



Homes and Community Renewal

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March 21, 2016

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Enforcement Case Docket No.: DU410008HL

Dear Parties:

This letter is in summary of the complaint of harassment and the conference held on March 9, 2016. The complainant, Caitlyn Napolitano, personally appeared at conference accompanied by her domestic partner, Carlos Dacosta, and unless otherwise noted, are hereinafter referred to collectively as the tenant. The title owner of the subject building, Kosovo Properties, Inc., appeared by its shareholder/officer, Hamdi Nezaj, and by its on-site managing agent, Joey Nezaj, and unless otherwise noted, are hereinafter referred to collectively as the owner.

The conference commenced with a brief explanation of enforcement proceedings. The parties were advised that I am a Staff Attorney and not a Hearing Office or an Administrative Law Judge; that I represent the Agency's interests, and do not advocate for either the owner or the tenant; that the conference is an informal proceeding, and not a formal hearing or administrative trial, and does not adjudicate complaints nor result in an order. With other enforcement practices and procedures, the conference allows the enforcement office to ascertain, monitor and compel the owner's compliance with the Rent Laws.

This office and these proceedings do not serve to review or reconsider proceedings adjudicated in other tribunals ~~is~~, such as of New York City Department of Housing Preservation and Development (HPD) or the New York City Housing Court, but will consider their records and adjudication of the issues to ascertain if enforcement/compliance action is warranted.

In her written harassment complaint, as amplified in additional submissions and at the conference, the tenant accused the owner of:

- verbally threatening and screaming at the tenant and her domestic partner, and being called "trash, a drug dealer, and not a fit tenant," tantamount to constitute slander of the tenant and her domestic partner;

- installing four (4) security camera outside the tenant's courtyard ground floor apartment to record the tenant's activities and those of her domestic partner, visitors and guests;
- disconnecting the buzzer equipment to the tenant's ground-floor courtyard apartment; it was noted that the tenant's buzzer system equipment is separate from and was never part of the building's intercom/buzzer system;
- failing to timely repair defective mailbox so as to allow mail tampering;
- refusing to provide the tenant a second door non-duplicable key for the new building entrance security lock;
- demanding payment of a \$100.00 security deposit for the second non-duplicable key;
- delaying deposit of the tenant's monthly rent payments at the management office, and also refusing the tenant's request for a receipt;
- tampering with the tenant's apartment door lock by persons unknown, but suspected the owner;
- failing to provide adequate public area cleaning and maintenance services;
- failing to complete apartment repairs in a workmanlike manner.

In its answer, as amplified at the conference, the owner denied harassing the tenant, acknowledged belatedly provided the tenant a second non-duplicable key for the new building entrance security lock pursuant to a November 24, 2015 Stipulation of Settlement resolving the Housing Court proceedings that required the tenant to pay a \$100.00 security deposit. *Napolitano v. Nezaj/Nezaj/Kosovo Properties, L&T Index No.: 1847/2015*. Therein, the parties also stipulated to good-faith efforts to avoid verbal confrontations, and to avoid conduct disturbing, threatening or making the adverse party uncomfortable.

The owner further asserted that the buzzer equipment to the tenant's ground-floor apartment was fixed as evinced by the fact that HPD records disclose the tenant's complaint, but fail to confirm a violation-of-record for the condition. The owner also acknowledged installing four security camera in the interior courtyard areas outside the tenant's ground floor apartment and did not dispute recorded activity in those areas, but disputed that doing was harassment; and that the owner intended to install security cameras in other public areas throughout the building.

The tenant was accompanied at the conference by individuals the tenant represented as her witnesses. In fact, Gregory L. Scott, testified briefly as to being a current tenant of apartment 3A and as to his own complaints, so as to establish a "pattern of behavior." The tenant was advised to of his right file his own harassment and other complaints. Jane Yan indicated she was a former tenant, and declined to give testimony.

Notwithstanding palpable antagonism evident at the conference, the parties acknowledged each side has abstained from further verbal confrontation, and from disturbing and threatening conduct towards the adverse party; the tenant indicated that the buzzer defects had recurred; and the parties agreed to Friday, March 18, 2016 access repair date to allow the owner's locksmith contractor to address the current buzzer defects.

Concerning the installation of installing four security cameras outside the tenant's courtyard ground floor apartment, and recording the tenant's activities and those of her domestic partner, visitors and guests, Agency policy and practice considers video and recording security cameras (CCTV) systems limited to public areas of the building to be appropriate security measures, but limits their placement insofar as to preclude a view into the interior of a tenant's apartment.

Concerning building entrance door keys, apartment door keys and mailbox keys, the Agency's 2006 Opinion Letter COL -1938 referencing the Walden Terrace court decision, and Opinion Letter COL-2129 citing Code Section 2520.6(r), set forth that owners are required to provide two keys free-of-charge as a required service. The Agency has issued Rent Administrator's orders finding service reduction against owners that refused to furnish two keys without charge, reducing the tenant's rent, directing those owner to provide at

least two non-duplicable keys; and this office has recommend prosecution of owners who failed to timely comply with the Rent Administrator's directives to provide such required service.

The number of additional keys provided upon executing a vacancy lease establishes required services binding the owner. The additional keys the owner must provide is determined on a case by case basis, involving consideration of the vacancy lease required service, the legal, marital or family relationship of occupants, the ages of minor children, and notice given to the owner of unrelated legal occupants. Any deposit the owner may be permitted to collect for additional or replacement keys may not substantially exceed the costs the owner incurs to provide or replace the keys.

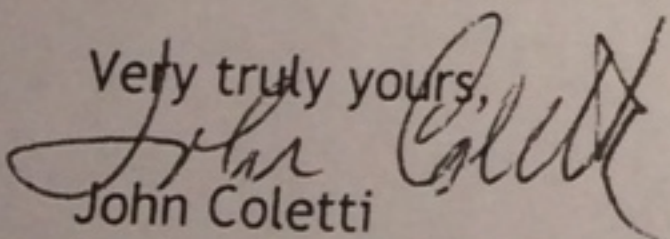
As noted above, the November 24, 2015 Stipulation of Settlement that resolved the Housing Court proceedings required payment by tenant of security deposits for the non-duplicable entrance door keys. The belated release to the tenant of two building entrance door security keys appears to have resolved the required services aspect of the parties' dispute. This office advised the tenant of her right to file an overcharge complaint to allow the Rent Administrator to adjudicate whether the tenant is entitled to relief for the security deposit fees the owner collected in violation of the Rent Laws, albeit under color of law of the Housing Court proceedings.

The tenant complained that the owner periodically delayed for months depositing the tenant's timely rent payments, and refused her request for receipts for monthly rent payments. The owner denied that the accusations indicated harassment, and asserted that the owner neither claimed arrears, nor threatened the tenant about non-payment, nor commenced Court action against the tenant. Under Section 2525.2(b) of the Rent Stabilization Code the owner is require to provide the tenant a written receipt for paid rent where a tenant, in writing, requests a receipt; a notation by the tenant on the "comments" space of the tenant's personal check has been deemed to suffice as a written request.

Agency records disclose an open and pending individual apartment services case docket under DW410206S, and an open and pending building services case docket under DV410019B. If not already done so, the tenant can supplement the pending individual apartment services complaints case docket to include that the owner refuses to provide rent receipts; or the tenant can file a new individual apartment services complaint. Given the above-cited case dockets remain open and pending services complaints, enforcement action at this time of would be premature and duplicative. The owner must comply with directives in a Rent Administrator's rent reduction orders, if any, that may issue. Failure to comply with the Rent Administrator's directives can provide the grounds to prosecute an owner.

The Rent Stabilization Law and Code do not refer to complaints of slander. Agency staff lacks expertise and means to investigate and process on the tenant's claim; and the Agency's practices and procedures are not designed to adjudicate such claims. Nor can the Enforcement/Compliance Unit be the tenant's advocate for claims of slander, mail tampering, or other matters beyond the scope of the Rent Laws. The tenant accusations of slander should be raised in a court of competent jurisdiction, wherein the tenant has the burden of proving both the charges, as well as damages.

Very truly yours,


John Coletti
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