

<b>256 E. 10th St. NY LLC v Rich</b>
2020 NY Slip Op 33982(U)
December 4, 2020
Supreme Court, New York County
Docket Number: 157016/2020
Judge: David Benjamin Cohen
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. DAVID BENJAMIN COHEN PART IAS MOTION 58EFM**

*Justice*

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256 EAST 10TH STREET NY LLC  
Plaintiff,

- v -

GARVEY RICH,  
Defendant.

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INDEX NO. 157016/2020  
MOTION DATE N/A  
MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents:

Plaintiff 256 EAST 10<sup>TH</sup> STREET NY LLC (“Plaintiff”) having moved this Court by order to show cause for an order granting a preliminary injunction against defendant GARVEY RICH (“Defendant”) directing Defendant:

- a) to provide unfettered access to the Plaintiff, its agents, employees and contractors to Defendant’s apartment 6C, 256 East 10<sup>th</sup> Street, New York, New York 10009 (the “Apartment”) for the purpose of repairing and correcting violations placed against the subject apartment by the New York City Department of Housing Preservation and Development (“HPD”); and
- b) to not interfere with the repair and correction of the HPD violations by Plaintiff, its agents, employees and contractors in the Apartment;

and the matter having come on to be heard on November 30, 2020, and Defendant having appeared in opposition thereto;

The Court having read and filed the amended order to show cause, signed October 23, 2020, the affidavit of Mitchell Rothken, sworn to on the 1<sup>st</sup> day of September 2020 in support of Plaintiff’s motion, and the affirmation of Dean Dreiblat, dated September 1, 2020, in support of

Plaintiff’s motion, together with the exhibits annexed thereto; and Defendant not having submitted papers in opposition to Plaintiff’s motion and the Court having heard oral argument of Plaintiff’s motion on November 30, 2020; and

Due deliberation having been had herein, and the Court having rendered its decision, and the Court having directed Plaintiff to submit a proposed order;

NOW, it is hereby,

ORDERED, that Defendant shall provide unfettered access to the Apartment to Plaintiff, its agents, employees and contractors on December 7, 2020, December 8, 2020, December 9, 2020, December 10, 2020, and December 11, 2020, between the hours of 8:00 a.m. through 12:00 p.m. (the “Access Dates”) on each day to repair and correct the following HPD violations (the “HPD Violations”):

<u>Severity</u>	<u>Condition</u>	<u>Date issued</u>
B	repair or replace the carbon monoxide detecting device(s).	2020/10/21
B	repair or replace the smoke detector	2020/10/21
C	abate the infestation consisting of mice in the entire apartment	2020/10/21
C	install the missing or repair/replace the defective window guard(s)	2020/10/21
C	install the missing or repair/replace the defective window guard(s)	2020/09/21
B	repair or replace the smoke detector	2020/09/21
B	repair or replace the carbon monoxide detecting device(s).	2020/09/21
C	abate the infestation consisting of mice in the entire apartment	2020/09/21
C	abate the infestation consisting of roaches in the entire apartment	2020/09/21
A	paint metal in accordance with dept. regulation at 1st riser from west at north wall, 1st radiator	2020/09/21

- from west at north wall in the 1st room from north at east
- B properly repair with similar material the broken or defective wood floor in the 3rd room from north 2020/09/21
- B provide a safe and adequate supply of electric service to the fixtures at the ceiling in the 2nd room from north 2020/08/14
- B provide a safe and adequate supply of electric service to the fixtures at the ceiling in the 1st room from north 2020/08/14
- B provide a safe and adequate supply of electric service to the fixtures at the ceiling in the kitchen 2020/08/14
- C abate the infestation consisting of mice 2020/08/14
- B repair or replace the carbon monoxide detecting device(s). 2020/08/12
- B repair or replace the smoke detector 2020/08/12
- B provide a safe and adequate supply of electric service to the fixtures at wall fixture and ceiling in the bathroom 2020/08/06
- B provide a safe and adequate supply of electric service to the fixtures all wall outlets and ceiling fixtures in the 2nd room from north 2020/08/06
- B provide a safe and adequate supply of electric service to the fixtures all wall outlets and ceiling fixtures in the 2nd room from north 2020/08/06

ORDERED, that Defendant shall provide unfettered access to the Apartment to Plaintiff, its agents, employees and contractors on the Access Dates for the inspection of the following HPD lead paint violations and HPD violations relating to peeling paint on walls (the “Lead Related Violations”):

	<u>Severity</u>	<u>Condition</u>	<u>Date issued</u>
A	paint with light colored paint to the satisfaction of this department	all peeling paint surfaces in the 1st room from north at east, the bathroom	2020/10/21

- C correct the lead-based paint hazard - paint that tested positive for lead content and that is peeling or on a deteriorated subsurface - 1st window frame from east at south wall in the kitchen 2020/10/21
- A paint with light colored paint to the satisfaction of this department all peeling paint surfaces in the kitchen 2020/09/21
- A paint with light colored paint to the satisfaction of this department at picture moulding at north wall in the 1st room from north at east 2020/09/21
- B repair the broken or defective plastered surfaces and paint in a uniform color at west wall in the 1st room from north at east 2020/09/21
- C correct the lead-based paint hazard - paint that tested positive for lead content and that is peeling or on a deteriorated subsurface north wall in the 1st room from north at east. 2020/09/21

And it is further

ORDERED that the plaintiff shall repair the following addition conditions raised by the defendant:

Mold or moldlike condition in the bathtub and kitchen sink areas;

Broken or defective tiles in the kitchen floor;

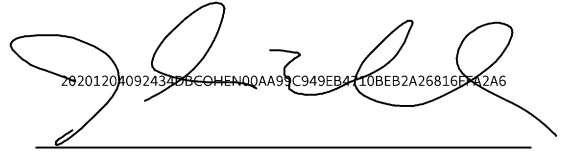
Broken and loose toilet in the bathroom; and

Clean dirty and replace broken window screens

And it is further

ORDERED, Defendant shall not interfere with the repair and correction of the HPD Violations and the inspection of the Lead Related Violations by Plaintiff, its agents, employees and contractors in the Apartment; and, it is further,

ORDERED, this Order is without prejudice to Plaintiff seeking further leave of Court for an order directing Defendant to provide access to Plaintiff, its agents, employees and contractors to safely repair and/or cure the Lead Related Violations.



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DAVID BENJAMIN COHEN, J.S.C.

12/4/2020

DATE

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