

George E. Pataki
Governor



Joseph B. Lynch
Commissioner

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

December 19, 2000

Your letter of October 23 to Assistant Commissioner Seavey has been referred to the undersigned for reply. Please note for the future that requests for opinion letters should be addressed to Charles Goldstein, Esq., Associate Counsel.

Your inquiry, which you state is in reference to _____ is as follows:

All six of the apartments in this building are permanently exempt from rent registration (mainly because of high-rent vacancy decontrol). There are no longer any regulated apartments in this building. How can I deregulate the building itself? How can I stop filing Annual Rent Registrations?

From the context of your question as to "how to deregulate" the building, it appears you are asking about registration requirements rather than the statutory criteria for exemption. Once an apartment becomes permanently exempt from rent stabilization, it no longer falls under the jurisdiction of the Rent Stabilization Law (the law which contains registration requirements). In order that DHCR may have an accurate database, we encourage owners to file a final "exit" registration for the apartment, indicating the permanently exempt status. The maintenance by DHCR of an accurate database benefits both owners and tenants by making information available in case of any inquiry about an apartment's status.

Similarly, for a year in which there is no longer any stabilized apartment because all of the apartments in the building have become permanently exempt, a building registration

summary is not required by law, but the filing of an exit building registration (accompanying the exit registration[s] for the last apartment[s] which were stabilized) is encouraged. No further building registrations would be necessary.

A brief check of DHCR's computerized registration records for the building you referenced shows that, for various years, there were apartments registered as "owner- or employee-occupied" and "commercial/professional." For your guidance, it is noted that, as stated on DHCR's registration forms and in registration instructions, owner or employee occupancy constitutes a temporary exemption, lasting only so long as such occupancy lasts, and commercial or professional occupancy constitutes a temporary exemption unless such commercial or professional use is reflected on the certificate of occupancy (also, the tenant must not reside in the apartment for a permanent exemption to apply).

Should any apartment in the subject building now be temporarily exempt, annual apartment and building registrations are required.

We trust that we have fully answered your inquiry,

Please be advised that this opinion letter is not a substitute for a formal agency order issued upon prior notice to all parties, such parties having been afforded an opportunity to be heard.

Very truly yours,

Charles Goldstein
Associate Counsel


by: Erik Strangeways
Senior Attorney

CG:ES

cc: Deputy Commissioner Roldan
(COL-1002)