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Rent-Stabilized Apartment in Co-op Building Under J-51 Subject to High-Income Deregulation

May 20, 2015

LVT Number: #26164

(Decision submitted by David B. Cabrera, Esq. of the law firm of Borah, Goldstein, Altschuler, Nahins & Goidel, P.C., attorneys for the landlord.)

Landlord owned a cooperative apartment that was occupied by a rent-stabilized tenant. In 2010, landlord applied for high-rent/high-income deregulation of tenant's apartment. The DRA ruled against landlord because the building was receiving J-51 tax benefits at the time the application was filed. Luxury deregulation therefore didn't apply. Landlord appealed, and the case was reopened. The DHCR agreed with landlord that the J-51 exception to luxury deregulation didn't apply to co-op buildings. The building had been converted to co-op ownership in 1987, before J-51 benefits were first received. The applicable laws and regulations provide that buildings that are owned and operated as a cooperative at the time J-51 tax benefits are received do not become subject to rent stabilization by virtue of receiving those J-51 benefits. Therefore, tenant's apartment is subject to rent stabilization solely due to its rent-stabilized status prior to the receipt of the J-51 tax benefits and is eligible for high-income rent deregulation. There also is no provision in the Rent Stabilization Law or General Business Law exempting apartments occupied by nonpurchasing tenants in a noneviction cooperative conversion plan from high-income rent deregulation. Ram I LLC: DHCR Adm. Rev. Docket No. BV410035RO (3/9/15) [8-pg. doc.]