

presented by

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Welby, Brady & Greenblatt, LLP periodically publishes its Legal Alert Bulletin to notify its clients and others in the construction industry about court decisions and changes in the law in the Tri-State area that may affect their businesses or the way they do business. We urge you to regularly visit our website, www.wbglp.com, to keep abreast of what is happening in the courts and law that may affect your business.

NYC Building Owner Can Recover All Rent Stabilized Apartments For Personal Use

In a decision that will surely make NYC rent stabilized tenants unhappy, the New York Court of Appeals has ruled that the husband and wife owners of a five story, 15-unit apartment building in Manhattan, have the right to recover possession of all six of the rent stabilized apartments in the building (located on different floors) for the husband's personal use as his primary residence.

After the owners sent notices of non-renewal to two of the six rent stabilized tenants, those two tenants started an action in NYS Supreme Court claiming a violation of the NYC Rent Stabilization Law and Code and the owners started a hold-over proceeding against the tenants in NYC Civil Court. In the Supreme Court action the tenants alleged that the owners were not permitted to remove an entire residential building or all of its rent stabilized units from the stabilized housing stock without authorization from the NYS Division of Housing and Community Renewal (DHCR). The Supreme Court agreed and issued an injunction barring the owners from taking any action to cancel or terminate the leases of the two suing tenants. The owners subsequently moved for summary judgment to dismiss the tenants' lawsuit, citing language in the rent stabilization law and code that permits an owner to recover "one or more dwelling units" for personal use, without limitation or DHCR approval, as long as the owner demonstrates his good faith intention to use the units for his primary residence. The Supreme Court refused to grant the owners' motion and the owners appealed. On appeal the Appellate Court reversed the Supreme Court and ruled in favor of the owners. The tenants appealed to the Court of Appeals and that court affirmed the Appellate Court – ruling that the owners could recover all of the rent stabilized apartments in their building without DHCR approval. To obtain possession, the Court of Appeals said, the owners must prove in the owners' NYC Civil Court hold-over proceeding against the tenants, their

good faith intention to recover those apartments for the husband owner's personal use as a primary residence.

If you have any questions about the information set forth in this Legal Alert, call us at 914-428-2100. Please understand that this alert provides general information only. It is not intended to provide legal advice. We encourage you to contact an attorney should you desire to discuss specific situations for which you may need legal advice. Under the ethical rules that govern the practice of law, this communication may be considered as attorney advertising.