

Matter of House of Prayer of God in Christ
2018 NY Slip Op 32036(U)
August 21, 2018
Supreme Court, New York County
Docket Number: 155643/2018
Judge: Eileen A. Rakower
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 6

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In the Matter of the petition of

Index No.
155643/2018

The House of Prayer of God in Christ
aka The Baptist House of Prayer

Decision and
Order

for Approval to lease its real property
pursuant to Religious Corporations Law,
Article 2, Section 12(1) and
Not for Profit Law Article 5, Section 511,
to Green House 126th Street, LLC,

Mot. Seq. 1

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HON. EILEEN A. RAKOWER:

Petitioner, The House of Prayer of God in Christ aka The Baptist House of Prayer (“Petitioner” or “The Church”), brings a petition seeking Order or letter of Approval of this Court authorizing it to lease The Church’s property, located at 80-82 West 126th Street, New York, New York, 10027, to Green House 126th Street, LLC.

Petitioner submits a Verified Petition; affidavit of Eugene Richardson, the Chairman of the Board of Trustee of the Church; Constitution of The Church; the Certificate of Incorporation of The Church and Certificate of Amendment; description of the Property and deed; Resolution by the Trustees; Resolution by the Congregation; The Church’s Financial Statements for 2015 and 2016; independent Appraisal of The Church’s Property; and terms of the Lease Agreement.

The Order to Show Cause, Notice of Verified Petition, Verified Petition, and Exhibits were served upon the New York State Office of Attorney General. No opposition has been submitted.

Legal Standard

Religious Corporations Law § 12(1) provides that in order to lease any of its real property a religious corporation must apply for, and obtain, leave of court pursuant to Not-For-Profit Corporation Law § 511. Not-For-Profit Corporation

Law § 511(a) provides that a petition seeking court approval for a lease must set forth:

1. The name of the corporation, the law under or by which it was incorporated.
2. The names of its directors and principal officers, and their places of residence.
3. The activities of the corporation.
4. A description, with reasonable certainty, of the assets to be sold, leased, exchanged, or otherwise disposed of, or a statement that it is proposed to sell, lease, exchange or otherwise dispose of all or substantially all the corporate assets more fully described in a schedule attached to the petition; and a statement of the fair value of such assets, and the amount of the corporation's debts and liabilities and how secured.
5. The consideration to be received by the corporation and the disposition proposed to be made thereof, together with a statement that the dissolution of the corporation is or is not contemplated thereafter.
6. That the consideration and the terms of the sale, lease, exchange or other disposition of the assets of the corporation are fair and reasonable to the corporation, and that the purposes of the corporation, or the interests of its members will be promoted thereby, and a concise statement of the reasons therefor.
7. That such sale, lease, exchange or disposition of corporate assets, has been recommended or authorized by vote of the directors in accordance with law, at a meeting duly called and held, as shown in a schedule annexed to the petition setting forth a copy of the resolution granting such authority with a statement of the vote thereon.

8. Where the consent of members of the corporation is required by law, that such consent has been given, as shown in a schedule annexed to the petition setting forth a copy of such consent, if in writing, or of a resolution giving such consent, adopted at a meeting of members duly called and held, with a statement of the vote thereon.
9. A request for court approval to sell, lease, exchange or otherwise dispose of all or substantially all the assets of the corporation as set forth in the petition.

N.Y. Not-for-Profit Corp. Law § 511 (McKinney)

Section 511(d) provides:

If it shall appear, to the satisfaction of the court, that the consideration and the terms of the transaction are fair and reasonable to the corporation and that the purposes of the corporation or the interests of the members will be promoted, it may authorize the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation, as described in the petition, for such consideration and upon such terms as the court may prescribe.

N.Y. Not-for-Profit Corp. Law § 511(a) (McKinney).

Discussion

The Petition complies with the requirements of Not-for-Profit Corporation 511. Upon reviewing the Notice of Petition, Verified Petition, and exhibits, the Court is satisfied that that the consideration and the terms of the lease agreement are fair and reasonable to The Church and that the purposes of the Church and the interests of the members will be promoted. Not-for-Profit Corp. Law § 511.

Wherefore it is hereby

ORDERED that the Petition is granted without opposition; and it is further

ORDERED that the lease of certain real property located at 80-82 West 126th Street, NY, NY 10027, Block 1723 Lot 67 to Green House 126th Street, pursuant to Religious Corporations Law Article 2, Section 12(1) and Not for Profit Law Article 5, Section 511 in exchange for up front payments, annual lease payments, net profit sharing and a new 6000 square foot Church Facility is APPROVED; and it is further

ORDERED that payments should be made as follows:

Up-front Payments: One Million and Ten Thousand Dollars (\$1,010,000.00) as an initial payment, an additional contribution by Tenant to Landlord in the amount of Nine Hundred Thousand Dollars to be payable by Tenants as follows: (i) One Million and Five Hundred and Ten Thousand Dollars (\$1,510,00.00) as an initial payment under this Lease of which (ii) \$10K will be due upon signing of the Letter of Intent or the Ground Lease whichever is sooner; (iii) \$50K will be due at the signing of the Ground Lease; (iv) \$100K at supreme court or attorney general approval of the ground lease; (v) the balance, \$1.35 Million at construction loan closing and (vi) \$2.5 Million an additional "In Kind Contribution" shall be allocated by the Tenant in its construction of the Church Facility Unit.

Base Rent: Annual lease payments beginning in year one of Thirty Thousand Dollars (\$30,000.00) per year with a 1% increase every year thereafter together with a Fifteen Thousand Dollar, \$15,000.00 bonus every 20 years on the lease's anniversary; and Additional Rent as described in the Lease.

This constitutes the Decision and Order of the Court. All other relief requested is denied.

Dated: AUGUST 21, 2018



Eileen A. Rakower, J.S.C.