

L&E Brokerage, Inc. v 8th Convenience Corp.

2024 NY Slip Op 32712(U)

August 1, 2024

Supreme Court, New York County

Docket Number: Index No. 653194/2024

Judge: Melissa A. Crane

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. MELISSA A. CRANE **PART** **60M**

Justice

-----X

L&E BROKERAGE, INC.,

Plaintiff,

- v -

8TH CONVENIENCE CORP., ABRAHIM Y. KASSIM

Defendant.

-----X

INDEX NO. 653194/2024

MOTION DATE 06/26/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31

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

In Motion Sequence No. 001, Plaintiff L&E Brokerage, Inc. (“L&E”) moves, by Order to Show Cause, for a preliminary injunction enjoining and restraining Defendants 8th Convenience Corp. d/b/a Cannabis Culture (“Cannabis Culture”) and its principal Abraham Y. Kassim (“Kassim”) (collectively, the “Defendants”), from: (a) performing illegal construction; (b) renting, using, or occupying the space subdivided from the Premises by a demising wall; and (c) from utilizing the Premises as an unlicensed cannabis dispensary and/or from selling, dispensing, or storing cannabis or hashish unless it receives a license from the state. Additionally, L&E also seeks access to determine the nature and extent of the unauthorized structural, electrical and plumbing made by Defendants. The motion is unopposed.

Discussion

In order to obtain a preliminary injunction, a petitioner must demonstrate (1) a probability of success on the merits, (2) danger of irreparable injury in the absence of an injunction, and (3) a balance of equities in plaintiffs' favor (e.g. *Nobu Next Door, LLC v Fine Arts House., Inc.*, 4 NY3d 839, 840 [2005]; *Doe v Axelrod*, 73 NY2d 748, 750 [1988]). Petitioners bear the burden of

establishing their right to a preliminary injunction by demonstrating their likelihood of ultimate success on the merits (*Scotto v Mei*, 219 AD2d 181, 182 [1st Dept 1996]).

The court grants L&E's unopposed motion to the extent set forth in this decision and order.

First, L&E has established that it is likely to succeed on the merits. In support of its argument, L&E has submitted various affidavits from its members (Doc 6 [Slinin Aff]; Doc 7 [Emilaire Aff]) which detail how the premises is stocked with cannabis products, how there are signs outside the premises advertising the sale of cannabis, and how the words "Cannabis Culture" are spelled out in three-foot-high letters on the outside of the relevant building (Docs 14-15 [Pictures Outside of Premises]).

Additionally, L&E has also submitted pictures of within the premises, specifically the shelves within the store, that are lined with products clearly marked as cannabis with high levels of THC and/or hashish (Doc 17 [Pictures Within the Premises]). L&E has also submitted evidence of the various alterations performed that are specifically prohibited by the lease and ultimately prove that the premises has been altered illegally and without either permits or permission from L&E (Doc 20-25 [Pictures of Various Alterations]). Thus, L&E has adequately demonstrated that it will succeed on the merits.

L&E has also established that it will be irreparably harmed if a preliminary injunction is not granted. Specifically, L&E has demonstrated that Defendants' use of the building, in violation of the law and lease, risks the public's safety and places L&E in an untenable position of liability should something go wrong. The illegal work, that was not done in accordance with the relevant lease, includes wiring and other structural alterations and plumbing work that could cause a fire given that sprinklers have now been blocked by the new demising wall splitting the premises in half (Docs 20-22, 24-25 [Various Alterations]). This poses a risk of irreparable harm to the

property, all occupants that reside within it, and to L&E, as the owner, as well. As such, L&E has adequately demonstrated that it could be irreparably harmed.

Finally, L&E has established that the balance of equities is in its favor. L&E is attempting to prevent illegal sales and illegal construction from taking place, which would otherwise endanger the public, violate various laws, and violate the underlying lease. On the other hand, Defendants would not suffer any harm if they were required to adhere to the lease and use the premises in accordance with the law.

However, L&E has not established, on this record, that it is entitled to an order enjoining defendants to “restore the Premises to its original state” (OSC at 2). That part of the motion is denied.

Accordingly, it is

ORDERED that plaintiff L&E’s unopposed motion for a preliminary injunction is granted in part and denied in part; and it is further

ORDERED that Defendants, their principals, shareholders, officers, directors, members, attorneys, agents, servants, representatives, employees and any and all other persons and entities acting on behalf of or in concert with Defendants are enjoined and restrained from making any future alterations to the ground floor and basement (the “Premises”) at the building known as 163 Eighth Avenue, New York, NY (the “Building”), including, but not limited to performing any construction work, alterations, renovations and/or demolition at the Building, including, without limitation, carpentry, masonry work, drywall installation, framing, studding, electrical repairs, upgrades and renovations and/or plumbing repairs, upgrades and renovations (collectively the “Construction Work”); and it is further

ORDERED that Defendants and Related Parties are enjoined and restrained from making any alterations to the Premises, including but not limited to, performing any Construction Work, subdivision, or other alterations of any type; and it is further


ORDERED that Defendants must provide access to the entirety of the Premises for the purposes of inspection by plaintiff L&E and its employees, plumbers, electricians, architects, engineers, and/or other professionals in order to assess the extent of Defendants' Construction Work, additions, and/or alterations; and it is further

ORDERED that Defendants and Related Parties are enjoined and restrained from utilizing any portion of the subdivided space including without limitation any sinks, plumbing electrical fixtures gas fixtures and/or the newly created door in the storefront to the extent that the premises is not in compliance with the Lease, Department of Buildings regulations, and other governmental laws, rules, ordinances and regulations; and it is further

ORDERED that Defendants or any of their officers, agents, and/or employees are enjoined and restrained from illegally storing, purchasing, selling, or distributing any cannabis, hashish, or other tetrahydrocannabinol ("THC") products from the Premises; and it is further

ORDERED that the parties must appear for a preliminary conference on 8/14/24 at 2:30 p.m. over Microsoft Teams; and it is further

ORDERED that there shall be no further motion practice without a pre-motion conference.

<u>8/1/2024</u> DATE	 MELISSA A. CRANE, J.S.C.			
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED	<input type="checkbox"/> SETTLE ORDER	<input checked="" type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE	