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Wade v. Hamilton Heights Cluster

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NY: HOUSING PART B2

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PEARLIE WADE

Petitioner,

Index No. HP 306395/20

- against -

Decision and Order

HAMILTON HEIGHTS CLUSTER
WAVECREST MGMT GROUP
CHRISTOPHER BURNS

Respondents -Owners,

-and-

DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT (DHPD)

Respondent-Agency.

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Present: Hon. Daniele Chinae
Judge, Housing Court

This HP appeared on the court's calendar for the first time today. The petition, drafted by counsel, complains of various conditions at the subject premises and in the public areas of the building allegedly constituting violations of the Housing Maintenance Code (HMC). The premises was inspected on December 10, 2020 by an inspector from DHPD. Violations either existed or were placed for many of the conditions.

Petitioner appeared by counsel, as did Wavecrest MGMT Group and Christopher Burns. No one appeared for Hamilton Heights Cluster, however. Pursuant to the Order to Show Cause, the papers were to be served on or before December 23, 2020. In its Affirmation of service, Petitioner's counsel states the papers were timely served on all Respondents-Owners at the same address: 87-14 116 Street, Richmond Hill, NY 11418. This address is provided by the owner in its DHPD Owner's Registration Statement for purposes of notice. In addition to service at the registered address, Petitioner served Wavecrest's alleged successor, Urban Green, at an address provided by Wavecrest's counsel, on December 22, 2020 by FedEx overnight. FedEx tracking information provided by Petitioner's counsel indicates the mailings were received.

Respondents Wavecrest and Burns appear. Notwithstanding the information on the owner's registration statement, counsel made an oral application for the proceeding to be dismissed as against Wavecrest and Burns because they no longer exert any management control over the subject premises or the building. That application was opposed and denied without prejudice to renew on papers. However, Petitioner's counsel indicated on the record that Petitioner would consent to dismissal if provided sufficient documentary proof of termination of the management relationship. If Petitioner decides to discontinue as against Wavecrest and/or Burns, a copy of any stipulation along with proof of service upon Hamilton Heights Cluster may be submitted electronically at any time, including the return date. Any stipulation may be forwarded to the court at ny-housing-820@nycourts.gov with a courtesy copy to the court attorney at pwalitt@nycourts.gov.

The court finds Hamilton Heights Cluster was properly and timely served and is in default for its failure to appear.

The court hereby issues a default **Order to Correct** all violations in the subject apartment in accordance with the law and to the satisfaction of the DHPD. All violations (unless classified as non-hazardous) shall be corrected within 30 days of initial access (below). Hamilton Heights Cluster is directed to destroy nests and harborage as well as close all holes and any points of entry in order to properly exterminate for roaches and mice.

In addition, Hamilton Heights Cluster is directed to inspect the following alleged conditions and, if found to require repair, to repair said conditions within 30 days of initial access (below). The alleged conditions are: loose, missing or defective outlets or outlet covers in the kitchen, living room, master bedroom, and bathroom; escutcheon plates missing at heat risers in the kitchen and master bedroom; doors need repair or replacement in the master bedroom and the bathroom; the tub is old and dirty; plaster in bathroom around toilette is crumbling; refrigerator is roach infested and old; stove is old and too close to refrigerator – cannot use two of the burners; and kitchen floor is sloping –pans slide off stovetop.

Hamilton Heights Cluster and its agents shall have **access** to the subject apartment (4E) on **January 20, 21 and 22, 2021 between 8am and 6pm**; workers to arrive by 11am or Petitioner need not continue to wait. Additional access shall be arranged in writing on at least 48 hours advance notice to Petitioner through her counsel, Mobilization for Justice; sent to the attention of Alexander Berger (631) 829-2400 and aberger@mfjlegal.org

In addition to correcting conditions in 4E, Hamilton Heights Cluster is directed to correct violations in the public areas of the building, including repair a leak from roof into the 5th floor public hall and bulkhead; paint, plaster and repair fire retardant material at the bulkhead and 5th floor; repair roof flashing and mold; repair leak at ceiling in the 1st floor public hall; repair the plaster/paint at 1st floor public hall; repair broken hallway tiles on the 1st and 5th floors; and adequately clean and sanitize public areas. Hamilton Heights Cluster is also directed to inspect hallways for presence of rats and, if found, to exterminate. Proper extermination shall include the destruction of nests and harborage and the closure of all holes and other points of entry for rodents/pests. All public area violations (unless classified as non-hazardous (Class A)) and any alleged condition found to exist shall be corrected by the return date.

This matter is adjourned to **February 22, 2021 for virtual appearance at 10 am**. Invitations will be sent via email. A copy of this order shall be uploaded to NYSCEF and mailed to Hamilton Heights Cluster at the registered address and the alternate address of Urban Green, 340 Pleasant Avenue, NY, NY 10035; Attn: Susan J Moesker. Please contact Ms Walitt, my court attorney, if you have any trouble with your evite or questions about joining.

DATED: January 11, 2020

SO ORDERED

Hon. Daniele Chinae, JHC