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October 16, 2019

VIA OVERNIGHT MAIL
New York State Court of Appeals
Clerk's Office
20 Eagle Street
Albany, New York 12207
Attn: John P. Asiello, Chief Clerk
and Legal Counsel to the Court

Re: Mtr. of Regina Metropolitan v. NYSDHCR and Leslie E. Carr No. APL-2018-00222

Dear Mr. Asiello:

We represent the Intervenors/Respondents Harry Levy and Leslie Carr (referred to as the "Tenants" in our brief). We are responding to your letter dated September 17, 2019 allowing further supplemental argument regarding the application of the Housing Stability and Tenant Protection Act of 2019 (the "HSTPA") to this action. Most of our arguments were made in our letter to this Court dated July 11, 2019, so in the interest of brevity, we respectfully attach as exhibit A the July 11, 2019 letter and ask that it be considered again by this Court. As will be detailed further below, we ask that this Court reconsider its striking of the Tenant's appeal for legal fees and treble damages due to the changes enunciated in the HSTPA and the Tenants' recent Request for Reconsideration before the New York State Division of Housing and Community Renewal (the "DHCR").

After the 3-2 Appellate Division ruling in this action, the Tenants filed as of right (given the two dissents) an appeal to this Court of the Appellate Division ruling. The Tenants' appeal was dismissed by this Court in a ruling dated December 11, 2018 (exhibit B) based on the non- finality of the Appellate Division ruling. Had matters stood this way, the Tenants would have had the matter remanded to the DHCR per the Appellate Division order and then had a right to appeal from there. However, the DHCR concurrently received leave from the Appellate Division in a ruling dated December 4, 2018 to appeal the identical Appellate Division ruling (exhibit C). The Tenants then sought to have this Court hear all issues relating from the overcharge, including their claims for legal fees and treble damages, as part of their appeal. This Court, in a ruling dated June 27, 2019 (exhibit D), struck those claims from our Appellate Brief, and in response to our letter dated July 11, 2019 regarding the application of the HSTPA to this case, advised in a letter dated August 9, 2019 (exhibit E) that it would not consider the points raised in the July 11, 2019 letter regarding legal fees and treble damages because they had been stricken from our brief. The Court then

further allowed Regina Metropolitan (the "Landlord") an extra opportunity to submit a second reply brief, though the Tenants' brief was unchanged except for the stricken sections.

We respectfully request that this Court reconsider its decision to strike our clients' claim for legal fees and treble damages based on subsequent developments since issuance of the Court's August 9, 2019 letter.

The HSTPA clearly now mandates an award of legal fees to the Tenants rather than leaving it to the discretion of the DHCR should the tenants prevail on appeal and/or be awarded an overcharge (see Point 1 of Exhibit A). The DHCR denied legal fees to the prevailing party, the Tenants, for the sole reason that "this Agency would have obtained the same results for this proceeding without [the Tenants having obtained] representation of counsel." (R. 51) Justice Alice Schlesinger, in her Article 78 ruling dated October 13, 2016, had serious misgivings about the DHCR's denial ("Frankly, this Court has some problems with this rationale...."), but felt obligated to defer to the DHCR's discretion. (R.15). The HSTPA unties Justice Schlesinger's hands. Because this Court's ruling that the Appellate Division decision in this action was not final, we submitted by letter dated September 9, 2019 a Request for Reconsideration to the DHCR regarding their denials of legal fees and treble damages in this action. The letter, without accompanying exhibits, is attached as exhibit F. The DHCR, by letter dated September 19, 2019 (attached as exhibit G), refused to entertain the request because an Article 78 appeal had been filed which resulted in this appeal, and because this Court struck the claims for legal fees and treble damages from our appeal. The Tenants assert this scenario is inequitable and an unfair abridgment of their due process.

The HSTPA's changes regarding treble damages for overcharges are similarly relevant to this action. The HSTPA now mandates that landlords cannot rebut willfulness by voluntarily adjusting the rent and/or tendering a refund after an overcharge has been filed (see Point 4 of Exhibit A). Both were, formerly, key exculpatory features of the DHCR's *Amended Policy Statement 89-2.* The Landlord's defense against willfulness in this action relied entirely on its claimed, though inadequate, adherence to *89-2* and on its introduction of a 1996 DHCR advisory to its attorney, Sherwin Belkin. (In *Roberts*, a similar advisory was offered by the landlord and dismissed by the Court.) Given the changes incorporated within the HSTPA, the Landlord has, in effect, submitted no rebuttal of willfulness, and the denial of treble damages should be reversed on this basis.

It is especially relevant to the instant action that the HSTPA now mandates new oversight of the DHCR, requiring systematic auditing of individual apartment improvements ("IAIs"), improved monitoring of apartment registration data, the proffering of a written lease without exception and annual reporting by the DHCR to both the Legislature and the Governor about its performance. These changes mandated in the HSTPA are relevant to the instant case because the DHCR, faced with unchallenged evidence of Landlord manipulation of the registration system (2007 registration of the instant apartment as rent stabilized at a time when it was affirming to the Tenants that the apartment was deregulated), the Landlord's failure to provide a written renewal lease to the Tenants in the months preceding *Roberts,* the proffering post-*Roberts* of a "J-51" rider replete with significant false statements and a tardy attempt by the Landlord to submit falsified business records of IAIs (that were disproved unequivocally by photographic and official

Department of Buildings records), did not consider the totality of these abuses. The changes in the HSTPA underscore that the DHCR, as here, failed to faithfully administer the housing laws when it, inconceivably, found no evidence of willfulness, and flippantly also denied an award of legal fees to the Tenants.

In sum, it appears that the only way the Tenants can now be awarded treble damages and recover the substantial legal fees that they have incurred at the DHCR, the Supreme Court, and the Appellate Courts – which they are clearly entitled to under the HSTPA (especially with respect to legal fees) if they are awarded an overcharge – is by a ruling from this Court either awarding them legal fees and/or treble damages or remanding these claims back to the lower court or the DHCR for further consideration, or by the Tenants restoring the Article 78 proceeding. Moreover, this Court has the discretion to consider the issues of legal fees and treble damages, since it is intertwined with the issue of the overcharge which is now before this Court, and ordinarily, when leave to appeal is granted, all issues of which this Court may take cognizance may be addressed by the parties. A ruling to the contrary would be terribly unfair to the Tenants and other similarly situated tenants, for the reasons stated above, and because it would in essence substantially diminish any overcharge award because of the substantial legal fees incurred in this action and by tenants in other actions, thus allowing this Landlord and other landlords to in effect get away with the illegal deregulation of a rent stabilized apartment while in receipt of J-51 tax benefits. Further, though speculative and arbitrary legal fee denials by the DHCR will not, by statute, happen again thanks to the remedial changes of the HSTPA, the DHCR decision must be reversed not only for the reasons stated above, but also because if allowed to stand as a precedent, it could contaminate for decades to come decision-making by other state agencies where administrative discretion on legal fees is still allowed.

The Court should not allow this Landlord and other landlords to place themselves above the rule of the housing laws. In the light of the equitable and clarifying laws enacted by the HSTPA, the Tenants deserve that the Court exercise its ultimate discretion, reconsider both the denial of legal fees and the evidence of Landlord's willfulness in their overcharge, and grant an award of legal fees and treble damages to the Tenants or remand to the lower courts or the DHCR for them to consider these claims and enforce the public policies inherent in the HSTPA and the other provisions of the Rent Stabilization Law and Rent Stabilization Code.

Thank you for your consideration in this matter.

Respectfully yours,

Yoram Silagy

cc: Horing Welikson & Rosen, PC, Attn: Niles Welikson
NYS Division of Housing & Community Renewal,
Attn: Mark F. Palomino, Esq. and Christina S. Ossi, Esq.
State of N.Y. Office of Attorney General
Attn: Ester Murdukhayeva

EXHIBIT A

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July 11, 2019

VIA FEDERAL EXPRESS
New York State Court of Appeals
Clerk's Office
20 Eagle Street
Albany, New York 12207
Attn: John P. Asiello, Chief Clerk
and Legal Counsel to the Court

Re: Mtr. of Regina Metropolitan v. NYSDHCR and Leslie E. Carr No. APL-2018-00222

Dear Mr. Asiello:

We represent the Intervenors/Respondents Harry Levy and Leslie Carr (referred to as the "Tenants" in our brief). Pursuant to 22 NYCRR 500.6 we write to advise the Court how the very recently enacted Housing Stability and Protection act of 2019 affects this appeal. The law was enacted after briefs were submitted for this appeal. The case involves an overcharge award to our clients, as rent stabilized tenants, and specifically what rent formula to use under the Rent Stabilization Law and Code to calculate the overcharge in this proceeding. While awarding an overcharge to the Tenants, the Courts below and the Appellant New York State Division of Housing and Community Renewal (the "DHCR") denied the Tenants claims for legal fees because the law in effect at that time gave the DHCR discretion to do so. The Tenants were also denied treble damages on their overcharge claim.

The Housing Stability and Protection act of 2019 (the "New Law") applies to this case because it is still pending while the New Law has gone into effect, and because the law is remedial in nature and therefore should be applied retroactively. See NYC Admin Code §26-516(7) of the New Law ["This act shall take effect immediately and shall apply to any claims pending or filed on and after such date"]; DeCordova v. Bennett, 32 A.D.2d 959, 303 N.Y.S.2d 8 (2nd Dept. 1969)[Where law is amended while appeal is pending, appeal should be decided on law as it presently exists]; In re Marino S., 100 N.Y.2d 361 (1969)[Ameliorative or remedial legislation should be given retroactive effect in order to effectuate its beneficial purpose]; Chassen v. Chatsworth, LLC, 303 A.D.2d 609, 756 N.Y.S.2d 550 (1st Dept. 2003[Amendment to Rent Stabilization Code was remedial in nature and therefore should be applied retroactively].

The New Law affects the issues in this case in the following manner:

I. Legal Fees

The New Law renders the award of legal fees to a prevailing party mandatory instead of discretionary. The New Law now states: "An owner found to have overcharged **shall** be assessed the reasonable costs and attorney's fees of the proceeding..."[Emphasis Added]. NYC Admin Code §26-516 4(a)(4). The old law stated that "An owner found to have overcharged **may** be assessed the reasonable costs and attorney's fees of the proceeding..." [Emphasis Added]. Since the Tenants here prevailed below, and should prevail in this appeal on their overcharge claims for the reasons stated in their Brief submitted to this Court, and because they had to hire attorneys after trying to handle the complex issues in this case on their own (and since the DHCR requested numerous submissions from their attorneys), the Tenants should be awarded legal fees in this action under the New Law. While this Court has stricken the portion of the Tenants' brief regarding this issue, we respectfully request that the Court reconsider or remand this action back to the DHCR for further consideration based on this change in the law regarding the Tenants' right to legal fees here.

II. Calculation of the Tenant's Overcharge

The DHCR and the Tenant's brief showed that under the Rent Stabilization Code and Rent Stabilization Law, a landlord cannot use an illegal deregulated rent charged on the "base date" as a basis for calculating an overcharge award. The various methods to determine a "base date" rent to be used to calculate the overcharge, which were presented by the DHCR and the Tenants to this Court, were (a) going back more than four years from the filing of the overcharge complaint to find the last legal rent stabilized rent for the apartment; (b) or reverting back only four years from the filing of the overcharge complaint and using the DHCR sampling method or the "Thornton" formula to set a base date rent. The New Law confirms and states more powerfully that an illegal base date rent cannot be used in determining an overcharge claim, and states more explicitly that the DHCR can go back more than four years from the filing of an overcharge complaint in examining the rental history for the apartment and setting a base date rent. The DHCR and courts, in investigating overcharge complaints and legal regulated rents, "shall consider all available rental history which is reasonably necessary to make such determinations...", including whether "any rent registration or other records" filed with the DHCR, and "whether the legality of a rental amount charged is reliable in light of all available evidence..."See NYC Admin Code §26-516 5(g-i).

III. Amount of Overcharge As Affected by the New Statute of Limitation and Elimination of Vacancy and Longevity Increases

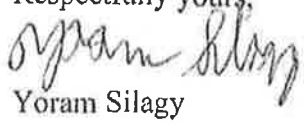
The New Law now allows a tenant to recover overcharges for a period of six years prior to the filing of an overcharge complaint, instead of the four year period under the old law. See CPLR 213-a. The New Law also eliminates vacancy and longevity increases. These changes increase the amount of the Tenant's overcharge, and we therefore respectfully request a remand to the DHCR for a recalculation of the overcharge amount.

IV. Treble Damages

The New Law makes it easier for tenants to recover treble damages for overcharge complaints. It no longer considers a landlord's voluntary adjustment of the rent or tender of a refund of an overcharge after the filing of an overcharge complaint as evidence that an overcharge was not willful. The DHCR in the case at bar considered the landlord's tender of a small portion of the overcharge as evidence of non-willfulness. While this Court has stricken the portion of the Tenant's brief on this issue, it is respectfully submitted that the Court should reconsider or remand this issue to the DHCR for further determination based on this change in law. There was an abundance of evidence of willfulness that would satisfy the new standards.

Thank you for your consideration in this matter.

Respectfully yours,



Yoram Silagy

cc: Horing Welikson & Rosen, PC, Attn: Niles Welikson
NYS Division of Housing & Community Renewal,
Attn: Mark F. Palomino, Esq. and Christina S. Ossi, Esq.
State of N.Y. Office of Attorney General
Attn: Ester Murdukhayeva

EXHIBIT B

1 SSD 70

In the Matter of Regina Metropolitan Co., LLC,
Respondent,
v.
New York State Division of Housing and Community Renewal,
Respondent,
Leslie E. Carr et al.,
Intervenors-Appellants.

In the Matter of Leslie E. Carr et al.,
Appellants,
v.
New York State Division of Housing and Community Renewal,
Respondent,
Regina Metropolitan Co., LLC,
Intervenor-Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

EXHIBIT C

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 4, 2018.

Present - Hon. David Friedman, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Marcy L. Kahn
Peter H. Moulton, Justices.

In re Regina Metropolitan Co., LLC,
Petitioner-Appellant,

-against-

New York State Division of Housing and Community Renewal,
Respondent-Respondent,

M-4876
Index No. 101235/15

Leslie E. Carr,
Intervenor-Respondent.

- - - - - - - - - - - - -

Community Housing Improvement Program, Inc.,
Amicus Curiae.

- - - - - - - - - - - - -

In re Leslie E. Carr,
Petitioner-Appellant,

-against-

Index No. 101236/15

New York State Division of Housing and Community Renewal,
Respondent-Respondent,

Regina Metropolitan Co., LLC,
Intervenor-Respondent.

Respondent-respondent New York State Division of Housing and Community Renewal having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on August 16, 2018 (Appeal No. 5026),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

> "Was the order of this Court, which modified the order and judgment (one paper) of the Supreme Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

ENTERED:

CLERK

EXHIBIT D

State of New York
Court of Appeals

Decided and Entered on the twenty-seventh day of June, 2019

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2019-479
In the Matter of Regina Metropolitan Co., LLC,
Respondent,
v.
New York State Division of Housing and Community Renewal,
Appellant,
Leslie E. Carr et al.,
Intervenors-Respondents.

Respondent Regina Metropolitan Co., LLC, having moved to strike the brief filed by respondents Leslie E. Carr et al. in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is granted to the extent that Points II and III of the brief filed by respondents Leslie E. Carr et al. are stricken and respondents Leslie E. Carr et al. are directed to file and serve a revised brief within twenty days.

John P. Asiello
Clerk of the Court

EXHIBIT E

State of New York
Court of Appeals

John P. Asiello
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095

August 9, 2019

Hon. Letitia James
New York State Attorney General
Attn: Ester Murdukhayeva, Esq.
Division of Appeals and Opinions
28 Liberty Street
New York, NY 10005-1400

Horing Welikson & Rosen, P.C.
Attn: Niles C. Welikson, Esq.
11 Hillside Avenue
Williston Park, NY 11596

Vernon & Ginsburg, LLP
Attn: Darryl M. Vernon, Esq.
261 Madison Avenue, 26th Floor
New York, NY 10016-2303

Re: Matter of Regina Metropolitan v NYSDHCR

Dear Counselors:

This acknowledges receipt of the letters of respondents Leslie E. Carr et al., dated July 11, 2019, respondent Regina Metropolitan, dated July 18 and August 5, 2019, and appellant DHCR, dated August 1, 2019, concerning the impact, if any, of the recent amendments to the Rent Stabilization Law on the pending appeal. These letters have been accepted for whatever consideration the Court deems appropriate, except those portions of the letters that pertain to matters that have been stricken from the brief of respondents Leslie E. Carr et al. pursuant to the Court's order dated June 27, 2019. No further briefing on this issue is contemplated at this time.

Questions may be directed to Margaret Wood at 518-455-7702 or Edward Ohanian at 518-455-7701.

Very truly yours,

John P. Asiello

JPA/EO/ni

EXHIBIT F

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September 9, 2019

VIA CERTIFIED MAIL
State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza
92-31 Union Hall Street
Jamaica, NY 11433

Re: Request For Reconsideration: Leslie Carr and Harry Levy v. Regina Metropolitan Co. LLC Docket No. XK 410007

Ladies and Gentlemen:

We represent the tenants Harry Levy and Leslie Carr (the "Tenants") in the above captioned proceeding, and respectfully request reconsideration of the Rent Administrator and Commissioner's two underlying orders in this proceeding pursuant to Rent Stabilization Code §2527.8, because the two orders are the result of an illegality. More specifically, the request for reconsideration is based on the recent enactment of The Housing Stability and Tenant Protection Act of 2019 ("HSTPA"), which applies to this pending proceeding and therefore (a) lengthens the time period for the Tenants' collection of their overcharge; (b) entitles them to an award of legal fees; and (c) should lead to an award of treble damages.

A. Procedural History of This Proceeding

The Tenants filed an overcharge complaint against their landlord on October 31, 2009 and were awarded an overcharge of $285,390.39 by this agency on February 26, 2014, which was affirmed in a PAR ruling by this agency on May 13, 2015. Copies of these respective rulings are attached as exhibits A and B. This agency, in its rulings, denied an award of legal fees and treble damages. Notwithstanding the Agency's repeated requests from the tenant's attorneys for numerous submissions regarding multiple and complex issues that arose in this case, the Agency denied legal fees on the basis that the Tenants would have achieved the same result without counsel. Both the Landlord and the Tenants filed Article 78 Petitions challenging these rulings. The Hon Alice Schlesinger, in a ruling dated October 13, 2016, upheld the DHCR rulings, though Justice Schlesinger stated in her ruling that she had some problems with the rationale underlying the Agency's denial of legal fees. A copy of Justice Schlesinger's ruling is attached as exhibit C. Both parties then appealed the New York Supreme Court ruling to the Appellate Division, which,

in a corrected order dated September 5, 2018, modified the Supreme Court ruling by changing the lookback period for calculating the overcharge award and remanding the matter to this Agency for recalculation of the DHCR overcharge amount. A copy of the Appellate Division ruling is attached as exhibit D. The Appellate Division, in a ruling dated December 4, 2018, granted this Agency leave to appeal its ruling to the Court of Appeals, where this proceeding is now pending.[1] A copy of the Appellate Division ruling is attached as exhibit E.

B. The HSTPA Applies to This Proceeding

The HSTPA applies to this proceeding because it is still pending while the HSTPA has gone into effect, and because the law is remedial in nature and therefore should be applied retroactively. See NYC Admin Code §26-516(7) of the HSTPA ["This act shall take effect immediately and shall apply to any claims pending or filed on and after such date"]; DeCordova v. Bennett, 32 A.D.2d 959, 303 N.Y.S.2d 8 (2nd Dept. 1969)[Where law is amended while appeal is pending, appeal should be decided on law as it presently exists]; In re Marino S., 100 N.Y.2d 361 (1969)[Ameliorative or remedial legislation should be given retroactive effect in order to effectuate its beneficial purpose]; Chassen v. Chatsworth, LLC, 303 A.D.2d 609, 756 N.Y.S.2d 550 (1st Dept. 2003[Amendment to Rent Stabilization Code was remedial in nature and therefore should be applied retroactively]. The HSTPA affects the below extant issues in this proceeding in the following manner, and reconsideration should be granted on the following basis:

C. An Award of Legal Fees is Mandated by the HSTPA

The HSTPA renders the award of legal fees to a prevailing party mandatory instead of discretionary. The HSTPA now states: "An owner found to have overcharged **shall** be assessed the reasonable costs and attorney's fees of the proceeding..."[Emphasis Added]. NYC Admin Code §26-516 4(a)(4). The old law stated that "An owner found to have overcharged **may** be assessed the reasonable costs and attorney's fees of the proceeding..." [Emphasis Added]. Therefore, under this provision, this Agency is now required to award legal fees to the Tenants in this proceeding.

D. Amount of Overcharge As Affected by the New Statute of Limitation and Elimination of Vacancy and Longevity Increases

The HSTPA now allows a tenant to recover overcharges for a period of six years prior to the filing of an overcharge complaint, instead of the four-year period under the old law. See CPLR 213-a. The HSTPA also eliminates vacancy and longevity increases. These changes increase the amount of the Tenant's overcharge, as the Tenants can now go back to the commencement of their tenancy on August 1, 2005 for the recovery of their overcharges, instead of the November 2, 2005 date in the current ruling.

---

[1] The Court of Appeals has subsequently and specifically ruled that it will not be considering, in this proceeding, the denial of legal fees to the prevailing party and the denial of treble damages.

E. Treble Damages

The HSTPA makes it easier for tenants to recover treble damages for overcharge complaints. It no longer considers a landlord's voluntary adjustment of the rent or tender of a refund of an overcharge after the filing of an overcharge complaint as evidence that an overcharge was not willful. The DHCR in the case at bar considered the landlord's tender of a small portion of the overcharge as evidence of non-willfulness, and therefore the denial of treble damages should be denied on this basis.

Thank you for your consideration in this matter.

Respectfully yours,

Yoram Silagy

cc: Horing Welikson & Rosen, PC, Attn: Niles Welikson
State of N.Y. Office of Attorney General
Attn: Ester Murdukhayeva

EXHIBIT G

Andrew M. Cuomo
Governor

RuthAnne Visnauskas
Commissioner

New York State Division of Housing and Community Renewal
25 Beaver Street
New York, NY 10004

September 19, 2019

Yoram Silagy, Esq.
Vernon & Ginsburg LLP
261 Madison Avenue, 26th Floor
New York, N.Y. 10016

Re: Request for Reconsideration of RA order no. XK 10007 R, and PAR order under docket nos. CO 410038 RO and CO 410027 RT

Dear Mr. Silagy:

Counsel's office has been requested to respond to your letter of September 9, 2019 to DHCR's Office of Rent Administration in which you request a reopening of the above-referenced orders.

DHCR does not have continuing jurisdiction to issue a superseding order once a proceeding for judicial review has been commenced. Section 2529.9 of the Rent Stabilization Code provides:

> The commissioner, on application of either party …may, prior to the date that a proceeding for judicial review has been commenced in the Supreme Court pursuant to article 78 of the Civil Practice Law and Rules, issue a superseding order modifying or revoking any order issued by [the commissioner]…

As you indicate in your letter, after DHCR issued its PAR order, both tenants and owner commenced Article 78 proceedings challenging that order. The Supreme Court's decision and its subsequent modification by the Appellate

Division is presently on appeal and pending in the Court of Appeals. As the parties have commenced court proceedings, DHCR no longer has the jurisdiction to change or to reopen its orders for reconsideration. As you know, there has been an exchange of letters regarding the applicability of HSTPA in the court proceeding. Additionally, the Court has determined that the issues of treble damages and legal fees, which you raise in your letter, have not been preserved for further review.

For the above reasons, your request cannot and will not be entertained.

Sincerely,

Sheldon D. Melnitsky, Esq.
Deputy Counsel for the
New York State Division
Of Housing and Community
Renewal (DHCR)

cc: Ester Murdukhayeva, Esq.
Assistant Solicitor General
Office of the Attorney General
28 Liberty Street
New York, N.Y. 10005

Niles C. Welikson, Esq.
Horing, Welikson & Rosen, P.C.
11 Hillside Avenue
Williston Park, N.Y. 11596