

**Sun Star Props. Am., LLC v Meridius**

2025 NY Slip Op 34329(U)

November 19, 2025

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

Docket Number: Index No. L&T 306841/25

Judge: Clinton J. Guthrie

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This opinion is uncorrected and not selected for official publication.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK: HOUSING PART D

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SUN STAR PROPERTIES AMERICA, LLC,  
Petitioner,

Index No. L&T 306841/25

-against-

**DECISION/ORDER**

ANTONI MERIDIUS, MARIE PANYAYONG,  
JAVIER DUTRA,

Respondents.

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Present:

Hon. CLINTON J. GUTHRIE  
Judge, Housing Court

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of respondent’s motion for summary judgment and to refer the matter to DHCR (Division of Housing and Community Renewal) on a rent overcharge defense:

| <b>Papers</b>  | <b>Numbered</b>          |
|--|--------------------------|
| Notice of Motion & All Documents Annexed.....          | <u>1 (NYSCEF #11-18)</u> |
| Affirmation in Opposition & All Documents Annexed..... | <u>2 (NYSCEF #19-27)</u> |
| Reply Affirmation & All Documents Annexed.....         | <u>3 (NYSCEF #28-30)</u> |

Upon the foregoing cited papers, the decision and order on respondent’s motion is as follows.

PROCEDURAL HISTORY

This summary holdover proceeding based upon a 30-day notice of termination was filed in April 2025. Respondent Antoni Meridius (hereinafter “respondent”) appeared through counsel on June 24, 2025. Subsequently, in October 2025, counsel for respondent filed an answer and the instant motion for summary judgment. After submission of opposition and reply papers, the court heard argument on November 13, 2025. On the date of the argument, counsel for respondent also appeared for Marie Panyayong.

DISCUSSION/CONCLUSION

Respondent first seeks summary judgment and dismissal on the basis that the petition

fails to plead the proper regulatory status of the subject premises. Petitioner opposes the motion and argues that the petition sufficiently pleads the regulatory status and exemption from rent stabilization.

It is well established that proper pleading of regulatory status is required in a summary eviction proceeding and failure to do so will subject a petition to dismissal (*see 546 W. 156th St. HDFC v Smalls*, 43 AD3d 7, 11 [1st Dept 2007]; *Hughes v Lenox Hill Hosp.*, 226 AD2d 4, 18 [1st Dept 1996], *lv denied* 90 NY2d 829 [1997] [Strict construction of pleading requirements a matter of equity when misrepresentations are made] [citing *MSG Pomp Corp. v Doe*, 185 AD2d 798 [1st Dept 1992]]; *Volunteers of Am.-Greater N.Y., Inc. v Almonte*, 17 Misc 3d 57, 59 [App Term, 2d Dept, 2d & 11th Jud Dists 2007], *affd* 65 AD3d 1155 [2d Dept 2009] [The regulatory status “may determine the scope of the tenant’s rights[.]”]). Here, the petition pleads that the subject premises is exempt from rent stabilization because “it is a Class B building approved for short term tenancies and exempt from registration requirements.” While petitioner attempts to raise additional bases for an exemption from rent stabilization, namely that the subject premises is not respondent’s permanent place of dwelling and that the building has been “substantially improved to create family housing” (*Val Malden Aff.*, ¶¶ 24-51), these are not pleaded in the petition, nor has petitioner sought to amend the petition (*cf. Coalition Houses L.P. v Bonano*, 12 Misc 3d 146[A], 2006 NY Slip Op 51516[U] [App Term, 1st Dept 2006]).

In support of the motion, respondent annexes an I-card showing the existence of 9 class “B” units and 2 class “A” apartments as of September 1963, as well as an NYC Department of Buildings (DOB) Certificate of Occupancy Alteration Request dated March 2, 2023, showing a potential alteration from 7 class “B” units to 6 class “A” apartments. Petitioner acknowledges in its opposition papers that no certificate of occupancy has been issued after the purported

alteration. In reply, respondent annexes the HPD (New York City Department of Housing Preservation and Development) Building Overview showing 11 class “B” units.

Housing accommodations in buildings built before January 1, 1974 and containing six or more units are presumptively subject to rent stabilization (*see Consulting SS, Inc. v Gorham*, 84 Misc 128[A], 2024 NY Slip Op 51537[U], \*2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2024] [citing Rent Stabilization Law of 1969 § 26-504.1 and Rent Stabilization Code (RSC) § 2520.11 [9 NYCRR § 2520.11]]). Housing accommodations in both class “A” and class “B” multiple dwellings, as well as residential “rooms,” whether occupied legally or illegally, are countable for the purposes of determining rent stabilization coverage (*see Gracecor Realty Co., Inc v Hargrove*, 90 NY2d 350, 355 [1997]; *White Knight Ltd. v Shea*, 10 AD3d 567, 567 [1st Dept 2004]; *Matter of Gottlieb v Mirabal*, 123 AD2d 574, 576-577 [1st Dept 1986]). The main consideration as to whether a unit is considered a “housing accommodation” for the purposes of rent stabilization coverage is whether there are “sufficient indicia of ‘permanency’ such that the space may be characterized as a home, residence or dwelling unit[.]” (*Hargrove*, 90 NY2d at 355).

Here, although there is some variance in the number of units between the I-card, the current HPD Building Overview, and the Certificate of Occupancy Alteration Request from 2023, each document describes at least 6 units in total in the subject building. The I-card also clearly indicates that the building’s construction predates January 1, 1974, which petitioner does not dispute (*see Matter of 345 W. 70th Tenants Corp. v New York City Env’tl. Control Bd.*, 143 AD3d 654, 654 [1st Dept 2016] [I-cards are evidence of the inspector’s observations]). Thus, although the court does not make a declaration that the subject building is subject to rent stabilization (*see Jones v Gianferante*, 305 NY 135, 139 [1953]), it is presumptively rent

stabilized in the absence of a valid exemption based on the evidence presented by respondent.

The exemptions from rent stabilization are set out in Rent Stabilization Code (RSC) § 2520.11 (9 NYCRR § 2520.11). While petitioner suggests in its opposition papers that the unit has been “substantially improved to create family housing,” this is not alleged in the petition. Pursuant to RSC § 2520.11(e) (9 NYCRR § 2520.11(e)), housing accommodations in buildings that were substantially rehabilitated after January 1, 1974 are exempt from rent stabilization. However, the criteria for substantial rehabilitation, including replacement of at least 75 percent of building-wide and individual housing accommodation systems, are incorporated in RSC § 2520.11(e) and DHCR Operational Bulletin No. 95-2 (*see Matter of Clark v New York State Div. of Hous. & Community Renewal*, 193 AD3d 726 [2d Dept 2021]). Petitioner has not pleaded facts asserting a substantial rehabilitation and the court will not amend the petition sua sponte to that end (*see Henry v Kingsberry*, 66 Misc 3d 143[A], 2020 NY Slip Op 50175[U], \*2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2020]).

To the extent that the petition cursorily states that the premises is exempt from rent stabilization because it is “in a Class B building approved for short term tenancies” (Petition, § 6), it can be read to invoke RSC § 2520.11(g): “rooms or other housing accommodations in hotels where such housing accommodations (1) are used for transient occupancy; (2) were rented on May 31, 1968 for more than \$350 per month or \$88 per week; or (3) are contained in a hotel which was constructed after July 1, 1969.” (9 NYCRR § 2520.11(g)). Assuming arguendo the subject building is a “hotel” as defined in the Rent Stabilization Code (*see* 9 NYCRR § 2520.6(b)), as there is no dispute that respondent’s tenancy commenced on May 20, 2024, she would have become a “permanent tenant” entitled to rent-stabilization protections prior to the commencement of this proceeding (*see 25 West 24th St. Realty Corp. v Gianquinto*, 55 Misc 3d

28, 30-31 [App Term, 1st Dept 2017] [citing 9 NYCRR § 2520.6(j)]. Although petitioner attempts to assert that respondent did not reside in the subject premises as a permanent or primary residence, and instead used it as an Airbnb, only an attorney affirmation and unauthenticated documents are proffered on this point and are insufficient to create an issue of disputed fact (see Friends of Animals, Inc. v Associated Fur Mfrs., Inc., 46 NY2d 1065, 1067-1068 [1979] [“[E]videntiary proof [must be] in admissible form.”]).

Thus, as petitioner has not sufficiently pleaded a recognized exemption from presumptive rent stabilization coverage, the petition is defective and must be dismissed (see 433 West Assocs. v Murdock, 276 AD2d 360, 360-361 [1st Dept 2000] [Pleading proper regulatory status is an “essential element” of a landlord’s prima facie case]; Henry, 2020 NY Slip Op 50175[U], \*2; Pineda v Irvin, 40 Misc 3d 5, 6 [App Term, 1st Dept 2013]). Respondent’s motion for summary judgment is granted solely to the foregoing extent and is otherwise denied without prejudice. The parties reserve all other claims and defenses. Respondent’s counterclaims are, accordingly, severed without prejudice (see CPLR § 407; City of New York v Candelario, 223 AD2d 617, 618 [2d Dept 1986]). The clerk shall issue a judgment dismissing the petition (see CPLR § 411).

This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: New York, New York  
November 19, 2025

  
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HON. CLINTON J. GUTHRIE  
J.H.C.

APPROVED  
CGUTHRIE, 11/19/2025, 9:13:18 AM

CHECK ONE:

MOTION SEQ. #: 1

CHECK IF APPROPRIATE:

NOTES

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| <input checked="" type="checkbox"/> | CASE DISPOSED              |                          |        | <input type="checkbox"/>            | NON-FINAL DISPOSITION |                          |
| <input type="checkbox"/>            | GRANTED                    | <input type="checkbox"/> | DENIED | <input checked="" type="checkbox"/> | GRANTED IN PART       | <input type="checkbox"/> |
| <input type="checkbox"/>            | SETTLE ORDER               |                          |        | <input type="checkbox"/>            | SUBMIT ORDER          | <input type="checkbox"/> |
| <input type="checkbox"/>            | INCLUDES TRANSFER/REASSIGN |                          |        | <input type="checkbox"/>            | FIDUCIARY APPOINTMENT | <input type="checkbox"/> |
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