

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

2009 SEP 29 P 2:38

1521 – 1529 28th STREET TENANTS
ASSOCIATION, INC.
Tenant/Petitioner,

v.

CORNELIUS C. DUDLEY AND
TWEPEN, LLC,
Housing Providers/Respondents.

Case No.: RH-DR-2008-00006

In re 1521-1529 Street SE

FINAL ORDER

On September 29, 2008, Tenant/Petitioner 1521-1529 28th Street Tenants Association, Inc., filed a Petition for Declaratory Relief for Violation of the Tenant Opportunity to Purchase Act (TOPA), D.C. Official Code § 42-3404.01 et seq., with the Rental Conversion and Sale Division (CASD) of the District of Columbia Department of Housing and Community Development (DHCD). By Order of July 21, 2009, the CASD issued an Order Finding Reasonable Grounds To Convene Hearing. The CASD Administrator transmitted a copy of the petition to Office of Administrative Hearings (OAH) for hearing on the issues raised in the Petition for Declaratory Relief and in a May 9, 2009 Motion To Dismiss filed by Housing Providers.

On September 1, 2009, this administrative court issued a Case Management Order directing the parties and counsel to appear for a prehearing conference on September 28, 2009, at 9:30 a.m. Counsel for Tenant appeared at the prehearing conference. No one appeared on behalf

of Housing Providers. Counsel for Tenant then moved to dismiss the tenant petition without prejudice.

OAH rules at 1 DCMR 2817.1 and 2817.4 provide that:

A petitioner may file a summary motion for voluntary dismissal of any action, or any claim asserted in an action, at any time . . . and the presiding Administrative Law Judge may grant a summary motion for voluntary dismissal without awaiting a response from the respondent.

. . .

Unless otherwise provided by statute, these rules or an order of this administrative court, a dismissal under this rule is without prejudice unless otherwise stipulated by the parties

Petitioner has moved, voluntarily, to dismiss this matter, without prejudice. There is no statute, rule, or order of this administrative court prohibiting voluntary dismissal of this matter without prejudice. The parties have not stipulated to dismissal with prejudice. I am granting Petitioner's motion. 1 DCMR 2717.1 and 2817.3. If Respondent objects to any aspect of this Order granting Petitioner's motion for voluntary dismissal, without prejudice, Respondent may file a motion for reconsideration within ten (10) days of the date of service of this Order. 1 DCMR 2817.2 and 2932.


Therefore, it is this 29th day of **September, 2009**:

ORDERED, that Petitioner's motion for voluntary dismissal, without prejudice, is hereby **GRANTED**; and it is further

ORDERED, that Case No. RH-DR-2008-00006 is hereby **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED, that if Respondent objects to any aspect of this Order granting Petitioner's motion for voluntary dismissal, without prejudice, Respondent may file a motion for reconsideration within ten (10) days of the date of this Order; and it is further

ORDERED, that the appeal rights of any party aggrieved by this Order are set forth below.



Nicholas H. Cobbs
Administrative Law Judge

MOTIONS FOR RECONSIDERATION

Any party served with a final order may file a motion for reconsideration within ten (10) days of service of the final order in accordance with 1 DCMR 2937. When the final order is served by mail, five (5) days are added to the 10 day period in accordance with 1 DCMR 2811.5.

A motion for reconsideration shall be granted only if there has been an intervening change in the law; if new evidence has been discovered that previously was not reasonably available to the party seeking reconsideration; if there is a clear error of law in the final order; if the final order contains typographical, numerical, or technical errors; or if a party shows that there was a good reason for not attending the hearing.

The Administrative Law Judge has thirty (30) days to decide a motion for reconsideration. If a timely motion for reconsideration of a final order is filed, the time to appeal shall not begin to run until the motion for reconsideration is decided or denied by operation of law. If the Judge has not ruled on the motion for reconsideration and 30 days have passed, the motion is automatically denied and the 10 day period for filing an appeal to the Rental Housing Commission begins to run.

APPEAL RIGHTS

Pursuant to D.C. Official Code §§ 2-1831.16(b) and 42-3502.16(h), any party aggrieved by a Final Order issued by the Office of Administrative Hearings may appeal the Final Order to the District of Columbia Rental Housing Commission within ten (10) business days after service of the final order, in accordance with the Commission's rule, 14 DCMR 3802. If the Final Order is served on the parties by mail, an additional three (3) days shall be allowed, in accordance with 14 DCMR 3802.2.

Additional important information about appeals to the Rental Housing Commission may be found in the Commission's rules, 14 DCMR 3800 et seq., or you may contact the Commission at the following address:

District of Columbia Rental Housing Commission
941 North Capitol Street, N.E.
Suite 9200
Washington, D.C. 20002
(202) 442-8949

Certificate of Service:

By Facsimile and First Class Mail

Richard J. Bianco, Esq.
Paul Strauss & Associates, P.C.
1020 16th Street NW, Suite 800
Washington, DC 20036
202-220-3103


Carol S. Blumenthal, Esq.
Blumenthal & Cordone, PLLC
1700 17th Street NW, Suite 301
Washington, DC 20009
202-265-7419

By Inter-Agency Mail:

District of Columbia Rental Housing
Commission
941 North Capitol Street, NE, Suite 9200
Washington, DC 20002

Keith Anderson, Acting Rent Administrator
District of Columbia Department of Housing
and Community Development
Housing Regulation Administration
1800 Martin Luther King Jr. Avenue SE
Washington, DC 20020

I hereby certify that on 9-29,
2009, a copy of this document was caused to
be served upon the above-named parties at
the addresses and by the means stated.


Clerk / Deputy Clerk