

DISTRICT OF COLUMBIA  
RENTAL HOUSING COMMISSION

SMITH PROPERTY HOLDINGS VAN NESS, L.P., )  
2 North Riverside Plaza, Suite 400 )  
Chicago, IL 60606 )

Appellant/Housing Provider, )

v. )

GABRIEL FINEMAN, )

Appellee/Tenant. )

Case No. 2016 DHCD TP 30,842  
In re: 3003 Van Ness Street, NW Apt. W-1131

**NOTICE OF APPEAL**

Smith Property Holdings Van Ness, L.P. (“Smith”) hereby appeals the Final Order issued on October 2, 2018 by the Office of Administrative Hearings (“OAH”), Administrative Law Judge Ann C. Yahner presiding, and asserts the following:

1. The Final Order relied on the Rental Housing Commission’s Decision and Order, dated January 18, 2018, and Order Denying Reconsideration, dated March 13, 2018 (hereinafter, “Interlocutory Orders”).

2. The Final Order held that this action is moot because there is no live case or controversy and declined to award Fineman any type of relief. If, as a result, Smith is found not to be an aggrieved party and therefore an appeal cannot proceed, the Interlocutory Orders should be vacated because they would be non-reviewable orders.

3. The Final Order found that the OAH lacked subject matter jurisdiction as of December 8, 2016 when Mr. Fineman moved out of the apartment unit at issue. This uncontested fact establishes that the Rental Housing Commission likewise lacked jurisdiction when it issued the Interlocutory Orders in January and March 2018.

4. The Interlocutory Orders wrongly found that a maximum legal rent which is

greater than the amount actually paid by the tenant cannot exist under the Rental Housing Act of 1985, as amended by the Rent Control Amendment Act of 2006 (collectively, the "Act").

5. The Interlocutory Orders wrongly found that the Act requires the calculation of increases based on the amount the tenant pays rather than based on the maximum legal rent.

6. The Interlocutory Orders wrongly found that the Commission was permitted to interpret alleged statutory ambiguities.

WHEREFORE, Smith prays that the Rental Housing Commission's Interlocutory Orders should be vacated in their entirety because the Final Order dismissed this action as moot, or in the alternative, if not vacated, the Interlocutory Orders should be reversed.

Dated: October 18, 2018

Respectfully submitted,

BAKER & HOSTETLER LLP



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*Attorney for SMITH PROPERTY HOLDINGS  
VANNESS, L.P.*

**CERTIFICATE OF SERVICE**

I, CAREY S. BUSEN, certify that on the 18th of October 2018, the foregoing *Notice of Appeal* was filed via hand delivery at:

Rental Housing Commission  
441 4th Street NW  
Suite 1 MOB North  
Washington, DC 20001

In addition, a copy was served via electronic mail on the following:

Gabriel Fineman  
gabe@gfmeman.com

  
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CAREY S. BUSEN (DC Bar No. 982217)