

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

CITIGROUP GLOBAL MARKETS REALTY
CORP., individually and as administrative agent
for itself and HRC Fund IV REIT LLC, as co-
lenders, in connection with mortgages owned and
held by them on real property known as 245
Tenth Avenue, New York, New York,

Plaintiff,

- v -

INDEX NO. 600679/10

245 10th AVENUE, LLC, et al.,

Defendants.

Administrative Order:

By letter dated October 8, 2010, plaintiff Citigroup Global Markets Realty Corp. (Citigroup) requests that this action, currently assigned to the Hon. Joan Madden (I.A.S. Part 11), be transferred to the Commercial Division pursuant to Uniform Rule 202.70, together with what is purported to be a related action entitled International Exterior Fabricators LLC v J. Petrocelli Contracting Inc., et al., Index No. 101679/10.

Citigroup's counsel filed the Request For Judicial Intervention (RJI) in the above-captioned action on September 17, 2010, designating the action as a "Real Property - Foreclosure." The right to appeal an RJI designation is limited to "any other party." Uniform Rule 202.70(e).

Further, both applications are untimely. There is a 10-day time limit on these applications, which begins when a party is served with the RJI, and thus learns that a non-commercial designation was chosen by the filing party. See Uniform Rule 202.70(e). Citigroup's counsel filed the RJI in this action on September 17th. The RJI was filed in the International Exterior action back on March 11, 2010, and the action assigned to the Hon. Eileen A. Rakower (I.A.S. Part 15).

For these reasons, Citigroup's request to transfer these two actions to a single justice of the Commercial Division is denied. To the extent the two actions are related and should be assigned to the same non-commercial part, Citigroup is directed to make the appropriate application to the assigned justices. See N.Y. County Supreme Court Operations Manual, § I (B).

Dated: October 13, 2010

ENTER: Shay K. Hester, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION