

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
August 22, 2003 through August 28, 2003

A list of appeals with short title, jurisdictional predicate, subject matter and key issues is prepared each week.

Some of these filed appeals may never reach decision on the merits because of dismissal on motion, sua sponte, or for time deficiencies or because of stipulated withdrawals by the parties. Also, some counsel fail to file timely jurisdictional statements and thus the list should not be treated as comprehensive for any particular week.

The Court welcomes motions for amicus curiae participation from those qualified and interested in the subject matter of these newly filed appeals. Please refer to Court Rule 500.11 and direct any questions to the Clerk's Office.

For August 22, 2003 through August 28, 2003 the following jurisdictional statements for appeals were filed:

CLASSIC REALTY, LLC, MATTER OF, v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR):

1ST Dept. App. Div. order of 8/7/03; affirmance with dissents; LANDLORD AND TENANT - RENT REGULATION - HIGH INCOME RENT DEREGULATION OF RENT-STABILIZED APARTMENT - WHETHER LANDLORD WHO HAS MADE AN INITIAL SUCCESSFUL APPLICATION FOR LUXURY DECONTROL IS ENTITLED TO FURTHER ADMINISTRATIVE INQUIRY WHEN A TENANT AMENDS A PREVIOUSLY SUBMITTED TAX RETURN WHICH IS THEN ADMINISTRATIVELY CERTIFIED TO QUALIFY THE TENANT TO REMAIN RENT-STABILIZED;

Supreme Court, New York County dismissed petitioner landlord's application to annul respondent DHCR's determination denying its application for a high income deregulation order; App. Div. affirmed.

HICKS (EUGENE), PEOPLE v:

2ND Dept. App. Div. order of 1/13/03; affirmance; leave to appeal granted by Kaye, Ch.J., 8/13/03;

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - EXPERT WITNESS - POLICE OFFICER - CHALLENGE TO INTRODUCTION OF ARRESTING OFFICER'S TESTIMONY THAT QUANTITY AND PACKAGING OF DRUGS RECOVERED WERE INCONSISTENT WITH PERSONAL USE AND CONSISTENT WITH DRUGS PACKAGED FOR SALE;

Supreme Court, Queens County convicted defendant of criminal possession of a controlled substance in the third degree; App. Div. affirmed.

WATKINS, MATTER OF, v GOORD:

3RD Dept. App. Div. order of 7/10/03; confirmed administrative determination; sua sponte examination whether a substantial constitutional question is directly involved to support the appeal taken as of right;

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO DETERMINATION FINDING PRISONER GUILTY OF VIOLATING DISCIPLINARY RULES PROHIBITING THE POSSESSION OF NARCOTICS AND SMUGGLING; Appellate Division confirmed determination of respondent Commissioner of Correctional Services which found petitioner guilty of violating disciplinary rules prohibiting the possession of narcotics and smuggling, and dismissed the CPLR article 78 proceeding.

WEBB, MATTER OF, v GOORD:

4TH Dept. App. Div. order of 7/3/03; confirmed administrative determination; sua sponte examination whether a substantial constitutional question is directly involved to support the appeal taken as of right;

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO PRISONER DISCIPLINARY DETERMINATIONS; Appellate Division confirmed determination of respondent Commissioner of Correctional Services which found petitioner guilty of disciplinary charges after a Tier II and Tier III hearing, and dismissed the CPLR article 78 petition.