

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-SC-06-002

In re: 1433 T. St., N.W., 201-210 16th St., N.E., and 1840 & 1846 Vernon St., N.W.

Wards Two (2), Six (6), and One (1)

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT –
RENTAL ACCOMMODATIONS DIVISION,
Petitioner/Appellant,**

v.

**1433 T STREET ASSOCIATES, LLC;
210 16TH STREET ASSOCIATES, LLC; and
1840 VERNON STREET ASSOCIATES, LLC,
Housing Providers/Appellees**

REISSUED ORDER ON REHEARING

October 1, 2014

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal from the District of Columbia Office of Administrative Hearings (OAH) to the Rental Housing Commission (Commission), based on a petition filed in the Rental Accommodations and Conversion Division (RACD) of the Department of Consumer and Regulatory Affairs (DCRA).¹ The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE §§ 42-3501.01 -3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501 -510 (2001), and the District of Columbia Municipal Regulations (DCMR), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), and 14 DCMR §§ 3800-4399 (2004), govern these proceedings.

¹ OAH assumed jurisdiction over petitions from the RACD pursuant to § 6(b-1)(1) of the Office of Administrative Hearings Establishment Act, D.C. Law 14-76, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2007 Repl.). The functions and duties of the RACD were transferred to the Department of Housing and Community Development (DHCD), Rental Accommodations Division (RAD) by § 2003 of the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.).

This case is before the Commission pursuant to a notice of appeal filed by the Acting Rent Administrator on April 29, 2009. On May 15, 2009, the Commission issued a Notice of Scheduled Hearing, setting a hearing on this matter for July 14, 2009, at 11:00 a.m. at the Commission's former office at 941 North Capitol St., N.E., Suite 9200.

On June 16, 2014, the Commission issued an Order on Rehearing in this matter because the Commission does not possess an audio recording of the July 14, 2009, hearing. Dep't of Hous. & Cmty. Dev. v. 1433 T. St. Assocs., LLC, RH-SC6-002 (RHC June 16, 2014) (Order on Rehearing); *see* 14 DCMR § 3820.² On June 20, 2014, the Commission received a Motion to Withdraw as Counsel from the law firm of Greenstein, Delorme, & Luchs, P.C. ("Former Counsel"), stating that it no longer represented the Housing Providers. On July 14, 2014, the Commission granted the Motion to Withdraw as Counsel and stayed the Order on Rehearing for forty-five (45) days to permit the Housing Providers to obtain new counsel, after which time the Commission would reissue the Order on Rehearing within ten (10) days. Dep't of Hous. & Cmty. Dev. V. 1433 T. St. Assocs., LLC, RH-SC6-002 (RHC July 14, 2014) at 4 (Order on Motion to Withdraw as Counsel).

In accordance with the Commission's rules for the computation of time, the Commission determines that the Housing Providers' time to obtain new counsel ended on September 22, 2014, or September 25, 2014, if a notice of appearance had been filed by mail. *See* 14 DCMR

² The Commission's rules, at 14 DCMR § 3820, provide:

3820 TAPE RECORDINGS

3820.1 The entire proceedings of hearings on motions and appeals shall be recorded on tape, which shall remain in the custody of the Commission at all times.

3820.2 At the request of a party to an appeal, the Commission shall make a duplicate tape which the party may hear without charge, or which the party may purchase at cost.

The Commission notes that, since the original promulgation of this rule on March 7, 1986, *see* 33 DCR 1336, the Commission has switched to a digital audio recording system, rather than analog tape.

§ 3816.2, .5.³ The Commission has received no communications from the Housing Providers or a notice of appearance by new counsel for, or any other agent of, the Housing Providers. *See* 14 DCMR § 3812.3, .6.⁴

The Commission also notes that, on August 6, 2014, it received a notice of undeliverable mail in attempting to serve Mr. John W. Bolton, Jr. with the Order on Motion to Withdraw as Counsel, at his last known address provided by the former counsel. The Former Counsel represented that Mr. Bolton acted on behalf of Perseus Realty, which is “a former member of” at least one of the limited liability companies named as the Housing Providers in this matter. *See* Motion to Withdraw as Counsel; Order on Motion to Withdraw as Counsel at 1-2. The Commission further notes that the Former Counsel represented that Mr. Ellis J. Parker, through HEBDC, LLC, continues to have authority to act on behalf of the Housing Providers. *See* Motion to Withdraw as Counsel at 3 (certifying that Mr. Parker was advised by Debra F. Leege, Esq. of Former Counsel’s intent to file the motion). Mr. Parker was served with the Order on

³ 14 DCMR § 3816 provides, in relevant part:

3816.2 The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.

...

3816.5 If a party is required to serve papers within a prescribed period and does so by mail, three (3) days shall be added to the prescribed period to permit reasonable time for mail delivery.

⁴ The Commission’s rules on representation and appearances by parties, 14 DCMR § 3812, provide, in relevant part:

3812.3 Any person appearing before or transacting business with the Commission in a representative capacity may be required to establish authority to act in that capacity.

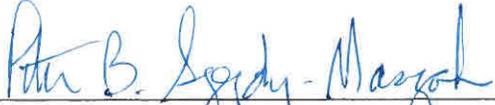
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3812.6 Any individual who wishes to appear in a representative capacity before the Commission shall file a written notice of appearance stating the individual’s name, local address, telephone number, District of Columbia Bar registration number, if applicable, and for whom the appearance is made.

Motion to Withdraw as Counsel by the Commission by first class mail, and the Commission has not received any notice that the mail was undeliverable.

Accordingly, the Clerk of the Court will schedule this matter solely for re-hearing of oral arguments by the parties, which will be exclusively limited to the issues presented in the Notice of Appeal and which shall prohibit the filing of any briefs by either party additional to those already part of the Commission's record of this appeal. Any individual appearing at the hearing on behalf of the Housing Providers will be required to establish his or her authority to act in a representative capacity, by affidavit, articles of organization or incorporation, or other such evidence as may exist, and to file a written notice of appearance prior to or simultaneously with his or her appearance. 14 DCMR § 3812.3, .6; Dorchester House Assocs., LLC v. Tenants of 2480 16th Street, NW, RH-SF-09-20,098 (RHC Dec. 11, 2013) (requiring "relevant and legally sufficient evidence, satisfactory in the Commission's discretion"); Pinnacle Realty Mgmt. Co. v. Voltz, TP 25,092 (RHC June 9, 2003) (requiring tenant association to submit "documentation of its existence, documentation of the identity of its members at the time the tenant association's motion was filed, and submit documentation of the authorization for Voltz to represent the tenant association").

SO ORDERED



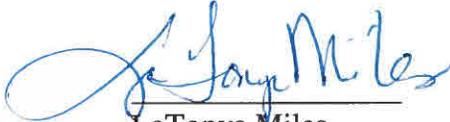
PETER B. SZEGEDY-MASZAK, CHAIRMAN

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER** in RH-SC-06-002 was mailed, postage prepaid, by first class U.S. mail on this **1st day of October, 2014** to:

Keith A. Anderson, Esq.
Acting Rent Administrator
District of Columbia Department of Housing and Community Development – Rental
Accommodations Division
1800 Martin Luther King, Jr. Ave., S.E.
2nd Floor
Washington, DC 20018

Ellis J. Parker
HEBDC, LLC
9920 Cranford Dr.
Potomac, MD 20854



LaTonya Miles
Clerk of the Court
(202) 442-8949