

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 27,609

In re: 600 14th Street, N.E.

Ward Six (6)

DIANA WINTHROP¹
Tenant/Appellant

v.

MAMIE BRILEY & JOYCE R. WASHINGTON
Housing Providers/Appellees

DECISION AND ORDER

November 3, 2005

LONG, COMMISSIONER. This case is on appeal from the Department of Consumer and Regulatory Affairs (DCRA), Rental Accommodations and Conversion Division (RACD), to the Rental Housing Commission (Commission). The applicable provisions of the Rental Housing Act of 1985 (Act), 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), 14 DCMR §§ 3800-4399 (2004), govern the proceedings.

I. PROCEDURAL HISTORY

Diana Winthrop and Larry Gray filed Tenant Petition (TP) 27,609 on September 4, 2002. The petition concerned the single family home located at 600 14th Street, N.E.,

¹ Bernard Gray, Sr. filed TP 27,609 as the attorney representative for Diana Winthrop and Larry Gray, who are the tenants listed in the caption of the Rent Administrator's decision and order. On April 23, 2004, Mr. Gray filed a notice of appeal and only identified Diana Winthrop as the appellant. When Mr. Gray appeared before the Commission for the appellate hearing, he asked the Commission to dismiss the appeal as to the tenant Larry Gray, because Larry Gray died. Since Bernard Gray did not identify Larry Gray as a party to the appeal, there is no reason to act on Bernard Gray's oral motion to dismiss.

which is owned by the housing providers, Mamie Briley and Joyce Washington. The tenants alleged that the housing providers: 1) implemented a rent increase that was larger than the amount of any increase permitted by the Act; 2) failed to file the proper rent increase forms with the RACD; 3) charged rent that exceeded the legally calculated rent ceiling; 4) failed to properly register the housing accommodation; 5) substantially reduced services and facilities; and 6) violated §§ 42-3502.05(d) and (h) of the Act.

Hearing Examiner Sandra McNair presided at the evidentiary hearing on January 13, 2003, January 14, 2003, October 2, 2003, and February 14, 2004. Attorney Bernard Gray, Sr., represented the tenants and Attorney Lloyd Malech represented the housing providers. After evaluating the oral and documentary evidence, the hearing examiner issued a decision and order that contained the following findings of fact and conclusions of law.

Findings of Fact

1. The subject housing accommodation, 600 – 14th Street, N.E., Washington, D.C. 20002, is properly registered with the RACD.
2. The subject housing accommodation, 600 – 14th Street, N.E., Washington, D.C. 20002, is exempt from the provisions of Title II of the Act.
3. The Examiner lacks the jurisdiction to consider matters involving property that has been determined to be exempt from certain provisions of Title II of the Act.
4. The Examiner is barred from considering any matters pertaining to rent increases, rent charged, and rent ceilings, and reduction of services or facilities with respect to the subject property, in that the property is exempt from Title II of the Act.
5. The Petitioners took possession of the housing accommodation on or about December 10, 1997, and resided at the subject premises at all relevant times, without interruption.

6. The Respondents rented the property for approximately six (6) years.
7. The Respondents failed to file a Claim of Exemption form with the RACD prior to February 15, 2002 or as of December 10, 1997, the date the Petitioners began their tenancy at the subject property.
8. The Respondents owns [sic] four or fewer rental units in the District of Columbia.
9. The Respondents are not a [sic] real estate specialists or professionals and are not otherwise engaged in the business of real estate in the District of Columbia. The Respondents are not engaged in the rental housing business. The Respondents are not landlords regularly.
10. The Respondents are not versed in real estate or rent control matters or otherwise experienced as real estate professionals. The Respondents did not know and had no reason to know the rent control laws and the registration requirements for the rental of the subject property. The Respondents were reasonably unaware of the requirement to file a Claim of Exemption form with the RACD at the time they commenced the Petitioners' tenancy on December 10, 1997.
11. The Petitioner's rent charged was \$950.00. The Respondent served the Petitioners with a notice of rent increase from \$950.00 per month to \$1,300 per month in August 2001. The Petitioners did not complain to Respondents or testify at the hearing that \$950.00 monthly rent was above the fair market rent value for the rental of the single family home.
12. The Respondents did not knowingly, willfully, deliberately or intentionally violate the law.
13. All other findings of fact made by the Examiner in this Decision and Order are incorporated by reference in this section of Findings of Fact.

Winthrop v. Briley, TP 27,609 (RACD Apr. 6, 2004) at 4-5.

Conclusions of Law

1. Petitioner has failed to prove by a preponderance of the evidence that the building in which her rental unit is located is not properly

registered with the Rental Accommodations and Conversion Division, in violation of D.C. Official Code § 42-3502.05(f).

2. The Respondents owns [sic] four or fewer rental units in the District of Columbia and thereby qualify for the “small landlord” claim of exemption, pursuant to D.C. Official Code § 42-3502.05(a)(3) (2001), for the property located at 600 – 14th Street, N.E.
3. The Respondents have not violated D.C. Official Code § 42-3502.05 (2001) because they obtained and paid the [r]egistration fees for operating rental property in the District of Columbia; obtained a Registration/Claim of Exemption Form permitting Respondent to have a certificate of occupancy, a property claim of exemption number, or a landlord registration number; and obtained a current Rental Property Business License. Each of the above are required in order to be in compliance and to operate a rental property business in the District of Columbia.
4. The Respondents’ failure to file the claim of exemption on December 10, 1997, after the Petitioners’ tenancy began, is excused based on proof that “special circumstances” existed, namely, that the Respondent: 1. was not a real estate professional; 2. was not a landlord regularly; 3. was reasonably unaware of the requirement of filing a claim of exemption; and 4. the rent charged was reasonable, as set forth in *Hanson v. District of Columbia Rental Hous. Comm’n*, 584 A.2d 592 (D.C. 1991) and later developed case law.
5. The Examiner lacks jurisdiction to adjudicate Petition’s [sic] Title II claim of failure to file the proper rent increase forms with the RACD because the subject property is exempt from Title II of the Act, pursuant to D.C. Official Code § 42-3502.05(a) (2001) and *Madison v. Clifton Terrace Ass’n. Ltd*, TP 11,318 (RHC April 22, 1985).
6. The Examiner lacks jurisdiction to adjudicate Petition’s [sic] Title II claim of reduction of services or facilities because the subject property is exempt from Title II of the Act, pursuant to D.C. Official Code § 42-3502.05(a) (2001) and *Madison v. Clifton Terrace Ass’n. Ltd*, TP 11,318 (RHC April 22, 1985).
7. The Respondents’ conduct was the product of an unknowing, unwillful, non-deliberate and unintentional mistake and the Respondents shall not be fined, pursuant to D.C. Official Code § 42-3509.01(b)(3) (2001), for their unintentional violation of § 42-3502.05.

Id. at 13-14. The hearing examiner dismissed the tenants' petition with prejudice on April 6, 2004.

On April 23, 2004, Diana Winthrop, through counsel, appealed the hearing examiner's decision and order. The Commission held the appellate hearing on June 17, 2004.

II. ISSUES

In the notice of appeal, the tenant alleged that the evidence did not support Findings of Fact 1, 2, 3, 4, and 12, and the evidence did not support Conclusions of Law 1, 3, 4, 5, and 6.

III. DISCUSSION

A. Whether the evidence supports Finding of Fact 1.

In Finding of Fact 1, the hearing examiner found that "[t]he subject housing accommodation, 600 – 14th Street, N.E., Washington, D.C. 2002 is properly registered with the RACD." Winthrop v. Briley, TP 27,609 (RHC Apr. 6, 2004) (Decision) at 4, Finding of Fact 1. The tenant argues that the evidence did not support Finding of Fact 1. To support the contention that the evidence did not support Finding of Fact 1, the tenant's counsel stated the following:

Findings [sic] of Fact 1:

The Respondents failed to comply with Sections 42-3502.05(d) & (h) of the Rental Housing Emergency [sic] Act of 1985. The Examiner is incorrect in stating that the Respondent has paid the current registration fees and has a Rental Property Business License. The Petitioner stated that she did not received [sic] a Notice that the property was not subject to the Rent Stabilization Program.

The Respondents have not proved that they were unaware or could have been reasonably unaware of the requirement of filing a claim of exemption. When the Respondents started their representation the

Examiner took over the questioning and asked, the only Respondent present, if she was reasonably unaware of the requirements of filing a claim of exemption form and if she is regularly engaged in the real estate business. The Respondent answered no. This is not the type of evidence to support the “special circumstances” test even if the test were still valid. Everyone residing in the District of Columbia is charged with knowing the law and is not excused simply because they are not engaged in a business regularly. It is the responsibility of everyone going into business to determine the requirements of the business and operate within the law. Failure to perform the requirements of sections 42-3502.05(d) & (h), [sic] the registration is defective.

Notice of Appeal at 1-2. In the above quoted text, the tenant’s attorney provided a series of unrelated statements and concepts, and he failed to link the statements to the assertion that the evidence did not support the finding of proper registration.

The regulation, 14 DCMR § 3802.5(b) (2004), requires the appellant to provide a clear and concise statement of the alleged errors in the Rent Administrator’s decision. In the notice of appeal, the tenant’s attorney simply alleged that the evidence does not support Finding of Fact 1. Standing alone, this statement falls short of the requirement to provide a clear and concise statement of the alleged error in the decision and order. The series of statements that appeared under the heading “Findings [sic] of Fact 1,” did little to aid in the clear enunciation of the alleged error, and there was no brief to which the Commission could turn to find support for the tenant’s claim that the evidence did not support Finding of Fact 1. The Commission has repeatedly held that it cannot review appeal issues that do not contain a clear and concise statement of the alleged error in the Rent Administrator’s decision and order. Cascade Park Apartments v. Walker, TP 26,197 (RHC Jan. 14, 2005); Parreco v. Akassy, TP 27,408 (RHC Dec. 8, 2003); Voltz v. Pinnacle Mgmt. Co., TP 25,092 (RHC Sept. 28, 2001); Hagner Mgmt. Corp. v. Brookens, TP 3788 (RHC Feb. 4, 1999).

In the statements under the heading, Finding of Fact 1, the tenant's counsel merged several statements that were largely unrelated to the hearing examiner's determination that the property was properly registered. For example, Mr. Gray stated that the housing providers "failed to comply with Sections 42-3502.05(d) & (h). Immediately thereafter he stated that the hearing examiner was incorrect in stating that the housing provider paid the current registration fees and has a rental property business license, and concluded by discussing the special circumstances exception.

When the hearing examiner issued the decision and order, she informed the parties that she took official notice of the registration records for 600 14th Street, N.E., and the case docket files for TP 27,609. As a result of taking official notice of the registration records and the case docket files, the hearing examiner found that the housing provider paid the registration fees and secured a rental business license. See Decision at 6-7. In accordance with the DCAPA, D.C. OFFICIAL CODE § 2-509 (2001) and Carey v. District of Columbia Unemployment Compensation Bd., 304 A.2d 18 (D.C. 1973), the hearing examiner gave the parties ten days to show facts contrary to the facts officially noticed. The tenant, who was represented by counsel throughout the proceedings, did not file written exceptions to the facts officially noticed. In State of Wisconsin v. Federal Power Comm'n, 91 U.S. App. D.C. 307, 201 F.2d 183, 186 (1952), the court held that any objection to the taking of official notice was waived by the failure to file appropriate exceptions. Similarly, the tenant waived her right to contest the facts officially noticed, because she did not object to the hearing examiner's action of taking official notice, and the tenant did not show facts contrary to those officially noticed.

In the remaining text under the heading, Finding of Fact 1, the tenant's attorney made a series of statements concerning the special circumstances exception. He concluded the remarks concerning the special circumstances exception by stating that the failure to perform the requirements of §§ 42-3502.05(d) & (h), had an unstated impact that related to the effectiveness of the registration.²

In Gibbons v. Hanes, TP 11,076 (RHC July 11, 1984), the Commission ruled that a small landlord may be exempt from the requirement to register the property and file a claim of exemption, when special circumstances existed, i.e., the housing provider was not a landlord regularly, she was reasonably unaware of the requirement to file a claim of exemption, and she charged a reasonable rent. The tenant maintains that the housing providers did not prove "that they were unaware or could have been reasonably unaware of the requirement of filing a claim of exemption," because one of the housing providers testified that she was reasonably unaware of the requirements of filing a claim of exemption form, and she was not regularly engaged in the real estate business." Notice of Appeal at 2. The tenant, through counsel, argues that "[t]his is not the type of evidence to support the 'special circumstances' test even if the test were still valid." The tenant also maintains that "[e]veryone residing in the District of Columbia is charged with knowing the law and is not excused simply because they are not engaged in a

² The notice of appeal contains the following phrase, which is missing an operative word or phrase: "Failure to perform the requirements of sections 42-3502.05(d) & (h), [sic] the registration is defective." The tenant's attorney's reference to §§ 42-3502.05(d) & (h), which require a housing provider to give notice of exemption before a tenant signs a lease, is misplaced in the context of the special circumstances exception. The special circumstances exception applies when a small landlord is unaware of the Act's filing, notice and other statutory requirements concerning the claim of exemption. An argument that the registration is defective because the housing provider did not give notice of the exemption is nonsensical in a discussion concerning special circumstances. When special circumstances exist, there is a waiver of the Act's registration requirements, because the small landlord was not aware of the exemption or the requirement to give notice of the exemption. Consequently, the housing provider could not provide notice pursuant to §§ 42-3502.05(d) & (h), because she was unaware of the requirement to give notice of the exemption.

business regularly. [The tenant argues] [i]t is the responsibility of everyone going into business to determine the requirements of the business and operate within the law. Failure to perform the requirements of sections 42-3502.05(d) & (h), [sic] the registration defective.” Id. at 2.

During the evidentiary hearing and in the notice of appeal, the tenant’s attorney, Bernard Gray, argued that the small landlord exemption and the special circumstances test were not valid under the Rental Housing Act of 1985. The hearing examiner invited Mr. Gray to submit case law to support his challenge to the continuing validity of the small landlord exemption and the application of the special circumstances exception. Mr. Gray did not provide legal support for his position to the hearing examiner or the Commission.

In Hanson v. District of Columbia Rental Hous. Comm’n, 584 A.2d 592 (D.C. 1991), the court affirmed the Commission’s use of the special circumstances exception. The Commission and the Rent Administrator continue to waive the registration requirements when a housing provider demonstrates that she is eligible for the special circumstances exception. Once a housing provider, who is otherwise eligible for the small landlord exemption, demonstrates that she was reasonably unaware of the requirement to file a claim of exemption, charged a reasonable rent, and is not a landlord regularly, her failure to meet the registration and notice requirements of the Act is excused. Contrary to the tenant’s arguments, the special circumstance exception does excuse a small housing provider’s ignorance of the law.

For the foregoing reasons, the Commission denies Issue A.

B. Whether the evidence supports Finding of Fact 2.

When the hearing examiner issued the decision and order, she rendered the following finding of fact:

The subject housing accommodation, 600 – 14th Street, N.E., Washington, D.C. 20002, is exempt from the provisions of Title II of the Act.

Finding of Fact 2, Decision at 4. In support of the argument that the evidence does not support Finding of Fact 2, the tenant stated: “Even if the property is properly registered, the exemption does not apply to the Petitioner because of section 42-3502.05(d).” Notice of Appeal at 2.

D.C. OFFICIAL CODE § 42-3502.05(d) (2001) provides:

Prior to the execution of a lease or other rental agreement after July 17, 1985, a prospective tenant of any unit exempted under subsection (a) of this section shall receive a notice in writing advising the prospective tenant that rent increases for the accommodation are not regulated by the rent stabilization program.

During the evidentiary hearing, the housing provider testified that her house had been vacant for many years, and she did not plan to rent the house. However, she agreed to rent the house to the tenant, because the tenant lost her home to foreclosure and she needed a place to live. The housing provider testified that when the tenant executed the lease on December 12, 1997, the housing provider was unaware of the Act’s registration and notice requirements. The hearing examiner found that “‘special circumstances’ existed exempting [the housing providers] from filing the [claim] of exemption.” Hanson v. District of Columbia Rental Hous. Comm’n, 584 A.2d 592, 595 (D.C. 1991).

In Issue B, the tenant’s argues that the subsequent registration is defective because the housing provider did not provide notice of the exemption, when the tenant

signed the lease. This argument ignores the facts of the instant case and the application of the special circumstances exception. See supra note 2. The housing provider did not inform the tenant that the housing accommodation was exempt from the rent stabilization provisions of the Act when they executed the lease, because the housing provider was reasonably unaware of the Act's exemption for small landlords, and the Act's registration, filing, and notice requirements when the tenant signed the lease in 1997. The special circumstances exception excuses the small landlord's failure to meet the requirements of D.C. OFFICIAL CODE § 42-3502.05(d) (2001). Accordingly, the Commission denies Issue B.

C. Whether the evidence supports Finding of Fact 3.

D. Whether the evidence supports Finding of Fact 4.

When the hearing examiner issued the decision and order, she made the following findings:

The Examiner lacks the jurisdiction to consider matters involving property that has been determined to be exempt from certain provisions of Title II of the Act.

Finding of Fact 3, Decision at 5.

The Examiner is barred from considering any matters pertaining to rent increases, rent charged, and rent ceilings, and reduction of services or facilities with respect to the subject property, in that the property is exempt from Title II of the Act.

Finding of Fact 4, Decision at 5.

In the notice of appeal, the tenant simply stated, "These findings are in error because Findings of Fact numbers 1 & 2 are in error." Notice of Appeal at 2.

In Norwood v. Peters, TP 27,678 (RHC Feb. 3, 2005), the Commission dismissed appeal issues when the appellant, who alleged that the evidence did not support the

findings of fact, failed to identify the record evidence and explain why the evidence did not support the specific findings of fact. Similarly, the Commission dismisses Issues C and D, because the tenant has failed to provide a clear and concise statement of the error as required by 14 DCMR § 3802.5(b) (2004) or explain why the evidence does not support Findings of Fact 3 and 4.

E. Whether the evidence supports Finding of Fact 12.

The tenant alleges that the evidence does not support Finding of Fact 12, where the hearing examiner found: “The Respondents did not knowingly, willfully, deliberately or intentionally violate the law.” Decision at 5. In support of the argument that the evidence does not support Finding of Fact 12, the tenant simply stated, “The definition of knowing as used by the [a]gency makes this finding in error.”

The allegation that the evidence does not support Finding of Fact 12 does not constitute a clear and concise statement of the alleged error in the Rent Administrator’s decision, and the assertion that “[t]he definition of knowing as used by the [a]gency makes this finding in error” does not aid the Commission in identifying a clear or concise statement of the alleged error in the Rent Administrator’s decision. See Lawrence v. Meredith, TP 27,564 (RHC Aug. 24, 2005) (holding that similar statements were far too nebulous to meet the requirement of a clear and concise statement of the alleged error in the Rent Administrator’s decision). Accordingly, the Commission dismisses Issue E.

F. Whether the evidence supports Conclusion of Law 1.

G. Whether the evidence supports Conclusion of Law 3.

H. Whether the evidence supports Conclusion of Law 4.

I. Whether the evidence supports Conclusion of Law 5.

J. Whether the evidence supports Conclusion of Law 6.

In the notice of appeal, the tenant's attorney wrote, "The evidence does not support conclusions of law numbers 1, 3, 4, 5 & 6." In support of this statement, the notice of appeal contained the following statements:

Based on the above, the evidence cannot support the conclusion reached by the Examiner.

There is no evidence in the record that the registration fees have been paid and were current at the time of the hearing.

There is no evidence in the record that the Respondents obtained the Housing Business License and there is no such requirement.

There [sic] no evidence in the record to support that both Respondents were reasonably unaware of the requirement of filing a claim of exemption.

Notice of Appeal at 3.

The statement that the evidence does not support conclusions of law 1, 3, 4, 5, and 6 is not a clear and concise statement of the alleged error in the decision and order. See 14 DCMR § 3802.5(b) (2004). Moreover, the statements which followed the assertion that the evidence did not support the conclusions of law did not assist the Commission in identifying the alleged error.

The first statement provides: "Based on the above, the evidence cannot support the conclusion reached by the Examiner." Notice of Appeal at 3. In this statement, the tenant's counsel stated that the evidence does not support the conclusion reached by the hearing examiner. However, he did not identify the conclusion to which he was referring, and he failed to identify or comment upon any specific evidence. See Norwood v. Peters, TP 27,678 (RHC Feb. 3, 2005).

In the second and third statements, the tenant's attorney stated that there is no evidence in the record that registration fees have been paid and were current at the time of the hearing, and there was no evidence in the record to support the finding that the housing provider obtained a housing business license. As explained in Issue A supra, the hearing examiner found that the housing provider paid the registration fees and secured a rental business license, after the hearing examiner took official notice of the registration records for the housing accommodation and the case docket file for TP 27,609. The tenant, who did not object to the facts officially noticed, waived her right to challenge those findings on appeal.

In the final statement, the tenant maintains that there was no record evidence which demonstrated that both housing providers were reasonably unaware of the requirement to file a claim of exemption. The record belies this assertion.

Prior to presenting his case, the housing providers' attorney, Lloyd Malech, made an opening statement. In the statement, Mr. Malech described his clients as two elderly women who own only one rental property in the District of Columbia. He stated that the housing providers were not sophisticated landlords, and they were not knowledgeable of the intricacies of the complex housing regulations.

As a result of the housing provider's attorney's statements, the hearing examiner administered the oath to one of the housing providers, Ms. Washington, and the hearing examiner asked a series of questions. The hearing examiner noted that only one of the owners, Ms. Washington, was present. In response to the hearing examiner's questions, Ms. Washington stated that she and Ms. Briley owned and managed the subject property, and they did not own any other property in the District of Columbia. The hearing

examiner asked: “Do you know whether the rent that you charged for the rental of that unit at 600 14th Street, N.E. is fair market rental value for a three bedroom house in that area?” Hearing Tape (RACD Feb. 14, 2004). Ms. Washington stated it was not enough. The hearing examiner then asked, “Are you saying that the rents in that area are higher than \$950.00 per month?” In response, Ms. Washington stated, “Yes, we are. It was not enough.” Id. (emphasis added). The hearing examiner then asked, “Are you knowledgeable of or have experience in the rental housing business. . . . Do you make rental housing your business?” Id. Ms. Washington responded, no. Finally, the hearing examiner asked, “Did you know that you had to register this property with [the agency] as a rental property prior to renting the property?” Id. Ms. Washington replied, no.

Contrary to the tenant’s assertion, there is record evidence that the housing providers were reasonably unaware of the requirement to file a claim of exemption. The hearing examiner began by asking if the property was owned by both sisters and she employed the use of “you,” which is singular and plural, when asking questions. In response to the hearing examiner’s questions, Ms. Washington included references to her sister, and responses such as, “yes we did,” made it clear that she was responding for both parties.

Moreover, the tenant’s attorney did not object to the fact that the hearing examiner only questioned one of the sisters, and he did not argue that testimony from both owners was required to meet the special circumstances test. At the conclusion of Ms. Washington’s testimony, the tenant’s counsel stated the following: “I did not want to interrupt you while you were going through that, but I do have an answer for where you are going. I know you are dealing with the small landlord exemption, but that is no

longer valid since the 1985 Act ... [which] specifically said that all landlords exempt or nonexempt must register their property. Because everyone is suppose to know the law that exemption is no longer valid for the reasons they made the exemption in the 1975 and 1980 Act.” Id. In response to Mr. Gray’s statement, the hearing examiner explained that “pursuant to the 1985 Act and the prior rulings of the Commission, you can have a small landlord exemption [even] where the property has not been registered if that small landlord meets the special circumstances test.” Id. The hearing examiner explained that based on her questioning it appeared that the housing provider met the special circumstances test. She stated that she intended to include the relevant case law in the decision and order and she invited the tenant’s attorney to file a motion for reconsideration with citations to case law that supported his position. This did not occur.

The statement that the evidence does not support Conclusions of Law 1, 3, 4, 5, and 6 is not a clear and concise statement of the alleged error in the decision and order, and the statements which followed the assertion that the evidence did not support the conclusions of law, and did not assist the Commission in identifying the alleged error.

Accordingly, the Commission dismisses Issues F, G, H, I, and J.

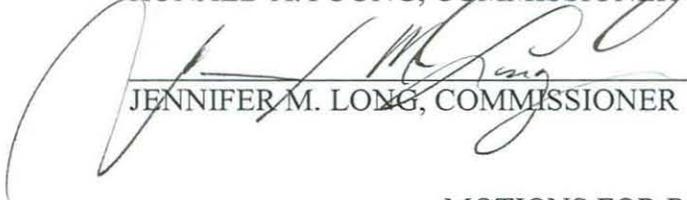
IV. CONCLUSION

For the foregoing reasons, the Commission affirms the Rent Administrator's decision and order.

SO ORDERED.


RUTH R. BANKS, CHAIRPERSON


RONALD A. YOUNG, COMMISSIONER


JENNIFER M. LONG, 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:

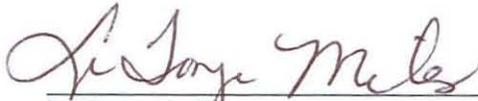
D.C. Court of Appeals
Office of the Clerk
500 Indiana Avenue, N.W.
6th Floor
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Decision and Order in TP 27,609 was mailed by priority mail with delivery confirmation, postage prepaid, this 3rd day of November 2005 to:

Bernard Gray, Sr., Esquire
2009 18th Street, S.E.
Washington, D.C. 20020-4201

Lloyd Malech, Esquire
1015 18th Street, N.W.
Suite 801
Washington, D.C. 20036



LaTonya Miles
Contact Representative
(202) 442-8949