adjacent Property immediately adjacent to the Property, for the installation of Roof Protection, Mechanical Equipment Roof Protection, and Netting (the Required Protective Measures), as

set forth in the Verified Petition and supporting affidavits, for the limited purpose of protecting the Adjacent Property's roof from falling debris and damage arising from construction activity to take place at the Property for a period of approximately twenty-two months following the installation of the Required Protective Measures; and it is further

ORDERED that the installation of the Required Protective Measures will be carried out pursuant to the customary and standard practices used in the building construction industry as certified by an architect licensed in the State of New York and retained by petitioner; and it is further

ORDERED that the granting of the foregoing license is subject to the following terms and conditions: (1) petitioner shall be entitled to such license for a period of twenty-two (22) months, commencing upon the entry of this order and judgment or as soon as the weather permits as certified by the licensed architect, (2) petitioner is directed to pay the sum of \$4000 per month to respondent during the term of the license, (3) petitioner shall take the necessary steps, measures, and precautions to prevent and avoid any damage to the Adjacent Property, (4) upon the completion of the term of the license, respondent's land within such license area shall be returned to its original condition, and all materials used in construction and any resultant debris shall be removed from the license area,

(5) petitioner shall save respondent harmless for any damages occurring within the license area, during the period of this license, and a policy of liability insurance in an amount of not less than \$2 million which names respondent as additional insured shall be maintained by petitioner during the period of this license, (6) petitioner shall be held liable to respondent for any damages which it may suffer as a result of the granting of this license and all damaged property shall be repaired at the sole expense of petitioner; (7) a hearing shall be held before this court at the expiration of the term of the license to determine any reasonable professional fees, including attorney's fees incurred by respondent as the result of petitioner's entry upon respondent's land pursuant to such license, which shall be referred to a Special Referee to hear and report, and which upon confirmation of such report by the court, shall be paid by petitioner.

<u>10/25/2018</u> DATE		 DEBRA A. JAMES, J.S.C.	
CHECK ONE:	☒ CASE DISPOSED	☐ NON-FINAL DISPOSITION	
	☒ GRANTED ☐ DENIED	☐ GRANTED IN PART	☐ OTHER
APPLICATION:	☐ SETTLE ORDER	☐ SUBMIT ORDER	
CHECK IF APPROPRIATE:	☐ INCLUDES TRANSFER/REASSIGN	☐ FIDUCIARY APPOINTMENT	☐ REFERENCE