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Commissioner

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

June 21, 2006

UD410019HL
UD410033HL
190 E. 3rd St.,
New York, NY 10009

Highpoint Associates X, LLC
Keypoint Properties
15165 Ventura Blvd., Suite 140
Sherman Oaks, CA 91403-3390

Re: Enforcement Case Nos.: UD410019-HL, UD410033-HL

Dear Parties:

This letter is being sent to summarize the conference held June 20, 2006 regarding the above referenced complaints of harassment. The conference was attended by complaining tenants UD410033HL and UD410019HL, various members of the Shalom Tenants Alliance, owner's attorney Candace Begley, owner's agent Shonnett Melville and superintendent Arthur Harris.

UD410033HL stated that she has been a tenant at the subject building since June 1994 and never had any problems with prior ownership. Beginning with the ownership of Highpoint Associates X in April 2005 events occurred which caused the tenant to feel an atmosphere of harassing conduct had been initiated (though no overt acts of harassment were experienced).

The initial notification of the change in ownership advised the tenants of a California address and number for the owner and did not provide a number for a superintendent. The next notification from the owner was on June 22, 2005 and provided an emergency contact information sheet which still listed a California number.

On June 29, 2005 the tenant received a Ten Day Notice to Cure accusing UD410033HL of violating her tenancy by illegally subletting the apartment to Giles Conway-Gordon and instead living in Ronan, Montana. UD410033HL responded with a letter dated July 2, 2005 advising the owner that she had not sublet the apartment to anyone, she does not work or live in Ronan, Montana as she is employed in New York City (and provided proof of such employment) and has continued to live at the subject apartment. At the conference UD410033HL stated that Giles Conway Gordon is her life partner.

UD410033HL advised that the owner took no further legal steps to enforce their illegal sublet claim but began to refuse her rent checks. Some rent checks were returned and others were not cashed. By letters dated June 29, 2005 and July 21, 2005 the owner stated that rent

checks could not be accepted because “eviction proceedings are scheduled and have commenced”. The returned checks were resubmitted by the tenant. [UD410033HL](#) stated that a rent check has been delivered to the owner for each month of Highpoint’s ownership.

Finally, in April 2006, four days after the tenant’s harassment complaint was docketed, the owner cashed all outstanding rent checks except for two checks submitted in May and June 2005 (check numbers 1975 and 1976).

The tenant stated she had difficulties in renewing her lease but it was finally renewed in July 2005. On August 2, 2005 the tenant received a Notice to Enter Unit dated August 1, 2005 which sought entry into her apartment on August 3, 2005 for a general inspection. The tenant responded with alternate dates and advised the owner that such alternate dates should be in writing with five days notice as required by law. The August 1, 2005 notice threatened to enter with the help of a locksmith and charge the tenant accordingly if keys were not provided to the owner and threatened to sue for damages if access was not provided.

On October 27, 2005 the tenant wrote to the owner again asking when her checks were going to be cashed, if she could get an original of her lease renewal rather than a copy and stated that the cleaning of the common areas had lately improved.

[UD410033HL](#) received a rent reduction by order issued on January 24, 2006 under docket number TI410021-S. The tenant stated that the conditions found not to be maintained in that order have now been corrected. She stated that there was recently flooding due to a steam leak and the Fire Department had to be contacted. The operation of the elevator has been problematic and recently someone was trapped inside the elevator. She stated that trash has often been overflowing (as was found in a building-wide decrease in services complaint) and this problem could be rectified if the owner provided an additional trash can.

[UD410018HL](#) stated that he has been a tenant of apartment 3D since August 1988. While he had not problems with the prior ownership, during the fourteen months of Highpoint X’s ownership, he has been forced to file four DHCR complaints to protect his rights.

[UD410018HL](#) stated that problems began almost immediately with the new ownership as rent checks were not being cashed and leases were not being properly renewed. At first it was felt this was due to incompetence because the ownership was from out of state (the owner stated there were problems depositing checks because of a new payroll system), but then when tenants began receiving legal notices citing specific sections of the Rent Stabilization Code, it was realized that the owner’s conduct was intentional.

[UD410018HL](#) described a Shalom Tenants Alliance meeting he attended where he was to file his complaint of harassment. This meeting was interrupted by Adam Leitman Bailey who said he was asked to attend by the owner to resolve problems. He refused to leave even after security was called. Eventually, the meeting had to be relocated based on Mr. Bailey’s disruption.

[UD410018HL](#) speculated that the owner was attempting to harass tenants out to obtain vacancies. Currently there are seven vacancies, whereas the building was fully tenanted when ownership changed in April 2005. One apartment has been vacant since August 31, 2005. One way in which the owner has sought to frighten tenants is through letters seeking forced inspection giving only two days notice such as the one [UD410033HL](#) received.

UD410018HL stated that another problem he has had is in receiving rent receipts. Despite receipt requests, he has had only one receipt provided to him and that receipt did not provide all the information required by law. The tenant's lease requires rent to be paid on the 15th of each month. Yet he paid his rent on September 12, 2005 for that month and received a late notice. His account balance received with the owner's answer to his harassment complaint indicated an open balance for security. On September 1, 2005 the statement increased his rent by \$72.58 for an increase in security even though his rent went up only \$36.29 based on the renewal. Tenants would have no way of knowing what rent or other charges the owner believes they owe, since they receive no rent statements each month.

The tenant filed a failure to renew lease complaint based on the owner's failure to return the original lease renewal form and their failure to allow him to continue paying his rent by online banking as had been his practice (and the owner had accepted his first two checks in that manner). DHCR determined that the owner's provision of a copy of the renewal form rather than the original was not legally significant but that the owner had to continue to accept online banking if the tenant chose to pay in that manner. **UD410018HL** stated that because the owner will not provide receipts, he feels he cannot use this method of payment. He is currently paying his rent by personal check sent return receipt requested.

UD410018HL stated there have been problems in the provision of services in the common areas. The DHCR building-wide complaint found that garbage was overflowing. The answer to that proceeding advised that the owner had a superintendent at the building, but tenants had no notice of this (no written notices have been sent to tenants advising of the name or contact number for a super). The tenants have not been provided with an emergency number other than one that is routed to California.

On April 24, 2006 a pipe burst causing water damage to the A line. The Fire Department and police were called and because there was no access to the locked basement and no one on site to allow entry to the basement, the Fire Department had to knock the door down. Con Ed has also had trouble getting into the basement and the last three meter readings have been estimated bills. The owner's statement in their answer that there is a lockbox where a key to the basement is provided is untrue.

UD410018HL stated he believes the owner is intentionally creating a hostile living environment to encourage tenants to vacate. He wants to pay his rent without problems and to live peacefully.

Ms. Begley, on behalf of the owner stated, while there may have been past problems with repairs, **UD410033HL** acknowledged that the repairs to her apartment have now been completed and **UD410018HL** did not mention any problems with repairs in his apartment (the tenant stated he did not consider repairs in his apartment to be a harassment issue and he was working with Ms. Melville to rectify conditions in his apartment).

As to the Notice to Cure served on **UD410033HL**, the owner had a legitimate basis to believe she was not living at the premises based on an internet search which revealed ownership in the Montana property. The owner could not accept rent checks while legal proceedings were pending. Ms. Begley was not sure if a legal action was ever initiated and will provide an index number if it was. Rent checks have now been accepted from **UD410033HL**. Two months rent were not received (presumably checks 1975 and 1976 which the tenant stated were not cashed).

It was agreed the tenant will resubmit rent checks for these two months and she will have a zero balance thereafter.

It was stated DHCR found that the owner had acted properly in renewing the tenant's lease. The owner will comply with the PAR order which found that payment by online checks was acceptable. However, to date, the tenant has not chosen to pay his rent in that manner. The tenant has rent receipts through the receipt of his cancelled checks.

Shonnett Melville explained the procedure if a maintenance call is received. Workers are dispatched out within two hours of receiving the call. Tenants may contact an emergency number at 212-684-4141 ext. 311. The owner has a lock box with a key to the basement which is located outside the vestibule area near the garbage area.

Arthur Harris stated that he has been the superintendent at the building for the past two months. He resides at 466 E. 10th Street. He ensures garbage is not overflowing in the garbage area, the common areas are kept clean and repairs are made when he is dispatched by the office. He has a boiler license so he can ensure the boiler operates properly.

It was agreed the entrance light outside the vestibule area and mailbox 3D will be repaired. Both conditions were found not to be maintained in the DHCR building-wide order. The owner may file rent restoration applications to restore rents based on the rent reductions imposed based on the building-wide complaint and the service complaints of [UD410033HL](#) and [UD410018HL](#) once the conditions found not to be maintained in those orders have been corrected ([UD410033HL](#) acknowledged her repairs were made already). The owner agreed to put a sign up advising of the location of the lock box with the key to the basement. It was also agreed that [UD410018HL](#) had a zero rent balance as of the date of the conference.

It is noted that the owner's answer to these complaints acknowledges that the managing agent works in an office in California even though the Housing Maintenance Code requires that the registered managing agent have a New York City address. Ms. Begley stated she would consult with the owner about providing a managing agent who works in New York City. Similarly, it is recommended that the owner provide an emergency number to tenants which does not get routed to California. Tenants should also be advised of the name of the superintendent, his duties and a means in which he can be contacted, if tenants are allowed to contact him directly.

It is also noted that the current owner has not registered with DHCR as required by law. The last registration currently on file is for 2004 from the prior owner. While the registration for 2006 is not yet due, no registration is on file for 2005. Pursuant to Section 2528.4 of the Rent Stabilization Code, an owner is barred from applying for or collecting a rent increase until such time as such registration is completed.

Pursuant to Section 2525.2(b) of the Rent Stabilization Code, the owner is required to provide a rent receipt upon written request of the tenant, even where payment is made by check. The receipt shall provide the date, the amount, the identity of the premises and period for which rent is paid and the signature and title of the person receiving the rent. Should [UD410018HL](#) wish to continue to pay rent by online banking, it is recommended that he request a receipt in writing for each month of rent that is paid in this manner. This office will then monitor compliance with the owner's requirement to provide a receipt.

The owner must accept and timely cash all rent checks provided unless legal action has been initiated. The owner may not fail to cash and/or accept rent checks under the guise of initiating legal action where, as was apparently the case with [UD410033HL](#), no legal action has been initiated (the owner may provide an index number of any action brought against [UD410033HL](#) if such an action has been brought, otherwise it will be assumed that none was initiated).

These files will be kept open to monitor the agreements reached herein and the owner's compliance with its obligations under the rent laws.

Very truly yours,

Jon Wallach
Associate Attorney

cc. Shalom Tenants Alliance
Candace Begley, Esq.