

|                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Seaport Mgt. Dev. Co., LLC v Shop Architects, P.C.</b>                                                                                                                                                                      |
| 2020 NY Slip Op 32528(U)                                                                                                                                                                                                       |
| July 30, 2020                                                                                                                                                                                                                  |
| Supreme Court, New York County                                                                                                                                                                                                 |
| Docket Number: 657263/2019                                                                                                                                                                                                     |
| Judge: Andrea Masley                                                                                                                                                                                                           |
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SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTYPRESENT: HON. ANDREA MASLEY

PART

IAS MOTION 48EFM

*Justice*

-----X

INDEX NO.

657263/2019SEAPORT MANAGEMENT DEVELOPMENT COMPANY,  
LLC,

MOTION DATE

Plaintiff,

MOTION SEQ. NO.

003

- v -

SHOP ARCHITECTS, P.C., COLONIAL ELECTRICAL  
SUPPLY COMPANY, INC., HUNTER ROBERTS  
CONSTRUCTION GROUP, LLC, AND SCHNEIDER  
ELECTRIC SYSTEMS USA, INC.,DECISION + ORDER ON  
MOTION

Defendants.

-----X

MASLEY, J.:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 102,  
103, 104, and 105

were read on this motion to/for

SEAL

In motion sequence number 014, plaintiff Seaport Management Development Company, LLC (Seaport) moves to seal 3 agreements: (1) the Architecture Services Agreement entered into by Seaport and defendant SHoP Architects, P.C., (2) the Construction Management Agreement entered into by Seaport and defendant Hunter Roberts Construction Group, LLC, and (3) the Purchase Order between Seaport and defendant Colonial Electrical Supply Company, Inc. (See NYSCEF Doc. No [NYSCEF] 54, 55 and 56.) Seaport also moves to seal paragraph 5 of Colonial's counterclaim filed on NYSCEF Doc. No 71.

Seaport argues that these court records at issue contain sensitive financial information such as pricing and payment structures. Disclosure of this information to

Seaport's competitors and potential contracting parties could allegedly threaten Seaport's business opportunities.

The motion is unopposed. While the press did attend the initial argument on the TRO and preliminary injunction in this case, the court received only one request to attend the argument on this motion, if any. There was no argument in the absence of opposition. There was otherwise no press or public interest in this motion.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

"(a) [e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.

(b) For purposes of this rule, 'court records' shall include all documents and records of any nature filed with the clerk in connection with the action. Documents obtained through disclosure and not filed with the clerk shall remain subject to protective orders as set forth in CPLR 3103 (a)."

Judiciary Law § 4 provides that judicial proceedings shall be public. "The public needs to know that all who seek the court's protection will be treated evenhandedly," and "[t]here is an important societal interest in conducting any court proceeding in an open forum" (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U],\*2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute (*see Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000].)

The "party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access" to the documents

(*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].)

Good cause must “rest on a sound basis or legitimate need to take judicial action”

(*Danco Labs.*, 274 AD2d at 9.)

In the business context, courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, the First Department has affirmed the sealing of records concerning financial information where there has not been a showing of relevant public interest in disclosure of the financing. (see *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) For instance, in *Dawson v White & Case*, the First Department stated that the plaintiff-appellant failed to show “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest of defendant’s partners and clients in keeping their financial arrangement private.” (*Id.* [internal quotation marks and citation omitted].)

Seaport has demonstrated that good cause exists to redact the financial information including pricing and payment structures from NYSCEF Doc. Nos 54, 55, 56 and 71 because disclosure would harm a competitive advantage. (*Mosallem*, 76 AD3d at 350-351.) Moreover, there has been no showing of relevant public interest in disclosure to counter-balance Seaport’s interest in keeping its financial arrangement private. (*Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].)

Accordingly, it is

ORDERED that the motion is granted to the extent that the parties shall redact all references to pricing, payment structures, and other financial terms as directed by this decision from NYSCEF 54, 55, 56 and 71; and it is further

ORDERED that the County Clerk, upon service to him of this order, shall seal  
NYSCEF Doc. Nos. 54, 55, 56 and 71; and it is further

ORDERED that within 10 days of this order being filed on NYSCEF, the parties  
shall file redacted versions of NYSCEF Doc. Nos. 54, 55, 56 and 71; and it is further

ORDERED that until further order of the court, the County Clerk shall deny  
access to the unredacted documents to anyone (other than the staff of the County Clerk  
or the court) except for counsel of record for any party to this case, a party, and any  
representative of counsel of record for a party upon presentation to the County Clerk of  
written authorization from the counsel; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of  
trial.

7/30/2020

DATE

CHECK ONE:

☐

CASE DISPOSED

X

GRANTED

☐

DENIED

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

APPLICATION:

☐

SETTLE ORDER

☐

SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE