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As many of you know, this past April the Appellate Division decided a case that changed the 18 year old analysis of when an apartment became luxury deregulated on vacancy. In Altman v 285 W. Fourth, LLC, the $2,000 threshold in effect in 2005 was pierced upon vacancy by the 20% vacancy allowance. The next tenant did not dispute the unregulated status of the apartment for many years. Ultimately, the tenant raised the claim, but the lower court ruled for the owner. The lower court held that the deregulation was properly based upon the rent charged to the new tenant **after** vacancy, not the rent prior to vacancy. Of course, that has been the accepted methodology since June, 1997.

In April, 2015, the Appellate Division, First Department, reversed that ruling, holding for the first time that high-rent deregulation can only occur when the rent of the tenant immediately **prior** to vacancy exceeded the deregulation threshold. Therefore, in Altman, the Appellate Division ruled that the rent of the tenant who vacated the apartment must have exceeded the deregulation threshold in order for the next tenant in occupancy to be deregulated.

The owner made a motion seeking to have the Appellate Division re-consider its ruling and/or grant permission to go to the Court of Appeals. That motion was **denied** yesterday.

We expect that this decision will have a substantial impact on the regulated status of numerous luxury deregulated apartments and thus on the valuation of buildings, the risk inherent in any purchase and the liability to both present and past tenants. Until the case can be appealed to the Court of Appeals, probably not until the lower court determines the amount of rent overcharge and possibly after the case again makes it through the appellate process, if at all, we can expect to see numerous claims of rent stabilization status. We are here to help you in navigating the interpretation of this decision and determining how best to address your particular situation.