

nyrej

THE LARGEST COMMERCIAL/INVESTMENT REAL ESTATE NEWSPAPER IN THE STATE

Reprint

nyrej.com

Tuesday, July 17, 2018

Rosenberg & Estis secures preliminary injunction for Karr Graphics at 22-19 4^{1st} Avenue

NEW YORK, NY Rosenberg & Estis, P.C., a premier New York City real estate law firm with an award-winning Litigation Department, has secured a preliminary injunction for a commercial tenant, Karr Graphics Corp., preventing the landlord, Spar Knitwear Corp, from evicting the tenant based on a refusal to recognize the tenant's valuable renewal option.

The injunction, issued on June 27 by Honorable Leonard Livote of the New York State Supreme Court, Queens County, prevents the immediate eviction of the company, which has conducted business from its Long Island City premises for nearly 10 years.

Brett Theis and Dejan Kezunovic of Rosenberg & Estis, P.C. represented Karr Graphics Corp.

For almost nine years, Karr Graphics had sublet portions of its second floor with the knowledge and participation of the landlord. Two months prior to the window period for the tenant to exercise its option, the landlord issued a notice to cure, claiming that the tenant had improperly sublet its premises in default of the lease.

The tenant removed all of its subtenants within the applicable cure period and timely exercised its renewal option. The landlord rejected the tenant's exercise of its option, claiming that the tenant's alleged default precluded it from renewing the lease. Rosenberg & Estis took immediate action to obtain a preliminary injunction and argued that the landlord was obligated to recog-

nize the tenant's renewal option because the tenant was never in default beyond the applicable notice and cure period of the lease and that a forfeiture of the tenant's option should be avoided.

The court found that the tenant "demonstrated a likelihood of success on the merits of its claim that the exercise of its [lease] renewal option was valid" and that, absent injunctive relief, the tenant would lose a valuable property right.

"Given that we timely and properly served the Renewal Notice during both the Window Period and during the cure period, we were not in default of the Lease 'beyond the applicable notice period' as stated in section 106 (A) and there would be absolutely no basis for the Landlord to refuse

to acknowledge our renewal rights," the tenant argued.

"This case is the epitome of 'lying in wait.' Having known about the allegedly improper subleases for nearly a decade, the landlord called a default under the lease shortly before the tenant could exercise its option to renew at a below-market rent in an attempt to create a forfeiture of the tenant's option," Theis said. "The injunctive relief granted in this case demonstrates that renewal options in commercial leases are viewed as valuable leasehold interests worthy of equitable protection."

Since the start of Karr Graphics Corp.'s near 10-year tenancy, the market value for its Long Island City space has more than doubled.