

TENANTS OF 500 23RD STREET, N.W., 585 A.2nd 1330, (1991)

Court: D.C. Court of Appeals, opinion by Farrell, J.

Judicial History: Tenants brought petition for review of decision of Rental Housing Commission (RHC) granting capital improvement petitions for rent ceiling increases.

Facts: Housing provider began work on roof replacements a few days after filing his capital improvement petitions. After a hearing, the Rent Administrator dismissed the petitions, finding that the petitions may only be filed within the 10-day period *after* installation of the improvements is completed, not before. On appeal by the Housing provider, the RHC rejected the Rent Administrator's interpretation of the statute and remanded. The hearing examiner concluded that the roof repair was not immediately necessary and dismissed the petitions. The housing provider appealed, and the RHC again reversed the Rent Administrator's decision, concluding as a matter of law that the housing provider had satisfied the immediate necessity requirement. Tenants then brought this appeal.

Holding: The Court of Appeals held that:

- 1.) determination that roof improvements bore reasonable relationship to serious health hazard was supported by substantial evidence;
- 2.) RHC was within its authority in refusing to apply inspection requirement to present petitions; and
- 3.) failure of housing provider to establish that construction permit had been secured was not ground for dismissal of petitions.

Reasoning:

- 1.) Determination by RHC that improvements to roofs of rental complex bore reasonable relationship to serious health hazard, making roof replacement immediately necessary and allowing replacements to be undertaken without prior approval of rent adjustment, was supported by sufficient evidence, including testimony of president of engineering firm that there was extensive deterioration of existing roof membranes and that repair was necessary to put roofs in basic watertight condition before cold winter weather set in.
- 2.) RHC was within its authority in refusing to apply housing inspection requirement to capital improvement petitions for rent ceiling increases, inasmuch as Commission's change in policy to require inspection in connection with capital improvement petitions was made prospectively only and did not apply to petitions at issue, which were filed before date of change.
- 3.) Failure of housing provider to establish that construction permit had been secured for roof replacement on rental complex was not ground for dismissal of capital improvement petitions for rent ceiling increases, inasmuch as no permit would have been necessary under construction code for roofing work, despite its extensive nature.

Decision: Affirmed.