

David A. Paterson
Governor



Deborah VanAmerongen
Commissioner

New York State Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza
92-31 Union Hall Street
Jamaica, NY 11433

September 29, 2009

Your letter dated July 10, 2009 to Deputy Counsel Michael Rosenblatt was directed to my office for a reply.

In your letter concerning the topic of building demolition, you made reference to an opinion letter previously issued by our office on June 13, 2006 (see attached).

Although there are some other minor differences in wording between your 2006 request and this request, the differences between the two situations are adequately described by reciting the final paragraph on page 1 of your July 10th letter, viz.:

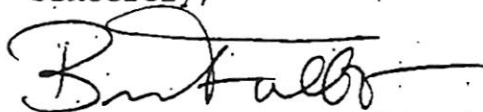
"Due to the present financial condition of New York City (including, but not limited to the constraints that have been placed upon construction and development) coupled with the global economic recession, the owner does not deem it prudent to construct a new building at this time, or in the foreseeable future."

You also assert that,
"in this instance, the entire scope of the undertaking is the demolition of the building" and that "a new edifice is not being built; therefore, no approved plans are needed."

As stated in our previous letter, what is necessary to be evaluated where demolition is contemplated is a completed undertaking. Such undertaking must include plans for a building, even non-residential, that have been approved by the appropriate city agency. Clearly, permitting rent regulated tenant to be evicted at a point in time where the owner has not even formulated plans for the site, even if such plans ultimately result in a non-residential replacement building, would be inconsistent with the purpose and intent of the rent laws.

We trust we have fully answered your inquiry. Please note that this opinion letter is not a substitute for an adjudicatory proceeding, in which all parties are given notice and an opportunity to be heard.

Sincerely,



Bruce Falbo
Bureau Chief
Rent Information Bureau

BF/lc
Log #COL-2565
Attachment