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Queens Fresh Meadows LLC v. Beckford

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Queens Fresh Meadows LLC v Beckford
2023 NY Slip Op 50552(U)
Decided on June 8, 2023
Civil Court Of The City Of New York, Queens County
Schiff, J.
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Decided on June 8, 2023

Civil Court of the City of New York, Queens County

Queens Fresh Meadows LLC, Petitioner-Landlord

against

Jermaine Beckford, GILLIAN BECKFORD, Respondents-Tenants, and JOHN DOE & JANE DOE, Respondents-Occupants

Index No. L&T 311580/22

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Logan J. Schiff, J.

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of Petitioner's cross-motion for summary judgment:

Papers NYSCEF Doc.
Notice of Cross-Motion & Affirmation/Affidavits/Exhibits 21-37
Affirmation in Opposition 40
Affirmation in Reply & Exhibits 41-48
Affirmation in Sur-Reply 49

Upon the foregoing cited papers, the court's decision and order is as follows:

The question presented is under what circumstances may a landlord remove a rent-stabilized apartment from regulation through high rent vacancy decontrol where the unit was previously improperly deregulated during the pendency of J-51 tax abatement in reliance on erroneous guidance from Division of Housing and Community Renewal ("DHCR").

RELEVANT BACKGROUND AND PROCEDURAL HISTORY

Many of the facts in this "no grounds" lease expiration holdover are undisputed. The subject apartment 64-15 A 186th Lane No.A in Queens, New York, is located within the Queens Fresh Meadows housing complex, and is a presumptively rent-stabilized housing accommodation subject to the New York City Rent Stabilization Law of 1969 ("RSL") by virtue of the Emergency Tenant Protection Act ("ETPA") (Unconsol. L. § 8621 *et seq*, L. 1974, Ch 576, § 4). The apartment benefited from a tax abatement pursuant to the J-51 program (NYC Admin. Code § 11-243, and 28 RCNY Chapter 5) until approximately June 2012. The J-51 program, which is authorized by New York Real Property Tax Law ("RPTL") § 489, funds the rehabilitation of distressed properties and mandates rent stabilization protection for all covered units for the duration of the abatement period. Housing accommodations independently subject to the RSL by virtue of the ETPA remain rent-stabilized after expiration of J-51 benefits (*see* NYC Admin. Code ("RSL") § 26-504(c)).

Respondents' apartment is one of thousands of units across New York City that were erroneously deregulated prior to 2009 through the RSL's high rent vacancy decontrol mechanism (*see* RSL § 26-504.2) based on what turned out to be incorrect guidance from DHCR. Petitioner concedes this and agrees that the unit was rent stabilized during its occupancy by the tenant immediately prior to Respondents from 2010-2014. Petitioner treated the unit as deregulated on annual registrations with DHCR, which listed the unit as exempt as of 2003 (NYSCEF 27), until the registration was amended in February 2023 in response to this litigation (NYSCEF 33). The amended registration shows a final registered legal rent of $2,126.88 for the period of September 1, 2013, through August 31, 2014.

When Respondents Jermaine Beckford and Gillian Beckford moved to the premises on April 1, 2014, after the J-51 abatement had expired, they were given a free market lease (NYSCEF 12) with a monthly rent of $2,100. This lease included a Rent Stabilization Exemption Rider stating that the last regulated rent for the prior tenant was $3,069.28, before adding an additional vacancy allowance, entitling the landlord to take advantage of the RSL's high rent decontrol mechanism for units with legal rents in excess of $2,500.

Petitioner commenced the instant lease expiration holdover on August 3, 2022, following service of a 90-day non-renewal and termination notice. Tenants in units not subject to rent regulation may be evicted in a holdover upon service of the appropriate predicate notices pursuant to Real Property § 226-c and § 232-a, whereas tenants in rent-stabilized units may not and are entitled to renewal leases. Respondents filed an answer on December 19, 2022. Respondents challenge the regulatory status of the premises and have interposed five counterclaims, including one for rent overcharge. Respondents separately filed a rent overcharge complaint with DHCR and initially moved for a stay of this holdover (motion sequence 2) before subsequently withdrawing the DHCR proceeding and their request for a stay in April 2023.

Respondents moved for discovery related to their claims of unlawful deregulation and overcharge (motion sequence 1). In response, Petitioner cross-moved to dismiss Respondents' counterclaims and for summary judgment as to Petitioner's case in chief, an award of use and occupancy, and legal fees. Petitioner produced a significant number of documents in support of its motion, including all prior leases and rent histories in its possession and affidavits from its client. As a result, Respondents have withdrawn their discovery motion and all that remains before the court is Petitioner's cross-motion (motion sequence 3).

In its motion, Petitioner argues that notwithstanding its failure to re-register the premises until 2023, even applying the minimum legally permitted annual guidelines increases and [*2]vacancy allowances from 2004 to when Respondents moved to the premises in April 2014, the legal regulated rent would have reached $2,520, thus exceeding the $2,500 decontrol threshold then in effect. Petitioner also notes that it never charged any tenant more than it could have charged had it taken only the minimum allowable increases and therefore these increases are "otherwise allowable" and are lawful now that it has corrected the registrations.

In opposition, Respondents dispute that Petitioner can retroactively claim increases based on an untimely registration, noting that any penalties for failing to register can only be

relieved prospectively, thereby precluding a deregulation event in 2014. Respondents further argue that Petitioner failed to register with DHCR or produce a key final lease from September 2013- August 2014, whereby Petitioner alleges the rent increased from $2,126.88 to $2,169.42, and without which the rent would not have reached the $2,500 threshold. In reply, Petitioner argues that while it cannot locate the last lease for the prior tenant, it is confident one was executed. Petitioner further argues that the payment history for the unit reflects that the prior tenants paid $2,169.42 as of September 2013, which the court should consider in lieu of the lease based on the "collateral matters" exception to the best evidence rule. Petitioner avers that it did not register this last lease with DHCR because the prior tenant moved out early in January 2014, and by the time the annual registration was required in April 2014, Respondents had moved in, and the unit became exempt. In sur-reply on the limited issue of the missing last lease, Respondents argue that the use of secondary evidence is inappropriate on a summary judgment motion.

DISCUSSION

In a lease expiration holdover premised on the deregulation of a rent-stabilized apartment, it is the petitioner's burden to prove the existence of a valid exemption from regulation (*see Leya, LLC v Kodicek*, 154 N.Y.S.3d 577 [App Term, 1st Dept 2021]; *867-871 Knickerbocker, LLC v Poli*, 108 N.Y.S.3d 266, 268 [App Term, 2d, 11th & 13th Jud Dists, 2d Dept 2019]; *see also Matter of Kostic v New York State Div. of Hous. & Community Renewal*, 188 AD3d 569, 569 [1st Dept 2020] [same burden of proof before DHCR]). The failure of a landlord to prove its case at trial or on summary judgment will result in dismissal and issue preclusion as to regulatory status (*see 867-871 Knickerbocker, LLC v Poli*, 117 N.Y.S.3d 799 [App Term, 2d, 11th & 13th Jud Dists, 2d Dept 2019]; *Diagonal Realty, LLC v Estella*, 155 N.Y.S.3d 273 [App Term, 1st Dept 2021]).

Unlike claims for rent overcharge, "there has *never* been a statute of limitations as to challenges to the wrongful deregulation of apartments" (*Matter of Regina Metro. Co., LLC v New York State Div. of Hous. & Community Renewal*, 35 NY3d 332, 402 [2020] [Wilson, J. dissenting] [emphasis original]; *Regina* at n4 ["Critically, there is a distinction between an overcharge claim and a challenge to the deregulated status of an apartment "]; *Matter of AEJ 534 E. 88th LLC v New York State Div. of Hous. & Community Renewal*, 194 AD3d 464, 469-70 [1st Dept 2021]; *Gersten v 56 7th Ave. LLC*, 88 AD3d 189, 199 [1st Dept, 2011], *app withdrawn* 18 NY3d 954 [2012]).[FN1] In determining the regulatory status of an apartment, the court can [*3]always consider the unit's entire rental history (*see Matter of AEJ 534 E.*

88th LLC, 194 AD3d at 469 [1st Dept 2021]; *Matter of Kostic*, 188 AD3d at 569 [1st Dept 2020]; *Rosa v Koscal 59, LLC*, 74 N.Y.S.3d 746, 746 [1st Dept 2018]).

Here, it is undisputed that the subject apartment is in a building that is presumptively subject to the Rent Stabilization Law of 1969 (*see* RSL § 26-504(a); ETPA §5(a)(4)). The building also received J-51 tax benefits until approximately June 2012, resulting in an additional layer of coverage under the RSL during that time period (*see* RPTL § 489, NYC Admin. Code § 11-243, and 28 RCNY Chapter 5). Upon expiration of the J-51 abatement, all housing accommodations in the building were to remain rent-stabilized, provided they were not otherwise subject to an applicable exemption from coverage under the RSL and ETPA (*see* RSL § 26-504(c); *Matter of Regina Metro. Co., LLC,* 35 NY3d at 361 [2020]).[FN2]

Respondents' apartment is one of the thousands of units that were deregulated based on the RSL's high rent vacancy decontrol exemption during the pendency of a J-51 tax abatement, potentially in reliance on incorrect guidance from DHCR (*see Roberts v Tishman Speyer Props., L.P.*,13 NY3d 270, 286 [2009]). Petitioner's documentary submissions reveal that the rent charged in the apartment exceeded the $2,000 high rent decontrol threshold in or around August 2009. For reasons that are unclear but not ultimately relevant to disposition of this motion, Petitioner ceased registering the unit with DHCR as of 2003 and provided the tenants in occupancy with a first free-market lease as early as 2006, when the rent was still below the $2,000 decontrol threshold (*see* NYSCEF 32 at 17).

It was not until the Court of Appeals' holding in *Roberts* in 2009 that it became clear that high rent deregulation during the pendency of a J-51 tax benefit was impermissible (*see Roberts v Tishman Speyer Props., L.P.*, 13 NY3d 270, 286 [2009]). Given the widespread confusion caused by DHCR's misguidance, the courts initially displayed considerable leniency towards landlords who had inadvertently removed apartments from regulation and ceased registrations with DHCR in the wake of *Roberts* (*see Matter of Park v New York State Div. of Hous. & Community Renewal*, 150 AD3d 105, 113 [1st Dept 2017] [where tenant took occupancy in 2010 after J-51 benefits expired apartment was properly decontrolled even in absence of registrations with DHCR where legal rent reached decontrol threshold in 2005]; *Bldg Mgt. Co. Inc. v Orelli*, 108 N.Y.S.3d 648 [App Term, 1st Dept 2018] [landlord was not penalized for lack of registrations in period prior to *Roberts* and therefore legally decontrolled unit in 2009 where J-51 benefits expired in 2008 and legal rent exceeded decontrol threshold based solely on vacancy increases]).

The *Roberts* holding was held to apply retroactively by the Appellate Division in

Gersten v 56 7th Ave. LLC, 88 AD3d 189, 199 [1st Dept, 2011], *app withdrawn* 18 NY3d 954 [2012], and after the appellants withdrew their motion for leave to appeal to the Court of Appeals in March 2012, the law was now "clear from that point forward that owners had an obligation to retroactively restore affected apartments to rent stabilization and register them." (*Taylor v 72A Realty Assoc., L.P.*, 151 AD3d 95 [1st Dept. 2017], *modified sub nom. Matter of Regina Metro. Co., LLC*, 35 NY3d 388 [2020]). Besides re-registering rents with DHCR, this restoration process required owners to apprise tenants in occupancy of their rent-stabilized status and offer them rent-stabilized leases that comported with the Rent Stabilization Code (*see Montera v KMR Amsterdam LLC*, 193 AD3d 102, 107-108 [1st Dept 2021] ["Defendant was required to re-register the apartments with DHCR, provide the building tenants with rent stabilized leases, and seek increases in accordance with rent regulations."]; *East 17th LLC v McCusker*, 114 N.Y.S.3d 566 [App Term, 1st Dept 2019] ["[D]espite the holding in *Roberts*, landlord failed to notify tenant, who leased the apartment in November 2010, that the apartment was protected by rent stabilization or issue her a rent stabilized lease "]; *Woodson v Convent 1 LLC*, 2023 NY Slip Op 02857 at *2 [1st Dept 2023] [tenants are entitled to leases that strictly comply with the Code, including RSC § 2522.5[c][3]]).

In the present case, it is apparent from the Petitioner's evidentiary submissions and affidavits in support of its motion for summary judgment that Petitioner did not take the necessary steps to restore the subject apartment to its lawful rent-stabilized status after March 2012. The rent-stabilized tenant in occupancy from July 2010 to January 2014, Mahir Nigar, was never provided a rent-stabilized lease. Instead, the leases in evidence, including the last lease in Petitioner's possession dated May 14, 2012, stated that the apartment was free market on the basis of high rent decontrol but *might* be subject to rent-stabilization due to pending litigation (*See* NYSCEF 32 at 77). This level of equivocation does comport with the "rigorous" requirements of the RSL and RSC with respect to rent-stabilized leases (*see Woodson v Convent 1 LLC*, 2023 NY Slip Op 02857 at *3 [1st Dept 2023] [citing RSC § 2522.5[c][3]]), nor does that fact that the lease contained a "conditional preferential rider" transform it into a proper rent-stabilized lease (*see Matter of AEJ 534 E. 88th LLC*, 194 AD3d at 471 [1st Dept 2021] ["[T]he mere incorporation of a preferential rent rider does not and use of certain jargon does not mean the non-regulated lease was really intended to be a rent-stabilized lease."]). Indeed, when the Mr. Nigar surrendered in January 2014 (NYSCEF 44), he likely unknowingly forfeited a rent-stabilized apartment with a legal rent of at most $2,169.42 (NYSCEF 43).

Having failed to offer the rent-stabilized tenant in occupancy a lease that comported

with RSC § 2522.5[c][3]] after March 2012 when the *Gersten* decision was final, Petitioner never properly re-regulated the subject unit and therefore could not have subsequently legally deregulated it. This point is made clear by the Appellate Division's decision in *Matter of AEJ 534 E. 88th LLC v New York State Div. of Hous. & Community Renewal*, 194 AD3d 464 [1st Dept 2021] where a landlord rented a rent-stabilized apartment following a lengthy period of temporary exemption due to charitable use. Prior to January 2014, the Rent Stabilization Code allowed an owner renting a unit after four years of a temporary exemption to set any initial rent supported by the market, so long as the first tenant in occupancy was treated as rent-stabilized (*see* RSC § 2526.1(a)(3)(iii) and § (a)(d)(iii)). Therefore, the $2,300 monthly rent the landlord charged in 2005 to the first tenant following the temporary exemption would have been permissible had the landlord registered the rent with DHCR and offered a conforming rent-[*4]stabilized lease. Had this rent been legally preserved, when the next tenant moved into the premises in 2010 the unit could have been high rent decontrolled by virtue of the rent exceeding the $2,000 decontrol threshold in effect at the time (*see* RSL § 26-504.2, *repealed* June 14, 2019). Yet, the Appellate Division held that the apartment remained rent-stabilized precisely because of the failure to offer a proper initial lease to the preceding tenant prior to deregulation, reasoning that "since the apartment was never properly treated by any owner as rent-stabilized, it could not have been removed from rent-stabilization based on high-rent vacancy deregulation" (*id. at* 471).

As in *Matter of AEJ 534 E. 88th LLC*, Petitioner's failure to offer a rent-stabilized lease to the rent-stabilized tenant in occupancy prior to deregulation, after a prior period where the unit was unlawfully removed from regulation, bars a claim of high rent decontrol. Moreover, the first non-stabilized lease offered to Respondents did not comply with the requirements of the Code in that it incorrectly listed the prior legal rent as $3,069.28 (NYSCEF 12) whereas Petitioner now argues it was in fact $2,169.42, another barrier to deregulation (*see Fuentes v Kwik Realty LLC*, 130 N.Y.S.3d 16, 18 [1st Dept 2020] [failure of landlord to give first non-stabilized tenant notices required by RSL § 26-504.2(b) and RSC § 2522.5(c)(1) and § (c)(3) precluded deregulation]; *Leya, LLC v Kodicek*, 154 N.Y.S.3d 577 [App Term, 1st Dept 2021] [landlord's consistent failure to comply with DHCR rent regulations and inconsistent filings as to regulatory status supported determination at trial that landlord failed to prove high rent exemption]).

While Petitioner's failure to offer a rent-stabilized lease to the tenant in occupancy prior to deregulation is alone dispositive, Petitioner's delay in re-registering the actual rents charged for the unit with DHCR from 2012-2014, as required by the RSL and RSC (*see Matter of Enriquez v New York State Div. of Hous. & Community Renewal*, 166 AD3d 404,

404 [1st Dept 2018]), presents an independent basis for nullifying the purported deregulation event. RSL § 26-517[e] states that "[t]he failure to file a proper and timely initial or annual rent registration statement shall, until such time as such registration is filed, *bar an owner from applying for* or collecting any rent in excess of the legal regulated rent in effect on the date of the last preceding registration statement" (emphasis added). Although RSL § 26-517[e] does not include a statute of limitations, in drafting the corresponding Code provision RSC § 2528.4, DHCR drew from the 4-year lookback and limitations period of CPLR 213-a for rent overcharge claims, and provides that the registration penalty bars an owner from "applying for or collecting any rent in excess of: the *base date rent*, plus any lawful adjustments allowable prior to the failure to register" (emphasis added), a position endorsed by the courts (*see 215 W. 88th St. Holdings, LLC v NY State Div. of Hous. and Community Renewal*, 243 AD3d 652 [1st Dept 2016]; *Gold Rivka 2 LLC v Rodriguez*, 117 N.Y.S.3d 805 [Civ Ct, Bronx Co 2019]). In any event, even using a base date of April 2010 at the time of the alleged deregulation event in April 2014, the actual rent charged to the prior tenant at that time was $2,050, well below the $2,500 decontrol threshold. Thus, since Petitioner was barred from *applying for* any rent increase over $2,050, it could not have high rent decontrolled the unit in 2014 (*see Diagonal Realty, LLC v Estella*, 155 N.Y.S.3d 273 [App Term, 1st Dept 2021]).

It is of no moment that Petitioner purported to retroactively register the rent for Respondents' apartment with DHCR in February 2023 (NYSCEF 33) and claims the rents charged were "otherwise lawful" but for its failure to timely register. RSL § 26-517[e] and RSC § 2528.4 both provide that the late registration penalty barring a landlord from applying for an increase is only lifted prospectively. Moreover, even if the Code could be interpreted as allowing [*5]a landlord to apply for and collect prospectively here "any lawful adjustments allowable prior to the failure to register" upon correcting the registrations, as of June 14, 2019, the HSTPA repealed high rent decontrol (see L 2019, Ch 36, § 1, part D), thereby precluding any subsequent decontrol event occurring as of the amended registrations in 2023, particularly for a tenant already in occupancy (*see Stuyvesant Town — Peter Cooper Vil. Tenants' Assn. v BPP ST Owner LLC*, 78 Misc 3d 309, 320-321 [Sup Ct, NY Co 2023]). Petitioner likewise cannot claim any safe harbor by virtue of the confusion engendered by DHCR's incorrect guidance prior to *Roberts*, given that it was clear as of March 2012 by virtue of *Gersten* that the holding was retroactive. Waiting until 2014 to re-register rents with DHCR has been found to constitute potential evidence of willfulness so as to trigger enhanced overcharge damages (*see Taylor v 72A Realty Assoc., L.P.*, 151 AD3d 95, 107 (1st Dept. 2017); *Montera v KMR Amsterdam LLC*, 193 AD3d 102, 107 [1st Dept 2021] [willful

ignorance in the context of the unlawful deregulation of *Roberts* apartments may constitute willful conduct]), and therefore must also implicate the RSC § 2528.4 rent freeze penalty.

None of the holdings cited by Petitioner compel a different result and instead appear to reflect a conflation of rent overcharge and regulatory status cases. For example, in *Gridley v Turnbury Vil.*, 196 AD3d 95, 101 [2d Dept 2021], cited by Petitioner, the Division's holding concerned only the lookback period for rent overcharge damages in an indisputably rent-stabilized unit that was late-registered several years after *Roberts*. Similarly, the Court of Appeals' holding in *Casey v Whitehouse Estates, Inc.*, 39 NY3d 1104 [2023], also cited by Petitioner, concerns rent setting in rent stabilized apartments arising out of a rent overcharge class action (*id.* at 1107). The DHCR orders Petitioner attaches likewise involve overcharge claims rather than regulatory status determinations (*see* NYSCEF 47-48) and are non-binding in any event, as this is a matter of statutory interpretation (*see Roberts* at 13 NY3d at 285 [2009]).

Perhaps had Petitioner offered the prior tenant in occupancy from 2010-2014 a conforming rent-stabilized lease and re-registered the rent with DHCR it could have lawfully deregulated the unit in 2014 when Respondents moved in based on high rent decontrol. But that is not what happened. Petitioner continued to treat the unit as deregulated, thereby precluding any purported deregulation in 2014.

While only Petitioner moved for summary judgment, Respondents argue that the court can search the record and award summary judgment to a non-moving party pursuant to CPLR § 3212(b), which states that "[i]f it shall appear that any party other than the moving party is entitled to a summary judgment, the court may grant such judgment without the necessity of a cross-motion." Petitioner's moving papers implicitly support this position in arguing, in connection with a request for use and occupancy accrued to date, that in special proceedings it is the court's obligation to survey the sufficiency of all pleadings, papers, and admissions before trial and to render any relief permitted on a motion for summary judgment (*see* CPLR 409(b); *Bahar v Schwartzreich*, 204 AD2d 441, 443 [2d Dept 1994]); *Greenport Preserv. L.P. v Heyward*, 160 N.Y.S.3d 734, 735 [App Term, 2d, 11th & 13th Jud Dists, 2d Dept 2021]; *1646 Union v Simpson*, 62 Misc 3d 142(A) [App Term, 2d, 11th &13th Jud Dists, 2d Dept 2019]). Accordingly, as there is no disputed issue of fact that Respondents' apartment was unlawfully deregulated, and Petitioner therefore cannot prevail on its cause of action based on the expiration of an expired free-market lease, Respondents are entitled to summary judgment and dismissal of the Petition with prejudice pursuant to CPLR 3212(b) and CPLR 409(b).

Having dismissed Petitioner's holdover petition, the court exercises its discretion to sever [*6]Respondents' first through fourth counterclaims pursuant to CPLR 407, particularly as these claims are not inextricably linked to Petitioner's claim for possession (*see City of New York v Canderlario*, 223 AD2d 617 [2d Dept 1996]; *cf. Matter of Rockaway One Co., LLC v Wiggins*, 35 AD3d 36 [2d Dept 2006].

Petitioner's motion to dismiss Respondents' fifth counterclaim seeking attorney's fees is denied. Real Property Law 234 allows a tenant who has prevailed in a summary proceeding to seek reciprocal legal fees where the parties' lease agreement allows the landlord to collect fees (*see Graham Ct. Owner's Corp v Taylor*, 24 NY3d 742 [2015]). Here, as Petitioner argues in its motion for summary judgment, Articles 20(5) and 20(7) of the parties' lease allow for an award of legal fees. Therefore, Respondents' counterclaim is not devoid of merit so as to warrant dismissal. The matter may be restored to address this claim upon an appropriately filed motion.

Accordingly, it is hereby

ORDERED that Petitioner's cross-motion is denied in its entirety; and it is further

ORDERED that the Petition is dismissed with prejudice pursuant to CPLR 3212(b) and CPLR 409(b); and it is further

ORDERED that Respondents' first through fourth counterclaims are severed and dismissed without prejudice pursuant to CPLR 407.

This constitutes the decision and order of the court.

Dated: June 8, 2023
Queens, New York

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Hon. Logan J. Schiff, J.H.C.

Footnotes

Footnote 1: A related principle is that the protections of the Rent Stabilization Law may not be waived (*see* 9 NYCRR ("RSC") 2520.13; *Matter of 125 Ct. St., LLC v Nicholson*, 184 N.Y.S.3d 831 [2d Dept 2023]; *Kattan v 119 Christopher LLC*, 204 AD3d 470 [1st Dept 2022] ["[P]arties are not the arbiters of whether an apartment is subject to rent stabilization."]).

Footnote 2: Prior to the enactment of the Housing Stability and Tenant Protection Act ("HSTPA") on June 14, 2019, which made sweeping changes to the rent stabilization landscape and eliminated high rent decontrol (*see* L 2019, Ch 36, § 1, part D), units subject to the RSL solely by virtue of the ETPA could be removed from rent stabilization protections where the legal rent exceeded a certain high rent threshold either during the preceding tenant's tenancy or immediately following that tenant's vacancy as a result of legally allowable increases afforded to the landlord following a vacancy or through renovations to the apartment (*see Altman v 285 W. Fourth LLC*, 31 NY3d 178, 185 [2018]). The threshold was initially $2,000 from 1993 until January 23, 2011, and then $2,500 until January 1, 2015, the period relevant in this proceeding (*see* RSL § 26-504.2).

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