

NT 415 3rd Ave LLC v Gharibian
2026 NY Slip Op 32107(U)
July 7, 2026
Civil Court of the City of New York, New York County
Docket Number: Index No. L&T 303280/25
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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NT 415 3RD AVE LLC,

Index No. L&T 303280/25

Petitioner,

-against-

DECISION/ORDER

MICHAEL GHARIBIAN A/K/A MIHRAN
GHARIBIAN, ANTO GHARIBAN, “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 discovery:

Papers	Numbered
Notice of Motion & All Documents Annexed.....	<u>1 (NYSCEF #7-14)</u>
Affirmation in Partial Opposition & All Documents Annexed.....	<u>2 (NYSCEF #18-22)</u>
Reply Affirmation & All Documents Annexed.....	<u>3 (NYSCEF #23-26)</u>

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

PROCEDURAL HISTORY

This summary holdover proceeding, based on a notice of nonrenewal claiming that respondent Michael Gharibian a/k/a Mihran Gharibian (“Michael Gharibian”) failed to maintain the subject rent-stabilized apartment as his primary residence, was commenced in February 2025. Respondents Michael Gharibian and Anto Gharibian appeared through counsel and interposed an answer on March 26, 2025. The answer admits that Michael Gharibian resides at a different address in Patchogue, New York and includes a succession defense by Anto Gharibian, who is

alleged to be the son of Michael Gharibian.

In May 2025, petitioner made the instant motion for discovery pursuant to CPLR §§ 408, 3111, and 3120; the motion seeks discovery from both Michael Gharibian and Anto Gharibian. Respondents partially opposed the motion, primarily objecting to the time period for the proposed discovery. This court heard argument on the motion on December 11, 2025.

DISCUSSION/CONCLUSION

In this special proceeding governed by Article 4 of the CPLR, 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]; *Mautner-Glick Corp. v Higgins*, 64 Misc 3d 16, 18 [App Term, 1st Dept 2019]; *New York University v Farkas*, 121 Misc 2d 643, 647 [Civ Ct, NY County 1983, Saxe, JJ]).

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]].

Appellate courts have recognized the propriety of granting discovery in nonprimary residence cases and cases where a respondent has raised a succession defense (*see 251 CPW Hous., LLC v Singer*, 2026 NY Slip Op 50967[U] [App Term, 1st Dept 2026]; *Almonte v O'Neill*, 86 Misc 3d 130[A], 2025 NY Slip Op 50976[U] [App Term, 1st Dept 2025]; *Ludor Props. L.L.C. v De Brito*, 48 Misc 3d 142[A], 2015 NY Slip Op 51261[U], *1 [App Term, 1st Dept 2015] [“The facts relevant to respondent’s succession claim . . . are peculiarly within respondent’s own knowledge.”]; *Quality & Ruskin Assocs. v London*, 8 Misc 3d 102, 103-104 [App Term, 2d Dept, 2d & 11th Jud Dists 2005]). Respondents do not categorically oppose the granting of discovery, but object to petitioner’s request to produced documents going back to Decembmer 21, 2018. Respondents argue that only the 2 years prior to Michael Gharibian’s alleged permanent vacatur from the subject apartment in November 2024 is relevant to Antranig (Anto) Gharibian’s succession claim. In reply, petitioner maintains that because Michael Gharibian maintained a driver’s license listing an alternative address as early as December 21, 2020 (NYSCEF Doc. 11), petitioner should be entitled to discovery going back to the two years preceding that date.

Pursuant to Rent Stabilization Code (RSC) (9 NYCRR) § 2423.5(b)(1), a lawful successor must “have resided with the tenant in the housing accommodation as a primary residence for a period of no less than two years . . . immediately prior to the permanent vacating of the housing accommodation by the tenant.” The statute requires that only the successor must

reside in the subject unit as a primary residence during the 2-year co-residency period before the tenant of record's permanent vacatur (*see Matter of 865 First LLC v New York State Div of Hous. & Community Renewal*, 210 AD3d 456, 458 [1st Dept 2022]; *Mexico Leasing, LLC v Jones*, 45 Misc 3d 127[A], 2014 NY Slip Op 51456[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2014]). Nonetheless, the precise timing of the tenant's permanent vacatur is often fact-specific (*see Matter of Jourdain v New York State Div. of Hous. & Community Renewal*, 159 AD3d 41, 48-49 [2d Dept 2018]; *Park Cent. I LLC v Williams*, 67 Misc 3d 144[A], 2020 NY Slip Op 50765[U] [App Term, 1st Dept 2020]; *700 Bklyn Realty, LLC v Samuel*, 69 Misc 3d 126[A], 2020 NY Slip Op 51115[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2020]).

While "ample need" must generally be demonstrated for discovery to be granted in summary proceedings, once discovery is granted, there is a presumption of liberal disclosure "of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity." (*Forman v Henkin*, 30 NY3d 656, 661 [2018] [Quoting *Allen v Crowell-Collier Publ. Co.*, 21 NY2d 403, 406 [1968]]). Here, the court finds that petitioner has set forth a sufficient basis for requiring the production of discovery documents back to December 21, 2018, as such information and documentation may bear upon the issue of when Michael Gharibian's permanent vacatur from the subject premises occurred and the requisite co-residency period prior thereto (*see 86 W. Corp. v Singh*, 57 Misc 3d 152[A], 2017 NY Slip Op 51585[U] [App Term, 1st Dept 2017]; *ALH Props. Eleven v Vejarano*, 38 Misc 3d 133[A], 2013 NY Slip Op 50052[U] [App Term, 1st Dept 2013]).

Accordingly, petitioner's motion is granted, and respondents are ordered to produce documents responsive to petitioner's discovery demands except Demand #34 for each

respondent (“[c]opies of all documents [respondent] intends to offer at trial.”), dating from December 21, 2018 through January 31, 2025, and/or a *Jackson* affidavit for any appropriate items to petitioner’s attorneys no later than August 21, 2026.¹ Respondents shall not be required to re-produce any responsive documents previously produced to petitioner or its attorneys. Petitioner shall be entitled to schedule a deposition for each named respondent within 30 days of August 21, 2026, unless other arrangements are made on consent of the parties’ attorneys. The proceeding will be restored to the Part D calendar for all purposes, including discovery status, on October 8, 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
July 7, 2026



APPROVED
CGUTHRIE , 7/7/2026, 4:14:02 PM

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

CHECK ONE:

MOTION SEQ. #: 1

CHECK IF APPROPRIATE:

NOTES

☐	CASE DISPOSED	☒	NON-FINAL DISPOSITION	
☐	GRANTED	☐ DENIED	☒ GRANTED IN PART	☐ OTHER
☐	SETTLE ORDER		☐ SUBMIT ORDER	☐ STAY CASE
☐	INCLUDES TRANSFER/REASSIGN		☐ FIDUCIARY APPOINTMENT	☐ REFERENCE

¹ 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]).