

**Legal Alert: Leave to Appeal to the NYS Court of Appeals Granted on Significant
Luxury Deregulation Issues**

September 26, 2023

The NYS Court of Appeals has just granted Horing Welikson Rosen & Digrugilliers PC's motions for leave to appeal from the orders of the Appellate Division, First Department, which affirmed the Supreme Court, NY County's denial of several Article 78 proceedings against the New York State Division of Housing and Community Renewal ("DHCR"). The underlying Article 78 petitions correctly sought to annul DHCR's issuance of purported "Explanatory Addenda to Order" which operated to nullify previously issued, final and binding, deregulation orders based upon high rent/high income. These Addenda erroneously retroactively applied Part D of the Housing Stability and Tenant Protection Act of 2019 ("the HSTPA") to vitiate luxury deregulation orders, months after they had become final and binding, and were no longer subject to appeal or any other challenge by any party. This is extremely significant as DHCR issued hundreds, if not thousands, of such Addenda.

It was and remains our position that the decision to nullify final binding orders is not supported by law, namely former Rent Stabilization Law §§ 26-504.1 and 26-504.3, which were in effect at the time the affected owners obtained the luxury deregulation orders at issue.

Members of the firm Jillian N. Bittner, Esq. and Randi B. Gilbert, Esq. have represented the owners since the inception of the proceedings.