

<b>201 W. 95th St. Realty LLC v Shambi</b>
2026 NY Slip Op 32064(U)
June 1, 2026
Civil Court of the City of New York, New York County
Docket Number: Index No. L&T 312026/24
Judge: Clinton J. Guthrie
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CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK: HOUSING PART D

-----X  
201 WEST 95<sup>TH</sup> STREET REALTY LLC,

Index No. L&T 312026/24

Petitioner,

-against-

**DECISION/ORDER**

ETI SHAMBI, JOHN DOE, JANE DOE,

Respondents.

-----X

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 discovery:

<b>Papers</b>	<b>Numbered</b>
Notice of Motion & All Documents Annexed.....	<u>1 (NYSCEF #42-46)</u>
Affirmation in Opposition & All Documents Annexed.....	<u>2 (NYSCEF #47-51)</u>
Affirmation in Reply & All Documents Annexed.....	<u>3 (NYSCEF #52-55)</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 90-day notice of termination was commenced in July 2024. Counsel for respondent appeared in September 2024. On August 5, 2025, this court rendered a Decision/Order denying respondent’s motion to dismiss and granting petitioner’s motion to amend the petition. Thereafter, respondent interposed an answer with eight (8) affirmative defenses and three (3) counterclaims. Respondent now moves for discovery in relation to petitioner’s claims that the subject building was substantially rehabilitated and its claimed “ground” under the Good Cause Eviction Law (GCEL). After opposition and reply

papers were submitted, this court heard argument on the motion on November 13, 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]]).

Respondent first seeks discovery upon petitioner’s claim in the amended petition that the subject building is exempt from rent stabilization because it was substantially rehabilitated in

2004. Respondent claims in the answer that the subject premises is subject to rent stabilization. Generally, where 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]).

A building is exempt from rent stabilization if it was substantially rehabilitated on or after January 1, 1974 (*see* Rent Stabilization Code [9 NYCRR] § 2520.11(e)). The general factors to be considered in assessing whether a substantial rehabilitation occurred are set out in DHCR Operational Bulletin No. 95-2. The paramount considerations are whether at least 75% of the building-wide and apartment systems have been completely replaced and whether the building was in a substandard or seriously deteriorated condition (*see Matter of Pavia v New York State Div. of Hous. & Community Renewal*, 22 AD3d 393 [1st Dept 2005]). Respondent and her attorneys assert that without discovery, they cannot independently verify petitioner’s claim of substantial rehabilitation, having found no NYC Department of Buildings (DOB) work permits from 2004. Petitioner opposes the demand for discovery and annexes an architect’s affidavit from Gregg Rothstein, claiming that a 100% of all building systems were completely renovated in 2004 (*see* NYSCEF Doc. 51).

While discovery will not be granted as a matter of course in special proceedings, appellate courts have found ample need to exist when the rent regulatory status is at issue (*see Lex & Third 116th St. Corp. v Vargas*, 88 Misc 3d 133[A], 2026 NY Slip Op 50592[U] [App Term, 1st Dept 2026]; *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]). Here, the court finds that respondent has adequately demonstrated ample need for discovery related to petitioner’s claim that the subject premises was substantially rehabilitated and does not accept that a cursory affidavit from an architect is adequate to defeat the request for discovery. Similarly, the court finds that respondent has established ample need for documentation related to petitioner’s claimed “ground” under the Good Cause Eviction Law, namely that respondent failed to renew a lease that was offered including reasonable increases in rent. Respondent annexes the proposed lease, with an increase in the monthly rent in excess of 10% over the last lease, in support of the claim that the proposed rent was unreasonable (*see* Real Property Law § 216(1)(j)).<sup>1</sup>

For the foregoing reasons, respondent’s motion for discovery is granted, subject to the following limitations to ensure that discovery is carefully tailored (*see Vargas*, 2026 NY Slip Op 50592[U], \*1; *Farkas*, 121 Misc 2d at 647). Petitioner shall produce documents responsive to Demands Numbered **6-14 and 18-33** and/or a *Jackson* affidavit for any appropriate items to respondent’s attorneys no later than July 10, 2026.<sup>2</sup>

The proceeding will be restored to the Part D calendar for all purposes, including discovery status, on July 23, 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  
June 1, 2026

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

APPROVED  
CGUTHRIE, 6/1/2026, 9:14:18 AM

<sup>1</sup> According to information provided by the New York City Rent Guidelines Board (RGB), the “local rent standard [applicable to the GCEL] is set every year at the rate of inflation plus 5%, with a maximum of 10% total.” (*see* “Rent Increases FAQs” (<https://rentguidelinesboard.cityofnewyork.us/resources/faqs/rent-increases/> [last accessed June 1, 2026]).

<sup>2</sup> A *Jackson* affidavit describes the efforts to undertake a “thorough” and “good faith” search for the documents in question (*see Jackson v City of New York*, 185 AD2d 768, 770 [1st Dept 1992]).

CHECK ONE:

MOTION SEQ. #: 4

CHECK IF APPROPRIATE:

NOTES

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<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<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
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>							