SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 2

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VAN DORN HOLDINGS, LLC,

Petitioner,

ORDER AND JUDGMENT
Index No. 161136/2015
Mot. Seq. No. 001

For an Order and Judgment Pursuant to Article 4 of the CPLR and Section 881 of the Real Property Actions and Proceedings Law for Access to Adjoining Property,

-against-

152 W. 58th OWNERS CORP. and DAVID FALLARINO,

Respondents.

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KATHRYN E. FREED, J.S.C.

RECITATION, AS REQUIRED BY CPLR 2219 (a), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS MOTION.

PAPERS	NUMBERED
ORDER TO SHOW CAUSE AND AFFIDAVITS ANNEXED	1-5 (Exs. A-B)
MEMO OF LAW IN SUPPORT	6 (Ex. A)
RESPONDENTS' AFFIDAVITS IN OPPOSITION	7-9 (Exs. 1-20)
RESPONDENTS' MEMO OF LAW IN OPPOSITION	10
REPLY AFFIDAVITS	11-13 (Exs. A-M)
REPLY MEMO OF LAW	14
RESP.'S AFFIDAVIT IN SUPPORT OF FEE APPLICATION	15
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RESP.'S AFF. IN FURTHER SUPP. OF FEE APPLICATION	17

UPON THE FOREGOING CITED PAPERS, THIS DECISION/ORDER ON THE MOTION IS AS FOLLOWS:

Petitioner Van Dorn Holdings, LLC moves, pursuant to Real Property Actions and Proceedings Law ("RPAPL") §881, for an order:

a) granting petitioner, its agents, employees, contractors, and subcontractors ("petitioner parties") an 18 month license to:

i) enter upon the service alley ("the 152 alley") on the east side of the building located at 152 West 58th Street, New York, New York (hereinafter collectively with the 152 alley "the 152 property") for the purpose of delivering pipe scaffold to be assembled on the base/mezzanine roof

of the courtyard of petitioner's building ("petitioner's courtyard") located at 150 West 58th Street, New York, New York ("petitioner's building") in conjunction with petitioner's Local Law 11 work in petitioner's courtyard;

ii) Install and maintain overhead protection on that portion of the 152 alley along the eastern side of the 152 building ("the 152 alley protection") to protect any person and property thereon during petitioner's courtyard work and petitioner's Local Law 11 work adjacent to the 152 building's roof ("petitioner's work adjacent to respondent's roof");

b) Granting petitioner and petitioner parties a 12 month license to perform petitioner's work adjacent to respondent's roof to, inter alia, remedy conditions causing the Department of Buildings ("DOB") to issue a partial peremptory vacate order of respondents' roof dated August 5, 2015 ("the partial vacate order on respondents' roof"), including:

i) installing overhead protection and laying plywood on that portion of respondents' roof (respondents' roof protection") that is the subject of the subject vacate order on respondents' roof (Ex. 1 to Ex. A).[1];

ii) Hang drop scaffolding from petitioner's building over the 152 alley to access petitioner's wall adjacent to respondents' roof ("petitioner's wall adjacent to respondents' roof");

c) Granting petitioner a license to enter upon and into the 152 property to inspect, document and record any condition of the exterior of the 152 building, the 152 alley, as well as the all common elements of the 152 property, plus the penthouse apartment and respondents' roof (collectively "the inspected areas") prior to the commencement of petitioner's work: and

d) Granting petitioner such other and further relief as this Court deems just and proper.

Upon a review of the papers submitted and the relevant statutes and case law, the motion is **granted as set forth below.**

FACTUAL AND PROCEDURAL BACKGROUND:

Petitioner alleged that it was the owner of a 16 story residential apartment building at 150 West 58th Street, New York, New York, that respondent 152 West 58th Street Owners Corp. ("152

[1]Unless otherwise noted, all references are to the exhibits annexed to the affirmation of Craig M. Notte, Esq. submitted in support of the instant application.

Corp.") owned the cooperative apartment building at 152 West 58th Street, New York, New York, and that respondent David Fallarino was the proprietary lessee of the penthouse apartment in the 152 property. Ex. A.

In August of 2015, the DOB issued the partial vacate order on respondents' roof, which stated, in pertinent part, that any persons occupying any parts of the structure located within 30 feet of the eastern portion of the roof were to vacate the premises forthwith. Ex. 1 to Ex. A. The order further stated that it was issued because

> there is imminent danger to life or public safety of the occupants or property, in that due to defective brick work at [petitioner's building] being loose and bulging and in danger of falling, this renders the [e]astern portion roof [sic] unsafe to utilize.

Ex. 1 to Ex. A.

The petitioner asserted that the portion of respondents' roof subject to the partial vacate order on respondents' roof was adjacent to the penthouse apartment in which respondent Fallarino resided. Ex. A. Further, petitioner asserted that, according to the affidavit of engineer Irving Chesner, P.E. submitted in support of its application, in order to lift the partial vacate order on respondents' roof, it had to remedy the facade deterioration in its premises adjacent to respondent's roof. Ex. A. This included deteriorated mortar and brickwork, cracked bricks, stones, sills, and metal, and rusted metal and lintels. Id. Petitioner also maintained that it had to install overhead protection on the northern side of respondents' roof to protect the roof during its work. Ex. A.

Petitioner also claimed that, according to Chesner's affidavit, portions of the facade walls in the petitioner's courtyard were unstable. Ex. A. These portions of the walls were adjacent to the 152 alley, a walkway on the 152 property used by staff and residents of the 152 property. Ex. A. According to Michael Yates, President of Yates Restoration Group, Ltd., petitioner's contractor,

scaffold needed to be dropped from petitioner's building and hung over the 152 alley so petitioner parties could access the wall to perform the facade repair, which would require protection to the 152 alley . Ex. A.

The petition noted that "while [p]etitioner intend[ed] to perform its work as expeditiously as possible, conditions [could not] be fully ascertained until a close up inspection and until probes [could] be performed from scaffolding. Probes [would] reveal if the underlying causes of observed surface conditions [were] due to deteriorated structural steel." Ex. A, at par. 54. Yates also stated in his affidavit that the scope of the work in petitioner's courtyard and on the wall adjacent to respondent's roof [could not] be "fully ascertained" until inspection probes [were] performed in those areas. Yates Aff., at pars. 12 and 17.

In their answer to the petition, respondents denied, inter alia, that they had refused petitioner parties reasonable access to the 152 property.[2] Respondents also asserted numerous counterclaims, including, inter alia, that petitioner has not justified the time period sought for the license requested. Id. They also asserted that petitioner had to pay them an amount no less than $5,500 per month as compensation for the use of the 152 property and that petitioner had to post a bond to secure the payment of any damages occurring during petitioner's work. Id. Further, respondents maintained that, if petitioner exceeded the period of the license, it should be penalized $500 per day. Id.

By interim order dated January 5, 2016, this Court held, inter alia, that it could not grant a license without knowing how long the proposed work would last. The petition was granted to the extent of, among other things, allowing probing of the facade of petitioner's building and the wall

[2]Exhibit "D" to petitioner's affirmation in opposition to respondents' application for fees.

of petitioner's building adjacent to respondent's roof in order to ascertain how long it would take to perform the necessary repairs to those areas.

After the probing was conducted, a conference was conducted before this Court on June 23, 2016 to discuss the status of the case. At the conference, the parties agreed that the work on the roof would be completed by September 19, 2016 and that the remainder of the work would be completed within one year thereafter, by September 19, 2017. The parties disagreed as to whether respondents were entitled to a license fee and were given the opportunity to submit papers to the court in this regard.

POSITIONS OF THE PARTIES:

In an affirmation in support of the motion, Craig Notte, Esq., counsel for petitioner, asserts that, because "portions of the brickwork facade on the western wall of [p]etitioner's [b]uilding adjacent to the eastern side of the 152 [b]uilding are unstable and a threat to the 152 [p]roperty and persons thereon", petitioner must be granted a license to enter the 152 property to make repairs.

Petitioner maintains that, according to Chesner, the partial vacate order on respondents' roof was required by section 28-302.5 of the New York City Building Code to be remedied within 30 days. It further maintains that Chesner's affidavit establishes that portions of the facade walls in the petitioner's courtyard, adjacent to the 152 alley, a walkway on the 152 property, are unstable and in need of repair. Further, petitioner asserts that Yates' affidavit establishes that the scaffold to be installed in petitioner's courtyard to perform the courtyard work must be brought in through the 152 alley and that the courtyard work requires the installation of 152 alley protection so that people and property in the 152 alley can be protected during the courtyard work.

Petitioner maintains that it cannot perform the repairs needed to its facade and to petitioner's wall adjacent to respondents' roof without access to the 152 building. It asserts that, pursuant to RPAPL § 881, it is not required to pay a license fee, post a bond, or pay attorneys' fees to the respondents.[3] Susan Virgadamo, Senior Vice President and Registered Managing Agent with William Moses Co., Inc. ("Moses"), managing agent of petitioner's building, states in an emergency affidavit in support of the motion that petitioner has tried, in vain, to obtain from respondents a license to enter the 152 property to perform the work necessary to lift the partial vacate order on respondents' roof, install the respondents' roof protection, and install the 152 alley protection.

In opposition to the motion, respondents argue that petitioner's motion must be denied. Fallarino, in an affidavit in opposition, states, inter alia, that respondents have not refused access to the 152 property; rather they have requested a fair and reasonable license agreement for such access, which petitioner has allegedly failed to offer. He maintains that the parties and their experts agreed in October, 2015 that it would be reasonable for petitioner to take 4 weeks to install protection in the 152 alley and on respondents' roof; 6 months to perform the work necessary to cure the partial vacate order on respondents' roof, and 18 months to perform the work necessary in the 152 alley. In asserting that the work on their roof would take 6 months, respondents rely, inter alia, on what they represent is the opinion of Timothy Lynch, P.E., Assistant Commissioner of Investigative Engineering Services for the DOB.[4]

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[3]Although petitioner's order to show cause also sought an emergency interim order seeking, inter alia, permission to install 152 alley protection, respondents' roof protection, and permission to pass through the common areas of the 152 property for the purpose of entering and exiting the 152 property to install the respondents' roof protection, this Court declined to grant such relief at the time it signed the order to show cause.

[4]No exhibit annexed to respondents' papers reflects that Lynch rendered this opinion.

Anthony Accardo, P.E., an engineer, also submits an affidavit on behalf of respondents in opposition to petitioner's motion. Accardo opines that a 6 month license to allow petitioner to perform work on petitioner's wall adjacent to respondent's roof and an 18 month license to allow petitioner to provide protection in the 152 alley would allow sufficient time to complete the work in question.

Carl Tait, a former president of the Board of Directors of 152 Corp., also submits an affidavit in opposition to the motion. In his affidavit, Tait states that petitioner has delayed for years in making the necessary repairs to petitioner's building and, in essence, that the repairs required are attributable to this neglect.

Alternatively, respondents argue that, if petitioner is granted a license, then this Court should order, inter alia, that: 1) the duration thereof should be limited to 6 months for access to respondents' roof and 18 months for access to the 152 alley, subject to reasonable force majeure extensions and a showing that best efforts have been made to complete the work, with penalties of no less than $500 per day for exceeding these deadlines; 2) petitioner must pay a license fee of no less than $5,500 per month for as long as petitioner uses the respondents' roof and/or the partial vacate order on respondents' roof remains in effect; 3) petitioner must name respondents as additional insureds by endorsement on their own and on their contractors' commercial liability insurance policies; 4) petitioner must defend, indemnify and hold harmless respondents from any claims related to the property protection or petitioner's work and petitioner must be liable for any damages suffered by respondents as a result of the license; 5) petitioner must post a payment and performance bond in the amount of $500,000 or, in the alternative, place in escrow not less than $250,000 to secure the payment of damages and completion of the work; 6) a hearing must be held at the time the work is

completed to ascertain the extent of the damages, if any, sustained by respondents.

In its reply memorandum of law, petitioner asserts that it has satisfied the elements for the granting of a license pursuant to RPAPL § 881 in that it seeks to make improvements or repairs to real property, the improvements or repairs cannot be made without access to the adjoining property, and permission from the adjoining property owner has been refused. It further maintains it has satisfied the statute by submitting a petition and affidavit setting forth facts making such entry necessary and the date or dates on which such entry is sought.

In a reply affirmation, Notte states, inter alia, that petitioner never agreed that the work on respondents' roof would take 6 months to perform, and that that was just a goal set by the DOB.

In a reply affidavit in further support, Virgadamo acknowledged, inter alia, that, "in conformance with [respondent's] view that a six (6) month term with reasonable extensions for unforeseen circumstances is appropriate [to complete petitioner's work adjacent to respondents' rooftop] * * * [petitioner] provided [r]espondents [with a proposed] [l]icense [a]greement" providing that the said work be completed within that amount of time.

Yates, in his reply affidavit, opines that a 12 month license would be appropriate for work adjacent to respondents' roof because cold and inclement weather could cause delays in the work and pose possible hazards to workers. He further states that the extent of remediation needed could not be ascertained without probing the wall, which requires the erection of scaffolding.

In an affirmation submitted at the request of this Court after the June 23, 2016 conference, respondents argue that they are entitled to $5,500 per month in license fees, reimbursement for attorneys' fees incurred in connection with this proceeding, as well as for the costs they incurred in

hiring an engineer in connection with this matter.[5] In support of their argument that they are entitled to attorneys' fees and license fees, respondents rely, inter alia, on *DDG Warren LLC v Assouline Ritz 1, LLC*, 138 AD3d 539 (1st Dept 2016).

In opposition to respondents' request for fees, petitioner argues, inter alia, that neither *DDG Warren* nor any other case entitles respondents to license fees or reimbursement of attorneys' fees or engineering fees. Petitioner asserts that all of the cases cited by the First Department in which a license fee was awarded involved elective work or new construction, unlike here, where mandatory statutory repairs were involved. Petitioner further asserts that the area of the roof affected is only about 1/10th of the square footage of respondent Fallarino's terrace and that the area is used only about five months per year. Further, petitioner maintains that respondents' demand for petitioner to post a bond is without merit since they have no valid claim for a monetary award or other compensable loss.

In an affirmation in further support, respondents assert that, although the total size of the terrace in question is 2,000 square feet, the vacate order prevents Fallarino from using the vast majority (1,200 square feet) of it, which abuts petitioner's building, and is the far more valuable portion of the terrace since it faces Central Park. Respondents insist that, following the issuance of the interim order of January 5, 2016, they allowed petitioner access to the premises beginning on February 24, 2016, at which time repair work began. Respondents further assert that petitioner's argument that license fees and reimbursement of professional fees may not be awarded when work is performed as required by statute is without merit. Finally, respondents assert that, had petitioner

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[5]Respondents assert that "reimbursement of some if not all of these fees is reasonable, equitable and well supported by the courts." Stanziale Aff. of 7/14/16, at p. 5.

accepted their initial six-month license term to complete the terrace work, which was supported by respondents' engineer, the DOB's engineer, and, eventually, petitioner's engineer, this lawsuit could have been avoided.

LEGAL CONCLUSIONS:

Granting of a License

RPAPL § 881 provides as follows:

> When an owner or lessee seeks to make improvements or repairs to real property so situated that such improvements or repairs cannot be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make such improvements or repairs may commence a special proceeding for a license so to enter pursuant to article four of the [CPLR]. The petition and affidavits, if any, shall state the facts making such entry necessary and the date or dates on which entry is sought. Such license shall be granted by the court in an appropriate case upon such terms as justice requires. The licensee shall be liable to the adjoining owner or his lessee for actual damages occurring as a result of the entry.

Petitioner states a basis for the granting of a license pursuant to RPAPL § 881. Petitioner has established through the affidavits submitted in support of the motion that repairs are necessary to the petitioner's building which cannot be made without access to the 152 property. "Courts are required to balance the interests of the parties and should issue a license when necessary, under reasonable conditions, and where the inconvenience to the adjacent property owner is relatively slight compared to the hardship of his neighbor if the license is refused." *Matter of Board of Mgrs. of Artisan Lofts Condominium v Moskowitz*, 114 AD3d 491, 492 (1st Dept 2014). Respondents "do not dispute that [p]etitioner's building is unsafe and that the [p]etitioner's [w]ork needs to be done." Fallarino Aff.

in Opp. at par. 9. Although the time needed to complete the work had been in dispute, after the probing was conducted, the parties represented to this Court at a conference held on June 23, 2016 that they had agreed that the work on the roof would be completed by September 19, 2016 and that the remainder of the work, in the 152 alley, would be completed by September 19, 2017.

In light of the foregoing, a license is granted to petitioner for the work to be performed on that portion of its building adjacent to respondent Fallarino's roof for the period of February 24, 2016 until September 19, 2016. Additionally, a license is granted to petitioner for work to be performed in the 152 alley for the period of February 24, 2016 until September 19, 2017. Both of said licenses are granted nunc pro tunc.

License Fee

> Although the determination of whether to award a license fee is discretionary, in that RPAPL 881 provides that a "license shall be granted by the court in an appropriate case upon such terms as justice requires" (emphasis added), the grant of license pursuant to RPAPL often warrants the award of contemporaneous license fees (citations omitted).

DDG Warren LLC v Assouline Ritz 1, LLC, 138 AD3d 539 at 539-540 (1st Dept 2016).

License fees are routinely awarded to a respondent in a proceeding pursuant to RPAPL 881 since the respondent "has not sought out the intrusion and does not derive any benefit from it . . . Equity requires that the owner compelled to grant access should not have to bear any costs arising from the access (citations omitted)." 138 AD3d at 540.

Here, respondent Fallarino submitted an affidavit attesting to the fact that the license required to repair the deterioration of petitioner's building would delay him from making desired improvements to the terrace and from using those improvements he has already made. Fallarino Aff.,

at par. 46. Fallarino asserts that approximately 1,250 square feet of his 2,000 square foot terrace cannot be used and that, although 400 square feet of it can be, the smaller portion is in the shadow of a tall building. Fallarino Aff., at pars. 5, 47.[6] Although Fallarino requests a license fee of $5,500, this Court finds the said request excessive. Fallarino states that his monthly carrying charges are $10,084 and that the terrace comprises approximately 29% of the total square footage of his apartment. Fallarino Aff., at par. 51. Thus, the loss of his entire terrace would be worth approximately $2,924.36 of his monthly carrying charges, or 29% or $10,084, per month. However, since Fallarino is not losing the entire terrace, this Court finds that $2,000 per month is a just and equitable license fee under the circumstances of this case.[7] *See Matter of North 7-8 Investors, LLC v Newgarden*, 43 Misc3d 623, 634 (Sup Ct Kings County 2014); *Snyder v 122 E. 78th St. NY LLC*, 2014 Slip Op 32940(U) (Sup Ct New York County 2014).[8]

Upon receipt of this order with notice of entry, petitioner is to pay respondent Fallarino the sum of $14,000, representing the license fees for February through August of 2016, within 20 days. Payment of the license fee for September 2016 will be due on September 1, 2016.[9]

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[6]This substantially reiterates the representation by the attorney for respondents, who stated that approximately 1,200 square feet of the terrace abutting petitioner's building could not be used.

[7]In reaching this figure, this Court considered that the terrace was unlikely to have been used by Fallarino during the winter months of February and March.

[8]Unlike Fallarino, respondent 152 Corp. does not request a license fee.

[9]This Court declines to prorate the license fees for February and September of 2016, despite the fact that the fees are not for complete months. In this vein, this Court notes that, although the parties agreed after the probing that the roof work would take six months to complete, respondents allowed petitioner access to the premises early, on February 24, 2016, in a gesture of good faith and cooperation. Thus, the license fees for the roof work exceed six months.

Petitioner's deadlines of September 19, 2016 to finish the work adjacent to respondent's roof and September 19, 2017 to finish the 152 alley work may only be extended due to a force majeure. If the roof work extends past the September 19, 2016 deadline for any other reason, petitioner will be subject to pay respondent Fallarino a fine of $500 per day until the roof work is completed. If the 152 alley work extends past the September 19, 2017 deadline for any other reason, petitioner will be subject to pay respondent 152 Corp. a fine of $500 per day until the 152 alley work is completed. Completion of petitioner's work shall include removal of all of petitioner's equipment and the equipment of petitioner's contractors from respondents' premises.

Although petitioner maintains that respondents are not entitled to a license fee because this case does not involve new or elective construction, its argument is without merit. As noted above, the Appellate Division in *DDG Warren LLC v Assouline Ritz 1, LLC,* 138 AD3d 539, held that the issuance of a license fee was a matter of the court's discretion in an appropriate case as justice requires. That case, the only decision of the Appellate Division, First Department found by this Court addressing the award of license fees pursuant to RPAPL 881, does not make any mention of new construction or elective construction.

Attorneys' Fees and Engineering Fees

Contrary to petitioner's argument, respondents are entitled to reimbursement by petitioner for attorneys' fees incurred in this action. *DDG Warren LLC v Assouline Ritz 1, LLC,* 138 AD3d 539, 540; *Matter of North 7-8 Investors, LLC v Newgarden*, 43 Misc3d 623, 632.

Justice also requires that petitioner reimburse respondents for their reasonable engineering costs incurred in this matter. *Matter of North 7-8 Investors, LLC v Newgarden*, 43 Misc3d 623, 629.

As noted in detail above, probing of the walls of petitioner's building had to be conducted in order to determine how long petitioner's work would take. Respondents clearly had a right to have an engineer of their choosing present when this probing occurred to ensure that petitioner's engineer would give an accurate estimate of how long the work would take.

Since the motion papers reflect neither how much respondents paid their engineer nor their attorneys, or whether respondents shared these costs, and since further legal fees may be incurred in this proceeding, the matter of calculating these damages will be referred to a referee at the conclusion of petitioner's work.

Therefore, in light of the foregoing, it is hereby:

ORDERED AND ADJUDGED that petitioner is granted a license from February 24, 2016 until September 19, 2016, *nunc pro tunc*, to enter onto respondents' property to perform work adjacent to respondents' roof and to install all temporary protection necessary to conduct such work; and it is further,

ORDERED AND ADJUDGED that petitioner is granted a license from February 24, 2016 until September 19, 2017, *nunc pro tunc*, to enter onto respondents' property to perform work in the 152 alley and to install all temporary protection necessary to perform such work; and it is further,

ORDERED that petitioner is directed to pay respondent David Fallarino a monthly license fee in the sum of $2000 for the period of February 1, 2016 through September 1, 2016, with the sum

of $14,000 for the months of February through August of 2016 due within 20 days of service of this order with notice of entry and payment of the license fee for September 2016 due on September 1, 2016; and it is further,

ORDERED that, if petitioner does not complete its work adjacent to respondents' roof by September 19, 2016 for any reason other than a force majeure, then petitioner shall be liable to pay respondent David Fallarino $500 per day until its work is completed; and it is further,

ORDERED that, if petitioner does not complete its work in the 152 alley by September 19, 2017 for any reason other than a force majeure, then petitioner shall be liable to pay respondent 152 Corp. $500 per day until its work is completed; and it is further,

ORDERED that petitioner shall notify respondents in writing when its work has been completed adjacent to respondents' roof and in the 152 alley and it has removed all temporary protections from those areas; and it is further,

ORDERED that petitioner is solely responsible for the installation, maintenance, and removal of the temporary protection; and it is further,

ORDERED that at the completion of the term of the license, the respondents' property within the license areas shall be returned to its original condition, and all materials used in construction and any resultant debris shall be removed from the license areas; and it is further,

ORDERED that petitioner shall not interfere with respondents' necessary access to their property and quality of life, and shall take the necessary steps, measures and precautions to prevent any damage to respondents' property; and it is further,

ORDERED that petitioner and each contractor involved in the repairs and overhead protection being supplied in connection therewith procure a commercial general liability policy with limits of no less than $2 million and excess limits of no less than $5 million and that petitioner and each contractor name respondents as additional insureds on their policies for work arising from such repairs, and that such coverage remain in place until the completion of the work; and it is further,

ORDERED that petitioner shall be liable to respondents for any damages which they may suffer as a result of the granting of this license and all damaged property shall be repaired at the sole expense of petitioner; and it is further,

ORDERED that petitioner is to reimburse respondents for all attorneys' fees they incurred in connection with this proceeding, as well as for the costs of hiring an engineer; and it is further,

ORDERED that the amount of attorneys' fees and engineering fees owed by petitioner to respondents, and the amount of any damages owed by petitioner to respondents arising from the license (if not covered by insurance) is hereby referred to a referee for determination at the conclusion of petitioner's work; and it is further,

ORDERED that this constitutes the decision and order of the court.

Dated: August 19, 2016

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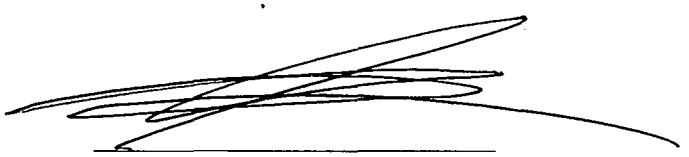

KATHRYN E. FREED, J.S.C.

HON. KATHRYN FREED
JUSTICE OF SUPREME COURT