

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,067

In re: 1801 16th St., NW

Ward One (1)

PATRICK DOYLE, et al.
Tenants/Appellants/Cross-Appellees

v.

PINNACLE REALTY MANAGEMENT
Housing Provider/Appellee/Cross-Appellant

ORDER ON RECONSIDERATION

April 15, 2015

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from an order issued by the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development (DHCD), based on a petition filed with the Rental Accommodations and Conversion Division (RACD) of the Department of Consumer and Regulatory Affairs (DCRA).¹ 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), 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 During the pendency of this case, the Office of Administrative Hearings (OAH) assumed jurisdiction over tenant petitions from DCRA pursuant to the Office of Administrative Hearings Establishment Act, D.C. Law 14-76, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2007 Repl.). The functions and duties of RACD were transferred to RAD and DHCD by § 2003 the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.). Therefore, although this case originated with RACD, it was subsequently transferred to RAD. *See infra* at n.3.

I. PROCEDURAL HISTORY²

On March 30, 2001, Patrick Doyle filed Tenant Petition TP 27,067 (hereinafter “Tenant Petition”) on behalf of the Somerset Tenants Association (hereinafter, “Tenants Association”) regarding the housing accommodation located at 1801 16th Street, N.W. (hereinafter “Housing Accommodation”) alleging that Pinnacle Realty Management (hereinafter “Housing Provider”) violated the Act as follows: “Services and/or facilities provided in connection with the rental of my/our unit(s) have been permanently eliminated.” Tenant Petition at 1-4; Record for TP 27,067 (hereinafter “R.”) at 57-60. A final order was issued by Hearing Examiner Keith Anderson (Hearing Examiner) on May 31, 2007. *See Doyle v. Pinnacle Realty Mgmt.*, TP 27,067 (RACD May 31, 2007) (Final Order). In the Final Order, the Hearing Examiner determined, in relevant part, that the Tenants Association represented a majority of the tenants at the Housing Accommodation, and would appear in the case caption. *Id.*

Subsequently, both the Tenants Association and the Housing Provider filed appeals with the Commission, which were addressed in a decision and order dated March 10, 2015: Patrick Doyle, et al. v. Pinnacle Realty Management, TP 27,067 (RHC Mar. 10, 2015) (Decision and Order). In the Decision and Order, the Commission determined that the Hearing Examiner had committed plain error by determining that the Tenants Association should be named in the case caption, and in his identification of the members of the Tenants Association. Decision and Order at 13. Accordingly, the Commission ordered that this case be remanded to RAD for further proceedings.

² The Commission notes that a complete procedural history of this case prior to the Motion for Reconsideration is contained in the Commission’s Decision and Order dated March 10, 2015. Doyle v. Pinnacle Realty Mgmt., TP 27,067 (RHC Mar. 10, 2015). The Commission recites herein only the procedural history that is relevant to the Motion for Reconsideration.

II. MOTION FOR RECONSIDERATION

On March 27, 2015, the Tenants Association filed a timely Motion for Reconsideration with the Commission, stating as following bases for reconsideration: (1) "Change in rules regarding representation;" and (2) "No indication that the legislative history was given consideration." Motion for Reconsideration at 1. It is the assertion of the Tenants Association that the Commission should have applied the version of the Act currently in effect, rather than the version that was in effect at the time the Tenant Petition was filed, with regard to the participation of the Tenants Association.³ *Id.* No opposition was filed by the Housing Provider.

The Motion for Reconsideration is governed by 14 DCMR § 3823.1-.2, which provides the following:

3823.1 Any 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; provided, that an order issued on reconsideration is not subject to reconsideration.

3823.2 The motion for reconsideration or modification shall set forth the specific grounds on which the applicant considers the decision and order to be erroneous or unlawful.

III. DISCUSSION

The Tenant Petition in this case was filed on March 30, 2001, at which time the Act's regulations provided the following regarding the participation of tenant associations in cases arising under the Act:

3904.2 If a tenant association seeks to be a party, the hearing examiner shall determine the identity and number of tenants who are represented by the association.

³ Despite being filed by counsel for the Tenants Association, the Commission observes that the Motion for Reconsideration does not cite any supporting statutory or regulatory provisions, or case law precedent.

