

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

May 23, 2000

This is in response to your letter of March 18. You state that you are the sole member of a limited liability company (LLC), and that said LLC owns a rent regulated building, where five of twelve units are currently being renovated. You also state that the lease of one apartment, which is not being renovated, is set to expire on September 9, 2000. Therefore, you inquire whether you may refuse to renew the lease of the tenant residing in said apartment, based on owner occupancy (your own personal use), in view of the fact that the LLC is the owner of record.

An owner may withhold renewal of a tenant's lease, where such owner in good faith seeks occupancy for his or her own personal use and/or the use of his or her immediate family, only where such owner is a natural person, not a corporation or partnership. As provided in Rent Stabilization Code (RSC) Sec. 2524.4(a)(3), only one individual owner of a building is entitled to recover possession for personal use and occupancy. As the owner of record is the LLC, recovery for personal use and occupancy would not be permitted.

You next inquire whether you must give the current tenant of the apartment you wish to occupy a rent stabilized lease in one of the apartments being renovated. Consistent with the above discussion, such tenant would be entitled to a renewal lease pursuant to the provisions of RSC Sec. 2523.5 for the apartment in which he or she currently resides.

We trust that we have fully responded to 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 and with all parties having been afforded an opportunity to be heard.

Very truly yours,

Charles Goldstein
Associate Counsel

By: 
John D. Lance
Senior Attorney

CG:JDL

cc: Deputy Commissioner Roldan
(COL-893)