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# New York State of Appeals Affirms Appellate Division Ruling Favoring Rosenberg & Estis, P.C. Client 12 Broadway Realty

*DHCR Must Process Owner's MCI Rent Increase Application with No Conditions*

The **New York State Court of Appeals** has ruled in favor of **Rosenberg & Estis, P.C.**, affirming an Appellate Division ruling that 12 Broadway Realty LLC's application for a major capital improvement rent increase must be processed by the DHCR with no conditions.

The case stems from a 1995 MCI increase that was originally categorized as resurfacing exterior walls with a useful life of 25 years. This description was later modified by the DHCR to waterproofing with a useful life of 15 years. When the owner sought a MCI increase in 2007, the DHCR rejected it, saying that the useful life has not expired.

Rosenberg & Estis, P.C. requested a reconsideration of the denied MCI claim stating that there were numerous irregularities in the order. The building's tenants objected to the reconsideration

stating the owner had not substantiated any irregularities with the previous orders so the owner's request for reconsideration should be denied.

The Deputy Commissioner in 2013 partially granted the owner's PAR and denied the tenant's PAR in its entirety. Both parties then commenced CPLR article 78 hearings. The DHCR subsequently sought to remit the matter to itself so it could properly deal with the discrepancy between its 1995 and 1998 orders.

The New York State Supreme Court granted DHCR's motion to remit, and imposed conditions on the application that would have prevented the owner from receiving a fair rent increase. Both owners and tenants appealed, and the Appellate Division ruled three-to-two in favor of 12 Broadway Realty.

The case then moved to the Court of Appeals, which found that the Appellate Division did not err in permitting the DHCR to address 12 Broadway Realty's application for a MCI rent increase for resurfacing work.

"This case is an example of the persistence that is so often needed to ensure that owners' rights are protected," said Jeffrey Turkel, member of Rosenberg & Estis, P.C.

## *About Rosenberg & Estis*

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. represents clients in all aspects of real estate development, transactions, financing, litigation, rent regulation and governmental affairs.