

**Department of Env'tl. Protection of the City of N.Y.-  
Water Bd. v Board of Mgrs. of the Crossings  
Condominium**

2026 NY Slip Op 31348(U)

April 2, 2026

Supreme Court, New York County

Docket Number: Index No. 452634/2020

Judge: Phaedra F. Perry-Bond

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. PHAEDRA F. PERRY-BOND PART 35

Justice

-----X

DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE CITY OF NEW YORK- WATER BOARD,

Plaintiff,

INDEX NO. 452634/2020

MOTION DATE 02/21/2025

MOTION SEQ. NO. 001

- v -

BOARD OF MANAGERS OF THE CROSSINGS CONDOMINIUM, YAROO YANG, LISA J LIN, EUSTACIA BLEZA, SCOTT MIN, LING L SIM, ANDRZEJ PYRCHLA, ALDONA PYRCHLA, WESTFORD REALTY LLC, ADAM H DOHRENWOOD, NISHANT PATEL, STEVEN A SCHUCKER, BYUNGDUCK SUH, JEAN LEE, GRAFFAM REALTY LLC, ALEXANDER DONATO, JULITA DONATO, PETER MIN, IRENE MIN, CLK PROPERTIES LLC, ANDREW J HISCOCK, TARA COX, CHOGYE INTERNATIONAL ZEN CENTER OF NEW YORK, INC., JOSEPHINE ESTIMADA, WILLIAM KYBURZ, AMY ROTH, EDWARD J JOWDY, HELEN GIDALI, EDWARD A JONES, MOUSUME SARKER, MAYUMI BANDO, SHILPY GOSWAMI, SHIMA GOSWAMI, PHILIP F FINELLI, LINNE TSU, DANIEL GIACHIN, LEAH ZOILA ZELIGSON, GEORGE A BAPTISTA, TANIA M BAPTISTA, PAMELA PAYNE, RICHARD HORSCH, JAMES CHI-SHING KWAN, AMY KWAN, ELIANE LEUNG, GOLDENAU PROPERTIES LLC, TONNY K HO, SHRUTI CHANDRA, VIRAJ S LAKDAWALA, JUAN GAMBOA,

Defendants.

-----X

BOARD OF MANAGERS OF THE CROSSINGS CONDOMINIUM, YAROO YANG, LISA J. LIN, EUSTACIA BLEZA, SCOTT MIN, LING L. SIM, ANDREZEJ PYRCHLA, ALDONA PYRCHLA, WESTFORD REALTY LLC, ADAM H. DOHRENWOOD, NISHANT PATEL, STEVEN A. SCHUCKER, BYUNGDUCK SUH, JEAN LEE, GRAFFAM REALTY LLC, ALEXANDER DONATO, JULITA DONATO, PETER MIN, IRENE MIN, CLK PROPERTIES LLC, ANDREW J. HISCOCK, TARA COX, CHOGVE INTERNATIONAL ZEN CENTER OF NEW YORK, INC., JOSEPHINE ESTIMADA, WILLIAM KYBURZ, AMY ROTH, EDWARD J. JOWDY JR, HELEN GIDALI, EDWARD A JONES, MOUSUME SARKER, MAYUMI BANDO, SHILPY GOSWAMI AS TRUSTEE OF THE MOHINDER AND ALPANA GOSWAMI IRREVOCABLE LIFE INSURANCE TRUST, SHIMA GOSWAMI AS TRUSTEE OF

DECISION + ORDER ON MOTION

Third-Party Index No. 595721/2021

THE MOHINDER AND ALPANA GOSWAMI IRREVOCABLE LIFE INSURANCE TRUST, PHILIP F. FINELLI JR. AS TRUSTEE OF THE MOHINDER AND ALPANA GOSWAMI IRREVOCABLE LIFE INSURANCE TRUST, LINNE TSU, DANIEL GIACHIN, LEAH ZOIA ZELIGSON GEORGE A. BAPTISTA, TANIA M. BAPTISTA, PAMELA PAYNE, RICHARD HORSCH, JAMES CHI-SHING KWAN, AMY KWAN, ELIANE LEUNG, GOLDENAU PROPERTIES LLC, TONNY K. HO, SHRUTI CHANDRA, VIRAJ S. LAKDAWALA, JUAN GAMBOA

Plaintiffs,

-against-

FIRST MEDICAL ASSOCIATES, TAVERNA KYCLADES, JOHN PAPPAS

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94 were read on this motion to/for DISMISSAL.

Upon the foregoing documents, Defendant/Third-Party Plaintiff Board of Managers of the Crossings Condominium’s (the “Board”) motion seeking leave to amend its Third-Party Complaint P.D.J. Realty, LLC (“PDJ Realty”) and seeking an order compelling and directing immediate access to a commercial unit located at Unit 1, 400 East 14<sup>th</sup> Street a/k/a 224 First Avenue, New York, New York for investigation of a water meter is granted in part and denied in part.

The branch of the motion which seeks dismissal pursuant to CPLR 3211(a)(7) of all of Plaintiff’s claims against defendants Yaroo Yang, Lisa J. Lin, Eustacia Bleza, Scott Min, Ling L. Sim, Andrezej Pyrchla, Aldona Pyrchla, Westford Realty LLC, Adam H. Dohrenwood, Nishant Patel, Steven A. Schucker, Byungduck Suh, Jean Lee, Graffam Realty LLC, Alexnader Donato, Julita Donato, Peter Min, Irene Min, CLK Properties LLC, Andrew J. Hiscock, Tara Cox, Chogve International Zen Center of New York, Inc., Josephine Estimada, William Kyburz, Amy Roth,

Edward J. Jowdy Jr., Helen Gidali, Edward A Jones, Mousume Saker, Mayumi Bando, Shilpy Goswami as Trustee of the Moihinder and Alpana Goswami Irrevocable Life Insurance Trust, Philip F. Finelli Jr. as Trustee of the Mohinder and Alpana Goswami Irrevocable Life Insurance Trust, Linne Tsu, Daniel Giachin, Leah Zola Zeligson, George A. Baptista, Tania M. Baptista, Pamela Payne, Richard Horsch, James Chi-Shing Kwan, Amy Kwan, Eliane Leung, Goldenau Properties LLC, Tonny K. Ho, Shruti Chandra, Viraj S. Lakdawala and Juan Gamboa (collectively “Residential Owners”) is denied.

### **I. Background**

Plaintiff alleges that the Board is an unincorporated association that has an ownership interest in or is the board of managers of the condominium building located at 400 East 14<sup>th</sup> Street, New York, NY 10009 (the “Building”). The Residential Owners are allegedly individual unit owners in the Building who received water and sewage services provided by Plaintiff. Allegedly, Plaintiff is owed \$210,688.23 for unpaid water and sewage charges. Plaintiff now sues Defendants for breach of contract, account stated, and quantum meruit.

Defendants brought a third-party complaint against Third-Party Defendants First Medical Associates (“First Medical”), Taverna Kyclades, and John Pappas (collectively “Third-Party Defendants”). Allegedly, First Medical owns Commercial Unit 1 (the “Commercial Unit”) in the Building, which is occupied by Taverna Kyclades. According to the Defendants, the meter which gives rise to this lawsuit provides services only to the Commercial Unit and any notices as to invoicing for the meter were sent only to Third-Party Defendants. There was no activity in this case from August 30, 2021 until February 21, 2025 when the instant motion was filed with a request for judicial intervention.

Defendants moves to dismiss Plaintiff's Complaint as to the Residential Owners pursuant to CPLR 3211(a)(7) and seek leave to amend the Third-Party Complaint to include an additional party, PDJ Realty. They also seek an order compelling and directing Third-Party Defendants to provide access to the Commercial Unit to investigate the meter at issue.

Defendants argue the Residential Owners should be dismissed because unit owners of individual units cannot be liable where the condominium declaration transfers complete and exclusive control of the common elements to the board of managers, as the unit owners are divested of powers and responsibilities of ownership with respect to those elements.

In opposition, Plaintiff argues the Defendants misconstrue the statutory scheme through which they seek to recover, specifically citing to Public Authorities law § 1045-(j)(5), which holds that unpaid water charges become a lien upon the premises served and a charge against the owners thereof. Plaintiff argues interpreting the word "owner" to include residential owners of a condominium is reasonable and the Court should defer to it, as an administrative agency with expertise. PDJ Realty opposes and argues that the motion should be denied as it was made five years after this action commenced.

## II. Discussion

### A. Standard

When reviewing a pre-answer motion to dismiss for failure to state a claim, the Court must give the Plaintiff the benefit of all favorable inferences which may be drawn from the pleadings and determines only whether the alleged facts fit within any cognizable legal theory (*Sassi v Mobile Life Support Services, Inc.*, 37 NY3d 236, 239 [2021]). All factual allegations must be accepted as true (*Allianz Underwriters Ins. Co. v Landmark Ins. Co.*, 13 AD3d 172, 174 [1st Dept 2004]).

Leave to amend is freely granted in the absence of prejudice if the proposed amendment is not palpably insufficient as a matter of law (*Mashinsky v Drescher*, 188 AD3d 465 [1st Dept 2020]). A party opposing a motion to amend must demonstrate that it would be substantially prejudiced by the amendment, or the amendments are patently devoid of merit (*Greenburgh Eleven Union Free School Dist. v National Union Fire Ins. Co.*, 298 AD2d 180, 181 [1st Dept 2002]). Delay alone is not sufficient to deny leave to amend (*Johnson v Montefiore Medical Center*, 203 AD3d 462 [1st Dept 2022]).

### **B. Leave to Amend & Order Compelling Access**

The branch of the motion seeking leave to amend and an order compelling access is granted in part and is otherwise denied, without prejudice. The motion is granted with respect to Defendants' seek leave to amend. PDJ Realty fails to show the proposed amendment is devoid of merit and fails to show substantial prejudice. Although much time has passed, there appears to have been little if any discovery exchanged, thus there is no showing of any hinderance to PDJ Realty's defense of this case. The mere fact that the motion seeking leave to amend was delayed is insufficient to deny the motion (*see 1946 Tremont 1B, LLC v Nawal Realty, Inc.*, 246 AD3d 646 [1st Dept 2026]). Therefore, leave to amend is granted. However, the motion which in essence seeks an injunction compelling access is denied, without prejudice, with leave to renew. Since the motion was made prior to PDJ Realty being named a party, the motion for injunctive relief against a party whom this Court does not yet have jurisdiction over is improper and premature.

### **C. Motion to Dismiss**

The motion to dismiss pursuant to CPLR 3211(a)(7) is denied. Accepting the facts as true and drawing all favorable inferences from the pleading, the Court finds dismissal pursuant to CPLR 3211(a)(7) inappropriate.

Public Authorities Law § 1045-(j)(5) is clear that unpaid fees “shall constitute a lien upon the premises served and a charge against the owners thereof.” Interpretations of who may be held liable as an “owner” pursuant to Public Authorities Law § 1045-(j)(5) has resulted in a divide amongst the trial courts and there is no on-point First Department precedent on the issue. While Defendants cite to *Jerdonek v. 41 West 72 LLC*, 143 A.D.3d 43 (1st Dept 2016), but that case dealt with a personal injury plaintiff in a negligence and Labor Law action, and was decided on summary judgment. *Jerdonek* is very different from the facts and procedural posture here. Moreover, it remains to be seen through discovery whether the individual unit owners benefited from the water services provided which remain unpaid<sup>1</sup>. Thus, for purposes of a CPLR 3211(a)(7) motion, where the record does not indicate any discovery has taken place, the motion to dismiss is denied. The parties may relitigate this issue on a more fully developed at the summary judgment stage.

Accordingly, it is hereby,

ORDERED that Defendants’ motion is denied to the extent it sought dismissal of the Residential Owners and to the extent it sought an order compelling access to the Commercial Unit; and it is further

ORDERED that Defendants’ motion is granted to the extent it sought leave to amend to include P.D.J. Realty, LLC as a Third-Party Defendant; and it is further

ORDERED that and the amended Third-Party Complaint in the proposed form annexed to the moving papers (NYSCEF Doc. 71) shall be deemed served upon service of a copy of this order with notice of entry thereof; and it is further

---

<sup>1</sup> Since there is a third-party action, there is nothing preventing Defendants from paying the unpaid water fees and then seeking indemnification or contribution from the third-party defendants to the extent those defendants were actually responsible for the unpaid water services.

ORDERED that P.D.J. Realty, LLC. shall serve an answer to the crossclaims or otherwise respond thereto within 20 days from the date of said service; and it is further

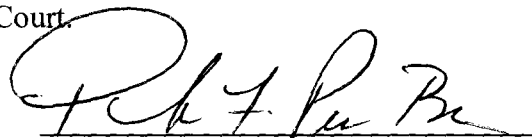
ORDERED that the parties shall meet and confer immediately and submit a proposed preliminary conference order to the Court via e-mail, but in no event shall the proposed preliminary conference order be submitted any later than May 5, 2026. If the parties have a serious discovery dispute which requires Court intervention, they shall notify the Court of the nature of the dispute so that a conference may be scheduled; and it is further

ORDERED that if the parties seek to resolve this matter through the Court's sponsored ADR program, they shall notify the Court accordingly so that the appropriate referral order may be entered; and it is further

ORDERED that within ten days of entry, counsel for Defendants shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

4/2/26  
DATE

  
HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input checked="" type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE