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Jacob Sher LLC v. Burgos

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**CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: HOUSING PART P**

Jacob Sher LLC

Petitioner

DECISION/ORDER

Against

Index No. 89295/14

Tito Burgos; Felix Rivera; "John" "Doe";
"Jane" "Doe"

Respondent

Petitioner commenced this licensee holdover proceeding on September 5, 2014 after serving respondents, Tito Burgos, "John" "Doe" and "Jane" "Doe", with a Ten-Day Notice to Quit alleging that the tenant of record, Federico Burgos, is deceased, and respondent's license to occupy the subject apartment terminated upon Mr. Burgos' death. Respondent, Felix Rivera, appeared by counsel and interposed an answer dated October 27, 2014 with an affirmative defense of succession. No other respondent appeared in this proceeding.

At trial, the parties stipulated to the admission of the following documents in support of petitioner's prima facie case: a certified copy of the deed for the subject building was admitted into evidence as petitioner's Exhibit #1, the certified MDR was admitted into evidence as petitioner's Exhibit #2, the death certificate for Federico Eliseo Burgos indicating that his date of death was June 25, 2014 was admitted into evidence as petitioner's Exhibit #3. In addition, the Notice to Admit, which was made part of the court file, was admitted into evidence.

Respondent, Felix Rivera Martinez, also known as Felix Rivera, testified that he resides in the subject apartment, and he was born in Puerto Rico on September 22, 1942¹. Mr. Rivera testified that in approximately 1959, he and his family moved from Puerto Rico to Brooklyn, New York. Prior to departing from Puerto Rico, Mr. Rivera was in the 11th grade and he did not graduate from high school.

Mr. Rivera testified that Federico Eliseo Burgos, who was the tenant of record of the subject apartment, was his elder brother and upon reviewing the death certificate for his brother, which was admitted into evidence as Petitioner's Exhibit #3, he stated that Mr. Burgos passed away on June 25, 2014. Mr. Burgos' death certificate names Manuela Martinez as Mr. Burgos' mother. Mr. Rivera also testified that Manuela Martinez is his mother, and she passed away in 2000.

¹ Respondent's Exhibit B

Mr. Rivera testified that Louisa M. Peralta Cabrera was his wife and they were married in 1986. Mr. Rivera reviewed the Certificate of Marriage admitted into evidence as respondent's Exhibit C and testified that Manuela Martinez was named as his mother on the marriage license.

Mr. Rivera testified that prior to residing in the subject apartment, he rented a room at 471 Grant Avenue. Mr. Rivera recalled that he began residing at the subject apartment in the beginning of 2012 because his brother had heart problems. Mr. Rivera moved into the apartment to provide his brother with care and assistance with his medical appointments and other things around the apartment. In addition, Mr. Rivera testified that he took his brother to doctors' appointments using Mr. Rivera's son's car and he kept a close eye on Mr. Burgos in case he had to contact an ambulance. Mr. Rivera stated that his brother had numerous medical appointments at the Veteran's Hospital which were as often as once or twice per week.

Mr. Rivera testified that he receives Social Security benefits². Mr. Rivera also testified that he filed a tax return³. In addition, Mr. Rivera testified that he enlisted in the Army during 1959 and 1961, and then again during 1964 and 1967, and he provided a copy of the "dog-tags"⁴ he received. Mr. Rivera testified that the "dog tags" name him "Martinez-Felix", which is incorrect. Mr. Rivera testified that the name "Martinez" is his mother's last name.

Mr. Rivera reviewed a photograph which was admitted into evidence as Respondent's Exhibit L, and he testified that this photograph was taken during Christmas time, however he was uncertain as to the year this photograph was taken. He stated that from left to right, the photograph shows his mother, Manuela Martinez, his brother, Jose Gutierrez, his deceased brother, Federico Eliseo Burgos, and himself.

On cross examination, Mr. Rivera testified that his name is Felix Rivera Martinez. Mr. Rivera stated that his birth certificate shows that his name is Felix Rivera, and does not include "Martinez". Mr. Rivera stated that "Martinez" should have been included on his birth certificate. Mr. Rivera also stated that his mother's name does not appear on his birth certificate because his mother was not present when the birth certificate was issued. Mr. Rivera testified that his date of birth is September 22, 1942. However, Mr. Rivera acknowledged that his marriage certificate names him as Felix Rivera Martinez and indicates that his date of birth was September 18, 1942, which he testified is incorrect.

Mr. Rivera stated that Federico Burgos is his brother, and when he passed away in the Veteran's Hospital after being hospitalized in approximately June 2014, Jose Gutierrez informed the City that he passed away. Mr. Rivera stated that Jose Gutierrez is one of his brothers and he resides on Euclid Avenue. Mr. Rivera stated that he did not inform the City that his brother passed away because it happened during the evening time and his brother, Mr. Gutierrez, handled all the arrangements. Mr. Rivera stated that Mr. Burgos was not married, and he had two (2) children who both passed away approximately 12 or 15 years ago.

² Respondent's Exhibit D1 and D2

³ Respondent's Exhibits E and F

⁴ Respondent's Exhibit K

Mr. Rivera maintained that he moved from Puerto Rico to Brooklyn in approximately 1959. Mr. Rivera testified that he was previously married to a woman named Louise Peralta Cabrera, and they were married in 1987 in Puerto Rico. Mr. Rivera testified that prior to his marriage in 1987, he visited Puerto Rico and stayed there for approximately three to five years. Mr. Rivera acknowledged that he came to Brooklyn in 1959 and left Brooklyn to go to Puerto Rico in approximately 1984. After he married Ms. Cabrera, he stayed in Puerto Rico until approximately 1990, and then he moved to Florida by himself. Mr. Rivera testified that he stayed in Florida for approximately one year and then he came back to Brooklyn, and subsequently visited his family in Boston in approximately 1991 or 1992. Mr. Rivera testified that he did not remember how long he stayed in Boston. However, he returned to Brooklyn before 2003.

Mr. Rivera stated that he previously resided at 429 Autumn Avenue, Apartment #4A, Brooklyn, New York with his wife, Christine Rivera, and his son, and he did not recall how long he resided there or when he moved from that address. Mr. Rivera testified that he married Christine Rivera in approximately 1996 in the courthouse in Brooklyn, New York and they have one child together who is currently 20 years old. Mr. Rivera testified that his wife and son reside in the subject apartment with him, and his wife and son moved into the apartment in approximately June 2014.

Mr. Rivera testified that he has had car insurance with County-Wide Insurance Company since 2013⁵. Mr. Rivera also testified that he has insurance with the Visiting Nurse Service of New York⁶ which began in August 2013. Mr. Rivera testified that he opened an account with Assurance Wireless for his cell phone in August 2013. Prior to Assurance Wireless, he had a cell phone plan with another company. Mr. Rivera acknowledged that he was turned down for cellular phone service with T-Mobile in 2013⁷.

Mr. Rivera testified that he filed an application for New York City Housing Authority for an apartment in approximately in 2007, which was also renewed in 2009 and 2010. Mr. Rivera stated that he used the Autumn Avenue address when he renewed his application in 2010.

Mr. Rivera reviewed respondent's Exhibit E, the 2012 tax return, and he testified that he did not recall when he filed this tax return. Mr. Rivera reviewed the 2013 tax return and acknowledged that the stamp indicates that it was received in 2014. Mr. Rivera acknowledged that the stamp indicating that the 2012 tax return was received was not found on the 2013 tax return. Mr. Rivera reviewed the 2012 New York State income tax return admitted into evidence as respondent's Exhibit F, and he testified that he was unsure about the date he filed the tax return, but he knows that he always went to York College between February and March every year to have his taxes prepared.

Mr. Rivera testified that his wife's father previously resided at 449 Lincoln Avenue, Apartment #3R and Mr. Rivera did not reside in this apartment. Mr. Rivera stated that he did not recall receiving a driver's license which listed his father-in-law's address.

⁵ Respondent's Exhibit I; Notice to Admit – Exhibit F

⁶ Notice to Admit – Exhibit H

⁷ Notice to Admit – Exhibit J

Mr. Rivera testified that prior to 2012, he did not live in the subject apartment. Mr. Rivera was shown his driver's abstract which was admitted into evidence as respondent's Exhibit G, and acknowledged that he received a driver's license in 1995 using the address of the subject apartment. Mr. Rivera also stated that it is possible that he used his father in law's address to receive his license in 2004 as well.

Mr. Rivera described the subject apartment as containing four (4) rooms, which includes two (2) bedrooms. Mr. Rivera testified that in 2013, he resided in the subject apartment with Mr. Burgos, and his wife lived in a room on Grant Avenue with their son. Mr. Rivera added that his wife and son moved into the subject apartment in approximately July 2014.

Mr. Rivera testified that he receives Social Security retirement benefits and he is not required to have a bank account in order to receive his benefits. Mr. Rivera stated that he receives payment of his Social Security checks from his bank and he was unsure as to when he opened his Chase bank account.

On redirect, Mr. Rivera maintained that he has his taxes prepared at York College, located in Jamaica, Queens, between February and March each year.

On re-cross, Mr. Rivera stated that York College prepares and files his tax returns on his behalf.

Respondent's witness, Candida Gutierrez, respondent's sister, testified that she is Federico Burgos' sister and he passed away in 2014. Ms. Gutierrez testified that her mother was Manuela Martinez, and she, Mr. Burgos and respondent shared the same mother.

Ms. Gutierrez testified that she grew up in Puerto Rico where she resided with her mother, father and her brothers Felix Rivera, Diego Gutierrez, Jose Antonio Gutierrez and Jose Manuel Rios, and her nephew named Ippolito Burgos. Ms. Gutierrez testified that in approximately 1960, when she was 10 years old, she moved from Puerto Rico to New York and her family (her mother and all of her brothers) resided in Brooklyn with her eldest brother Victor Burgos.

Ms. Gutierrez testified that Federico Eliseo Burgos passed away in 2014 and prior to his death, he resided in the subject apartment. Ms. Gutierrez described the subject apartment as having two bedrooms with a living room and kitchen, and the apartment is located on the first floor. Prior to his death, Ms. Gutierrez recalled that respondent began residing in the subject apartment with Federico Burgos in approximately 2010 or 2011. Ms. Gutierrez recalled that Federico Burgos was sick with diabetes and heart problems, and he did not want to live alone, so he requested that respondent live with him.

Ms. Gutierrez stated that she visited the subject apartment between 2011 and 2014 once or twice per week during the daytime hours to visit her brothers Federico Burgos and respondent. Ms. Gutierrez explained that respondent helped Federico Burgos around the apartment, he took his vitals daily, he accompanied him to his doctor's appointments and he went grocery shopping. Ms. Gutierrez recalled that respondent's bedroom was located in the front of the apartment

which faced the street. Ms. Gutierrez recalled viewing respondent's bed, television and clothing in the bedroom when she came to visit her brothers.

Ms. Gutierrez reviewed a photograph admitted into evidence as respondent's Exhibit N, and she testified that the woman in the photograph is her mother and the gentlemen were Federico Burgos, respondent and her brother Jose Antonio. Ms. Gutierrez testified that the photograph was taken in approximately 1991 in the subject apartment. Ms. Gutierrez reviewed a photograph admitted into evidence as respondent's Exhibit O and she testified that this photograph was taken in approximately 2006 or 2007. She described that respondent is the gentleman to the right, Federico Burgos is directly next to him, the woman in the middle is her older sister, Jose Antonio is next to her sister and she is standing to the left. Ms. Gutierrez reviewed a photograph admitted into evidence as respondent's Exhibit N and she testified that she, her mother, and respondent are shown in the photograph, and the photograph was taken in approximately 1989 in Puerto Rico.

On cross examination, Ms. Gutierrez stated that she was born on September 4, 1949 and she believed respondent was born in 1942. Ms. Gutierrez testified that she grew up in Catano, Puerto Rico with her mother, Manuela Martinez, and her father, Domingo Gutierrez. Ms. Gutierrez testified that her siblings are Felix Rivera, Diego Gutierrez, Jose Antonio Gutierrez and Jose Manuel Rios. Ms. Gutierrez testified that she and Mr. Burgos had different fathers and she, Jose Antonio and Jose Manuel share the same father. Ms. Gutierrez testified that Federico Burgos was substantially older than her, and he had other siblings who passed away who were named Juanita Burgos, Maria Burgos and Victor Burgos. Ms. Gutierrez testified that Federico Burgos was divorced, and he had two (2) children who passed away prior to 2012. Ms. Gutierrez testified that she believed respondent's father's name was Felix Rivera and he did not have any other children. Ms. Gutierrez testified that she has never saw the birth certificates of any of her siblings including respondent. Ms. Gutierrez explained that she knows that respondent is her brother because she grew up with all of her brothers together. Ms. Gutierrez stated that she never had blood tests to confirm that her siblings were her biological siblings and she had no documentation to show that either Federico Burgos or respondent were her biological siblings. Ms. Gutierrez stated that she believed respondent was her brother by blood, and her mother told her that respondent was her brother.

Ms. Gutierrez stated that Federico Burgos asked respondent to move into the subject apartment with him because respondent was the only available person in the family to assist with caring for him. Ms. Gutierrez recalled that respondent was residing in a room by himself and he was living closer to Federico Burgos than the other siblings. Ms. Gutierrez testified that she was residing in Brooklyn in 2012 and she was not married at that time. Ms. Gutierrez stated that she was not asked to move into the apartment because she already moved into her current apartment in 2009 and she was not going to leave her apartment to move into Federico Burgos' apartment. Ms. Gutierrez stated that between 2012 and 2013, Jose Antonio was living in Brooklyn and Jose Manuel passed away. Ms. Gutierrez recalled that Jose Antonio was residing in Brooklyn and she did not know why Federico Burgos did not ask him to move into the subject apartment. Ms. Gutierrez stated that her brother Diego also passed away. Ms. Gutierrez testified that one of Federico Burgos' siblings, Juanita Burgos lives in Puerto Rico, Maria Burgos lives in Manhattan, and in 2012 and 2013 she was sick and Victor Burgos passed away.

Respondent's witness, Jose Antonio Gutierrez, testified that respondent is his half-brother on his mother's side. Mr. Gutierrez testified that Federico Burgos, who passed away in June 2014, was also his half-brother on his mother's side. Mr. Gutierrez testified that his mother, Manuela Martinez, passed away and he, Federico Burgos and respondent all share the same mother. Mr. Gutierrez testified that prior to his death, Federico Burgos resided in the subject apartment with respondent. Mr. Gutierrez recalled that respondent moved into the subject apartment with Federico Burgos in approximately 2010 when Federico Burgos became ill due to heart failure, diabetes and heart disease. Mr. Gutierrez knew respondent moved into the subject apartment because he observed him there when he visited the apartment weekly.

Mr. Gutierrez described the subject apartment as having two bedrooms, the front room was respondent's room and the middle room belonged to Federico Burgos, then there was a kitchen and bathroom. Mr. Gutierrez recalled that respondent's room contained a closet, a laptop, clothing, a television and other belongings.

Mr. Gutierrez stated that respondent cooked for Federico Burgos, provided him care, picked up his medications and assisted with cleaning the subject apartment.

On cross examination, Mr. Gutierrez testified that he lives on Lincoln Avenue with his roommate. Mr. Gutierrez also stated that he has two (2) children.

Mr. Gutierrez testified that Candida Gutierrez is his sister, and he has never seen her birth certificate or respondent's birth certificate. Mr. Gutierrez reviewed respondent's birth certificate admitted into evidence as respondent's Exhibit B, and he testified that Manuela Martinez is not named as respondent's mother. However, Manuela Martinez is named as his mother on his birth certificate, admitted into evidence as respondent's Exhibit Q. Mr. Gutierrez reviewed the birth certificate for Candida Gutierrez, admitted into evidence as respondent's Exhibit M1, and testified that Manuela Martinez is named as her mother, and the father is named Domingo Gutierrez. Mr. Gutierrez reviewed the birth certificate for Federico Burgos, admitted into evidence as respondent's Exhibit J, and testified that Manuela Martinez is named as his mother. Mr. Gutierrez stated that he had noticed that Manuela Martinez was named as respondent's mother on respondent's Communion certificate. However, the document was not available in court. Mr. Gutierrez stated that he did not know who respondent's father was and he does not have the same father as respondent. Mr. Gutierrez stated that he believes that respondent is his brother because that is what he knows and that is all he has ever known.

Mr. Gutierrez recalled that in 2010, he resided at 426 Euclid Avenue and he moved to Lincoln Avenue in March 2018. Mr. Gutierrez stated that he did not know why Federico Burgos did not request that he move into the subject apartment with him, and he never asked him. Mr. Gutierrez stated that Federico Burgos did request that he assist him, but not that he move into the subject apartment with him. Mr. Gutierrez stated that respondent moved into the subject apartment with Federico Burgos because it was easier for him to leave a furnished room rather than Mr. Gutierrez leaving his entire apartment.

Mr. Gutierrez believes that respondent moved into the subject apartment in approximately 2010 or 2011, but he was not certain. Mr. Gutierrez stated that he believes that respondent resided in the subject apartment with Federico Burgos for a couple years before he passed away.

Evidence adduced at trial established that respondent was born on September 22, 1942, and at the time of trial he was approximately 76 years old. Pursuant to Rent Stabilization Code § 2523.5 (b) (1), it is respondent's burden to prove that he resided with the tenant of record in the subject apartment as his primary residence for a period of no less than one year immediately prior to the permanent vacating of the housing accommodation by the tenant. 9 NYCRR § 2523.5 (*M&B Lincoln Realty Corp. v. Thompson*, 49 Misc. 3d 154(A), 5, 28 N.Y.S.3d 648 [2nd Dept 2015] citing 68-74 *Thompson Realty, LLC v McNally*, 71 AD3d 411, 896 N.Y.S.2d 323 [1st Dept 2010]). The relevant period in this case is June 25, 2013 to June 25, 2014.

Respondent bears the burden to prove that he is related to the tenant of record and is entitled to succeed to the rent regulated apartment. *Partita Partners LLC v. Mo Ling Lam*, 21 Misc. 3d 1101(A), 1101, 873 N.Y.S.2d 235, 235 [Civ Ct, New York County, 2008]. Affirmative proof is required to prove the familial relationship and cohabitation. *Id* citing 200 *W. 96th Street, LLC v Matos*, 2003 NY Slip Op 51077[U], [1d Dept 2003]. Rent Stabilization Code § 2520.6 (o) (1) defines family member as "a spouse, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law of the tenant or permanent tenant."

Respondent testified that he is the brother of the former tenant of record, and that he and Federico Burgos had the same mother whose name was Manuela Martinez. Respondent provided his birth certificate⁸ which named Felix Rivera as his father and the mother's name is not listed and instead reads "no consta". Mr. Rivera also stated that his mother's name did not appear on his birth certificate because his mother was not present at the time the birth certificate was issued. A review of respondent's birth certificate shows that the date the birth certificate was issued was July 19, 1988. Respondent provided his marriage license which shows that his father is named Felix Rivera and his mother is named Manuela Martinez.

Respondent also provided the deceased tenant of record, Mr. Burgos', birth certificate⁹ which named Manuela Martinez as Mr. Burgos' mother, and Iluminada Burgos as his father. Further, respondent's sister, Candida Gutierrez, and brother, Jose Antonio Gutierrez, both testified that they have always known respondent to be their brother, and provided their birth certificates which both named Manuela Martinez as their mother.

Petitioner argues that respondent did not provide any proof of a familial link between respondent and the deceased tenant of record which is required by the law. Petitioner argues that while the siblings may have been allegedly raised together, there was nothing to establish a blood familial relationship required for succession.

Both Candida Gutierrez, respondent's half-sister, and Jose Antonio Gutierrez, respondent's half-brother, consistently testified about the history of their family, from their births in Puerto Rico to when the family moved to Brooklyn, New York. Ms. Gutierrez testified that she grew up in

⁸ Respondent's Exhibit B

⁹ Respondent's Exhibit J

Catano, Puerto Rico with her mother, Manuela Martinez, and her father, Domingo Gutierrez. Ms. Gutierrez testified that she had siblings named Felix Rivera, Diego Gutierrez, Jose Antonio Gutierrez and Jose Manuel Rios. Ms. Gutierrez testified that she and Federico Burgos had different fathers and she, Jose Antonio and Jose Manuel share the same father. Ms. Gutierrez testified that Federico Burgos was substantially older than her and respondent had a different father than she did. Ms. Gutierrez further explained that she knows that respondent is her brother because she grew up with him and all of her brothers together. Jose Antonio Gutierrez testified that respondent is his half-brother on his mother's side. Mr. Gutierrez testified that he is Mr. Burgos' half-brother on his mother's side, and he passed away in June 2014. Mr. Gutierrez testified that his mother, Manuela Martinez, passed away and Federico Burgos and respondent all share the same mother. Mr. Gutierrez stated that he believes that respondent is his brother because that is what he knows and that is all he has ever known.

Further, respondent and Ms. Gutierrez consistently testified that the entire family, which included respondent, moved to Brooklyn from Puerto Rico between approximately 1959 and 1960. All of respondent's witnesses credibly testified that they were born in Puerto Rico, grew up together as a family unit, and all moved to Brooklyn together where they continued to reside together.

Moreover, Ms. Gutierrez testified that her mother told her that respondent was her brother. The Court of Appeals has held that while declarations regarding pedigree are hearsay, these declarations may be admitted because they are considered "the natural effusions of persons who must know the truth..." *Aalholm v. People*, 211 N.Y. 406, 413-414, 105 N.E. 647 [1914]. It is also well settled that before the declaration can be admitted, the relationship of the declarant to the family must be established by other testimony. *Aalholm v. People*, 211 N.Y. 406, 413-414, 105 N.E. 647 [1914]. Further, for such declarations to be admissible, three elements must be satisfied: (1) the declarant must be deceased; (2) they must have been made at a time when there was no motive to distort the truth; and (3) the declarant must be related either by blood or affinity to the family concerning which he speaks. *Id.* In the instant case, Ms. Gutierrez' mother is deceased, the statement was made during a time when there was no motive for her to say anything other than the truth and Ms. Gutierrez has already provided her birth certificate which established that Ms. Martinez was her mother.

Case law has established that documentary evidence is not essential in determining primary residence, though it can be significant. *Goldman v. Davis*, 49 Misc. 3d 16, 18, 17 N.Y.S.3d 264 [App Term 1st Dept, 2015]. Further, documentary evidence does not necessarily preponderate over inconsistent testimonial evidence. *Id.* (see also *300 E. 34th St. Co. v Habeeb*, 248 AD2d 50, 55).

While respondent's birth certificate may have omitted the name of his mother, the credible and consistent testimony of the witnesses during trial indicate that respondent is the half-brother of the deceased tenant of record.

In addition, even though the rent stabilization law does not specifically use the term "half-brother", courts have held that use of the word "brother" embraces "half-brother". *Ali Baba Hotel Corp. v. Seye*, 162 Misc. 2d 1006, 1007, 619 N.Y.S.2d 243, 244 [Civ. Ct., New York

County, 1994] *citing (Cf., Ziegelman & Langfan v Delgado*, NYLJ, Jan. 15, 1986, at 13, col 2, [Housing Ct, Klein, J.], *affd* NYLJ, Nov. 20, 1986, at 11, col 3 [App Term, 1st Dept]. Based upon this Court's determination, rent regulation laws also protect half-siblings as remaining family members.

Therefore, it is clear that respondent has proven his familial relationship to the deceased tenant of record. Now, the question is whether respondent has established that he resided together with the deceased tenant of record for the requisite statutory period.

In support of his claim that he resided with the deceased tenant of record for at least one (1) year prior to his vacatur of the subject apartment, respondent provided records from the Department of Motor Vehicles¹⁰ dated May 18, 2018. These records indicate respondent updated his address to that of the subject apartment on or about December 4, 2012. Prior to that, his address was recorded as 449 Lincoln Avenue, Apartment #3R, Brooklyn, New York 11208. This record is consistent with respondent's testimony that he began residing with his brother in the subject apartment in approximately 2012. Moreover, respondent's commercial driver's license¹¹ bears the address of the subject apartment.

Respondent also provided Chase bank records¹² beginning with the statement prior of December 6, 2012 through January 4, 2013 and ending with the statement period of March 6, 2018 through April 4, 2018 which lists respondent's address as that of the subject apartment. Respondent also submitted certified copies of Form SSA 1099¹³ regarding his receipt of social security from January 2013 to December 2017. In addition, review of the social security records revealed that respondent received his social security payments from January 2013 through January 2018 at the subject apartment. Further, respondent provided copies of his Federal¹⁴ and New York State¹⁵ tax returns for 2012 which list his address as that of the subject apartment.

Based on the foregoing, respondent proved his defense of succession and the petition is dismissed.

This constitutes the decision and order of the court.

Dated: Brooklyn, New York
February 6, 2020



Cheryl J. Gonzales, JHC

¹⁰ Respondent's Exhibit G

¹¹ Notice to Admit, Exhibit A

¹² Respondent's Exhibit A

¹³ Respondent's Exhibit D1 and D2

¹⁴ Respondent's Exhibit E

¹⁵ Respondent's Exhibit F