

STATE OF NEW YORK
DIVISION OF HOUSING
AND COMMUNITY RENEWAL

92-31 UNION HALL STREET
GERTZ PLAZA
JAMAICA, N.Y. 11433

OFFICE OF RENT
ADMINISTRATION
DOCKET NO. BT410002TC

ORDER DENYING FAIR MARKET RENT APPEAL

Mailing Address of Tenant:

Mailing Address of Owner:

Name: LAWRENCE MILLS
No. & Street: 245 WEST 25TH STREET, APT. #5D
State, City, Zip: NEW YORK, NY 10001

Name: 245 OWNER LLC
No. & Street: 65 MASPETH AVENUE
State, City, Zip: BROOKLYN, NY 11211

Re: (Address of Housing Accommodations)

No. & Street: 245 WEST 25TH STREET APT. #5D NEW YORK, NY 10001

FACTS:

This apartment was formerly subject to the City Rent Law on December 31, 1973. It became decontrolled by virtue of a vacancy occurring after that date and became subject to the Emergency Tenant Protection Act.

The initial rent negotiated between the owner and the first stabilized tenant to challenge the rent is subject to a Fair Market Rent Appeal.

The tenant herein took occupancy pursuant to a 1 year lease commencing 12/01/10 and expiring on 11/30/11 at a monthly rent of \$2300.00 PER MONTH.

The tenant filed a timely application alleging that the initial stabilized rent exceeded the apartment's fair market rent.

A copy of the tenant's Fair Market Rent Appeal was served on the owner together with an answer form. The answer form afforded the owner the opportunity to offer for consideration rents of comparable regulated or unregulated apartments in the same area as the subject building. The owner is also afforded the opportunity to submit evidence of any improvements made to the subject apartment after the last rent control tenant vacated the unit.

DETERMINATION:

A fair market rent appeal is a challenge to the initial stabilized rent of an apartment. Section 2522.3(e) of the Rent Stabilization Code provides, in substance, that in determining fair market rent appeals, consideration shall be given to the special guidelines promulgated by the New York City Rent Guidelines Board for determining fair market

rent appeals and to rents generally prevailing for comparable apartments in buildings located in the same general area as the subject premises. The rents for comparable apartments that may be considered are: (1) unchallenged rents for rent stabilized units or (2) at the owner's option, market rents, as submitted by the owner.

The owner responded by offering the 4 room unregulated apartment whose rent should be considered in the determination of the fair market rent appeal. The rent for this apartment on the date the initial tenant first occupied the apartment was \$3195.00 per month.

Pursuant to Special Guidelines Order Number 42, which was in effect on the date the first rent stabilized tenant to challenge the rent took occupancy, the 2010 Maximum Base Rent of \$692.87 must be adjusted by an additional 50%. This results in a rent of \$1039.31.

The owner has identified Apartment 2E, an unregulated apartment located at 245 west 25th street as a comparable apartment whose rent should be considered in the determination of this fair market rent appeal. The rent for Apartment 2E on 12/01/10 was \$3195.00 per month.

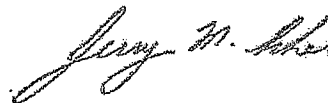
Based on the foregoing, the fair market rent for the subject apartment is established at \$2117.16 (the average of the Special Guidelines and the unregulated comparable apartment).

Since the fair market rent of \$2117.16 exceeds \$2000.00 the subject apartment is exempt from rent regulation pursuant to Section 2520.11(r)(4) of the Rent Stabilization Code. As such, this Agency lacks jurisdiction in this proceeding.

Therefore, it is ordered that the relief requested is denied and this proceeding is terminated.

APR 14 2015

Issue Date: _____



Rent Administrator

c.c. Kossoff PLLC

217 Broadway – Suite 401

New York, N.Y. 10007

c.c Rivkin Radler, Esq.

555 Madison Avenue

New York, NY 10022-3338



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Gertz Plaza
92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.nyshcr.org

Notice of Right to Administrative Review

This Notice explains your right to appeal, seeking review of orders issued by a Rent Administrator. If you believe that an order is based on an error of law and/or fact, as an aggrieved party you have the right to ask the Division of Housing and Community Renewal (DHCR) to review the order based on your claim of error. This request is called a Petition for Administrative Review, and is referred to as a PAR. If you wish to file a PAR, please read the information and instructions below and follow them carefully. Further details may be found in the instructions printed on the reverse side of the form used for filing a PAR.

Who may File a PAR:

An owner, tenant, or other party affected by an order, or an authorized representative of such person(s), may file a PAR. Two or more affected owners or tenants may join in filing a PAR. The DHCR encourages joint filings by affected parties filing on common grounds.

How to File a PAR:

1. Use the correct form. PARs must be filed in duplicate using DHCR form RAR-2, in accordance with the instructions on the form. PARs filed on other forms or by letter will not be accepted.
2. You must attach a complete copy of the order which you are appealing to the original of your PAR.

Time Limit for Filing a PAR:

The PAR must be hand-delivered or mailed to DHCR at Gertz Plaza, 92-31 Union Hall Street, Jamaica, New York 11433.

1. If the PAR is hand delivered, it must be received **no later than 35 days after the date the order was issued.** The date issued usually appears in the upper right-hand corner of the order.
2. If the PAR is mailed, it must be postmarked **no later than 35 days after the date the order was issued.** If you use a private postage meter and the envelope does not have an official U.S. Postal Service Postmark, the PAR must be received by the DHCR office **not later than 35 days after the order's issuance date**, or you will be required to submit other adequate proof (such as an official Postal Service receipt or certificate of mailing) that the PAR was mailed within the 35-day limit.

PARs filed after the time limit will be considered untimely and will be dismissed.

How to Obtain the PAR Form:

You may request the PAR form RAR-2 by coming to any DHCR Rent Office listed below or to the Office of Rent Administration's main office at Gertz Plaza, 92-31 Union Hall Street, Jamaica, New York 11433. You may also request that the form be mailed to you by calling (718) 739-6400. The form is also available on the website listed above. Please note that any delay resulting from mailed delivery of the form to you does not extend the time limit for filing the PAR.

DHCR Rent Offices

Lower Manhattan
25 Beaver St.
5th Floor
New York, NY 10004

Upper Manhattan
163 West 125th St.
5th Floor
New York, NY 10027

Brooklyn
55 Hanson Place
7th Floor
Brooklyn, NY 11217

Bronx
2400 Halsey St.
1st Floor
Bronx, NY 10461

Queens
92-31 Union Hall St.
6th Floor
Jamaica, NY 11433

Westchester County
75 South Broadway
3rd Floor
White Plains, NY 10601