

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-07-28,985

In re: 6000 13th Street, NW

Ward Four (4)

SHEWAFERAHU KURATU
Tenant/Appellant

v.

AHMED, INC.
Housing Provider/Appellee

ORDER ON MOTION FOR ATTORNEYS' FEES

May 10, 2013

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from a Final Order issued by the Office of Administrative Hearings (OAH),¹ based on a petition filed in the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development (DHCD). 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 - 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.

¹ On October 1, 2006, pursuant to D.C. OFFICIAL CODE § 2-1831 (b-1) (Supp. 2008), the OAH was authorized to hold hearings and issue final orders in rental housing cases previously under the jurisdiction of the Department of Consumer and Regulatory Affairs, Rental Accommodations and Conversion Division (RACD).

I. PROCEDURAL HISTORY²

On June 14, 2007, Tenant/Appellant Shewaferahu Kuratu (Tenant), a resident of 6000 13th Street, NW, Unit 301 (Housing Accommodation) filed Tenant Petition RH-TP-07-28,985 (Tenant Petition) with DCRA. Tenant Petition at 3-5; Record (R.) at 11-13. Thereafter, the Tenant filed an Amended Tenant Petition asserting that the Housing Provider had violated the Act as follows:

1. A proper thirty (30) day notice of rent increase was not provided before the rent increase became effective.
2. The Housing Provider failed to file the proper rent increase forms with the Rental Accommodations and Conversion Division.
3. A rent increase was taken while my/our unit(s) were not in substantial compliance with the D.C. Housing Regulations;
4. Services and/or facilities provided in connection with the rental of my/our unit(s) have been permanently eliminated;
5. Services and/or facilities provided in connection with the rental of my/our unit(s) have been substantially reduced; and
6. Retaliatory action has been directed against me/us by my/our Housing Provider, manager or other agent for exercising our rights in violation of section 502 of the Rental Housing Emergency Act of 1985.

Amended Tenant Petition at 3-5; R. at 51-53. On March 7, 2008, the ALJ entered an Order Granting, In Part, and Denying, In Part, Tenant's Motion for Partial Summary Judgment in which she granted summary judgment with respect to Housing Provider's failure to file proper rent increase forms with RACD for the period beginning June 24, 2004, through June 30, 2007, and ordered a rent rollback to \$550, and a rent refund. See Kuratu, RH-TP-07-28,985 (OAH

² The factual background prior to the Motion for Attorneys' Fees is set forth in the Commission's Decision and Order in Kuratu v. Ahmed, Inc., RH-TP-07-28,985 (RHC Jan. 29, 2013). The Commission sets forth here only the facts relevant to the issues that arise from the Motion for Attorneys' Fees.

Mar. 7, 2008) (Order on Summary Judgment) at 2, 27; R. at 126, 152. Summary Judgment was denied on all other issues. *See id.* at 27-28; R. at 125-26. Evidentiary hearings were held in this matter on March 17, 2008, March 18, 2008, April 22, 2008, and April 23, 2008. R. at 164-65, 184-87. The ALJ issued a Final Order on February 19, 2010. *See Kuratu*, RH-TP-07-28,985 (OAH Feb. 19, 2010) (Final Order) at 1; R. at 220.

On April 21, 2010, Tenant filed a timely Notice of Appeal with the Commission asserting that the ALJ made the following errors:

1. The Administrative Law Judge erred in concluding as a matter of law that electricity was not a related service.
2. The Administrative Law Judge erred in concluding as a matter of law that defects in Housing Provider's rent increase notices do not render the increases invalid.
3. The Administrative Law Judge's conclusion that [T]enant failed to establish that housing code violations existed on the dates rent increases were taken was not supported by substantial evidence on the record.
4. The Administrative Law Judge's conclusion that [T]enant failed to prove any reduction or elimination in services or facilities due to the presence of housing code violations was not supported by substantial evidence on the record.
5. The Administrative Law Judge erred in determining the [H]ousing [P]rovider was not on notice of [T]enant's claim for reduction in service and subsequently erred in failing to rule on Tenant's claim for reduction in services due to the existence of housing code violations.
6. The [A]dministrative [L]aw [J]udge erred in treating a claim for elimination of services differently than a claim for reduction in services.
7. The Administrative Law Judge erred in concluding as a matter of law that Tenant did not suffer a reduction/elimination of service arising from Respondent's failure to abate the rodent infestation.

Notice of Appeal at 1-9. The Commission held a hearing on this matter on November 3, 2011.

In a Decision and Order entered on December 27, 2012, the Commission (1) reversed the ALJ's

determination that the 2007 notice of rent increase was valid, and remanded for a recalculation of any appropriate rent rollback and rent refund; (2) reversed the ALJ's determination that electricity was not a related service and remanded for an evidentiary hearing on whether the Housing Provider provided fair notice to the Tenant of the Housing Provider's intention to enforce the original lease term requiring the Tenant to pay for electricity separate from and in addition to his monthly rent and, if necessary, a calculation of any rent refunds or payments owing in accordance with the Decision and Order; and (3) affirmed the ALJ on all other issues. *See Kuratu v. Ahmed, Inc.*, RH-TP-07-28,985 (RHC Dec. 27, 2012) (Decision and Order).

The Tenant filed a timely Motion for Reconsideration of the Commission's Decision and Order on January 14, 2013 requesting reconsideration on the following grounds:

1. The electricity clause is void *ab initio* because it represents an unlawful attempt to carry out a reduction of services without observing the procedural requirements of the Rental Housing Act.
2. Authorities that construe common-law contractual concepts of withdrawing waiver are inapposite to this case because the contractual term in question is subject to the regulatory scheme created by the Rental Housing Act.
3. Alternatively, the Commission should determine without remanding that Housing Provider at no point has provided the notice required by Grubb and related cases.

See Motion of Tenant/Appellant for Reconsideration at 4-6 (hereinafter Tenant's Motion for Reconsideration).

The Commission issued its Order on Reconsideration on January 29, 2013, determining that it had unnecessarily limited the Tenant's remedy based upon principles of contract law, when an appropriate remedy was available under the Act. Kuratu, RH-TP-07-28,985 (RHC Jan. 29, 2013) (Order on Reconsideration) at 7. The Commission stated that once it had determined that the provision of electricity became a "related service" for purposes of the Act, the Housing

Provider's appropriate method for shifting the responsibility of provision of electricity to the Tenant in compliance with the Act was to file a related services petition with the Rent Administrator. *See id.* at 8.

On February 12, 2013, the Tenant filed "Appellant's Motion for Attorneys' Fees" (Tenant's Motion for Attorneys' Fees).

III. DISCUSSION

Under D.C. OFFICIAL CODE § 42-3509.02 (2001),³ the Commission may award reasonable attorney's fees to the prevailing party in an action before the Commission. D.C. OFFICIAL CODE § 42-3509.02 (2001). This provision creates a presumptive award of attorney's fees for prevailing tenants in both tenant-initiated and landlord-initiated proceedings. *See, e.g., Loney v. D.C. Rental Hous. Comm'n*, 11 A.3d 753, 759 (D.C. 2010); *Lenkin Co. Mgmt. v. D.C. Rental Hous. Comm'n*, 677 A.2d 46, 47 (D.C. 1996); *Hampton Courts Tenants' Ass'n v. D.C. Rental Hous. Comm'n*, 573 A.2d 10 (D.C. 1990); *Cascade Park Apartments v. Walker*, TP 26,197 (RHC Mar. 18, 2005). The Commission is satisfied, based on the procedural history discussed *supra* at 2-5, that the Tenant prevailed on his appeal to the Commission for purposes of D.C. OFFICIAL CODE § 42-3509.02 (2001), and is therefore entitled to an award of attorneys' fees. *See Loney*, 11 A.3d at 759; *Lenkin Co. Mgmt.*, 677 A.2d at 47; *Hampton Courts Tenants' Ass'n*, 573 A.2d at 10; *Cascade Park Apartments*, TP 26,197.

Under the Commission's regulations, any fee-setting inquiry starts with the "lodestar," which is the number of hours reasonably expended on a task multiplied by a reasonable hourly

³ D.C. OFFICIAL CODE § 42-3509.02 (2001) provides:

The Rent Administrator, Rental Housing Commission, or a court of competent jurisdiction may award reasonable attorney's fees to the prevailing party in any action under this chapter, except actions for eviction authorized under § 42-3505.01.

rate. *See* 14 DCMR § 3825.8(a) (2004).⁴ *See also* Sindram v. Tenacity Grp., RH-TP-07-29,094 (RHC Sept. 14, 2011); Cascade Park Apartments, TP 26,197; Reid v. Sinclair, TP 11,334 (RHC Nov. 9, 1999). The determination of the amount of reasonable attorney's fees is committed to the discretion of the Commission. *See* Cascade Park Apartments, TP 26,197; Dey v. L.J. Dev., Inc., TP 26,119 (RHC Nov. 17, 2003); Town Ctr. Mgmt. Corp. v. Pettaway, TP 23,538 (RHC Feb. 29, 1996) (*citing* Alexander v. D.C. Rental Hous. Comm'n, 542 A.2d 359, 361 (D.C. 1988)).

A. Reasonable Hours Expended

To satisfy the first element of the lodestar calculation, that the hours claimed were reasonably expended on a case, a fee applicant must submit “sufficiently detailed information about the hours logged and the work done.” *See* Hampton Courts Tenants’ Ass’n v. D.C. Rental Hous. Comm’n, 599 A.2d 1113, 1116 (D.C. 1991). *See also* Am. Petroleum Inst. v. EPA, 72 F.3d 907, 915 (D.C. Cir. 1996); Nat’l Ass’n of Concerned Veterans v. Sec’y of Def., 675 F.2d 1319, 1327 (D.C. Cir. 1982); Copeland v. Marshall, 641 F.2d 880, 891 (D.C. Cir. 1980). Commission decisions have held that a “reasonable” number of hours is a function of a number of factors, such as: (1) whether the time records are contemporaneous, complete and standardized rather than broad summaries of work done and hours logged; (2) whether an attorney skilled in the specialized field of rental housing would have logged the same number of hours for similar work; and (3) whether the hours appear excessive, redundant or otherwise unnecessary. *See* Hampton Courts Tenants’ Ass’n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp.,

⁴ The regulation states:

The starting point shall be the lodestar, which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate.

14 DCMR § 3825.8(a) (2004).

TP 23,538; Hampton Courts Tenants' Ass'n v. William C. Smith, Co., CI 20,176 (RHC July 20, 1990).

The Tenant's Motion for Attorney Fees requested attorney's fees for Student Attorneys, Alexander Clark, Robert Green, and Harrison Magy, and Supervising Attorney Edward Allen.

1. Hours Requested By Student Attorneys Alexander Clark, Robert Green, and Harrison Magy.

The Tenant's Motion for Attorneys' Fees indicates that Alexander Clark was a third-year law student at the University of the District of Columbia David A. Clark School of Law (UDC School of Law), and was enrolled in the Housing and Consumer Law Clinic from August 2011 through December 2011. *See* Tenant's Motion for Attorneys' Fees at 9-10. Mr. Clark's Affidavit attached to the Tenant's Motion for Attorneys' Fees indicates that he began working on this case on September 1, 2011, and his responsibilities included "researching, writing, and editing the Tenant's Appellate Brief," "presenting the oral arguments before the Commission," and "reviewing the case file, communicating with the Tenant, and performing file maintenance." *See* Clark Affidavit at 1-3; Tenant's Motion for Attorneys' Fees at 12. Mr. Clark's Affidavit contains approximately two (2) pages of contemporaneous time entries detailing the work that he performed in relation to the Tenant's case before the Commission. *See* Clark Affidavit at 1-3. Where more than one task was performed on a particular date, Mr. Clark has indicated how much time was spent on each individual task. *See id.* The time entries in Mr. Clark's Affidavit actually total 49.0 hours, although his own calculations stated a total of 48.9 hours. *See id.* at 1-3. Irrespective of this discrepancy, Supervising Attorney Edward Allen substantially discounted the total number of hours for which Mr. Clark is seeking fees by over 60% to 16.6 hours. *See* Tenant's Motion for Attorneys' Fees at 12.

The Affidavit of Robert Green indicates that he is a full-time student at the UDC School of Law, and was enrolled in the Housing and Consumer Law Clinic during the Fall 2012 semester. *See* Green Affidavit at 1. Mr. Green's Affidavit indicates that he began working on this case on January 11, 2013, and his primary responsibility was to "prepare the Motion for Reconsideration." *See id.* at 1. Mr. Green's Affidavit contains two and a half (2.5) pages of contemporaneous time entries detailing the work that he performed in this case before the Commission. *See id.* at 1-4. Where more than one task was performed on a particular date, Mr. Green has indicated how much time was spent on each individual task. *See id.* Mr. Green's Affidavit states that he logged a total of 20.7 hours; however, Supervising Attorney Edward Allen substantially discounted the total number of hours for which Mr. Green is seeking fees by over 60% to 7 hours. *See id.* at 4; Tenant's Motion for Attorneys' Fees at 15.

The Affidavit of Harrison Magy indicates that he is a full-time student at the UDC School of Law, and is currently enrolled in the Housing and Consumer Law Clinic for the Spring 2013 semester. *See* Magy Affidavit at 1. Mr. Magy's Affidavit indicates that he began working on this case on January 7, 2013, and his primary responsibility was to "prepare the Motion to Reconsider." *See id.* The record also indicates that Mr. Magy met with Mr. Allen on the Tenant's Motion for Attorney's Fees. *See* Magy Affidavit at 3.⁵ Mr. Magy's Affidavit contains two (2) pages of contemporaneous time entries detailing the work that he performed in relation

⁵ The DCCA has addressed the merits of awarding attorney's fees to an attorney (like Mr. Magy in this case) for legal work devoted to obtaining an attorney's fees award:

[T]he law is well established that, when fees are available to the prevailing party, that party may also be awarded fees on fees, i.e., the reasonable expenses incurred in the recovery of its original costs and fees.

Gen. Fed'n of Women's Clubs v. Iron Gate Inn, Inc., 537 A.2d 1123, 1129 (D.C. 1988) (*citing* Copeland, 641 F.2d at 896).

to this case before the Commission. *See id.* at 2-4. Where more than one task was performed on a particular date, Mr. Magy has indicated how much time was spent on each individual task. *See id.* Mr. Magy's Affidavit states that he logged a total of 33.9 hours; however, Supervising Attorney Edward Allen substantially discounted the total number of hours for which Mr. Magy is seeking fees by over 75% to 6.7 hours. *See id.* at 4; Tenant's Motion for Attorneys' Fees at 15.

The Commission's review of each of the respective Affidavits submitted by the student attorneys indicates that each contained contemporaneous, detailed records of the work done during the time logged. *See Clark Affidavit; Green Affidavit; Magy Affidavit.* Although the Commission notes that the student attorneys are inexperienced in the area of rental housing, the Commission's review of the Tenant's Motion for Attorneys' Fees reveals that the hours billed by each of the student attorneys were substantially reduced by Mr. Allen from their original totals, respectively, by at least 60% to approximate the amount of time a practicing attorney would have spent performing similar tasks. *See Motion for Attorney Fees at 12. See Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.* Accordingly, based on its review of the record, the Commission is satisfied that substantial evidence supports that the number of billable hours requested by the student attorneys are reasonable – 16.6 for Mr. Clark, 7 for Mr. Green, and 6.7 for Mr. Magy. *See Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.*

2. Hours Requested By Supervising Attorney Edward Allen

The Affidavit of Edward Allen indicates that he graduated from Georgetown Law Center in 1975 and was admitted to the District of Columbia Bar in the same year. *See Allen Affidavit at 1.* Mr. Allen states that he has worked as a full time faculty member at the UDC School of

Law supervising student attorneys in the Housing and Consumer Law Clinic since 1977. *Id.* Mr. Allen's Affidavit provides that he has supervised law students or represented tenants "in scores of cases at the various rent control agencies" including RACD, RAD, OAH, the Commission and the DCCA. *See id.* at 2. Mr. Allen also states that he directed the Housing and Consumer Law Clinic for approximately ten years, published an article related to administrative litigation, presented at D.C. Bar seminars on the topic of rent control law, and taught seminars for the D.C. Bar Committee on Rental Housing. *See id.* at 1-2. Mr. Allen's Affidavit indicates that he began logging time for this case on September 15, 2011, and that his responsibilities included providing guidance and oversight to student attorneys. *See id.* at 3. Mr. Allen's Affidavit contains contemporaneous time entries detailing the work that he performed in relation to the Tenant's case before the Commission, for a total of 14.6 hours.⁶ *See id.*

The Commission observes that a number of the time entries in Mr. Allen's Affidavit are substantially similar to those of each of the supervised student attorneys, so that Mr. Allen's "distinct contribution" to the representation of the Tenant is not always clearly reflected in the record. *See Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 920 (D.C. 2008). *See also Afro-American Patrolmen's League v. Atlanta*, 817 F.2d 719, 726 (11th Cir. 1987).⁷ However, the

⁶ The Commission notes that Mr. Allen's Affidavit states on page 3 that he spent a total of 11.6 hours supervising students in relation to the instant case; however, the time entries in the Affidavit add up to a total of 14.6 hours, page 5 of Mr. Allen's Affidavit states that he logged 14.6 hours, and the Tenant's Motion for Attorneys' Fees states in more than one place that Mr. Allen recorded 14.6 hours in this case. *See* Allen Affidavit; Tenant's Motion for Attorneys' Fees at 13,17. The Commission is satisfied that Mr. Allen's total hours logged in this case were 14.6, not 11.6.

⁷ For example, Mr. Allen's Affidavit indicates that he spent 1 hour meeting with Mr. Clark on September 16, 2011 to discuss Tenant's Brief, while Mr. Clark's Affidavit indicates that he spent 1 hour on September 16, 2011 meeting with Mr. Allen about the status of, and edits to, an appeal brief. Regarding January 11, 2013, Mr. Allen's Affidavit states that he spent .8 hours meeting with Mr. Green to "review and discuss further edits to the Motion to Reconsider", while Mr. Green's Affidavit states that he spent .8 hours on January 11, 2013 to discuss his draft motion for reconsideration. Regarding February 1, 2013, Mr. Allen's Affidavit provides that he spent 1.4 hours with Mr. Magy discussing the Motion for Attorney's fees, while Mr. Magy's Affidavit similarly states that he spent 1.4

record reflects that Mr. Allen reduced the number of hours which he has requested as supervising attorney in the representation of the Tenant by over 30% from 14.6 to 9.7. Additionally, the Commission observes that supervision of an attorney licensed to practice in the District is required by the regulation that allows law students to appear before the Commission. 14 DCMR § 3812.4(c) (2004).⁸ By regulation, therefore, when law students appear before the Commission, multiple counsel will be involved in the representation of clients under the Act: student attorney(s) and supervisor(s). Based upon its review of the substantial evidence in the record, the Commission is satisfied that this reduction in billable hours by Mr. Allen sufficiently accounts for any duplication and redundancy in the provision of legal services to the Tenant.

For the reasons stated herein, the Commission determines for purposes of the lodestar calculation under 14 DCMR § 3825(a), that the number of hours reasonably expended for the representation of the Tenant by Alexander Clark is 16.6, by Robert Green is 7, by Harrison Magy is 6.7, and by Edward Allen is 9.7.

B. Reasonable Hourly Rate

The second element of the lodestar calculation requires the Commission to determine a reasonable hourly rate “as measured by prevailing market rates in the relevant community for attorneys of similar experience and skill.” 14 DCMR § 3825.8(a) (2004). *See Hampton Courts*

hours on February 1, 2013 to discuss the Motion for Attorney’s Fees. *See* Allen Affidavit at 3-4; Clark Affidavit at 2; Green Affidavit at 3; Magy Affidavit at 3.

⁸ 14 DCMR § 3812.4(c) (2004) provides as follows:

Any law student practicing under the supervision of an attorney admitted to practice in the District of Columbia as part of a program approved by an accredited law school for credit; provided, that the law student’s representation before the Commission is undertaken pursuant to the student’s participation in the clinical program; provided further, that the law student’s supervising attorney is present at any hearing before the Commission.

Tenants Ass'n, 599 A.2d at 1115 n.7; Dey, TP 26,119; Reid, TP 11,334; Hampton Courts Tenants' Ass'n, CI 20,176.

The Tenant requested a rate of \$95.00 per hour for work done by student attorneys. *See* Tenant's Motion for Attorneys' Fees at 14. The Tenant asserted that \$95.00 per hour was a reasonable request in light of the fact it is "lower than the Laffey Matrix recommended per hour rate of \$170.00 for law clerks and paralegals in 2012, positions requiring similar experience and skill." *See id.* *See, e.g.* A.S. v. District of Columbia, 842 F. Supp. 2d 40, 48 n.7 (D.D.C. 2012) (the current Laffey Matrix can be found at <http://www.justice.gov/usao/dc/divisions/civil.html>).⁹ Moreover, the Tenant noted that an ALJ recently awarded student attorneys \$95 per hour in Lizama & Hernandez v. Caesar Arms, RH-TP-07-29,063 (OAH Apr. 13, 2010) and that the Commission recently awarded student attorneys \$95.00 per hour in Ahmed, Inc. v. Avila, RH-TP-28-799 (RHC Jan. 29, 2013). *See* Tenant's Motion for Attorneys' Fees at 14 (*citing* Ahmed, Inc. v. Avila, RH-TP-28-799 (RHC Jan. 29, 2013); Lizama & Hernandez v. Caesar Arms, LLC, RH-TP-07-29,063 (OAH Apr. 13, 2010)). Based on the foregoing, the Commission is satisfied that \$95.00 per hour is a reasonable rate in this case for student attorneys practicing in the field of rental housing.

⁹ The Laffey Matrix begins with rates from 1981–1982 allowed and established by the U.S. District Court for the District of Columbia in the case of Laffey v. Northwest Airlines, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is a matrix form comprised of hourly rates for attorneys of varying experience levels and paralegals/law clerks, which has been compiled by the Civil Division of the United States Attorney's Office for the District of Columbia. It has been used since then by courts in the District to reflect billing rates for attorneys in the Washington, D.C. area with various degrees of experience. *See, e.g.* Heller v. District of Columbia, 832 F. Supp. 2d 32, 40 (D.D.C. 2011). The Laffey Matrix is intended to be used in cases where a fee shifting statute permits a prevailing party to recover "reasonable" attorney's fees. In that regard, it is similar to Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-5(k), the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(E) and the EAJA, 28 U.S.C. § 2412(b). Rates for subsequent years after 1981-1982 are adjusted annually based on cost of living increases for the Washington, D.C. area. The Commission has used the Laffey Matrix as a supplement to the "prevailing market rates in the relevant community" to gauge whether the requested fees are reasonable. *See* Loney v. Tenants of 710 Jefferson Street, N.W., SR 20,089 (RHC June 6, 2012) (Order on Motion for Attorney's Fees); Cascade Park Apartments, TP 26,197.

The Tenant requested an hourly rate of \$345.00 for the work of Supervising Attorney Edward Allen. *See* Tenant's Motion for Attorneys' Fees at 12-13. In support of this request, Mr. Allen submitted an Affidavit in which he stated that he has more than three (3) decades of experience supervising law students in landlord and tenant matters before the courts, the Commission, RACD, RAD, and OAH. *See* Allen Affidavit at 2. In further support, the Tenant's Motion for Attorney's Fees cited cases wherein OAH and the Commission had awarded Mr. Allen an identical fee within the last two years. *See* Tenant's Motion for Attorneys' Fees at 15 (*citing* Ahmed, Inc., RH-TP-28,799; Lizama & Hernandez, RH-TP-07-29,063). In addition to the information contained in the Tenant's Motion for Attorneys' Fees and Mr. Allen's Affidavit, the Commission notes that the requested rate of \$345 is almost 30% below the Laffey Matrix rate of \$495 per hour for an attorney with twenty or more years of experience. *See, e.g.* A.S. v. District of Columbia, 842 F. Supp. 2d 40, 48 n.7 (D.D.C. 2012).¹⁰ The Commission observes that its reference to the Laffey Matrix as an appropriate rate standard is consistent with Commission precedent that "[a] reasonable hourly rate is 'that prevailing in the community for similar work', where the community are practitioners in the specialized field of rental housing or rent control under the Act." *See* Loney, SR 20,089 (Order on Motion for Attorney's Fees); Hampton Courts Tenant Ass'n, 599 A.2d at 1116; Hampton Courts Tenants' Ass'n, CI 20,176 at 12; Reid, TP 11,334 at 18. Based on the foregoing, the Commission is satisfied that \$345 is a reasonable rate in this case for an attorney with Mr. Allen's experience in the specialized field of rental housing.

¹⁰ *See supra* at 12 n.9.

For the reasons stated herein, the Commission determines for purposes of the lodestar calculation under 14 DCMR § 3825.8(a) (2004) that the reasonable rate for the time of the student attorneys is \$95 per hour, and the reasonable rate for Mr. Allen's time is \$345 per hour.

C. Lodestar Amounts

As previously stated, the Commission's fee-setting inquiry starts with the "lodestar," which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate. *See* 14 DCMR § 3825.8(a) (2004). *See also* Sindram, RH-TP-07-29,094; Cascade Park Apartments, TP 26,197; Reid, TP 11,334. The table below shows the Commission's calculation of the lodestar amounts for each of the three student attorneys and Supervising Attorney Edward Allen, using the hours and hourly rates determined *supra* at 6-13:

	HOURS EXPENDED	HOURLY RATE	LODESTAR
Alexander Clark	16.6	\$95/hour	\$1,577.00 ¹¹
Robert Green	7	\$95/hour	\$665.00
Harrison Magy	6.7	\$95/hour	\$636.50
Edward Allen	9.7	\$345/hour	\$3,346.50

Pursuant to 14 DCMR § 3825.8(a) (2004), the Commission approves the following "lodestar" amount of fees: (1) for Student Attorney Alexander Clark, \$1,577.00; (2) for Student Attorney Robert Green, \$665.00; (3) for Student Attorney Harrison Magy, \$636.50; and (4) for Supervising Attorney Edward Allen, \$3,346.50. The total amount of the lodestar for the three (3) student attorneys and Mr. Allen, collectively, is \$6,225.00.

¹¹ The Commission notes that the Tenant's Motion for Attorneys' Fees miscalculates Mr. Clark's amount of fees (based on 16.6 hours at a rate of \$95/hour) as \$1,605.50. *See* Tenant's Motion for Attorneys' Fees at 17.

D. Lodestar Adjustment Factors

The Commission may make adjustments to the "lodestar" amount upon consideration of the following factors:

- (1) the time and labor required;
- (2) the novelty, complexity, and difficulty of the legal issues or questions;
- (3) the skill requisite to perform the legal service properly;
- (4) the preclusion of other employment by the attorney, due to acceptance of the case;
- (5) the customary fee or prevailing rate in the community for attorneys with similar experience;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or circumstances;
- (8) the amount involved and the results obtained;
- (9) the experience, reputation, and ability of the attorney;
- (10) the undesirability of the case;
- (11) the nature and length of the professional relationship with the client;
- (12) the award in similar cases; and
- (13) the results obtained, when the moving party did not prevail on all the issues.

14 DCMR § 3825.8(b) (2004).

Having calculated the lodestar amounts of the fees for Mr. Clark, Mr. Green, Mr. Magy and Mr. Allen, respectively, the Commission will proceed to consider whether any adjustments to the lodestar amounts are warranted under 14 DCMR § 3825.8(b) (2004). The Commission's determination will be based upon its review of the record, fee awards in other cases under the

Acts, and its “past experience with attorney services in the rental housing area.” *See Hampton Courts Tenants’ Ass’n*, CI 20,176 at 8 - 9; *Reid*, TP 11,334 at 17.

(1) The time and labor required

This factor has been addressed by the Commission in its determination of an appropriate amount of hours expended by the student attorneys and Mr. Allen in the instant case. *See supra* at 6-9.

(2) The novelty, complexity, and difficulty of the legal issues or questions

Based upon its review of the record, the Commission does not regard the issues or questions addressed by student attorneys and Mr. Allen in the instant case to be of unusual or extraordinary novelty, complexity or difficulty – both in the context of practitioners in the specialized field of rent control and rental housing under the Act and in the context of typical actions brought under the provisions of the Act applicable to RH-TP-07-28,985. *See D.C. OFFICIAL CODE § 42-3502.11 (2001)*.

(3) The skill requisite to perform the legal service properly

Based upon its review of the record, the Commission does not regard the legal skill requisite of the student attorneys and Mr. Allen to perform their service properly on behalf of the Tenants in the instant case to be necessarily enhanced or increased when compared to the customary skill level of other attorneys with experience in the representation of clients under the Act. While the Commission is satisfied that student attorneys performed the requisite litigation, research, evidentiary and argument skills in a very professional manner in the instant case, the Commission does not regard the required legal skills to warrant any adjustment of the lodestar amount.

(4) The preclusion of other employment by the attorney, due to acceptance of the case

The Commission recognizes the important public function and role that student attorneys from the UDC School of law play in representing clients of low and moderate income in legal matters, where legal representation of such individuals would otherwise be wanting for a client's lack of financial resources. While the engagement of the student attorneys and Mr. Allen in the instant case likely precluded them from accepting other cases, the Commission notes that any acceptance by the UDC School of Law of a particular case will necessarily preclude its student attorneys and Mr. Allen from representing eligible and worthy clients in other cases. Based upon its review of the record, the Commission notes that this factor does not warrant any adjustment of the lodestar amount.

(5) The customary fee or prevailing rate in the community for attorneys with similar experience

This factor has been addressed by the Commission in its determination of the appropriate hourly rates for the student attorneys and Mr. Allen in the instant case. *See supra* at 11-13.

(6) Whether the fee is fixed or contingent

The Commission is not aware that the student attorneys or Mr. Allen use a fee structure that involves fixed or contingent fees for legal services. As a result, the Commission does not consider this factor to be relevant, or to warrant any adjustment of the lodestar amount.

(7) Time limitations imposed by the client or circumstances

Based upon its review of the record, the Commission does not observe that unusual time limitations were imposed by either the Tenant or the circumstances in the prosecution of this case on behalf of the Tenant. While student attorneys and Mr. Allen appear to the Commission to have timely carried out their representation of the Tenant, the Commission does not consider this factor to warrant any adjustment of the lodestar amount.

(8) The amount involved and the results obtained (including results obtained, when the moving party did not prevail on all the issues)¹²

Based upon its review of the record, the positive results that the student attorneys and Mr. Allen achieved in this case were not extraordinary under the Act – they were the ordinary and customary results and remedies under the Act arising from the successful representation of their Tenant-client. While the result of the Tenant’s representation by the student attorneys and Mr. Allen was of important value to the Tenant, the Commission does not consider the results obtained to be of such a level of achievement to warrant any adjustment of the lodestar amount.

(9) The experience, reputation, and ability of the attorney

Based upon its review of the record, the Commission does not regard the proper representation of the Tenant by the student attorneys and Mr. Allen to necessitate enhanced or unusual legal experience, reputation and abilities when compared to the experience level, reputation and abilities of attorneys who are customarily engaged in the representation of clients in similar cases in the specialized field of rent control under the Act. In the Commission’s view, this factor does not warrant any adjustment of the lodestar amount.

(10) The undesirability of the case

Because the applicable clinical program at the UDC School of Law is specifically organized to take on “undesirable cases” insofar as the clinical program represents individuals whose lower income status and inability to afford legal fees of private law firms may render their cases as “undesirable” to such private law firms, the Tenant’s case appears to fit appropriately within the type of “undesirable” case that the student attorneys and Mr. Allen would ordinarily

¹² The discussion regarding this factor also incorporates consideration of factor thirteen (13) under 14 DCMR § 3825.2(b) (2004).

undertake. While this factor fits the instant case, the Commission does not regard the instant case to be of such a degree of undesirability to warrant any adjustment of the lodestar amount.

(11) The nature and length of the professional relationship with the client

Based upon its review of the record, the nature and length of the professional, attorney-client relationship between the Tenant and the student attorneys and Mr. Allen do not appear to the Commission to be unusual in length, difficulty or in substance. Therefore, the Commission does not consider this factor to warrant any adjustment of the lodestar amount.

(12) The award in similar cases

Based upon its review of the record, the Commission is satisfied that the award to the Tenant in the instant case was not so extraordinary or unusual to warrant any adjustment of the lodestar amount.

(13) The results obtained (when the moving party did not prevail on all the issues)

The discussion of this factor was incorporated in the Commission's consideration of factor eight (8) under 14 DCMR § 3825.2(b) (2004). *See supra* at 17 & n.12.

The Commission has given careful consideration to each of the factors in 14 DCMR § 3825.2(b) with respect to the representation of the Tenant in the instant case by each of the student attorneys and Mr. Allen. The Commission's review of the record indicates that each of the student attorneys and Mr. Allen provided the Tenant with a high quality of legal services. However, for the reasons stated herein, the Commission does not deem their representation of the Tenants to warrant any adjustments to the lodestar amounts of their respective fees under 14 DCMR § 3825.2(b) (2004). Further, the Tenant concedes that the factors under 14 DCMR § 3825.2(b) do not warrant adjustment in this case. *See Tenant's Motion for Attorneys' Fees* at 16-17.

In light of the time and labor expended, the prevailing rates for attorneys with similar experience in the specialized field of rent control, and the reasonable reduction in hours claimed by the student attorneys, the Commission grants the Tenant's request for attorney's fees, awarding \$6,225.00 in attorney's fees to the student attorneys and Mr. Allen for legal services performed before the Commission. The award consists of the following: (1) for Student Attorney Alexander Clark, \$1,577.00; (2) for Student Attorney Robert Green, \$665.00; (3) for Student Attorney Harrison Magy, \$636.50; and (4) for Supervising Attorney Edward Allen, \$3,346.50.

IV. CONCLUSION

In accordance with the foregoing, the Commission awards \$6,225.00 in attorney's fees to the student attorneys and Mr. Allen for their representation of the Tenant in this case.

SO ORDERED



PETER B. SZEGEDY-MASZAK, CHAIRMAN

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
430 E. Street, N.W.
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER ON MOTION FOR ATTORNEYS' FEES** in RH-TP-28,799 was mailed, postage prepaid, by first class U.S. mail on this **10th day of May, 2013** to:

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