

Mission Bethel Inc. v Garcia
2026 NY Slip Op 31211(U)
March 24, 2026
Civil Court of the City of New York, New York County
Docket Number: Index No. L&T 320016/23
Judge: Clinton J. Guthrie
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART D

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MISSION BETHEL INC.,

Index No. L&T 320016/23

Petitioner,

-against-

DECISION/ORDER

ROLAND GARCIA, JOHN DOE, JANE DOE,

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 petitioner’s motion for an order granting petitioner leave to conduct discovery (seq. 2):

Papers	Numbered
Notice of Motion & All Documents Annexed.....	<u>1 (NYSCEF #29-33)</u>
Affirmation in Opposition & All Documents Annexed.....	<u>2 (NYSCEF #36-40)</u>
Affidavit in Further Support.....	<u>3 (NYSCEF #43)</u>

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

PROCEDURAL HISTORY

This summary holdover proceeding based upon a 90-day notice of termination was commenced in October 2023. Counsel appeared for respondent Roland Garcia (“respondent”) in November 2023 and interposed an answer on his behalf in December 2023. Respondent’s third affirmative defense challenged the regulatory status of the subject premises and asserted that it was rent controlled. Petitioner made an initial motion for discovery in October 2024 but after briefing, it was withdrawn on consent in May 2025. Petitioner now moves again for discovery,

primarily seeking documents and a deposition in relation to respondent's claim that the subject premises is rent controlled. After briefing, this court heard argument on the motion on October 30, 2025.

DISCUSSION/CONCLUSION

In special proceedings governed by Article 4 of the CPLR, which includes summary eviction proceedings, discovery may only be granted by leave of court upon showing of an ample need for disclosure (*see* CPLR § 408; *Georgetown Unsold Shares, LLC v Ledet*, 130 AD3d 99, 106 [2d Dept 2015]; *New York University v Farkas*, 121 Misc 2d 643, 647 [Civ Ct, NY County 1983, Saxe, J]). Typically, the assessment of ample need is grounded in the six factors enumerated by Judge David B. Saxe in *Farkas*: (1) whether the party seeking discovery has asserted facts to establish a cause of action; (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; (5) whether the prejudice can be diminished or alleviated by an order fashioned by the court for this purpose; and (6) whether the court, in its supervisory role, can structure discovery so that pro se tenants, in particular, will be protected and not adversely affected by discovery requests (*see Farkas*, 121 Misc 2d at 647). More recently, some lower courts have also considered whether discovery “will speed a case towards a fair resolution, whether by stipulation or trial.” (*Temo Realty LLC v Herrera*, 82 Misc 3d 299, 301 [Civ Ct, Kings County 2023] [citing *50th St. HDFC v Abdur-Rahim*, 72 Misc 3d 1210[A], 2021 NY Slip Op 50693[U] [Civ Ct, Kings County 2021] and *717 Sterling Corp. v Cook*, 78 Misc 3d 1224[A], 2023 NY Slip Op 50345[U] [Civ Ct, Kings County 2023]]).

Here, petitioner seeks discovery from respondent covering the period January 1, 1968 through January 1, 1971 in relation to respondent’s defense that the subject unit is subject to rent control. Petitioner’s affiant, Mynor Alexander Perez Cruz, a pastor in the church, states that the subject building was purchased by petitioner on August 18, 1969 and that no documentation showing that respondent or his mother, Mercedes Nunez, lived in the premises was provided to petitioner. Petitioner seeks documentation and a deposition regarding the claim that respondent and/or his parents lived in the subject premises prior to July 1, 1971, which is relevant to the issue of whether the subject unit is rent controlled. Petitioner also seeks documentation from February 21, 2018 and February 21, 2020, or any 2-year period corresponding to a purported succession claim. Respondent opposes the motion in all respects.

Generally, once a tenant “takes issue” with the rent regulatory status of a dwelling, the burden shifts to the petitioner to prove the proper status (*TJA Realty, LLC v. Hermosa*, 56 Misc 3d 130[A], 2017 NY Slip Op 50858[U], *2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2017]; *see also Ortiz v. Dharmnath*, 2024 NY Slip Op 24110, *2 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2024]; *Pineda v Irvin*, 40 Misc 3d 5 [App Term, 1st Dept 2013]). While discovery may be granted to a tenant challenging the regulatory status of a unit (*see 603 N.J. Ave., LLC v Hall*, 74 Misc 3d 137[A], 2022 NY Slip Op 50303[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2022]; *Mautner-Glick v Higgins*, 64 Misc 3d 16, 18 [App Term, 1st Dept 2019]), the court is not aware of appellate caselaw granting reciprocal discovery to a *petitioner* regarding a tenant’s challenge to the rent regulatory status. While the circumstances here are somewhat unique, the court does not find that petitioner has established its entitlement to discovery regarding respondent’s third affirmative defense, whether under an “ample need”

standard or the *Abdur-Rahim* standard. Petitioner’s belief that respondent would possess documentation or information from the 1969 to 1971 period is largely speculative and dubious, as it appears that respondent was born in 1970 (*see* respondent’s Exhibit 1 [NYSCEF Doc. 22]).¹ Moreover, respondent has not raised any succession claim at this juncture and the court will not grant discovery upon an unpled “potential” defense (*see Farkas*, 121 Misc 2d at 647 [Discovery that amounts to a “fishing expedition” should not be permitted.]).

For each of these reasons, petitioner’s motion for discovery is denied in its entirety. The proceeding will be restored to the Part D calendar for all purposes, including trial transfer, on April 16, 2026 at 9:30 AM. This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: Queens, New York
March 24, 2026

APPROVED
CGUTHRIE, 3/24/2026, 5:27:03 PM

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

CHECK ONE:
MOTION SEQ. #: 2
CHECK IF
APPROPRIATE:

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

¹ It cannot be expected that respondent has any memory of the requested period. “People generally remember nothing from before age 3, and children’s memory abilities don’t fully mature until about age 7.” (Sara Reardon, *The Fading Memories of Youth*, Science, Mar. 14, 2024, available at <https://www.science.org/content/article/are-your-earliest-childhood-memories-still-lurking-your-mind-or-gone-forever> [last accessed Mar. 24, 2026]).