

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

TP 28,006

In re: 1115 12th Street, N.W., Unit 503

Ward Two (2)

DOUGLAS D. HAMMER
Tenant/Appellant/Cross Appellee

v.

MANOR MANAGEMENT CORPORATION
Housing Provider/Appellee/Cross Appellant

**ORDER
VACATING DECISION AND ORDER ISSUED ON MARCH 23, 2006**

March 29, 2006

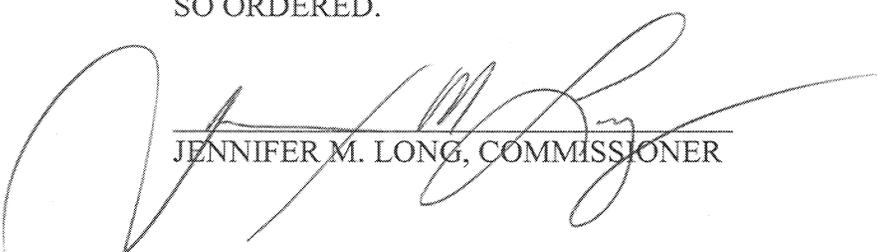
LONG, COMMISSIONER. On March 23, 2006, the Commission issued a decision and order in this matter. The Commission ordered the hearing examiner to hold a remand hearing, because a tape from the RACD hearing was missing from the official record.

When the Commission received the parties' appeals, the Commission requested "in writing that the Rent Administrator forward the complete record of the case including all tape recordings made at any hearing held before the hearing examiner." 14 DCMR § 3804.1 (2004) (emphasis added). When the hearing examiner completed the Rental Accommodations Office Case Docket, he certified that there was only one tape. The tape that he transmitted to the Commission was a tape recording of a hearing held on April 22, 2004. However, the record contained references to a hearing held on February 11, 2004, where the hearing examiner received evidence concerning the housing provider's claim of exemption. When the Commission discovered that the tape from the February 11,

2004 hearing was missing from the record, the Commission contacted the hearing examiner in an effort to locate the missing tape. The hearing examiner was not successful in his efforts to locate the tape. As a result, the Commission issued the decision and order remanding the matter for a hearing limited to the housing provider's claim of exemption, since the evidence concerning the merits of the tenant's claims was preserved. The Commission also advised the parties that it would review their cross-appeals, if the parties agreed in writing to proceed with less than a full record and submitted a written stipulation of facts concerning the housing provider's claim of exemption. See Sibert v. Barros and Co., TP 12,019 (RHC July 24, 1989) at 3 (cited in Hammer v. Manor Mgmt. Corp., TP 28,006 (RHC Mar. 23, 2006) at 9.

Fortuitously, the hearing examiner located the missing tape from the hearing held on February 11, 2004 and delivered it to the Commission on March 29, 2006. The Commission reviewed the tape and verified that it is a recording of the hearing held on February 11, 2004. Since the hearing examiner located the missing tape, the Commission vacates the decision and order issued on March 23, 2006. The Commission will review the parties' cross appeals and issue a decision and order based on the full record.

SO ORDERED.



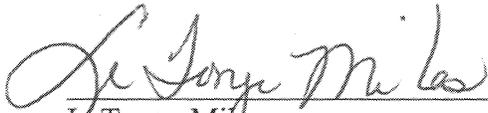
JENNIFER M. LONG, COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order Vacating the Decision and Order Issued on March 23, 2006 in TP 28,006 was mailed by priority mail with delivery confirmation, postage prepaid, this 29th day of March 2006 to:

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