



## **ALERT: The Continued Impact of the *Regina Metropolitan* Decision**

**September 19, 2022**

The landmark Court of Appeals determination in *Matter of Regina Metropolitan Co., LLC v. New York State Division of Housing and Community Renewal*, 35 N.Y.3d 332 (2020) held that the rent overcharge provisions of the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”) could not be applied retroactively. In ruling in favor of the owner, the Court of Appeals affirmed the Appellate Division of the Supreme Court for the First Judicial Department’s decision in the matter.

As you may be aware, Niles C. Welikson, Esq. of this firm successfully argued the case for the owner before both courts. The briefs submitted to the Court of Appeals and Appellate Division were prepared with the assistance of Randi B. Gilbert, Esq. and Jillian N. Bittner, Esq., partners of the administrative law department of this firm.

We recently received inquiries from several clients based upon a claim by another law firm that they argued *Regina*. To be clear, that claim is simply not true. When the Court of Appeals agreed to hear the *Regina* appeal, it also decided to hear several cases with similar issues. The lead case, and first to be argued, was *Regina*.

Notably, after *Regina* was decided by the Appellate Division, that Court issued a separate decision in *Raden v. W 7879, LLC* (164 A.D.3d 440) stating, in part, “As we have explained in *Matter of Regina Metropolitan Co., LLC v. New York State Div. of Hous. and Community Renewal* [citation omitted]” the [pre-HSTPA] law bars examination of an apartment’s rental history beyond the four-year limitations period with the sole exception being where there is evidence of fraud in order to avoid the regulatory scheme. *Raden*, as well as the other cases that were separately argued before the Court of Appeals, are each distinct from *Regina*.

We are extremely proud of the fact that as of this date the *Regina* decision has been cited well over a hundred times in court and DHCR decisions, as well as in briefs and other filings. It continues to be a valuable source for attorneys arguing against any retroactive application of the HSTPA. We believe it will also be a relevant tool to utilize if and when the recent proposed amendments to the Rent Stabilization Code are enacted in whole or in part.