



Legal Alert: Supreme Court Orders Remand of 2017 LD Petition for Processing

April 17, 2023

With the enactment of the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”), the New York State Division of Housing and Community Renewal (“DHCR”) unilaterally elected to clear its docket of luxury deregulation (high rent/high income) proceedings. All timely filed luxury deregulation petitions filed by landlord, regardless of the filing period, were terminated by DHCR orders that instructed that because the HSTPA repealed the provisions which provided for the issuance of order authorizing high rent/high income deregulation, the proceeding by the owner for such an order is dismissed.

On April 11, 2023, Hon. Arlene Bluth of the Supreme Court, New York County issued a Decision & Order in favor of petitioner-owner (represented by Jillian N. Bittner, Esq., partner of this firm), which held DHCR’s decision to wait years to process timely filed luxury deregulation petitions, namely a 2017 petition, only to then claim that a law passed during the intervening time period that precludes any such determination is not sufficient to deny processing and is not rational. The Court wrote, “...it was respondent’s failure to meet clear deadlines that kept this application pending beyond June 14, 2019.” DHCR set forth no basis as to why it wholly failed to adhere to the statutory processing timeline mandated by former Rent Stabilization Law Section 26-504.3, a point that we made unequivocally clear and which required an order to issue well before the enactment of the HSTPA. Premised upon the foregoing, the Supreme Court granted petitioner’s Article 78, and remanded the LD petition to DHCR for processing on the merits.