

THE REAL DEAL

MAY 21, 2013

Housing court rules to evict National Arts Club prez from Gramercy Park digs

By Hiten Samtani



From left: Aldon James, the club at 15 Gramercy Park South and Bradley Silverbush

A city housing court judge ruled last week in favor of the National Arts Club in its move to evict former president O. Aldon James, his twin brother John James and former club member Steven Leitner from their apartments at the storied organization's 15 Gramercy Park South headquarters.

The tenants have until July 31 to vacate the premises.

They intend to appeal the ruling, however, their attorney Samuel Himmelstein, a partner at Himmelstein, McConnell, Gribben, Donoghue & Joseph, told The Real Deal.

"We strongly disagree with the decision," Himmelstein said.

The tenants' leases at the landmarked Gramercy Park property expired in January 2012; this past January, the club began legal actions in housing court to evict them from the premises, Bradley Silverbush, a partner at Rosenberg & Estis who represented the club, told The Real Deal.

The tenants' had been paying roughly \$900 per month for the apartments, while the units' market value was closer to \$5,000, Silverbush said.

"They're not even living there. They're using these apartments as storage," he said.

Aside from the housing court action, the members-only artists club is engaged in a bitter feud with the brothers over allegations of abuse of power and improper use of the club's funds.

The tenants had asked the housing court to stay its ruling on the eviction pending a decision on a petition they made to the city's Office of Rent Administration concerning whether the apartments should be rent-stabilized. In the March petition, they argued that since the club had terminated its prior educational efforts with schools and outreach programs, it should no longer be considered a nonprofit and, therefore, would have to abide by rent stabilization rules.

But Justice Sheldon Halprin, of the Civil Court of the City of New York, granted the club's motion for summary judgment.

"Simply put, no grounds for a stay were presented, and petitioner's prima facie showing of entitlement to possession was not rebutted," he wrote in a May 16 decision.

Indeed, Rent Administrator Christopher Ducie ruled on May 15 that the tenants had failed to prove that the club was not a nonprofit. Hence, the apartments were not eligible for rent stabilization, and Ducie denied the tenants' request for relief.

"I think these people have an emotional problem with relinquishing these units," Silverbush said of the three tenants. "It's a vicious vindictiveness — they don't have any need to do this."

The appeal, Himmelstein said, will stress that the eviction constituted retaliation against the tenants — a move banned by an anti-retaliatory clause in property law.

"[The judge] should have denied the motion for summary judgment because there were factual disputes that should have been resolved at a trial," Himmelstein said.

Aldon James, who served as president of the club for 25 years, was replaced in March 2011 by Dianne Bernhard, amidst allegations that he improperly used the nonprofit's money and real estate. Bernhard was not immediately available for comment.

In February 2012, the NAC board voted to expel the James brothers and Leitner for conduct that violated the rules and policies of the club. As part of the expulsion, the board moved to evict them from the premises.

The New York Attorney General filed a complaint in September 2012, alleging that James' misuse lost the club approximately \$1.5 million in potential rental income over the years.

In December of the same year, the tenants filed a petition in New York State Supreme Court seeking to block the expulsion decision, as *The Real Deal* reported.

The James brothers and Leitner had also attempted to pursue a negotiated settlement with the club, but had been "rebuffed" by its lawyers, "who haven't been co-operating," Himmelstein added.

Though the defendants hadn't been using their apartments as their primary residences since the abuse of power allegations first surfaced in 2011, Himmelstein said it was because "the club made it so impossible for them to be there."