

**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 NOTICE OF REPRESENTATION**

February 10, 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), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

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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 July 1, 2005, and March 27, 2006, respectively, Tenant/Appellee/Cross-appellant Arlena Chaney (Tenant Chaney), residing at 301 G St., S.W., (Housing Accommodation), Unit 426, filed tenant petition RH-TP-06-28,366, on her own behalf, and tenant petition RH-TP-06-28,577, on behalf of the New Capitol Park Towers Tenant Association (Association)<sup>2</sup> (collectively, Tenant Petitions), against Housing Provider/Appellant/Cross-appellee American Rental Management Company (Housing Provider).

On December 12, 2014, the Commission issued a decision and order in the appeal of the Tenant Petitions: Am. Rental Mgmt. Co. v. Chaney, RH-TP-06-28,366 & RH-TP-06-28,577 (RHC Dec. 12, 2014) (Decision and Order). In its Decision and Order, the Commission affirmed the determination of Administrative Law Judge Wanda Tucker (ALJ) that the Association represents sixty-seven (67) individual Tenants, including Tenant Chaney, with regard to petition RH-TP-06-28,577. *See* Decision and Order at 43-50, 59-53. On January 20, 2015, the Commission issued an order denying a motion for reconsideration filed by Tenant Chaney. *See Am. Rental Mgmt. Co. v. Chaney*, RH-TP-06-28,366 & RH-TP-06-28,577 (RHC Jan. 20, 2014) (Order on Reconsideration).

On January 29, 2015, Awad Mahmoud (Tenant Mahmoud) and Gerardus Schavemaker, residents of Units 622 and 736, respectively, of the Housing Accommodation, filed a document (Notice of Representation) stating that Tenant Chaney is authorized to represent them in this matter. *See* 14 DCMR § 3812.1(d) (“In any proceeding, [a] member selected by the members of an association . . . or a group of tenants . . . may represent the association [or] group”); *id.*

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<sup>2</sup> The Commission refers to Tenant Chaney and the individuals represented by the Association collectively as the “Tenants.”

§ 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.”).

## II. DISCUSSION

### 1. **Standing**

As an initial matter, the Commission denies Mr. Schavemaker’s request to be represented by Tenant Chaney in this matter because the Commission determines that Mr. Schavemaker does not have standing in the appeal of this case. 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* 1 DCMR § 2924.1 (effective Jul. 14, 2006) (“Individual tenants involved in any proceeding shall be individually identified.”); Lenkin Co. Mgmt. v. D.C. Rental Hous. Comm’n, 642 A.2d 1282, 1288 (D.C. 1994) (where no tenant association was formed and only one tenant filed appeal, other tenants lacked standing before DCCA); Borger Mgmt. v. Lee, RH-TP-06-28,854 (RHC Mar. 6, 2009) (where ALJ’s determination of identity and number of tenants represented by tenant association was unsupported by substantial evidence, only tenants who appeared and testified had standing on appeal).

Although one of the issues raised on appeal to the Commission was the number of Tenants represented by the Association, *see* Decision and Order at 43-50, the Commission’s review of the record shows that the Association never asserted before OAH that Mr. Schavemaker was a member of or represented by the Association in this case, nor did Mr. Schavemaker appear on his own behalf. *See* R. at 304-07 (March 2 Roster); *see* R. at 331

(repeated)<sup>3</sup> -34 (April 19 Roster); *see* R. at 329-30 (repeated) (April 19 Petition List); R. at 322 - 28 (repeated) (Collected Signatures); R. at 421-23 (October 2 Roster); R. at 418-20 (October 2 Petition List); R. at 442-44 (October 15 Roster); R. at 439-41 (October 15 Petition List).

Because Mr. Schavemaker did not appear personally or through a representative before OAH when this case was heard, the Commission determines that he is not and cannot be a party to the case on appeal before the Commission. 1 DCMR § 2924.1; Lenkin Co., 642 A.2d at 1288; Dorchester House, CI 20,758; Borger Mgmt., RH-TP-06-28,854; *see also* 14 DCMR § 3802.1 (appeal may be filed only by a “party aggrieved by a final decision of the Rent Administrator” or OAH).

## **2. Representation in Cases Already Decided**

Regarding Tenant Mahmoud, the Commission notes his authorization of Tenant Chaney to appear as a representative on his behalf pursuant to 14 DCMR § 3812.1(d). The Commission further notes, however, that Tenant Chaney previously 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, despite an earlier representation, received by letter on September 19, 2014, by several Tenants that Tenant Chaney is not authorized to represent the Association. *See* Order on Reconsideration at 4-5 n.2. Moreover, the Commission has never granted leave to withdraw as counsel to the Tenants’ attorney (by way of the Association), Jamil Zouaoui, Esq., because he has never filed a motion to do so that complies with the Commission’s rules. *See* Order on Motion to Withdraw as Counsel (RHC Sept. 2, 2014); 14 DCMR § 3813.

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<sup>3</sup> The Commission notes that the record contains an error in page numbering. After page 333, the numbering restarts at “324,” and all subsequent pages in the record are numbered sequentially based on that mistake. As needed for clarity, the Commission will refer to pages as “repeated” if the relevant page is the second use of that number.

