

562 W. 174th Equities LLC v Mednik

2025 NY Slip Op 32043(U)

April 19, 2025

Civil Court of the City of New York, New York County

Docket Number: Index No. LT-305880-24/NY

Judge: Daniele China

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Civil Court of the City of New York
County of New York

Index # **LT-305880-24/NY**


562 West 174th Equities LLC

Petitioner(s)

Decision / Order

-against-

Seq 5

Stella B. Aminov Mednik; "John" "Doe"; "Jane"
"Doe"

Respondent(s)

Recitation, as required by CPLR 2219(a), of the papers considered in the review of Respondent's motion for discovery pursuant to CPLR §408:

Papers	Numbered
Notice of Motion and Affidavit/ Affirmation & Exhibits annexed	23-30
Answering Affidavits/ Affirmations	31

Upon the foregoing cited papers, the Decision/Order on the Motion is: Motion Granted.

Petitioner commenced this proceeding in March 2024 by petition and notice of petition seeking to retake possession of the Premises based upon substantial violation of her rent-stabilized lease. Petitioner did so while maintaining another holdover proceeding commenced September 2023 in which Petitioner claimed the Premises is exempt from rent-stabilization. Petitioner then moved in June 2024 to amend its petition in this proceeding to reflect exempt status, which was granted on October 24, 2024. As a result, Respondent's filed an amended answer challenging the alleged exempt status. This motion followed on December 6, 2024.

Respondents argue leave to conduct discovery should be granted where there is an "ample need" for the information sought by the party seeking it. *Smilow v. Ulrich*, 11 Misc. 3d 179, 182 (Civ. Ct. NY Co. 2005). In determining where "ample need" exists, courts weigh the following factors: (1) Whether...[Respondents] have asserted facts to establish a cause of action [or defense]; (2) whether there is a need to determine information directly related to the cause of action; (3) whether the requested disclosure is carefully tailored and is likely to clarify the disputed facts; (4) whether prejudice will result from the granting of an application for disclosure; [and] (5) Whether the prejudice can be diminished or alleviated by an order fashioned by the court for this purpose...." *New York University v. Farkas*, 121 Misc. 2d 643, 647 (Civ. Ct. NY Co. 1983).

Respondent argues that all information necessary to determine proper reregulation are within the custody and control of Petitioner and are necessary to determine whether there is a genuine issue as to deregulation. The burden is on Petitioner to establish that all steps required to affect a valid deregulation were properly taken. See, *Kostic v New York State Div. of Hous. and Community Renewal*, 188 AD3d 569 (1st Dept 2020). This includes not only that the lawful rent for the premises exceeded the applicable deregulation threshold at vacancy, but also that Petitioner or its predecessors took all necessary administrative steps required by the Rent Stabilization Code, such as serving the tenant then in occupancy a deregulation notice and filing an exit registration. See, *Fuentes v Kwik Realty LLC*, 186 AD3d 435, 437 (1st Dept 2020). Accordingly, Respondent argues, examining documents demanded, such as the leases and DHCR filings for the Premises, documentation underpinning any rent increases, and clarification of when the premises was actually removed from rent regulation, are all directly relevant to the issue of the premises' regulatory status. In support, Respondent annexes a copy of the NYS Division of Homes and Community Renewal (DHCR) rent registration information, which is compiled from an Owner's annual filings

(NYSCEF 25). The document, on its face, exhibits numerous anomalies, not least of which is a failure to register the first rent-stabilized tenant annually and the sudden claim of vacancy in 2010 at a rent more than double the first registered rent in 2003.

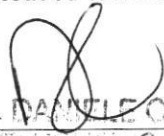
In opposition, Petitioner argues that Respondent's request is a fishing expedition, overly broad and not merited. Petitioner's agent claims the Premises was properly deregulated by its predecessor in interest, and annexed what purports to be the lease registered in 2010. Petitioner further argues Respondent's request for discovery should be limited to the statute of limitations for overcharge; four years, citing, *Regina Metro. Co., LLC v New York State Div. of Hous. and Community Renewal*, 35 NY3d 332 (2020).

Petitioner misapprehends the meaning of *Regina, supra*. *Regina* spoke to the retroactive effect of the Housing Security and Tenant Protection Act (HSTPA) expanding the statute of limitation on overcharge damage calculations from four years to six years; not the scope of discovery related to a regulation challenge. When seeking to challenge the rent stabilization status of an apartment, there is no time restriction on the review of the DHCR rent registration. See, *Fuentes v Kwik Realty LLC*, 186 AD3d 435, 437 (1st Dept 2020). Petitioner provides no explanation for what transpired between the first rent-stabilized lease at \$750 per month in 2003 and the vacancy in 2010 at \$1373.84 per month. Similarly, Petitioner provides no evidence of the calculations supporting a \$1961 per month rent in the 2010 post-vacancy lease (NYSCEF 31). Petitioner has the burden of proving proper deregulation when it's challenged, the information sought by Respondent would be necessary to establish proper deregulation at trial. The prejudice to Petitioner in having to marshal this information is nil.

As such, Respondent's motion seeking disclosure is granted. Petitioner shall respond to Respondent's demand for production and interrogatories within 90 days of filing of a Notice of Entry of this decision. Proceeding adjourned to July 28, 2025, at 9:30 am in Part F, Room 523. The Court declines to mark the proceeding of calendar, as it prefers to monitor the progress of the parties' compliance with the Court's orders.

This constitutes the decision and order of the Court. A copy will be uploaded to NYSCEF.

Date: April 19, 2025


HON. DANIELE CHINEA
Hon. Daniele China
Housing Court Judge

ENTERED
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Civil Court of the City of New
York