

**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.

Second, the Commission's regulations provide that an attorney appearing before the Commission in a representative capacity, may be required to establish his or her authority to act in that capacity. 14 DCMR § 3812.3 (2004).<sup>7</sup> The Commission observes that, in response to its request under 14 DCMR § 3812.3 (2004) that Ms. Chou establish which Tenants of the Housing Accommodation she was authorized to represent, Ms. Chou submitted five (5) exhibits, only one (1) of which is relevant to establish Ms. Chou's authority to represent any of the Tenants of the Housing Accommodation in this appeal – the five (5) signed “Dorchester Tenant Designation on Representation” documents contained in Exhibit 4. *See* Representation List, Exhibit 4. Thus, in accordance with 14 DCMR § 3812.3 (2004), and based on its review of the record, the Commission determines that Ms. Chou has demonstrated her authorization to represent the following Tenants in relation to the Notice of Appeal that she filed on August 1, 2011: Kow Hagan; Robert Ebel; Ty Mitchell; Eleanor Johnson; and Peter Petropoulos. 14 DCMR § 3812.3 (2004); Representation List, Exhibit 4.

As the Commission noted *supra*, because the Dorchester Tenants Association did not have party status before OAH, and therefore does not have standing to appeal the ALJ's decision, the Commission need not consider Exhibits 2 and 3 purportedly demonstrating Ms. Chou's authority to represent the Dorchester Tenant Association. *See Lenkin Co. Mgmt., Inc.*, 642 A.2d at 1288; *DeLevay*, 411 A.2d at 360; *Dorchester House Tenants Ass'n*, CI 20,758. Additionally, the Commission is not satisfied that Exhibit 1, a four-page list of tenant names and

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<sup>7</sup> 14 DCMR § 3812.3 (2004) provides the following: “[a]ny person appearing before or transacting business with the Commission in a representative capacity may be required to establish authority to act in that capacity.”

apartment numbers with an OAH date stamp of July 31, 2009, without any tenant signatures, is sufficient to satisfy Ms. Chou's authority to represent any of those listed tenants on appeal before the Commission. *See* Hearing CD (RHC Nov. 20, 2013) (requesting that Ms. Chou supply the *signatures* of the Tenants that she is authorized to represent on appeal). *See, e.g., Borger Mgmt., Inc.*, RH-TP-06-28,854; *Lenkin Co. Mgmt., Inc.*, 642 A.2d at 1288; *DeLevay*, 411 A.2d at 360.

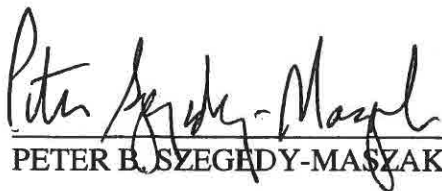
Finally, regarding Ms. Chou's concern that the Commission did not afford her sufficient time to collect tenant signatures, *see* Exhibit 5, the Commission determines that the record contains substantial evidence that Ms. Chou has been a practicing attorney with multiple clients in this jurisdiction for at least nineteen (19) years, that she has represented the appellants in this and other matters for several years, that she has sought legal fees for the representation of all of the appellants in this litigation, and that she has communicated regularly with the appellants regarding RH-SF-09-20,098 upon which this appeal is predicated. *See* Tenant's Motion for Attorney's Fees at 3 (R. at 1584); Hearing CD (RHC Nov. 20, 2013). The record also contains substantial, uncontroverted evidence of Ms. Chou's assertions that she continued to serve as legal counsel for, and to continuously represent, the appellants throughout this litigation. *Id.* Following lengthy discussions among members of the Commission *in camera* in the course of its hearing on this appeal, in the exercise of its reasonable discretion and based upon the foregoing reasons, the Commission determined that it provided Ms. Chou ample time and opportunity, especially at the indisputably advanced stage of this litigation, to contact her clients and secure their signatures in this matter to establish the representation that she has continuously claimed throughout this litigation and before OAH. The Commission also notes that in the more than two (2) months since the filing of Exhibit 5 on November 27, 2013, Ms. Chou has made no attempt

to even seek to supplement her client list with additional signatures beyond the five (5) signatures contained in Exhibit 4.

## **II. CONCLUSION**

Accordingly, the Commission determines that in relation to the Notice of Appeal that she filed on August 1, 2011, Ms. Chou has demonstrated her authorization to represent only the following five (5) Tenants: Kow Hagan; Robert Ebel; Ty Mitchell; Eleanor Johnson; and Peter Petropoulos.

**SO ORDERED.**



PETER B. SZEGEDY-MASZAK, CHAIRMAN

## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **ORDER** in RH-SF-09-20,098 was mailed, postage prepaid, by first class U.S. mail on this **6th day of February, 2014**:

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A handwritten signature in black ink, appearing to read 'LaTonya Miles', written over a horizontal line.

LaTonya Miles  
Clerk of Court  
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