

Rosenberg & Estis, P.C. Secures Victory in Epic, 11-Action Case That Ends In Eviction

Rosenberg & Estis, P.C., a leading New York City real estate law firm, has secured victory on behalf of 12-14 East 64th Street after a legal battle with a litigious shareholder that entailed 11 different actions. What began as an effort to force the shareholder to pay her maintenance ended in the shareholder's eviction.

Rosenberg & Estis Member Bradley Silverbush presented the case with the assistance of Associate Nithin Jayadeva before Justice Lynn R. Kotler of the New York State Supreme Court in New York County. Justice Kotler ruled that the co-op was justified in withholding \$684,724.14 in maintenance and attorneys' fees from proceeds on the sale of the shareholder's apartment.

"This seemingly endless series of cases demonstrates that property owners and co-operative boards can protect their rights through vigorous legal representation," said **Silverbush**. "In this case, the shareholder used every possible legal angle to slow the legal process and attack the co-op, but in the end the co-op successfully evicted the shareholder and was compensated for all of their legal fees."

The shareholder, Verina Hixon, had a history of filing suits against the co-op and other entities. In 2006, following Hixon's failure to pay maintenance, 12-14 East 64th Street commenced a summary non-payment in Housing Court. After years of delays and appeals, 12-14 East 64th Street brought Rosenberg & Estis into the case. Silverbush successfully defended various legal actions brought by Hixon against the co-op and secured an eviction.

After Hixon was evicted, the co-op held a public auction to sell her unit, and transferred the shares to the new purchaser. Hixon then sued the coop and two board members, alleging that the sale of the property was improperly handled. She also sued for damages to her personal property, and alleged that the legal fees and maintenance deducted from the proceeds of the sale were unreasonable. Her main argument was to challenge the fees on the basis that they were more than the maintenance she owed.

Justice Kotler granted Rosenberg & Estis summary judgment, dismissing all of the claims with the exception of the determination of the fees, pending review of the invoices. After reviewing the invoices, the judge made a final determination, holding that all of the fees deducted were reasonable.

Among the cases during the saga:

- Successful prosecution of a case based upon Hixon's default in maintenance payment;
- Successful defense of two Housing Part cases commenced by Hixon;
- Successful defeat of four small claims cases commenced by Hixon;
- Successful defense of a bogus claim of discrimination, resulting in the dismissal of Hixon's claim;
- Successful dismissal of Hixon's bankruptcy petition, which she commenced to try to maintain possession of the premises;
- Two successful decisions in Hixon's supreme court action.

Hixon also had an appeal from a prior case that she lost at the Appellate Division, and a motion for leave to appeal to the Court of Appeals that was rejected.

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.