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Court Ruling Makes Some Evictions Easier

By JAY ROMANO

A RECENT decision by a New York appeals court has resulted in a major change in how eviction cases involving tenants in illegal apartments are handled in Brooklyn, Queens and Staten Island.

The decision, binding on lower courts in those boroughs, allows landlords to use Housing Court - rather than the state's trial courts -- to evict tenants who occupy apartments in illegal multiple dwellings.

"The effect of this decision is to vastly reduce the time and expense associated with evicting a tenant from an illegal apartment," said **Dov Treiman**, editor of The Housing Court Reporter.

Mr. **Treiman** said that under the city's administrative code and the rules of Civil Court, if a landlord brings an eviction action against a tenant in Housing Court, the landlord must indicate in the petition either that the building is a multiple dwelling -- that is, one with three or more residential apartments -- or that it is not.

If the landlord says the building is a multiple dwelling, he must then include the building's multiple dwelling registration number in the petition.

If the building is not a multiple dwelling, or if the landlord can supply the registration number, the case is heard in Housing Court, a factor that benefits landlords because proceedings in that court are generally resolved quickly and at minimal expense.

But, Mr. **Treiman** said, if a landlord filing an eviction action indicates that the building is not a multiple dwelling when it really is -- that is, when there are three or more apartments in a building that is not registered as a multiple dwelling -- and the court discovers the illegal apartment or apartments, the case must be heard in Civil Court or State Supreme Court, even if it involves nonpayment of rent.

Actions brought in those courts can take many months and thousands of dollars to litigate.

In the case of *Czerwinski v. Hayes*, reported on April 6 in The New York Law Journal, the Appellate Term for the 2nd and 11th Districts -- whose jurisdiction covers those three boroughs, which have many illegal apartments -- overturned its own previous rulings and allowed the owner of a building with three apartments to bring an eviction action in Housing Court even though the landlord had not registered the building as a multiple dwelling.

In the Czerwinski case, Mr. **Treiman** said, an owner filed an eviction action against a tenant who was causing a nuisance by keeping junk and debris in the apartment.

In the complaint, the landlord indicated that the building was a two-family home, not a multiple dwelling.

But an inspector from Housing Court concluded that an unoccupied basement apartment made the building a de facto three-family multiple dwelling.

Because of that conclusion, and without the inclusion of a multiple dwelling registration number in the petition, the Housing Court dismissed the case.

Reviewing that decision, the appeals court ruled that "public policy and the public interest mandate that these cases be processed as quickly and efficiently as possible," and that Housing Court was particularly well suited to accomplish that goal.

Steven Sidrane, a lawyer in Hewlett, on Long Island, who frequently represents landlords, said that in addition to having a significant impact in the three boroughs, the decision may influence judges' rulings in Manhattan and the Bronx.

Rob Sokolski, a Manhattan lawyer who represents tenants, disputed the decision, saying that it basically protects landlords who ignore the law and rent out illegal apartments.

"There is no 'public interest' in protecting those who break the law," Mr. Sokolski said. The case was returned to Housing Court for trial.