

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M79798
E/sl

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
HOWARD MILLER
EDWARD D. CARNI, JJ.

2008-02900, 2008-10587

DECISION & ORDER ON MOTION

Stuart Waldman, appellant-respondent,
v LDK Realty, Inc., et al., respondents-appellants.
(Appeal No. 1)

Stuart Waldman, appellant,
v LDK Realty, Inc., et al., respondents.
(Appeal No. 2)

(Index No. 101962/07)

Motion by Stuart Waldman to enjoin the Clerk of Richmond County from discharging a certain notice of pendency and to stay enforcement of an order of the Supreme Court, Richmond County, dated November 18, 2008, pending hearing and determination of an appeal from that order as well as an appeal and cross appeal from an order of the same court entered February 19, 2008, and to consolidate the appeals and cross appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is for an injunction and a stay is granted, and the Clerk of Richmond County is enjoined from discharging the notice of pendency filed against block 2072 lots 57, 65, and 69, known as 2944 Victory Boulevard, and enforcement of the order dated November 18, 2008, is stayed pending hearing and determination of the appeals and cross appeal on condition that the appeal from the order dated November 18, 2008, is perfected on or before January 9, 2009; and it is further,

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ORDERED that in the event the appeal from the order dated November 18, 2008, is not perfected on or before January 9, 2009, the court, on its own motion, may vacate the injunction and stay, or the respondents may move to vacate the injunction and stay, on three days notice; and it is further,

ORDERED that the branch of the motion which is to consolidate the appeals and cross appeal is granted to the extent that the appeals and cross appeal will be calendared together and will be argued or submitted on the same day, and that branch of the motion is otherwise denied.

SPOLZINO, J.P., FISHER, MILLER and CARNI, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court