



NEW YORK STATE SENATOR

Brad Hoylman-Sigal

## State Senator Brad Hoylman and Assemblymember Linda B. Rosenthal File Amicus Curiae Brief with the New York State Court of Appeals in In re Santiago-Monteverde

BRAD HOYLMAN September 3, 2014

| ISSUE: **HOUSING**

New York, NY – State Senator Brad Hoylman (D/WFP - Manhattan) and Assemblymember Linda B. Rosenthal (D/WFP - Manhattan) today filed an **amicus curiae brief** with the New York State Court of Appeals in the case In re Santiago-Monteverde, which will determine whether bankruptcy trustees are permitted to sell a tenant/debtor's rent-regulated lease to the landlord to satisfy the tenant/debtor's creditors. The brief, which was signed by 16 of their colleagues in the State Legislature, was filed August 29 with the Court of Appeals and seeks to clarify the legislative intent by arguing that this course of action is prohibited by both New York's rent and bankruptcy laws.

"Tenants everywhere should be concerned about this case. If the trial court decision stands, unscrupulous landlords will have a new tool at their disposal to go after tenants and force them from their homes," said State Senator Brad Hoylman, who represents the Appellant in the case, East Village tenant Mary Veronica Santiago-Monteverde. "The future of our rent regulation laws hangs on the outcome of this matter, so I'm extremely grateful to Latham & Watkins for their pro bono support."

“Plain and simple, the lower courts got it wrong,” said Assemblymember Linda B. Rosenthal. “Filing for bankruptcy won’t land you in debtor’s prison anymore, but according to the lower courts, if you’re a rent-regulated tenant, it could leave you homeless; not only is that unfair, it’s contrary to the Legislature’s intent.”

The case involves Mary Veronica Santiago-Monteverde, a 79-year-old widow who sought the protection of Chapter 7 bankruptcy after the death of her husband left her with thousands of dollars in unpaid medical bills. Santiago-Monteverde is also a rent-stabilized tenant who has lived in her Lower East Side apartment since the early 70s. Following her bankruptcy filing, the trustee allowed her landlord to buy her rent-stabilized unit to maximize her assets which would be used to satisfy her creditors. Santiago-Monteverde, fearing homelessness, contacted an attorney. Her case will be heard by the New York State Court of Appeals in the fall; federal courts have ruled against her.

The Emergency Tenant Protection Act (ETPA) was enacted to protect consumers against a housing market that was in a state of emergency, with skyrocketing rents and very little available stock. The ETPA will remain in effect so long as New York remains in a state of housing emergency, which occurs when the vacancy rate dips below 5%. New York’s vacancy rate in 2013 was 1.7%. In enacting the ETPA, the Legislature never countenanced or intended that a rent-regulated lease could or would be monetized, which is precisely the result of the bankruptcy trustee’s liquidation of the rent-regulated lease.

“Under no circumstances did the Legislature intend to create a situation in which rent-regulated tenants in this State would be forced to choose between availing themselves of the legal protections afforded by bankruptcy and homelessness,” continued Assemblymember Linda B. Rosenthal. “What’s more, allowing this practice to continue will undermine the very system we created to provide affordable housing working-class New Yorkers and their families.”

Senator Hoylman added, “The Courts should not subvert our rent laws by forcing a tenant to sell her lease – something that is explicitly illegal in any other context. To do otherwise would set a dangerous precedent that could gut affordable housing protections in New York.”

If the New York State Court of Appeals rules against Santiago-Monteverde, it could not only mean spell homelessness for a senior widow; it would also erode the rent regulation system. New York City has lost hundreds of thousands of units of affordable housing to vacancy decontrol and illegal deregulations. A rubber stamp on this practice could provide landlords with another legal means, albeit one never intended by the rent laws, to deregulate units.

To further clarify the Legislature’s intent, Assemblymember Linda B. Rosenthal introduced legislation, bill A.10186. The bill clarifies that an exemption, like the homeowner’s exemption, implicitly exists and would prevent trustees from selling rent-regulated leases in bankruptcy. “Unfortunately, overzealous trustees are flagrantly disregarding the law, both bankruptcy and rent laws, in their crusade to maximize assets, and I was forced to introduce this legislation to make clear that the Legislature in creating rent regulation, never intended for this action to be legal,” said Assemblymember Rosenthal.

Senator Brad Hoylman represents the 27th Senate district, which includes Clinton/Hell’s Kitchen, Chelsea, Greenwich Village, the Upper West Side, Midtown/East Midtown, Columbus Circle, Times Square, Stuyvesant Town-Peter Cooper Village, the East Village and Lower East Side.

Assemblymember Linda B. Rosenthal represents the 67th Assembly district, which includes the Upper West Side and parts of the Clinton/ Hell’s Kitchen neighborhoods in Manhattan.

List of Officials who have signed onto the brief:

New York State Senators:

Senator Brad Hoylman

Senator Tony Avella

Senator Adriano Espaillat

Senator Liz Krueger

Senator George Latimer

Senator Bill Perkins

Senator Gustavo Rivera

Senator Daniel Squadron

New York State Assemblymembers:

Assemblymember Linda B. Rosenthal

Assemblymember Michael Benedetto

Assemblymember James F. Brennan

Assemblymember Karim Camara

Assemblymember Jeffrey Dinowitz

Assemblymember Herman D. Farrell, Jr.

Assemblymember Deborah Glick

Assemblymember Richard Gottfried

Assemblymember Walter Mosley

Assemblymember Keith Wright

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