

Christopher Mansfield Scores Important Victory in a Commercial Litigation Matter Related to Steinway Square Development

October 27, 2020

Christopher Mansfield scored an important victory in a commercial litigation matter related to Steinway Square, an ambitious proposal to transform the Astoria, Queens neighborhood via a large-scale re-zoning and up-zoning of the area around Kaufman-Astoria Studios.

Cullen and Dykman client King Kullen Grocery Co. Inc., the owner of a commercial parcel within the proposed redevelopment zone, agreed to ground lease its property to the developer of Steinway Square. That agreement, as well as similar agreements the developer reached with owners of neighboring parcels, was contingent on the developer's ability to obtain approval and financing for the project. The developer, which had spent years and tens of millions of dollars pursuing the project, ultimately experienced difficulties with financing. When the landowners rebuffed its efforts to renegotiate the site control agreements, the developer defaulted on its obligations to the landowners to bring them to the negotiating table. Instead, the landowners terminated their respective agreements. A new group of developers subsequently stepped in to re-establish site control and expand/reimagine the proposal as Innovation QNS.

Innovation QNS prompted the original group of developers to initiate litigation against the landowners to block the new project. Their original claims were dismissed in 2018, but in 2019 they were granted leave to amend their complaint to assert two additional claims. The amended complaint claimed that King Kullen and the other landowners were unjustly enriched by the developer's efforts, including a purported agreement with the Department of City Planning for an increase in the allowable floor area ratio, which allegedly resulted in a massive increase in land value for the parcels. They further claimed that King Kullen and the other landowners never properly terminated their site control agreements and, thus, breached those agreements by negotiating with the new developers.

Mansfield moved to dismiss the amended complaint on the basis that the claims of unjust enrichment were speculative given that neither Steinway Square nor Innovation QNS has ever been formally approved. He further argued that the plaintiffs, the financier and purported assignee of the original developer, had no standing to litigate termination of the site control agreements because it had failed to allege compliance with the non-assignment provisions of those agreements. Justice Cohen of the Commercial Division agreed and, by Order dated October 16, 2020, dismissed the amended complaint against King Kullen in its entirety. This victory is not only an important one for King Kullen, but it also removes a potential complication to the ongoing efforts to

reimagine the Astoria neighborhood.

Practices

- Commercial Litigation
- General Liability, Tort and Insurance Defense

Attorneys

- Christopher F. Mansfield