

Tedford's Tenancy, LLC v Horizons Invs. Corp.

2025 NY Slip Op 34646(U)

December 2, 2025

Supreme Court, New York County

Docket Number: Index No. 653392/2023

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

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TEDFORD'S TENANCY, LLC

Plaintiff,

- v -

HORIZONS INVESTORS CORP., HIC LLC,
BENITO R. FERNANDEZ a/k/a B.R.
FERNANDEZ, ELIZABETH MONTALVO,
AARON MONTALVO, and ANTONIO
MONTALVO a/k/a TONY MONTALVO
Defendants.

INDEX NO. 653392/2023
MOTION DATE N/A
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 41-50, 54-69 were read on this motion to/for DISCOVERY.

Plaintiff's motion to compel defendants Elizabeth Montalvo and Antonio Montalvo to respond to a discovery demand is granted. These defendants' cross-motion for a protective order and for summary judgment is denied.

Background

Plaintiff brings this case to *inter alia* void what it characterizes as "sweetheart" leases to multiple tenants signed prior to the expiration of the ground lease between plaintiff (the landlord) and defendants Horizons (as tenant). Plaintiff observes that Horizons served as the tenant/sublandlord pursuant to a triple net lease initially signed back in July 1978; the parties on both sides of this transaction have changed over the years. Horizons was assigned the lease in 1990.

Plaintiff alleges that prior to the expiration of the ground lease in July 2020, residential leases were issued to individuals that contained rents markedly below prior leases. For instance,

plaintiff points to the lease for Apartment 4S which was rented for \$2,300 per month as of April 2018 but a new lease (with a new tenant) was signed for \$600 by July 2020. It contends that the apartment was rented to the nephew of defendant Fernandez. Plaintiff insists that defendant Fernandez controlled Horizons.

Plaintiff contends that apartment 4N was rented for \$2,100 a month in April 2018 and dropped to \$600 by July 2020 with a new tenant. With respect to defendants Elizabeth and Antonio Montalvo who (along with defendant Aaron Montalvo) live in Apartment 5, plaintiff insists that this apartment was not registered from 1995 through 2015. It alleges that the rent was \$110.22 in 1994 and had a legal regulated rent of \$200 in July 2020. Plaintiff's overarching claim is that these artificially low rents threaten to bankrupt plaintiff because all of the units are rent-stabilized, which means that it cannot simply raise the rents to cover costs. It argues that defendants have created a situation in which plaintiff cannot afford to maintain the building given these extremely low rents doled out to friends and family of Mr. Fernandez.

Discovery Portion

In this motion, plaintiff seeks copies of redacted tax returns from Antonino and Elizabeth Montalvo ("Montalvo Defendants"). It maintains that these are necessary to determine their income sources from 2010 through 2020. Plaintiff argues that it believes that Mr. Montalvo was registered as the building's site manager prior to the tenant in 4S receiving that designation. It claims that the Montalvo Defendants insist they received no income from the building.

The Montalvo Defendants cross-move for a protective order and for summary judgment on plaintiff's claims for ejectment and declaratory judgment. They claim that a single registration by the net lessee with HPD that listed Mr. Montalvo as the site manager for 2014 is not a basis to hand over 11 years of tax returns.

Mr. Montalvo submits an affirmation in which he states that he moved into the subject apartment (apartment 5) after marrying defendant Elizabeth Montalvo, the niece of defendant Benito Fernandez. He claims he was never the site manager for the building and did not know his name was listed with HPD until plaintiff made the instant motion.

“[B]ecause of their confidential and private nature, disclosure of tax returns is disfavored [movant is] required to establish that the information contained in the returns they seek is indispensable to this litigation and unavailable from other sources. Consistent with this authority, the party seeking to compel production of a tax return must identify the particular information the return will contain and its relevance, explain why other possible sources of the information sought are inaccessible or likely to be unproductive and limit examination of the return to relevant material through redaction of extraneous information” (*Nanbar Realty Corp. v Pater Realty Co.*, 242 AD2d 208, 209-10, 661 NYS2d 216 [1st Dept 1997]).

The Court finds as follows with respect to this discovery dispute. Plaintiff is entitled to redacted tax returns (and related documents) for the years 2012-2016 to the extent that those records show information about their employers. For instance, that could include W-2s as, according to plaintiff, it is only interested in exploring the Montalvos’ involvement with the subject building. Information not related to the source of income (such as tax deductions, interest earned) may be redacted.

The fact is that Mr. Montalvo admits that he was listed as the site manager in 2014 with HPD and did not produce (and claims not to possess) any other documents related to his inclusion. It is therefore reasonable for plaintiff to take a look at the tax returns a few years before and after to see if any income was earned from this role. The Court understands that Mr. Montalvo asserted in his affirmation that he had no idea he was listed as the site manager with

HPD in 2014 and did not earn any income. That assertion may well be true; but plaintiff is entitled to seek documents to confirm this claim given its underlying theory that the Montalvos were part of Mr. Fernandez's scheme to hand out cheap apartments to friends and family.

Summary Judgment

The Court denies this motion as premature given that limited discovery has taken place and depositions have not yet been taken (*Belziti v Langford*, 105 AD3d 649, 649, 963 NYS2d 654 [1st Dept 2013]). The instant matter presents a unique circumstance where, allegedly, the sublandlord doled out leases to friends and families at artificially low rent amounts right before the net lease expired. Plaintiff insists that this action violates public policy and that the leases should therefore be voided. In this Court's view, more discovery is required to explore the exact nature of the relationship between Mr. Fernandez and the tenants who received these "sweetheart" leases, Mr. Fernandez's ability to issue these leases, the tenant defendants' knowledge and participation in this scheme and plaintiff's knowledge and obligation (if any) to monitor what was happening throughout the term of the ground lease, including the last few months before it expired.

The Montalvo Defendants' reliance on the Rent Stabilization Law and Rent Stabilization Code does not require granting their cross-motion at this time. The facts of this case, at least at this early stage of the case, are simply too bizarre to dismiss this case prior to depositions. The Montalvo Defendants even submit a lease in reply that shows they are paying about \$200 for an apartment that cost \$400 per month back in 1984 (according to the HPD registrations). Given the familial relationship with Mr. Fernandez, there are many unanswered questions surrounding the management of the building and the decision to issue drastically below-market leases.

It may be that Mr. Fernandez had the full authority to run the building as he saw fit (these issues have not been fully briefed) under the documents governing the parties' contractual relationship and that plaintiff may end up being "stuck" with these leases. Or it may be that defendants colluded to knowingly cheat plaintiff in bad faith. But the Court cannot reach any conclusion as of yet.

Accordingly, it is hereby

ORDERED that plaintiff's motion is granted only to the extent that the Montalvo Defendants must turn over tax documents from 2012-2016 to show the source of their income/employer, including appropriate redactions for irrelevant information, on or before January 9, 2026; and it is further

ORDERED that defendants' cross-motion is denied.

See NYSCEF Doc. No. 53 concerning the next conference.

12/2/2025

DATE



CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: