

DISTRICT OF COLUMBIA
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DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

2009 JUL 15 P 3: 12

MELVIN BERNARD, BARBARA PREVITI,
SUMANA JAYASUNDERA,
IMELDA HERMOSURA,
Tenants/Petitioners,

v.

THOMAS F. DWYER and
THE GEORGE WASHINGTON
UNIVERSITY,
Housing Providers/Respondents.

Case No.: RH-TP-07-29072
In re 1129 New Hampshire Avenue NW
Unit 400

FINAL ORDER

I. Introduction

After working together to resolve this matter, the Parties filed a Consent Motion to Add Parties (Motion) and a Consent Settlement Order. Underlying the dispute — and the pending motion — is the make-up of the housing accommodation at issue, which now houses students at George Washington University. Before students occupied the building, however, it was an apartment building where Melvin Bernard and others were renting units. They are now considered long term tenants.

On September 21, 2007, Melvin Bernard filed a tenant petition contesting Housing Provider's application to change the status of the building to a dormitory. At an evidentiary hearing on January 14, 2008, Melvin Bernard, Barbara Previti, Sumana Jayasundera testified. After their testimony, the Parties announced that they had reached an agreement in principle and that a written agreement would follow. They filed that agreement, and a motion to add parties,

on March 27, 2009. For reasons outlined below, I grant the motion to add parties and dismiss this case with prejudice.

II. Motion to Add Parties

Barbara Previti, Sumana Jayasundera, and Imelda Hermosura rent apartments in the building that is subject of the tenant petition Melvin Bernard filed. The three, together with Mr. Bernard and Housing Provider, ask to be parties in this action. In a case such as this, when one tenant raises issues that affect other tenants in the building, OAH Rule 2927.2 permits an administrative law judge to “expand the scope of the proceeding to include all affected tenants;” so long as “notice shall be given to the additional tenants that they have the right to participate in the proceeding.” The issue Melvin Bernard raised in his tenant petition affects each tenant at the housing accommodation who is not a student. The three additional tenants joined in the motion to include them in this action. Housing Provider consents. The fully supported Motion to Add Parties, therefore, is granted.

III. Consent Settlement

Tenant/Petitioners Melvin Bernard, Barbara Previti, Sumana Jayasundera, and Imelda Hermosura and Housing Providers/Respondents Thomas F. Dwyer and The George Washington University reached an agreement to dismiss this matter with prejudice and request entry of the agreement as a Consent Settlement Order from this administrative court.

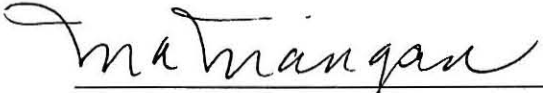
The Administrative Procedure Act provides that “[u]nless otherwise required by law . . . any contested case may be disposed of by stipulation, agreed settlement, consent order or default.” D.C. Official Code § 2-509(a). In this forum, parties “or their authorized agents or

representatives ... may file a stipulation of voluntary dismissal with prejudice, signed by all parties, their authorized agents or representatives, who have appeared in the action to dismiss an action.” OAH Rule 2817.3. All parties signed the Consent Settlement Order, which resolve all matters in this case. I construe the parties’ Consent Order as a statement informing the court that this case has been settled and the parties request dismissal with prejudice. *Id.*

Accordingly, it is this 15th day of July, 2009:

ORDERED, that Case No. RH-TP-07-29072 is **DISMISSED WITH PREJUDICE**;
and it is further

ORDERED, that the reconsideration and appeal rights for any party aggrieved by this Order appear below.


Margaret A. Mangan
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, NE
Suite 9200
Washington, DC 20002
(202) 442-8949

Certificate of Service:

By Priority Mail with Delivery Confirmation (Postage Paid):

Melvin Bernard
1129 New Hampshire Ave., NW
Unit 411
Washington, DC 20037

Barbara Previti
1129 New Hampshire Ave., NW
Unit 604
Washington, DC 20037

Imelda Hermosura
1129 New Hampshire Ave., NW
Unit 811
Washington, DC 20037

Sumana Jayasundera
1129 New Hampshire Ave., NW
Unit 906
Washington, DC 20037

Vincent Mark J. Policy, Esquire
Greenstein DeLorme & Luchs, P.C.
1620 L Street, NW
Suite 900
Washington, DC 20036-5605

By Inter-Agency Mail:

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

Keith Anderson
Acting Rent Administrator
Rental Accommodations Division
Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue, SE
Washington, DC 20020

I hereby certify that on 7-15, 2009, this document was caused to be served upon the above-named parties at the addresses and by the means stated.

Beneddta Rhames
Clerk / Deputy Clerk