

**Arch 11 Greene St MM LLC v TDRT 11 Greene St.  
LLC**

2023 NY Slip Op 30601(U)

February 27, 2023

Supreme Court, New York County

Docket Number: Index No. 654016/2022

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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ARCH 11 GREENE ST MM LLC, ARCH PROPERTY MANAGEMENT LLC, 11 GREENE ST CM LLC, and ARCH BUILDERS LLC,	INDEX NO. <u>654016/2022</u>
Plaintiffs,	MOTION DATE <u>N/A</u>
- v -	MOTION SEQ. NO. <u>003</u>
TDRT 11 GREENE STREET LLC, PEROT 11 GREENE INVESTOR, LLC, and JOHN DOES 1 TO 50,	<b>DECISION + ORDER ON MOTION</b>
Defendants.	
-----X	

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 52, 53, 54, 55, 56, 57, 97, 128

were read on this motion to/for

SEAL

Upon the foregoing documents, it is

In motion sequence number 003, defendants TDRT 11 Greene Street LLC (TDRT), Perot 11 Greene Investor, LLC (Perot), and 11 Greene Street LLC (11 Greene Street) (together Counterclaim-Plaintiffs) move by order to show cause, to file redacted copies of NYSCEF Doc. Nos. (NYSCEF) 19 and 51.<sup>1</sup> The motion is unopposed. There is no indication that the press or public have an interest in this matter.

NYSCEF 19 and 51 are copies of a ground lease between the Estate of Sol Goldman d/b/a Empire Estates Realty Co. (Landlord) and Judo Associates, Inc. (the Lease.) The document contains a certificate dated March 9, 2018 and a third amendment to the Lease (Third Amendment). Counterclaim-Plaintiffs seek to redact

<sup>1</sup> These are both copies of the same document. A publicly redacted copy is filed at NYSCEF 55.

certain amounts in the certificate, including security deposits, miscellaneous costs owed under the Lease, Landlord's legal costs, and the consideration for the certificate.

Counterclaim-Plaintiffs also seek to redact amounts in the Third Amendment, specifically, the consideration for extending the deadline to complete construction of a building, and Landlord's legal costs for the Third Amendment.

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) Except 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 of the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.”

“Under New York law, there is a broad presumption that the public is entitled to access to judicial proceedings and court records.” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010] [citations omitted].) The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business's competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that

information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D'Amour v Ohrenstein & Brown*, 17 Misc.3d 1130[A], 2007 NY Slip Op 52207[U], \*20 [Sup Ct, NY County 2007] [citations omitted].)

Counterclaim-Plaintiffs have demonstrated good cause to redact NYSCEF 19 and 51. As set forth in the affirmation of Jonathan M. Sperling, Esq. (NYSCEF 54, Sperling aff ¶ 6) and Counterclaim-Plaintiffs’ memorandum of law (NYSCEF 53 at 6-7), the pricing information in the Lease and certificate, if revealed, could put 11 Greene Street and/or the nonparty Landlord at a competitive disadvantage. (*Mosallem*, 76 AD3d at 350 [citations omitted].) Counterclaim-Plaintiffs further argue that “price is one of the primary vectors of competition in the real estate industry” and therefore, “public disclosure of these specific figures would put [11 Greene Street] and/or the landowner at a disadvantage relative to its competitors in the market.” (NYSCEF 53 at 7.) Moreover, there has been no showing of legitimate public concern in the terms of these business dealings (see *Dawson*, 184 AD2d at 247 [1st Dept 1992]), and the requested redactions are narrowly tailored to protect the business terms and payment information. (See *Danco Lab, Ltd.*, 274 AD2d at 6.)

Accordingly, it is

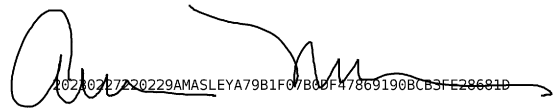
ORDERED that motion sequence number 003 is granted; and it is further

ORDERED, that the New York County Clerk, upon service to him of this order, shall permanently seal NYSCEF 19 and 51; and it is further

ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial; and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed sealing order to the court (via [SFC-Part48@nycourts.gov](mailto:SFC-Part48@nycourts.gov) and NYSCEF) instead of filing another seal motion.



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2/27/2023  
DATE

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ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: