

THE REAL DEAL

JUNE 18, 2018

Appellate court overturns ruling favoring tenant at Solow's 10 West 57th Street

Metropolitan Fine Arts & Antiques plans to appeal decision



Sheldon Solow and 10 West 57th Street (Credit: Getty Images)

By Will Parker

Sheldon Solow wants to build a 54-story hotel and condominium on West 57th Street, but can't do it until the last retail tenant on the south side of the block gets out of his way.

That tenant, Metropolitan Fine Arts & Antiques, has not been willing to do so and enlisted attorney David Rozenholc — known for securing large buyouts for holdout tenants — to help them fight Solow. The billionaire moved to evict the shop on the basis that it

used the premises to conduct an illegal enterprise — the Manhattan District Attorney discovered the shop had dealt \$4.5 million in illegal ivory during a 2015 sting.

A lower court initially ruled that this action alone was not sufficient to evict a tenant, but a



ROSENBERG & ESTIS, P.C.

five-judge panel at the appellate division shot down that decision down last week. “Appellant’s showing that [Metropolitan] engaged in the unlawful business of offering ivory for sale on its premises, and did so over a period of months, is plainly sufficient,” the judges wrote in their decision brief.

“We argued that given the guilty plea to a crime that by definition said illegal commercialization, that in and of itself was sufficient use of the premises for illegal activity,” said Bradley Silverbush, an attorney at Rosenberg & Estis. A founding partner of that firm, Warren Estis,

led the legal team for Solow, who turns 90 next month.

Rozenholc is already at work on an appeal. He’ll first ask the appellate division to grant leave for appeal and if that is denied, he’ll try to take up the issue with the Court of Appeals, New York state’s highest court. “We believe that based on the law one conviction is not enough,” Rozenholc said. “The law as we understand is that they have to show an ongoing regular conduct.”

The legal action with Solow was first initiated by Rozenholc last summer when he sued on behalf of Metropolitan when its

lease was terminated, alleging Solow’s development company had installed scaffolding in front of the shop for the sole purpose of damaging the business and preventing customers from entering.

Although Metropolitan is the main obstacle in the famously litigious Solow’s path to putting yet another luxury tower on West 57th Street, another tenant he forced out, wants \$800,000 in compensation for its lease getting terminated four years early. It sued Solow in January and obtained an injunction allowing it to temporarily hold on to its lease. Solow is appealing.

