

LI City Ventures LLC v Ascent Dev. LLC

2025 NY Slip Op 33841(U)

October 7, 2025

Supreme Court, New York County

Docket Number: Index No. 155577/2022

Judge: Alexander M. Tisch

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ALEXANDER M. TISCH PART 18

Justice

LI CITY VENTURES LLC D/B/A MODERN SPACES, Plaintiff, - v - ASCENT DEVELOPMENT LLC, PEARSON JV, LLC, Defendant. INDEX NO. 155577/2022 MOTION DATE 03/06/2025 MOTION SEQ. NO. 004

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 182, 183, 184, 185, 186, 187, 188, 189

were read on this motion to/for ORDER OF PROTECTION

This is a business dispute about a November, 2018, contract (the Agreement) between plaintiff LI City Ventures LLC d/b/a Modern Spaces (Modern Spaces) and defendant Ascent Development LLC (Ascent) for Modern Spaces to be the exclusive marketing agent for the sale of units at a residential re-development project located in Long Island City, New York on Pearson Street (the Project). Defendant Pearson JV, LLC (Pearson) is alleged to be the successor/assign of Ascent, and Tom Wu and Jasper Wu (son to Tom Wu) are alleged to be owners of both Ascent and Pearson. Plaintiff claims defendants breached the agreement and asserts claims for breach of contract, unjust enrichment/quantum meruit, and attorneys' fees, pursuant to their contract. Movants contend they came to own the property described in the agreement plus additional adjoining real estate after April 2020.

1 A motion to amend the complaint and the caption to add the Wu defendants, among other changes, was granted (NYSCEF Doc. No. 111), but the decision has not yet been served on or processed by the Clerk of Court.

In this motion, defendant Pearson and the Wu defendants seek a protective order against the disclosure of certain categories of documents demanded by plaintiff and Ascent on the grounds that the document demands are not related to any agreement with Modern Space which was either assigned to Pearson or entered into by Pearson. Defendant Ascent and plaintiff each oppose the motion and cross-move for expenses and attorneys' fees resulting from what they claim to be a frivolous motion.

Movants object to providing:

- Copies of any documentation, correspondence, and/or communications to/from Pearson, and any entity, concerning the marketing, brokerage, sale and/or rental of any units at the Property;
- Copies of any documentation, correspondence, and/or communications concerning the marketing, brokerage, sale, and/or rental of any units at the Property;
- Copies of any marketing, brokerage, and/or sales agreements entered into by any of the Pearson Defendants and any entity other than Modern Spaces concerning the Property;
- Any documents, correspondence, and/or communication with Nest Seekers, not related or referencing Modern Space;
 - Copies of any sales contracts and/or leases executed for units in the Property;
 - Copies of any brokerage commissions paid by Pearson;
 - Copies of any documentation concerning the formation of Pearson;
 - Pearson's tax returns.

Pearson states it has searched for communications concerning Modern Space and found nothing.

Pearson also takes the position Pearson does not own the property described in the agreement between Ascent and Modern Space, nor did Ascent ever own the real estate which Pearson now owns, and this litigation and these discovery demands, are merely harassment.

CPLR 3101 requires "full disclosure of all matter material and necessary in the prosecution or defense of an action." "The words, 'material and necessary', are . . . to be interpreted liberally

to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason. CPLR 3101 (a) should be construed . . . to permit discovery of testimony which is sufficiently related to the issues in litigation to make the effort to obtain it in preparation for trial reasonable (*Allen v Crowell-Collier Pub. Co.*, 21 NY2d 403, 406-07 [1968] [internal quotations omitted]). As far as movants argue the documents are irrelevant because they are not a party or an assignee to the agreement between Ascent and Modern Spaces and do not own the relevant real estate, that argument fails. This is not a motion to dismiss. The other parties to this litigation are entitled to enquire about the marketing, brokerage, and sale of units in the Project and movants' relationship with the entity which eventually performed those functions.

The parties do not make specific arguments about the remaining two categories, the documentation concerning Pearson's formation and its tax returns from 2018-2024. The creation of Pearson seems a relevant topic for discovery, given the allegations and dispute regarding the relationship between Ascent and Pearson. Discovery concerning Pearson's formation will be allowed.

Movants' motion will be granted only to protect Pearson's tax returns for the years 2018-2024. "[D]isclosure of tax returns is disfavored because of their confidential and private nature, requiring the party seeking to compel production to make "a strong showing of necessity and demonstrate that the information contained in the returns is unavailable from other sources" (*Weingarten v Braun*, 158 AD3d 519, 519-20 [1st Dept 2018] quoting *Williams v New York City Hous. Auth.*, 22 AD3d 315, 316 [1st Dept 2005] [internal quotation marks omitted]). Plaintiff has not shown the relevance of these documents, let alone made a strong showing of their

necessity. That portion of the motion is granted, without prejudice to a future request based on meeting the standard above.

Accordingly, it is hereby

ORDERED that the motion for an order of protection (Motion Seq. No. 004) is GRANTED IN PART and DENIED IN PART. It is granted to the extent movants seek an order of protection from the demand for Pearson’s state and federal tax returns for the years 2018-2024 and otherwise denied; and it is further

ORDERED that the two cross-motions for sanctions are denied, as the motion is not entirely frivolous; and it is further

ORDERED that movants shall provide supplemental responses and production, if any, to the document demands on or before November 7, 2025, along with a Jackson affidavit; and it is further

ORDERED that counsel shall appear for a status conference on this matter on December 2, 2025, at 3:00 p.m.

This constitutes the decision and order of the Court.

10/7/2025
DATE

ALEXANDER M. TISCH, 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"/>	
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE