

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-SF-09-20,098

In re: 2480 16<sup>th</sup> Street, NW

Ward One (1)

**TENANTS OF 2480 16<sup>TH</sup> STREET, NW<sup>1</sup>**  
Tenants/Appellants/Cross-Appellees

v.

**DORCHESTER HOUSE, ASSOCIATES, L.L.C.**  
Housing Provider/Appellee/Cross-Appellant

**ORDER**

**February 6, 2014**

**SZEGEDY-MASZAK, CHAIRMAN.** On November 20, 2013, during a hearing on this appeal, the Commission ordered Ms. B. Marian Chou, Esquire, to submit evidence in the form of the signatures of individual tenants in the Dorchester House Apartments (Housing Accommodation) to the Commission by c.o.b. November 27, 2013 in order to clarify and confirm the number of tenants residing in the Housing Accommodation whom she was retained to represent in this appeal.

On November 27, 2013, Ms. Chou filed a “DTA [Dorchester Tenants Association] Tenants Representation List” (Representation List) along with exhibits. Exhibit 1 is a photocopy of a document submitted to OAH (as evidenced by the July 31, 2009 OAH date stamp), which contains a list of tenant names and corresponding apartment numbers; the only signature that appears on Exhibit 1 is Ms. Chou’s. *See* Representation List, Exhibit 1.

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<sup>1</sup> The Commission notes that, although previous case captions may have indicated that the Housing Provider was the Appellant in this matter, the Commission is satisfied that the Tenants filed their Notice of Appeal prior to the Housing Provider’s Notice of Appeal; therefore, the Tenants are the Appellants/Cross-Appellees, and the Housing Provider is the Appellee/Cross-Appellant in this matter.

Exhibit 2 is an undated “Hourly Fee Retainer Agreement for Legal Services,” indicating an agreement for the client “Dorchester Tenant Association” to be represented by Ms. Chou in connection with a “voluntary agreement.” *See* Representation List, Exhibit 2 at 1. Exhibit 2 is signed by at least Eleanor Johnson and Peter Petropoulos.<sup>2</sup> *See id.* at 2.

Exhibit 3 is an “Hourly Fee Retainer Agreement for Legal Services,” dated November 19, 2013, indicating an agreement for the client “Dorchester Tenant” to be represented by Ms. Chou in connection with the appeal of RH-SF-09-20,098. *See* Representation List, Exhibit 3 at 1-2. Exhibit 3 is signed by Eleanor Johnson and Peter Petropoulos. *See id.* at 2.

Exhibit 4 contains five (5) “Dorchester Tenant Designation on Representation” documents, indicating that the following current and former residents of the Housing Accommodation designate Ms. Chou to represent them in these appeal proceedings: Kow Hagan, apartment 107;<sup>3</sup> Robert Ebel, apartment 220; Ty Mitchell, apartment 133; Eleanor Johnson, apartment 933; and Peter Petropoulos, apartment 108. *See* Representation List, Exhibit 4 at 1-5.

Exhibit 5 is the sworn statement of Peter Petropoulos, dated November 27, 2013, stating that although he “diligently distributed” copies of the “Dorchester Tenant Designation on Representation,” he was unable to obtain more than five (5) signatures due to the Thanksgiving holiday. Exhibit 5 at 1. Mr. Petropoulos also states that he needs additional time to “collection

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<sup>2</sup> The Commission notes that a third signature appears on the second page of Exhibit 2; however, based on the illegibility of the signature, the Commission is unable to determine the identity of the third signatory. *See* Representation List, Exhibit 2 at 2.

<sup>3</sup> The Commission notes that, although the Designation on Representation contains the printed name “Mr. Kagan,” based on the Tenant’s signature, which contains the last name “Hagan,” and apartment number, which corresponds to the apartment number for Kow Hagan, the Commission is satisfied that this is merely a typographical error, and that the name of the Tenant is, in fact, Kow Hagan. *See* Exhibit 4 at 1; Exhibit 1 at 1.

information from tenants.” *Id.*

On December 5, 2013, the Dorchester House Associates, LLC (Housing Provider) filed a “Response to DTA Tenants Representation List” (Response to Representation List), asserting that the Dorchester Tenants Association has not proven to the Commission that it has the authority to do business in the District of Columbia, or that it was a party to the OAH proceedings. *See* Response to Representation List at 1. The Housing Provider further contends that, based on the documents submitted by Ms. Chou on November 27, 2013, “at most she can be said to represent the five (5) individuals who signed the documents” contained in Exhibit 4. *See id.* at 2.

## **I. DISCUSSION**

First, the Commission’s review of the record supports the Housing Provider’s contention that the Dorchester Tenants Association was never a party to this case. The Commission has previously explained the requirements for a tenant association to obtain party status, under 14 DCMR §§ 3904.2-.3 (2004),<sup>4</sup> in the case of Borger Mgmt., Inc. v. Lee, RH-TP-06-28,854 (RHC Mar. 6, 2009). In that case, the Commission determined that an untitled and undated document containing thirty-seven (37) names of alleged members of a tenants association did not constitute substantial evidence to support a finding that the tenants association represented a majority of the

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<sup>4</sup> 14 DCMR § 3904.2 (2004) provides the following, in relevant part:

Any tenant association may file and shall be granted party status to prosecute or defend a petition on behalf of any one or more of its members who have provided the association with written authorization to represent them in the action, or to seek on behalf of all members any injunctive relief available under the Rental Housing Act of 1985 . . . .

14 DCMR § 3904.3 (2004) provides as follows: “[a]ny tenant association that is a party to the action pursuant to § 3904.2 shall be listed in the caption.

tenants of the subject housing accommodation, or that the document was even a list of the members of the tenants association. *See* Borger Mgmt., Inc., RH-TP-06-28,854.

Similarly, in this case, the ALJ determined that the list of 123 Dorchester Tenants Association members, submitted by Ms. Chou,<sup>5</sup> did not represent a majority of the Tenants in the Housing Accommodation at issue in this case, and therefore the Dorchester Tenants Association was not named as a party. *See* Dorchester House Assocs., LLC v. Tenants of 2480 16<sup>th</sup> St., NW, RH-SF-09-20,098 (OAH Apr. 12, 2012) (Order Granting Tenant's Motion for Attorney's Fees) at 5; R. at 1618. The Commission is satisfied that, because the Dorchester Tenants Association was not a party to the case before OAH, it does not have standing on appeal before the Commission. *See, e.g.*, Lenkin Co. Mgmt., Inc. v. D.C. Rental Hous. Comm'n, 642 A.2d 1282, 1288 (D.C. 1994) (determining that only the tenant who appealed the hearing examiner's decision to the Commission, had standing to appeal the Commission's subsequent decision to the D.C. Court of Appeals); DeLevay v. D.C. Rental Accommodations Comm'n, 411 A.2d 354, 360 (D.C. 1980) (holding that a tenant who failed to join challenge to a rent increase before the Rental Accommodations Office did not have standing to thereafter appeal the rent increase to the Commission); Dorchester House Tenants Ass'n v. Dorchester House Assoc. Ltd. P'ship, CI 20,758 (RHC May 30, 2003) ("[o]nly the persons who appeared as parties below have standing to appeal"). *See also* Borger Mgmt., Inc., RH-TP-06-28,854.<sup>6</sup>

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<sup>5</sup> The document submitted by Ms. Chou to OAH was also submitted to the Commission as Exhibit 1 to the Representation List, filed on November 27, 2013. *See supra* at 1.

<sup>6</sup> Because of the stated reasons herein for the Commission's determination of this issue, the Commission does not address the Housing Provider's claim that the Dorchester Tenants Association lacked standing as a result of an alleged failure of legal authority and capacity to conduct business in the District of Columbia under District of Columbia corporation laws. *See* Response to Representation List at 1.

