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FOR IMMEDIATE RELEASE:

ROSENBERG & ESTIS, P.C. SUCCESSFULLY DEFEATS MOTION FOR NON-PURCHASING TENANT STATUS IN CLASS ACTION AGAINST MANHATTAN COOP / CONDO OWNERS

Rosenberg & Estis, P.C., a premier New York City real estate law firm with an award-winning Litigation Department, prevailed at the Appellate Division, First Department, over a group of plaintiffs seeking rights afforded to non-purchasing tenants in an “eviction plan” in a class action against the owners of several Manhattan residential buildings that were converted to cooperatives or condominiums pursuant to “non-eviction” plans.

Notwithstanding the clear statutory distinction between the rights of such tenants in eviction and non-eviction plans, Plaintiffs asked that the Court hold that eligible senior citizens and disabled persons are afforded the same rights under either conversion scheme.

The plaintiffs sought to obtain never-before-granted non-purchasing tenant status in connection with the conversion of the subject buildings, under non-eviction plans, claiming that they were “eligible senior citizens” or “eligible disabled persons” entitled to greater rights than other tenants under the General Business Law (“GBL”).

The Appellate Division’s decision, issued on January 8, 2019, rejected this argument and affirmed the ruling of the Supreme Court, New York County (Saliann Scarpulla, J.). The Appellate Division, adopting R&E’s arguments in full, held that pursuant to the GBL’s plain language, “eligible senior citizens” and “eligible disabled persons” only have greater rights in the context of eviction plans under GBL § 352-eeee(2)(d). The offering plans for the conversions at issue, however, were indisputably non-eviction plans under GBL § 352-eeee(2)(c). The plaintiffs also pointed to regulations issued by the New York State Department of Law that they claimed supported their position, but the court held that the regulations were prospective only and did not apply during the relevant time period. Accordingly, the court held that the plaintiffs were not entitled to “eligible senior citizen” or “eligible disabled person” status in connection with the conversions.

The Appellate Division further held that the plaintiffs lacked standing to commence an action in the first instance, since it was undisputed that no plaintiff ever resided in any of the owners’ buildings or had any dealings with the owners concerning any cooperative or condominium conversion.

R&E members Deborah E. Riegel and Alexander Lycoyannis and associate Cori A. Rosen represented the owners.

“The Appellate Division’s decision is an important win not only for our clients but for the New York real estate industry more generally,” said Riegel. “An adverse ruling would have substantially affected the success, not only of these conversions, in particular, but the underwriting and business plans for many other existing conversion projects. The ruling reaffirms that owners and developers can rely on clear, unambiguous statutory language in making investment and development decisions. Anything less would undermine the rule of law and serve as a deterrent to future cooperative and condominium conversions.”

About Rosenberg & Estis, P.C.

Founded in 1975, Rosenberg & Estis, P.C. is widely recognized as one of New York City’s pre-eminent real estate law firms. Rosenberg & Estis, P.C. provides full service representation and advice in every aspect of real estate, from performing due diligence and evaluating financing, to handling joint ventures, acquisitions and leasing, construction and design team agreements, land use and zoning matters, co-op and condo offering plan filings, as well as the litigations and negotiations which sometimes ensue when deal making. Rosenberg & Estis’ wealth of experience in New York real estate makes it the ideal thought partner for owners, developers, not-for-profit corporations, educational institutions, sponsors, equity investors and lenders in both real estate transactions and in all court venues.

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