

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JONATHAN COHEN, SANDRA
FABARA, STEPHEN EBERT, LUIS
LAMBOY, ESTEBAN DEL VALLE,
RODRIGO HENTER DE REZENDE,
DANIELLE MASTRION, WILLIAM
TRAMONTOZZI, JR., THOMAS
LUCERO, AKIKO MIYAKAMI,
CHRISTIAN CORTES, DUSTIN
SPAGNOLA, ALICE MIZRACHI,
CARLOS GAME, JAMES ROCCO,
STEVEN LEW, FRANCISCO
FERNANDEZ, and NICHOLAS KHAN,

Case No. 13-CV-5612(FB)(RLM)

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON
AVENUE OWNERS, L.P., 22-52
JACKSON AVENUE, LLC, ACD
CITIVIEW BUILDINGS, LLC, and
GERALD WOLKOFF,

MEMORANDUM AND ORDER

Defendants.

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MARIA CASTILLO, JAMES COCHRAN, Case No. 15-CV-3230(FB)(RLM)
LUIS GOMEZ, BIENBENIDO GUERRA,
RICHARD MILLER, KAI
NIEDERHAUSEN, CARLO NEIVA,
RODNEY RODRIGUEZ, and KENJI
TAKABAYASHI,

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON

AVENUE OWNERS, L.P., 22-52
JACKSON AVENUE, LLC, ACD
CITIVIEW BULIDINGS, LLC, and
GERALD WOLKOFF,

Defendants.

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Appearances:

For the Plaintiff

ERIC BAUM
ANDREW MILLER
Simon Eisenberg & Baum LLP
24 Union Square East, 5th Floor
New York, NY 10003

For the Defendant

DAVID G. EBERT
MIOKO CATHERINE TAJIKA
Ingram Yuzek Gainen Carroll &
Bertolotti, LLP
250 Park Avenue, 6th Floor
New York, NY 10177

BLOCK, Senior District Judge:

Defendants, via letter, filed a copy of a supersedeas bond with the Court in the amount of \$6,750,000.00. Federal Rule of Civil Procedure 62(d) provides “if an appeal is taken, the appellant may obtain a stay [of enforcement of judgment] by supersedeas bond The stay takes effect when the court approves the bond.”

Typically, such bonds cover the judgment amount, costs, interest, and damages for delay. 11 Charles Alan Wright & Arthur R. Miller, Fed. Practice & Proc. § 2905 (3d ed. 2017). However, courts may approve a lower amount, or indeed, waive the bond requirement altogether, “if doing so does not unduly endanger the judgment creditor’s interest in ultimate recovery.” *Morgan Guar. Trust Co. of New York v. Republic of Palau*, 702 F. Supp. 60, 65 (S.D.N.Y. 1988); see also *See In re Nassau Cty. Strip Search Cases*,

783 F.3d 414, 417 (2d Cir. 2015) (approving waiver of bond requirement).

While defendants' proposed bond covers only the amount of judgment, the Court is satisfied that defendants, well-financed real estate companies and their wealthy owner, will be fiscally able to pay interest and costs after the appellate process ends. Therefore, the proposed bond is approved, and enforcement of judgment is stayed pending appeal.

SO ORDERED

/s/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 15, 2018