

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

**PRESENT: Hon. Jacqueline Silbermann
 Administrative Order**

COURTYARD MANAGEMENT CORPORATION,

Plaintiff,

- v -

INDEX NO. 601534/06

**1800 PARK AVENUE LLC and JOHN DOE
COMPANY NOS. 1-5,**

Defendants.

Administrative Order:

By letter dated May 12th, counsel for defendant 1800 Park Avenue LLC (1800 Park) has applied for a transfer of this action from I.A.S. Part 7 (Soto, J.) to the Commercial Division pursuant to Uniform Rule 202.70.

Plaintiff filed a Request for Judicial Intervention (RJI) on May 3, 2006, and therefore, defendant 1800 Park's application is timely. The Court has not received opposition to 1800 Park's request.

1800 Park's counsel contends that this action meets the standards for assignment to the Commercial Division, because the dispute at issue involves millions of dollars, and involves claims of breach of contract arising out of business dealings, as well as a dispute over commercial real property.

The complaint seeks equitable relief. Although the monetary thresholds of the Commercial Division are set forth in Uniform Rule 202.70 (a), Uniform Rule 202.70 (b) provides an exception to the monetary thresholds, where equitable relief is being sought. Uniform Rule 202.70 (b) provides that actions involving certain claims¹ will be heard in the Commercial Division, provided that the monetary threshold is met or equitable or declaratory relief is sought. The Court notes that, nevertheless, the action would meet the Commercial Division's monetary threshold, because it involves real estate, located in Manhattan, which 1800 Park claims it was to receive, at a minimum, a payment of twenty million dollars for its sale.

Uniform Rule 202.70 (b) (1) and (3) provide that actions will be heard in the

¹These claims are enumerated in the Rule.

Commercial Division where the principal claims involve or consist of breach of contract, and the breach is alleged to arise out of business dealings, or where the principal claims consist of transactions involving commercial real property, but not involving the payment of rent.

A review of the complaint reveals that this action concerns an alleged breach of a management agreement, between the plaintiff and defendant 1800 Park, arising out of the proposed sale of the subject commercial real estate by 1800 Park to a third party. Further, the action involves a dispute concerning commercial real estate, but not involving the payment of rent. There is no question but that the nature of the action makes it one that should be assigned to the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Division. (Plaintiff's Order to Show Cause for a temporary restraining order (seq. 001) is on for oral argument in Part 7 on June 1, 2006).

Dated: May 24, 2006

ENTER: _____, A.J.

HON. JACQUELINE W. SILBERMANN

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION