

**DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION**

RH-TP-07-28,977

In re: 1630 Park Road, N.W., Unit 504

Ward One (1)

**SANTOS PAZ**  
Tenant/Appellee

v.

**PARK LEE ASSOCIATES, LLC**  
Housing Provider/Appellant

**ORDER DISMISSING APPEAL**

**January 31, 2013**

**PER CURIAM.** This case is on appeal to the Rental Housing Commission (Commission) from a final order issued by the Office of Administrative Hearings (OAH) based on a petition filed in the District of Columbia (D.C.) Department of Consumer & Regulatory Affairs (DCRA), Housing Regulation Administration (HRA), Rental Accommodations and Conversions Division (RACD).<sup>1</sup> 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- 2-510 (2001 Supp. 2008), 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> The functions and duties of the RACD were transferred to the Department of Housing and Community Development (DHCD) by the Fiscal Year Budget Support Act of 2007, D.C. Law 17-20, 54 DCR 7052 (September 18, 2007) (codified at D.C. OFFICIAL CODE § 42-3502.03a (2001 Supp. 2008)).

## **I. PROCEDURAL HISTORY**

On June 11, 2007, Tenant/Appellee Santos Paz (Tenant), residing in Unit 504 of 1630 Park Road, N.W. (Housing Accommodation), filed Tenant Petition (TP) 28,977 with RACD, claiming that Housing Provider/Appellant Park Lee Associates, LLC (Housing Provider) violated the Act as follows: (1) a rent increase was larger than the amount of increase which was allowed by any applicable provision of the Rental Housing Emergency Act of 1985; (2) a rent increase was taken while the Tenant's unit was not in substantial compliance with the D.C. housing regulations; (3) services and/or facilities provided in connection with the rental unit have been permanently eliminated; and (4) services and/or facilities provided in connection with the rental unit have been substantially reduced. Tenant Petition at 3-4; Record for TP 28,977 (R.) at 10-11.

On July 29, 2009, Administrative Law Judge Claudia Barber (ALJ) issued a Final Order, Santos Paz v. Park Lee Associates, LLC, RH-TP-07-28,977 (OAH Sept. 30, 2008) (Final Order). Final Order at 1-41; R. at 126-66.

On October 21, 2008, the Housing Provider filed a notice of appeal for RH-TP-28,977 (Notice of Appeal), which provides, in relevant part, the following:

The respondent believes that the Final Order, a copy of which is attached hereto, and the findings, penalties, and calculations therein are arbitrary, capricious, represent an abuse of discretion, are not in accordance with applicable law, and are not supported by substantial evidence in the record.

Notice of Appeal at 1. The Commission held a hearing on August 25, 2009.

## **II. PRELIMINARY ISSUE ON APPEAL**

Whether the Notice of Appeal should be dismissed for violating 14 DCMR § 3802.5(b) (2004).

### III. DISCUSSION

The Commission's regulation concerning the initiation of appeals, 14 DCMR § 3802.5(b) (2004), provides that a notice of appeal shall contain the following: "The Rental Accommodations and Conversion Division (RACD) case number, the date of the Rent Administrator's decision appealed from, and a clear and concise statement of the alleged error(s) in the decision of the Rent Administrator."

"The Commission has repeatedly held that it cannot review issues on appeal that do not contain a clear and concise statement of alleged error in the ALJ's decision." Sellers v. Lawson, TP 29,437 (RHC Dec. 6, 2012); Levy v. Carmel Partners, Inc., TP 28,830; TP 28,835 (RHC Mar. 19, 2012); Hawkins v. Jackson, TP 29,201 (RHC Aug. 31, 2009); see also Covington v. Foley Properties, Inc., TP 27,985 (RHC June 21, 2006) at 4 ("when an appeal issue is not a clear and concise statement of an alleged error it is 'violative of the Commission's rules on appeals'") (quoting Pierre-Smith v. Askin, TP 24,574 (RHC Feb. 29, 2000)); Akers v. Peterson, TP 27,987 (RHC July 1, 2005); Battle v. McElvene, TP 24,752 (RHC May 18, 2000)). We have also held that an appeal "which fails to provide the Commission with a clear and concise statement of the alleged errors in the decision . . . will be dismissed." Canales v. Martinez, TP 27,535 (RHC June 29, 2005) at 10 (citing Kenilworth Parkside RMC v. Johnson, TP 27,782 (RHC June 22, 2005); Vicente v. Anderson, TP 27,201 (RHC Aug. 20, 2004)).

In the instant case, the Notice of Appeal asserts that the "findings, penalties, and calculations" in the Final Order "are arbitrary, capricious, represent an abuse of discretion, are not in accordance with applicable law, and are not supported by substantial evidence in the record." Notice of Appeal at 1. The Housing Provider does not identify

which findings, penalties, or calculations are in error, nor does the Housing Provider explain why they are in error. See Notice of Appeal at 1. The Commission is satisfied that this allegation does not clearly and concisely state an error as required by 14 DCMR § 3802.5(b) (2004). See e.g., Bedell v. Clarke, TP 24,979 (RHC Apr. 19, 2006) (denying appeal issue for failing to specify erroneous statements of counsel which were basis of issue on appeal); Tenants of 1460 Irving St., N.W. v. 1460 Irving St., L.P., CIs 20,760-20,763 (RHC April 5, 2005) (denying appeal issue where tenants failed to refer to any record evidence to reverse the challenged finding of fact of fact); Norwood v. Peters, TP 27,678 (RHC Feb. 3, 2005) (denying appeal issues as too vague: (1) “[t]he findings of fact are not supported or logically related to the evidence” and (2) “[t]he conclusions of law . . . are completely misapplied in this case.”). Accordingly, the Notice of Appeal is dismissed.

#### **IV. CONCLUSION**

For the reasons stated herein, the Notice of Appeal is dismissed.

**SO ORDERED**

  
MARTA W. BERKLEY, COMMISSIONER

#### **MOTIONS FOR RECONSIDERATION**

Pursuant to 14 DCMR § 3823 (2004), final decisions of the Commission are subject to reconsideration or modification. The Commission’s rule, 14 DCMR §3823.1 (2004), provides, “[a]ny party adversely affected by a decision of the Commission issued to dispose of the appeal may file a motion for reconsideration or modification with the Commission within ten (10) days of receipt of the decision.”

**JUDICIAL REVIEW**

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), “[a]ny person aggrieved by a decision of the Rental Housing Commission ... may seek judicial review of the decision ... by filing a petition for review in the District of Columbia Court of Appeals.” Petitions for review of the Commission’s decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

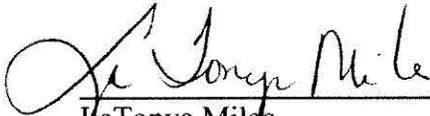
D.C. Court of Appeals  
Office of the Clerk  
Historic Courthouse  
430 E Street, N.W.  
Washington, D.C. 20001  
(202) 879-2700

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **ORDER DISMISSING APPEAL** in RH-TP-07-28,977 was mailed, postage prepaid, by first class U.S. mail on this **31<sup>st</sup> day of January, 2013** to:

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