

Matter of Andresakis v New York State Div. of Hous. & Community Renewal
2005 NY Slip Op 30641(U)
January 25, 2005
Supreme Court, New York County
Docket Number: 115316/2004
Judge: Lottie E. Wilkins
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PART 18

-----X
In the Matter of the Application of ANTHONY
ANDRESAKIS,

Petitioner,

Index No. 115316/2004

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules,

- against -

DECISION

THE NEW YORK STATE DIVISION OF HOUSING
AND COMMUNITY RENEWAL,

Respondent.

-----X

FILED
FEB - 2 2005
NEW YORK
COUNTY CLERK'S OFFICE

Lottie E. Wilkins, J.:

Considered on this motion to intervene in an article 78 proceeding were
movant's affidavit in support and memorandum of law dated December 30, 2004; the
opposing papers by petitioner Anthony Andresakis, and movant's reply affidavit and
memorandum of law, both dated January 21, 2005. For the reasons set forth below, the
motion is granted.

The Court has pending before it an article 78 proceeding by petitioner
Anthony Andresakis which seeks to annul a determination of respondent Division of
Housing and Community Renewal which, in turn, denied petitioner's rent overcharge
claim against landlord Ansonia Associates Limited Partnership and held that petitioner
waived his right to bring an overcharge proceeding by virtue of a prior stipulation

between the parties. Landlord Ansonia Associates participated at the administrative level and now seeks to intervene in the article 78 proceeding as an interested party.

Mr. Andresakis opposes intervention primarily on two grounds: First he argues that intervention by Ansonia Associates will unduly distract him as a pro se litigant from challenging DHCR's opposition to his petition, which he considers to be the primary focus of this litigation. Second, Mr. Andresakis argues that by permitting Ansonia Associates to intervene at this juncture, the Court will essentially be giving the landlord a "second bite at the apple" in terms of mounting article 78 challenge which it previously chose not to commence. These arguments, however, are not a sufficient basis for denying intervention.

In this situation, granting leave to intervene lies soundly within the discretion of the Court (see CPLR § 7802[d]). The liberal standard for intervention in an article 78 proceeding is that the party seeking intervention merely be "interested" (Matter of Elinor Homes Co. v St. Lawrence, 113 AD2d 25 [2d Dept 1985]). Here, there is little question that Ansonia Associates, who is petitioner's landlord, is interested in petitioner's attempt to annul DHCR's determination on his rent overcharge claim. Petitioner's argument that by granting intervention he will be forced to contend with two sets of papers instead of one is simply not a valid reason to keep Ansonia Associates from having an opportunity to be heard. Even as a pro se litigant,

petitioner's convenience cannot be exalted over the rights of interested parties to participate in proceedings affecting their interests. Even so, the Court has expedited its resolution of this motion in order to give the parties ample to time make their arguments and adhere to the original schedule for submission of papers.

Petitioner's second argument, that the Court will be giving Ansonia Associates a second chance to commence an article 78 proceeding that it previously chose not to bring, does not make sense. For all practical purposes, Ansonia Associates prevailed at the administrative level. Thus there was no reason for Ansonia Associates to bring an article 78 proceeding in the past, or to want one now. It is only because petitioner has commenced his own article 78 proceeding that Ansonia Associates seeks to participate in order to protect its interests. In sum, simple fairness dictates that Ansonia Associates be allowed to intervene in this proceeding. Accordingly, it is

ORDERED that the motion is granted in its entirety, and leave is given to Ansonia Associates Limited Partnership to intervene in the underlying article 78 proceeding as an intervenor-respondent; it is further

ORDERED that the caption of this proceeding shall be amended to reflect the inclusion of Ansonia Associates as an intervenor-respondent, as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
Matter of Application of ANTHONY ANDRESAKIS

Petitioner,

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules,

- against -

NEW YORK STATE DIVISION OF HOUSING AND
COMMUNITY RENEWAL,

Respondent,

- and -

ANSONIA ASSOCIATES LIMITED PARTNERSHIP,

Intervenor-Respondent.

-----X

and, it is further

ORDERED that the Clerk of the Court and the Clerk of the Trial Support
Office, upon service on each of them of a copy of this order with notice on entry, shall
mark their records to reflect the amendment.

This constitutes the decision and order of the Court.

Dated: *January 25, 2005*
JAN 25 2005

LW

Lottie E. Wilkins, J.S.C.
Lottie E. Wilkins

FILED
JAN - 2 2005
COURT NEW YORK