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Property Owner Sues Court System Over Growing Delays in NYC Landlord-Tenant Proceedings

The plaintiffs argue that housing courts routinely violate provisions of the state’s real property laws that allow for summary proceedings in eviction matters which were originally designed “as the affordable and expeditious alternative to actions in equity seeking ejectment” but which “have been transformed into an inefficient system tilted decidedly against the protection of landowner’s rights to their property.”

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Landlord Tenant Law



Andrew Denney



Any discussion as of late around the function of New York City’s Housing Courts tends to be in the context of tenants’ experience there—such as ensuring that they have guaranteed counsel, as per city law, as eviction proceedings have been on the rise.

But what about the landlords?

In a lawsuit filed on behalf of LLCs falling under the umbrella of the LeFrak Organization—each named for buildings in the company’s sprawling LeFrak City development in Queens—against the New York court system, attorneys argue that housing courts routinely violate provisions of the state’s real property laws that allow for summary proceedings in eviction matters which were originally designed “as the affordable and expeditious alternative to actions in equity seeking ejectment” but which “have been transformed into an inefficient system tilted decidedly against the protection of landowner’s rights to their property.”

According to the lawsuit, an Article 78 motion filed by attorneys from Kucker Marino Winiarsky & Bittens in Queens Supreme Court, housing court cases are required under state law to be calendared within between three and eight days after a tenant answers the petition but are instead left off the calendar for months.

The cases are further delayed by administrative adjournments, according to the lawsuit, and the courts are thus running afoul of provisions adopted decades ago into state housing law to replace common-law ejection proceedings with summary practice—which plaintiffs’ attorneys say has led eviction proceedings to drag along for a year or more, usurping profits and ultimately the property rights of landlords on the other side of the V.

“While practitioners before the Housing Court may wax nostalgic about a long-gone era in which summary proceedings trended towards and not away from efficiency, they have been collectively mired in interminable and inexplicable delays in seeking the vindication of their clients’ rights to their respective property for so long that it has surreally become ‘normal,’” the lawsuit reads.

The allegations continue: “Landlords have been forced to merely accept the game as rigged and trudge along the nightmarish procedure of Housing Court in the hopes that one day, far in the future, they will be able to retake and make their property economically viable once more.”

When asked to comment on the suit, a court system spokesperson said officials “ have received the complaint and are reviewing it.”

Kucker Marino partner Nativ Winiarsky, one of the attorneys representing the LeFrak Organization’s LLCs in the suit, said in an interview with the Law Journal that delays have been exacerbated since the beginning of the pandemic, during which evictions were paused by a state and federal moratoriums. Since then, he said, cases that may have been resolved in six to eight months have dragged on to well over a year.

But since New York’s eviction moratorium was lifted in January 2022, the city’s housing courts have buckled under surging caseloads—so much so that the legal service providers that provides attorneys for New York City renters as part of the city’s right-to-counsel law for tenants in eviction proceedings have, at times, had to turn away cases.

Edward Josephson, the supervising attorney with the Legal Aid Society’s [Civil Law Reform Unit](#), one of the city’s right-to-counsel providers for tenants, and who reviewed the lawsuit, said that, “on a practical level,” the lawsuit makes unreasonable demands of a resource-strapped housing court system that would require a large infusion of court staff to handle.

“We need a whole extra army of judges to adjudicate those cases,” Josephson said. “So it doesn’t even make any sense.”

Josephson also said there’s a solid body of New York case law that protects judges’ authority to control their own court calendars—thus, he said, he doesn’t envision success for the plaintiffs’ Article 78 challenge.

Winiarsky said that long delays in housing court cases, as highlighted in the plaintiffs’ suit, are bad for landlords and tenants alike, as they may cause the rental arrears to grow to untenable levels for tenants who are behind on their rent.

Winiarsky said that he has been in contact with other landlords’ attorneys who said they are interested in filing similar actions in courts for other New York City boroughs.

“I don’t necessarily view this as a ‘landlord’s’ action. I view this as an action that’s being commenced for purposes of correcting housing court, such that it could serve, ultimately, the interest of both landlords and tenants,” Winiarsky said.

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