



COMMUNITY HOUSING IMPROVEMENT PROGRAM, INC.

Court Protects Market-Rate Tenants from Eviction in Building Undergoing Condo Conversion

A recent housing court ruling could have widespread implications for rental buildings undergoing conversion to coops and condos. The court ruled that market rate tenants in the building are protected from eviction once the Attorney General accepts the plan for filing (i.e., the black book is issued), even if their leases have expired and the owner has started eviction cases against them [322 West 47th Owner LLC v. Penhurst Productions Inc.: NYLJ 3/27/07, p. 22, col. 1 (Civ. Ct. NY)].

In the case that led to the ruling, the owner of a residential building (known as the Sheffield) was attempting to convert the building from rental to condominium ownership under a non-eviction plan. During the year the conversion plan was pending before the Attorney General, the owner had sued to evict 23 unregulated market rate tenants whose leases had expired but who had remained in their apartments. After the conversion plan was accepted, the tenants asked the court to dismiss the case based on General Business Law (GBL) section 352-eeee et. seq. (the “Martin Act”). They claimed that this law protected them from eviction once the Attorney General accepted the plan. The owner argued that their leases had expired during the year-long period before the attorney general’s approval of the building’s non-eviction plan. It was only because the case had been pending for so long that the tenants were still in occupancy. But the court ruled that since the tenants were in occupancy when the plan was accepted, they were protected from eviction under the Martin Act. The owner plans to appeal the ruling.

The courts ruling means that tenants who are in possession for any reason (even if they don’t have a right to be in possession) once a conversion plan is accepted will have the right to get a lease, points out Manhattan attorney Adam Leitman Bailey. But, he says, the ruling doesn’t cover what rent an owner must charge market rate tenants pursuant to that lease. The Martin Act simply says that the owner can’t subject tenants to “unconscionable rent increases,” he notes.

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