

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-06-28,366

RH-TP-06-28,577

*In re:* 301 G Street, S.W.

Ward Six (6)

**AMERICAN RENTAL MANAGEMENT COMPANY**

Housing Provider/Appellant/Cross-Appellee

v.

**ARLENA CHANEY, et al.**

Tenants/Appellees/Cross-Appellants

**ORDER ON MOTION FOR SERVICE OF DOCUMENTS AND REFERRAL OF  
COUNSEL TO THE BAR**

January 23, 2015

**McKOIN, COMMISSIONER.** These consolidated cases arose under the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. Official Code § 42-3501.01 -3509.07, and came before the Commission on an appeal from the Office of Administrative Hearings (OAH), based on petitions filed in the Rental Accommodations and Conversion Division (RACD), Housing Regulation Administration (HRA), of the District of Columbia Department of Consumer and Regulatory Affairs (DCRA).<sup>1</sup> The applicable provisions of the Act, the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501 -510 (2001), and the District of Columbia Municipal Regulations (DCMR), 14 DCMR §§ 3800-4399 (2004) govern proceedings before the Commission.

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<sup>1</sup> OAH assumed jurisdiction over tenant petitions from RACD on October 1, 2006, pursuant to § 6(b-1)(1) of the OAH Establishment Act, D.C. Law 16-83, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2012 Repl.). The functions and duties of RACD were transferred to the Department of Housing and Community Development (DHCD) by § 2003 of the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2012 Repl.).

## I. PROCEDURAL HISTORY

On December 12, 2014, the Commission issued its decision and order in the appeal and cross-appeal of tenant petitions RH-TP-06-28,366 and RH-TP-06-28,577 (Tenant Petitions). *See Am. Rental Mgmt. Co. v. Chaney*, RH-TP-06-28,366 and RH-TP-06-28,577 (RHC Dec. 12, 2014) (Decision and Order). On January 20, 2015, the Commission issued an order denying a motion for reconsideration (Motion for Reconsideration) filed by Arlena Chaney (Tenant Chaney), the sole tenant petitioner in RH-TP-06-28,366 and the president of the New Capitol Park Towers Tenant Association (Association), which represents sixty-seven (67) tenants, including Tenant Chaney (collectively, Tenants), in RH-TP-06-28,577. *See Am. Rental Mgmt. Co. v. Chaney*, RH-TP-06-28,366 and RH-TP-06-28,577 (RHC Jan. 20, 2014) (Order on Reconsideration).

In the Order on Reconsideration, the Commission noted the following:

Tenant Chaney states that the Motion for Reconsideration is filed by her as the president of the Association on behalf of the sixty-seven (67) individual Tenants who are parties to these consolidated cases. Motion for Reconsideration at 1. The Commission notes that counsel for the Tenants, Jamil Zouaoui, Esq., was denied, without prejudice, leave to withdraw and remains the attorney of record for the Tenants. Order on Motion to Withdraw as Counsel (RHC Sept. 2, 2014). Several Tenants, purportedly a majority of the board of the Association, asserted to the Commission by letter received September 19, 2014, that neither Mr. Zouaoui nor Tenant Chaney is authorized to represent the Tenants in this matter. Nonetheless, Tenant Chaney filed a notice of appearance as a lay representative of the Association on behalf of the individual Tenants on October 22, 2014. *See* Notice of Appearance at 1; *see also* 14 DCMR § 3812.1(d). As a courtesy, the Commission directed that all filings and orders were to be served on Mr. Zouaoui, Tenant Chaney, and the three members of the Association's board. *See* Notice of Ex Parte Communication (RHC Sept. 30, 2014).

Order on Reconsideration at 4-5 n.2.

Also on January 20, 2015, the Commission received the instant motion (Motion for Service and Referral), filed by Awad Mahmoud (Tenant Mahmoud). In his Motion for Service and Referral, Tenant Mahmoud requests that the Commission: (1) disqualify Mr. Zouaoui from representing the Tenants; (2) “refer[] [Mr. Zouaoui] to the District of Columbia Bar for disciplinary action;” and (3) “serve [Tenant Mahmoud] individually on any and all documents filed with it or issued by it as Mr. Zouaoui has repeatedly failed to inform the [T]enants, including [Tenant] Chaney, of the developments in this case.” Motion for Service and Referral at 7.

Tenant Mahmoud complains of conduct by Mr. Zouaoui that was fraudulent or deceptive, in conflict with the interests of his client(s), or otherwise in violation of the rules of professional conduct. *See id.* at 1-6. The conduct described, however, as well as the voluminous attached exhibits submitted in support of the Motion for Service and Referral, relate almost entirely to Mr. Zouaoui’s representation of some or all of the Tenants in exercising their rights under the Rental Housing Conversion and Sale Act of 1980 (Tenant Opportunity to Purchase Act or TOPA), D.C. Law 3-86, D.C. OFFICIAL CODE § 42-3401.01 *et seq.*, and a related case in the Superior Court of the District of Columbia, and only tangentially refer to Mr. Zouaoui’s failure to file a motion to withdraw as counsel before the Commission. *See id.* at 1-7 and exhibits 1-14.

## **II. DISCUSSION**

### **1. Whether Mr. Zouaoui Should be Disqualified from Representing the Tenants**

With regard to Tenant Mahmoud’s first request, the Commission’s rules provide that “any individual who is found by the Commission, after hearing, either to be lacking in the requisite qualifications to represent others or to have engaged in unethical, improper or

unprofessional conduct” may be disqualified, temporarily or permanently, from appearing before the Commission in a representative capacity. 14 DCMR § 3812.5. However, where the Commission can grant no further relief to a party, an issue is moot and will not be decided by the Commission. *See, e.g., Am. Rental Mgmt. Co. v. Chaney*, RH-TP-08-29,302 (RHC Sept. 2, 2014) (Order on Motion to Withdraw as Counsel); *Tenants of 4021 9th St., N.W. v. E&J Props., LLC*, HP 20,812 (RHC June 11, 2014) (where Commission lacked jurisdiction over non-final order, proper formation of tenant association was moot); *Knight-Bey v. Henderson*, RH-TP-07-28,888 (RHC Jan. 8, 2013) (where tenant/petitioner fails to appear at hearing, failure to afford due process through proper notice of hearing to housing provider/respondent is moot); *see also Nelson v. B.F. Saul Prop. Co.*, RH-TP-10-29,994 (RHC Aug. 16, 2012) (parties lack standing to appeal where they neither “suffered [nor] will sustain some actual or threatened ‘injury in fact’” from a final order) (quoting *Maloff v. D.C. Bd. of Elections & Ethics*, 1 A.3d 383, 391 (D.C. 2010)).

The Commission’s regulations provide that “[d]ecisions of the Commission shall become final when issued; provided, that if a motion for reconsideration is filed, the decision shall become final when the motion is disposed of pursuant to § 3823.” 14 DCMR § 3821.6. In these consolidated cases, the Commission has issued its final decision and disposed of the only motion for reconsideration that was filed. *See* Decision and Order; Order on Motion for Reconsideration. Because the Decision and Order is now final, the Commission is satisfied that there is no further relief that it can grant in this matter. *See* 14 DCMR § 3821.6; *Chaney*, RH-TP-08-29,302 (Order on Motion to Withdraw as Counsel); *E&J Props., LLC*, HP 20,812. Moreover, the Commission is unable to identify any actual or threatened injury to the Tenants that could be remedied by disqualifying Mr. Zouaoui from representation at this point in the

