

<b>Woodstock Owners Corp. v Tsujita</b>
2018 NY Slip Op 33163(U)
December 5, 2018
Supreme Court, New York County
Docket Number: 157669/18
Judge: Lynn R. Kotler
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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 8**

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WOODSTOCK OWNERS CORP.

Plaintiff(s),

-against-

SHIGEKO TSUJITA,

Defendant(s).  
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**DECISION/ORDER**

INDEX NO.: 157669/18

Mot. Seq. 001

Present:

Hon. Lynn R. Kotler, J.S.C.

Plaintiff moves for an order seeking “unfettered access to Unit 701 at the 320 East 42<sup>nd</sup> Street, New York, New York [] to the Apartment Corporation and its agents for the purpose of: [1] curing the hoarding-type conditions in the Premises by removing excess personal property located therein and relocating it to a storage facility of the Apartment Corporation’s choosing, and cleaning the Premises, at Tsujita’s expense, [2] performing extermination services in the Premises, at Tsujita’s expense; [3] performing necessary repairs, at Tsujita’s expense; and [4] removing the air conditioning unit from the Premises, at Tsujita’s expense.”

The motion was submitted to the court without opposition. The motion is supported by the affidavits of Benjamin Shuman, plaintiff’s managing agent, and Ali Kabashi, plaintiff’s superintendent, as well as photographs of the subject premises depicting a large number of boxes, papers, used and/or perishable food containers, plastic bags filled with unknown contents, and other personal property throughout. Plaintiff further represents that the air conditioner has caused a leak that has damaged the floors of the subject premises as well as the ceiling in Unit 601.

In an interim order dated October 29, 2018, the court appointed Miriam Davison,

Esq. as temporary guardian for defendant Shigeko Tuszjita in this matter and directed the parties and Guardian Davidson to appear in court on November 27, 2018.

Plaintiff and Guardian Davidson appeared in court on November 27, 2018, but defendant again failed to appear. Prior to November 27, 2018, Guardian Davidson filed a report with the court which states in relevant part that she "inspected the defendant's apartment and confirmed that the hoarding condition was unchanged since plaintiff's last court appearance." Guardian Davidson recommends that the relief requested by plaintiff be granted and the court largely agrees. On this record, plaintiff has established that it is entitled to access for the purpose of remediating a hoarding-type condition, cleaning the premises and perform extermination services. Plaintiff has also established that the air conditioner should be removed. All of this work should be performed at defendant's expense based upon the parties' proprietary lease which has been provided to the court.

Plaintiff's request to perform repairs, however, is unsubstantiated at this juncture. There is no indication from someone with personal knowledge what repairs, if any, are required at this time. Therefore, plaintiff's application for access for the purpose of performing repairs is denied without prejudice to renew upon a proper showing.

Further, Guardian Davidson has submitted an affirmation of legal services attesting to the work she performed in connection with her appointment. The 10/29/18 order reserved the issue of the guardian's compensation. The court has reviewed Guardian Davidson's affirmation and finds that the expenses and fees sought by Guardian Davidson are reasonable and commensurate with her legal experience and the work she performed. Accordingly, Guardian Davidson's application for fees and

disbursements in the amount of \$2,385 plus \$1.71 is granted as well. As Guardian Davidson's services are no longer required, she is hereby discharged as temporary guardian for defendant.

### **Conclusion**

Accordingly, it is hereby

**ORDERED** that plaintiff's motion is granted to the extent that plaintiff and its agents are granted unfettered access to Unit 701 at 320 East 42<sup>nd</sup> Street, New York, New York (the "Premises") for the purpose of: [1] curing the hoarding-type conditions in the Premises by removing excess personal property located therein and relocating it to a storage facility of plaintiff's choosing and maintaining said personal property at the storage facility for a period of 90 days from the date of service of this order with notice of entry, all at defendant's expense, after which time, plaintiff is directed to vacate the storage facility and discard any remaining contents, also at defendant's expense; [2] cleaning the Premises, at defendant's expense, [3] performing extermination services in the Premises, at defendant's expense; and [4] removing the air conditioning unit from the Premises, at defendant's expense; and it is further

**ORDERED** that the motion is otherwise denied without prejudice to renew; and it is further

**ORDERED** that Miriam Davidson, Esq. is hereby discharged as temporary guardian for defendant Shigeko Tsujita; and it is further

**ORDERED** that plaintiff is directed to pay Miriam Davidson, Esq. the sum of \$2,386.71 for her fees and disbursements within 20 days from the date of service of this order with notice of entry. Plaintiff may seek reimbursement from defendant for such

fees pursuant to the parties' proprietary lease; and it is further

**ORDERED** that this case is calendared for a control date on **April 2, 2019** for the parties to advise as to status. No in-person appearances are required at that time; and it is further

**ORDERED** that plaintiff is directed to serve a copy of this order with notice of entry upon defendant.

This constitutes the Order of the court.

Dated:           New York, New York  
                  12/5/18

So Ordered:

  
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Hon. Lynn R. Kotler, J.S.C.