Queens Fresh Meadows LLC v Suarez
2026 NY Slip Op 32059(U)
May 22, 2026
Civil Court of the City of New York, Queens County
Docket Number: Index No. L&T 317700-23
Judge: Logan J. Schiff
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS: HOUSING PART F
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QUEENS FRESH MEADOWS LLC

Index No. L&T 317700-23

Petitioner-Landlord,

-against-

DECISION AFTER TRIAL

MARTHA SUAREZ, et al.

Respondents.
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Present: Hon. Logan J. Schiff
Judge, Housing Court

BACKGROUND AND PROCEDURAL HISTORY

Petitioner commenced this nonrenewal of an unregulated tenancy holdover in a presumptively rent-stabilized apartment it claims was high rent decontrolled upon filing the Petition on October 11, 2023. The proceeding was initially stayed pursuant to a two-attorney stipulation pending completion of a previously filed nonpayment proceeding under LT-314962-23 and conditioned on payment of ongoing use and occupancy (NYSCEF 22). However, upon Respondents' failure to pay use and occupancy (NYSCEF 29), the matter was restored to the calendar for immediate trial (NYSCEF 33), which took place prior to the nonpayment proceeding.

The court conducted a trial on January 8, January 27, and March 20, 2026, and received post-trial written summations on April 16, 2026.

THE TRIAL

Apart from the issue of the subject unit's regulatory status, Petitioner proved its prima facie case upon its witnesses' testimony and written exhibits, which reflect that Petitioner is the

fee owner of the premises, that Respondents are in possession pursuant to an expired free market lease, and that a 90-day notice of nonrenewal and termination was duly served (*see 69-81 108th Realty, LLC v Zaroogian*, 86 Misc 3d 126 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *Aspilaire v St. Louis*, 15 Misc 3d 130 [App Term, 2d Dept, 2d & 11th Jud Dists 2007]).

Petitioner called three witnesses. The first witness, Pamela Sickles, a property manager at the premises since 2001, testified that the subject unit was deregulated in September 2015 when the rent exceeded the then-applicable $2,700 high rent decontrol threshold pursuant to the Rent Stabilization Law. She testified that prior to 2003, a long-term tenant resided in the premises for approximately 37 years and produced internal records substantiating this claim; that following his vacatur, the landlord performed a kitchen and bathroom renovation resulting in an individual apartment improvement (IAI) increase to the legal rent in the amount of approximately $244 and produced the receipts for the work, which she personally oversaw, and an original copy of her contemporaneous calculations as to the appropriate increase to the legal rent, which she determined in reliance on these records and wrote on calculator tape interposed on top of the receipts; that in addition to the IAI, Petitioner claimed longevity and vacancy increases as authorized by law at the time, thereby increasing the legal rent upon lease-up in March 2003 from $763.55 to $1,361.12; that there were a number of tenants who moved into and out of the unit thereafter and prior to September 2015, and that in each case the landlord took the allowable vacancy and annual increases, as well as annual increases upon renewal, but no further IAIs; that there were two MCI increases during this period; that the legal rent was $2,728.88 based on these increases during the last rent-stabilized lease term of August 2014-July 2015; and that following this tenant's vacatur, the legal rent was in excess of the $2,700 high rent decontrol threshold, and therefore the next tenant was given a decontrolled free market lease in September 2015. In

support of her claims, Ms. Sickles offered the rent registration history for the unit, every vacancy and renewal lease since 2003, which charged rents that were consistent with what Petitioner reported on the rent registration history, and the MCI orders for the two claimed MCIs. The first decontrolled lease in September 2015 included a decontrol rider setting forth the basis for Petitioner's calculations as to the legal rent and advising the tenant that the unit had been decontrolled. The court further admitted Rent Guidelines Board orders for the relevant period reflecting that the annual increases in each vacancy and renewal lease following the 2003 vacancy were authorized by law. The leases from 2003-2015 did not claim any IAIs beyond the initial $244 increase.

Petitioner's second witness was Walter Camargo, a maintenance manager, during which the court admitted work orders from 2015 reflecting a turnover inspection of the unit prior to the issuance of the September decontrolled 2015 lease.

Petitioner's third witness was Dini Rosenbaum, a property manager since 2002, who testified to being in the unit during the turnover inspection in 2015 and to taking photos of the current condition of the unit. She testified that the unit had undergone a renovation that occurred after the vacatur of the long-term tenant in 2003, as the photos depicted upgraded kitchen cabinets and bathroom tiles, which, based on the landlord's upgrade schedule, could not have been installed prior to 2003.

Respondent declined to call any rebuttal witnesses and did not introduce any evidence.

DISCUSSION

As an initial matter, Petitioner's oral motion at the conclusion of trial to amend the Petition to the proof to reflect that the basis for the alleged deregulation of the subject unit was its high rent decontrol in 2015, as then authorized by the Rent Regulation Reform Act of 1997,

rather than in 1994, as initially pled, is granted in the absence of any discernable prejudice (*see 37-20 104th St. v Sanchez*, 76 Misc 3d 23 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2022]).

As Respondents' answer took issue with the regulatory status of the premises, it was Petitioner's burden to prove the apartment's exemption from rent regulation (*see Ortiz v Dharmnath*, 83 Misc 3d 38 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2024]).

Here, Petitioner made a prima facie showing of high rent deregulation upon admission of each vacancy and renewal lease since 2003, following the long-term tenant's vacatur, all of which comported with rent registration history and the relevant Rent Guidelines Board orders, the applicable MCI orders, and the decontrolled lease with the first deregulated tenant in September 2015, which included the requisite notices and rider stating that the legal rent for the apartment was in excess of the $2,700 high rent decontrol threshold applicable at that time (*see Andrew Jacklson Realty Co v Patan*, 232 NYS 3d 341 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *69-81 108th Realty, LLC v Zaroogian*, 86 Misc 3d 126 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *Cain v 42 W. 65th LLC*, 231 AD 3d 469 [1st Dept 2024]; *Engholm v. AIMCO 240 W. 73rd St., LLC*, 220 AD 3d 481 [1st Dept 2023]; *Cvek 446 E. 88th St. LLC v Fish*, 127 NYS 3d 691 [App Term, 1st Dept 2020]; *233 E. 5th St. LLC v Smith*, 54 Misc 3d 79 [App Term, 1st Dept 2016], *affd* 162 AD 3d 600 [1st Dept 2018]).

Contrary to Respondents' contention, it was not necessary for Petitioner to validate or otherwise establish the legitimacy of the $244 IAI in 2003, which did not meaningfully contribute to the decontrol event that occurred 12 years later, as part of its prima facie case (*see 69-81 108th Realty, LLC v Zaroogian*, 86 Misc 3d 126 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *Cvek 446 E. 88th St. LLC v Fish*, 127 NYS 3d 691 [App Term, 1st Dept 2020]). In any event, this IAI, the only increase in the rental history disputed by Respondent, and the only IAI ever

claimed, was amply demonstrated through the testimony of Petitioner's employees, one of whom was personally involved in the renovations, and contemporaneous receipts from the relevant vendors, which were relied upon by Petitioner in determining the legal rent, as reported on the rent registration history, and were admissible as business records (*Ginocchio v Resurgent Receivables, LLC*, [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *U.S. Bank Trust, N.A. v Atedgi*, 236 AD 3d 707 [2d Dept 2025]; *Bank of N.Y. Mellon v Gordon,* 171 AD 3d 197 [2d Dept 2019]; *Ecumenical Community Dev. Org., Inc. v GVS Props. II, LLC*, 168 AD 3d 522 [1st Dept 2019]; *Taylor v 72A Realty Assoc., L.P.*, 151 AD3d 95 [1st Dept 2017]).[1]

Certainly, as there is no statute of limitations on an unlawful decontrol defense, Respondents could have put on a rebuttal case to challenge the bona fides of any portion of the rental history, or to otherwise highlight an irregularity in Petitioner's determination of the legal rent, following which it would be Petitioner's ultimate burden to demonstrate deregulation based upon the "totality of the circumstances" (*Leya, LLC v Kodicek*, 73 Misc 3d 133 [App Term, 1st Dept 2021]); *see also 63 St. Marks Place LLC v Benedek*, 88 Misc 3d 8 [App Term, 1st Dept 2025]; *Queens Fresh Meadows v Beckford*, 86 Misc 3d 136 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2025]; *Diagonal Realty, LLC v Estella*, 73 Misc 3d 137 [App Term, 1st Dept 2021]). No such showing was made here, however, as Respondents put on no rebuttal whatsoever. Therefore, having made a prima facie showing of statutory high rent deregulation, and otherwise established its entitlement to possession in an unregulated nonrenewal of lease holdover, Petitioner proved its case.

[1] Although the Queens Fresh Meadows complex includes thousands of units, it is apparent from publicly available mapping data, which was introduced into evidence during trial, and of which the court may take judicial notice in any event, that the subject duplex premises is part of a horizontal multiple dwelling containing approximately 8 units, entitling Petitioner to claim 1/40th of the total cost of renovations towards its IAI as permitted at that time for buildings containing fewer than 60 units.

Accordingly, Petitioner is awarded a final judgment of possession after trial against all Respondents. The warrant shall issue forthwith, with execution stayed through June 30, 2026, as a final vacate date. The earliest execution date is July 1, 2026.

Petitioner's application to sever all claims for rent or use and occupancy, to be sought in whole or in part in the pending nonpayment proceeding, or in a subsequent proceeding or plenary action, is granted. This constitutes the decision and order of the court.

Dated: Queens, New York
May 22, 2026

Hon. Logan J. Schiff, J.H.C.
Logan J. Schiff, JHC