

**Board of Mgrs. of the 48-54 W. 138th St.
Condominium v Burdock**

2025 NY Slip Op 33260(U)

September 2, 2025

Supreme Court, New York County

Docket Number: Index No. 159751/2024

Judge: Mary V. Rosado

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. MARY V. ROSADO PART 33M

Justice

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BOARD OF MANAGERS OF THE 48-54 WEST 138TH STREET CONDOMINIUM,

Plaintiff,

- v -

FLORA BURDOCK, JOHN DOE, JANE DOE,

Defendant.

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INDEX NO. 159751/2024

MOTION DATE 03/20/2025,
06/17/2025

MOTION SEQ. NO. 001 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 14, 15, 16, 17, 18, 19, 20, 21, 22, 28

were read on this motion to/for JUDGMENT - SUMMARY.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 23, 24, 25, 26, 27, 29

were read on this motion to/for TRANSFER.

Upon the foregoing documents, Motion Sequence 001 where Plaintiff Board of Managers of the 48-54 West 138th Street Condominium (“Plaintiff”) seeks summary judgment against Flora Burdock (“Burdock”), who is self-represented, and dismissal of Burdock’s affirmative defenses, and Motion Sequence 002 where Plaintiff seeks the transfer of this action to Justice Arlene P. Bluth, who presided over a related action captioned *Board of Managers of the 48-54 West 138th Street Condominium v Flora Burdock et al*, Index No. 157791/2022 (the “Prior Action”), are consolidated for disposition and denied as follows.¹

Plaintiff’s motion requesting this action be transferred to Justice Bluth is denied.² Plaintiff’s request for a permanent injunction or for an order compelling access to Burdock’s

¹ Motion Sequence 001 was marked fully submitted on May 27, 2025 and Motion Sequence 002 was marked fully submitted on June 26, 2025.

² This Court spoke telephonically with Justice Bluth about the transfer application, but Justice Bluth orally denied Plaintiff’s request.

apartment is unopposed. Burdock allegedly owns and resides in Unit 1K (“Unit”) in the condominium building located at 48-54 West 138th Street. Plaintiff alleges that Defendant is a hoarder and there are foul smells and insects coming from her Unit.

The Court denies, without prejudice, Plaintiff’s motion for summary judgment. Plaintiff seeks summary judgment on its first cause of action alleging breach of contract, its second and third causes of action seeking a permanent injunction against Burdock, and its fourth cause of action for attorneys’ fees.

The Court finds that Plaintiff has not met its high evidentiary burden to show entitlement to summary judgment on its second and third causes of action seeking permanent injunctions enjoining Burdock from creating a nuisance through her alleged hoarding. All that is submitted on this application are a few photographs which show packages outside Plaintiff’s Unit, and an affirmation from Michael Lago, Plaintiff’s building manager. But that affirmation only attests to conditions of the apartment observed by Mr. Lago in June and September of 2024 despite this application being filed and briefed throughout March and May of 2025. This is insufficient to meet the movant’s high burden for a permanent injunction mandating certain actions be taken. This is especially the case where, as here, there may exist other remedies at law, such as issuing an order compelling Burdock to cooperate in the inspection and remediation of the alleged conditions in her apartment, prior to entry of a permanent injunction (*see, e.g. 204 Columbia Heights, LLC v Manheim*, 148 AD3d 59, 70-71 [1st Dept 2017]). Therefore, the request for a permanent injunction is denied, without prejudice. For the same reason, the Court finds it premature to grant summary judgment on Plaintiff’s cause of action alleging breach of contract. Because Plaintiff has not yet ultimately prevailed in this matter, an award of attorneys’ fees under Plaintiff’s fourth cause of action is also premature.

However, given Justice Bluth's prior orders in the Prior Action, which compelled Burdock to cooperate with Plaintiff to clean her Unit and to remediate any health or safety hazards, and e-mail correspondence included as exhibits to this motion, where Burdock has repeatedly promised to cooperate with Plaintiff in cleaning her apartment, the Court grants Plaintiff's motion to the extent that Burdock is compelled to cooperate and to allow Plaintiff access to her Unit within fourteen (14) days of this Decision and Order. If Burdock does not cooperate, not only may she be held in contempt, but it may serve as evidence against her in this proceeding on a future motion for summary judgment seeking damages from the alleged breach of contract, a permanent injunction, and attorneys' fees. Finally, the Court orders Plaintiff to contact Adult Protective Services ("APS") to refer Burdock for an intake interview to ensure she does not need assistance in maintaining safe and hygienic living conditions.

Accordingly, it is hereby,

ORDERED that Plaintiff's motion to transfer this action to Justice Bluth is denied; and it is further

ORDERED that Plaintiff's motion for summary judgment is granted solely to the extent that Burdock must cooperate with Plaintiff to inspect, to clean, and to remediate any health or safety hazard within her Unit within fourteen (14) days of this Decision and Order, or risk potentially being held in contempt of the Court; and it is further

ORDERED that Plaintiff's motion for summary judgment is otherwise denied, without prejudice; and it is further

ORDERED that within seven (7) days of this Decision and Order, Plaintiff shall contact Adult Protective Services ("APS") to refer Burdock for an intake interview to ensure she does not need assistance in maintaining safe and hygienic living conditions; and it is further

ORDERED that the parties on or before September 19, 2025, shall provide an update to the Court, via letter correspondence sent via e-mail to SFC-Part33-Clerk@nycourts.gov, regarding the inspection of the Unit and any necessary remediation; and it is further

ORDERED that within ten days of entry, counsel for Plaintiff shall serve a copy of this Decision and Order, with notice of entry, on Burdock via NYSCEF, e-mail, and first-class mail to her residential address.

This constitutes the Decision and Order of the Court.

9/2/2025
DATE

Mary V. Rosado, J.S.C.
HON. MARY V. ROSADO, 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"/>		<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	