SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. NICHOLAS W. MOYNE **PART** 52

Justice

----------X

LEONEL GOMEZ, IRIS HERNANDEZ, ROSAURA SOSA, GRISELDA UVALDO, DARRIN DOTSON, BINTA DIOP, GALE LEE, ABDOULAYE NIANG

Petitioner,

- v -

KAZIMIR VILENCHIK, RUTHANNE VISNAUSKAS, WILLIAM YANG LLC,XIANG YANG, JANE YANG, 240- 42 WEST 116 HOUSING DEVELOPMENT FUND CORPORATION, SHINDA MANAGEMENT CORPORATION,

Respondent.

----------X

INDEX NO. 452607/2022

MOTION DATE 07/10/2023

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 20, 21, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, it is

The Court having considered the papers submitted to it by the parties and after oral argument on April 26, 2023, and July 10, 2023, during which the court articulated its reasons for the decision below, it is hereby ordered that Petition is granted in part and denied in part as follows:

1. Petitioners' request for an Order requiring that the New York City Department of Buildings (DOB) verify that owners have approval from the New York State Department of Homes and Community Renewal (DHCR) regarding any proposed service or layout changes before approving and issuing permits is denied. All requested relief against DOB, and the relief requested in paragraphs 1 through 4 of the WHEREFORE clause in the Amended Petition, is also denied.

2. Petitioners' request for a declaration that owners are legally required to obtain DHCR approval prior to applying for permits and submitting plans to DOB is also denied.

3. The relief requested against Respondents William Yang LLC, Xiang Yang, and Jane Yang is denied without prejudice and Petitioners reserve their ability to seek renewal before this Court, including renewal based on determinations by the Housing Court in LT-311900-21/KI with respect to any relief that may be available to Petitioners, including the ability to seek direct injunctive relief against these Respondents in Supreme

Court for restoration of services or to seek what they deem to be any appropriate relief before DHCR not otherwise denied by this Order.

4. The relief requested in the Petition against Respondent Shinda Management Corporation and Respondent 240-42 West 116 Housing Development Corporation, is granted to the extent of directing these Respondents to make an application to DHCR, pursuant to 9 NYCRR §2522.4 (d) & (e), for review of and to enjoin them from undertaking any changes to the layout of these apartments without a prior a decision by DHCR. The relief in this paragraph is unique to these Respondents and this Petition and is not intended to have precedential effect. In addition, DHCR, on considering such application, is not barred by this Order from making any determination that is otherwise deemed to be legal and appropriate, but without prejudice to rights of the parties to seek judicial review pursuant to CPLR Article 78 of any DHCR determination.

5. Respondent 240-42 West 116 Housing Development Corporation has failed to appear or answer in this proceeding and is therefore in default.

This constitutes the decision and order of the court.

7/27/2023
DATE

NICHOLAS W. MOYNE, J.S.C.

CHECK ONE:	[X]	CASE DISPOSED		[ ]	NON-FINAL DISPOSITION		
	[ ]	GRANTED	[ ] DENIED	[X]	GRANTED IN PART	[ ]	OTHER
APPLICATION:	[ ]	SETTLE ORDER		[ ]	SUBMIT ORDER		
CHECK IF APPROPRIATE:	[ ]	INCLUDES TRANSFER/REASSIGN		[ ]	FIDUCIARY APPOINTMENT	[ ]	REFERENCE