

STUYVESANT TOWN - PETER COOPER VILLAGE TENANTS ASSOCIATION
A Volunteer Staffed Organization Working to Preserve an Affordable Community

March 15, 2009

SUMMARY OF THE COURT'S ORDER IN ROBERTS V. TISHMAN SPEYER

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On Friday, March 13, 2009, the Appellate Division issued an order staying the implementation of the Court's March 5, 2009 decision, pending the resolution of the defendant's motion to for leave to appeal to the Court of Appeals and, if such leave is granted, until final determination by the Court of Appeals. The stay is subject to a number of conditions designed to protect the rights of the plaintiffs and the class. A summary of those requirements is set forth below. If the conditions are breached and the breach is not cured within 5 days, plaintiffs will seek immediate implementation of the March 5 decision.

- The owner must, in good faith, calculate the rent that could have been lawfully charged to market rate tenants had their apartments remained subject to the rent stabilization law ("RSL") and must provide a chart of the differential between the market rate and the stabilized rent, as well as their calculations to the plaintiff's attorneys by March 26. These calculations are for escrow purposes only (see below) and plaintiffs can revisit them after the stay is no longer in effect.
- Commencing with the April 2009 rent, the owner must deposit the differential in an interest bearing escrow account to which the plaintiff's attorneys will be a co-signatory. The deposit must be made within five business days of collection and the owner must keep records sufficient to identify funds deposited by each affected tenant. Under the terms of the order, the escrowed funds will remain the property of the tenants pending the outcome of the action. If the plaintiffs prevail in this action, the escrowed funds will be returned to the tenants shortly thereafter, even if other aspects of the case continue. The escrow arrangement is designed to protect the tenants in the event of a bankruptcy of the owner or foreclosure on the property.
- While the stay is in effect, the owner will hold in abeyance and pending summary proceedings or actions against market rate tenants that are predicated on the market rate nature of the tenancy and the owner will not commence any new proceedings based on the market rate nature of the tenancy. We believe that this provision means that the owner must suspend any current or future efforts to deregulate under the RSL high rent/high income decontrol procedures. The owner must notify the plaintiffs attorney by e-mail (Schmidt@whafh.com) within five days after a petition or complaint is served upon any market rate tenant where the commencement of such proceeding or action is predicated solely on the non payment of the differential between the rent stabilized and market rate rents. The order does not prevent the owner from pursuing primary residency challenges or other actions.
- The owner represents that it has maintained and will continue to maintain indefinitely documents sufficient to determine the amount of any rent overcharges under the RSL.