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Governor



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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 19, 2006

UD410026HL  
8 St. Marks Pl.  
New York, NY 10003

Target Realty LLC  
Sky Management Corp  
226 E. 54 St., Suite 402  
New York, NY 10022  
Attn: Ben and Jon Ohebshalom

Re: Enforcement Case No.: UD410026-HL

Dear Parties:

This letter is being submitted to summarize the conference held on June 15, 2006 based on the harassment complaint filed by UD410026HL. The conference was attended by complaining tenant UD410026HL, witnesses UD410011HL, UD410019HL and UD410012HL on behalf of the tenant, various members of the Shalom Tenants Alliance, various individuals observing on behalf of political officials, owners Ben Ohebshalom and Jon Ohebshalom and owner's attorney James Marino.

The tenant stated that she and her brother are the sole remaining rent regulated tenants in this nineteen unit building and that the owner had used various tactics to harass tenants out of occupancy, since taking title in January 2002. She stated generally that these tactics included verbal and physical abuse, failure to make and respond to repairs and willfully prolonging repairs to force the tenants as much inconvenience as possible.

Specifically, UD410026HL detailed an incident with Ben Ohebshalom where the owner was at the apartment of a tenant at 188 E. 93<sup>rd</sup> St. to document conditions for a court case. UD410026HL was present to assist the tenant and she was also documenting the inspection at the request of UD410011HL. After Mr. Ohebshalom arrived at the apartment, UD410026HL, who was seated, began taking pictures. Mr. Ohebshalom approached her and in a raised voice told her not to take pictures of him. He attempted to grab the camera from her and, in the process, touched her. At that point, UD410011HL came into the apartment. Mr. Ohebshalom then went towards her, grabbed the tape recorder she was holding and knocked it to the floor and grabbed her hands and held them over her head. He then left the apartment. The tenant stated this was a scary encounter and filed a police report based on this incident. She stated that in her opinion, Ben Ohebshalom has anger management issues.

The tenant described another incident involving Adam Leitman Bailey, an attorney who had represented the owner in the past. Mr. Bailey interrupted a Shalom Tenants Alliance

meeting on September 7, 2005. When Mr. Bailey attempted to sign in for the meeting, UD410026HL told him he was not allowed to attend. He was asked to leave by Liz Kruger and others, but he refused and acted in an arrogant manner. Witness Adam Salsbury advised that he was also at the meeting and Mr. Bailey barged into the meeting and falsely represented that he was asked to attend the meeting by Judge Crocker Snyder. He insisted on staying even after he was told that the Judge did not authorize his attendance.

UD410026HL stated that the owner's use litigation as another tactic to encourage tenants to vacate. In her case, Sky Management included a security deposit in the first renewal lease after they took ownership, even though security had been waived in the original lease. Thereafter, the owner ignored a DHCR order to permanently reduce the rent based on an overcharge and demanded the higher rent and initiated a nonpayment action for full rent even though the tenants were within their rights to deduct rent based on the failure of the owner to provide gas and a working stove for one year. In December 3, 2003 there was an "accidental" cutting of fourteen gas lines from the store area.

Because the tenants felt the owner did not properly renew the lease based on the insistence on a security deposit and because the owner refused to continue the preferential rent, the tenants filed a lease renewal complaint. The tenants ultimately lost on the preferential rent issue and the owner initiated a holdover action based on the tenants' failure to renew the tendered renewal. In July 2004 a buyout offer was made to the tenants' attorney.

The owner also brought a Supreme Court action against HPD in which the tenants were falsely accused of failing to provide access. During this proceeding, David Haberman, an attorney for the owner, made the tenants a buyout offer, lower than the previous offer and threatened that rent stabilization would be gone in a few years.

In July 2004 a trial on the holdover proceeding commenced and was settled with the owner conceding to the amount of rent determined by DHCR in the overcharge proceeding.

In February 2005 Jon Ohebshalom inspected her apartment following the stove installation which had occurred in November 2004 as a result of a settlement in the owner's action against HPD. Mr. Ohebshalom took notes on repairs needed and asked about the back rent. Three days later the tenants were served with a three day demand notice for \$15,150 in back rent. UD410026HL felt it was an indication of harassment that the owner sought the full rent when many repairs, including the stove, had not been made for the period in question.

In a settlement conference on July 19, 2005 the nonpayment action was resolved with the owner agreeing to make repairs and to give the tenant an abatement in rent. The stipulation was finalized on July 28, 2005. Repairs were made on August 28, 2005 which included a repair of wiring for the stove, the kitchen lamp and wiring in the living and bedroom area. This ended the power outages which the tenant stated she had experienced from the time of the Ohebshalom ownership.

The tenant stated that there is a difficulty in having repairs done with frequent access dates demanded to inspect, to perform the work and to perform it again when it is not done properly. This disrupts tenants' lives and forces them to miss days of work. UD410026HL produced a timeline showing the days that she was required to stay home to provide access for inspections and/or repairs. UD410026HL stated that the owner is never responsive to tenant complaints unless a complaint is filed with a government entity. Since the District Attorney's

raid on Sky Management offices in October 2005, management has been somewhat more responsive. For example, the garbage pit, which has usually been overflowing with garbage, has been kept in a clean condition in the days leading up to the conference.

Specifically in [UD410026HL](#)'s case, she believes the difficulty in having a working stove installed and electric wiring provided supports the pattern described above. She also stated that the gas shut off that occurred "accidentally" in her building, has occurred in other Ohebshalom-owned buildings as well, including 338 E. 61<sup>st</sup> St.

On October 1, 2005 an inspector for the Department of Buildings conducted an inspection of the work done in her apartment and the building. [UD410026HL](#) stated that as a result a violation was issued under #BEC M6540 for faulty wiring, not enough outlets, incorrect circuit breaks in the basement among other problems. She stated the inspector told her orally that only 20 amp circuit breakers exist for her apartment, whereas DOB had approved owner's plans for 60 amp circuit breakers. The inspector appeared annoyed that lesser amperage had been installed.

[UD410026HL](#) detailed that her apartment was experiencing numerous power outages until the repair of August 28, 2005. She believed the owner was tampering with her Con Ed meter. A letter from Con Ed dated July 22, 2004 was presented which stated that based on a Con Ed inspection, the meter for apartment 12 was not properly registering all the electricity the tenants were using. The tenant received a large bill for unmetered service as a result. [UD410026HL](#) stated she believed this was related to the owner's disconnection of a second electric line in August 2002 which had been provided by a prior owner. Thereafter, the two lines were combined.

The tenant stated that based on construction of vacated apartments there has been dirt and dust in the apartment and in the hallways. Proper measures were not taken to ensure tenant safety in accordance with a tenant safety plan and as agreed in a 2002 DHCR harassment conference. A work schedule was never provided as agreed in the earlier conference. Common areas have not been cleaned on a regular basis. On November 6, 2003 a hole was broken through from apartment 16 during construction. Plastic protection was not put up during the work or not put up properly. As a result the tenant had to perform cleaning herself based on the excessive dirt and dust. Pictures were presented in support of this claim.

The tenant stated that the owner tried to improperly change the apartment on the ground floor into commercial space. Due to the intervention by the Community Board, this plan was thwarted and the unit is now rented as a residential apartment.

Recent and/or current repair problems include water which can't be regulated properly as it has gotten scalding hot, up to 180 degrees. The water pressure has been less since the Shalom ownership. Currently there is a problem with the hot water taking 2.5 to 5 minutes to get hot. In the past, there was a time when the water was brown. The tenant took the water to be tested and it was found it had unusually high lead levels. However, a follow-up test came back normal. The tenant stated that her shower filter is becoming clogged after only 1.5 months.

The skylight has been leaking for many years. As a result of the moisture getting into the building through the skylight, the tenant has had mold in her apartment. The mold was reported in June 2005 and the problem was ignored until it was finally remedied in January 2006 after a pipe burst in December 2005.

In 2004, a portion of the tenant's ceiling came down based on moisture getting into the building. Dirt and debris stayed in the apartment for a full day before the problem was addressed.

Currently, there is a problem with the tenant's apartment wooden floors. This problem was mentioned during the nonpayment action and resulted in a violation from HPD when the inspector came to her apartment on December 17, 2005 to look at the mold problem. The floors are becoming worse over the years.

The tenant stated the accident to the gas happened under suspicious circumstances since Ben Shalom had threatened to shut the gas off to another tenant's apartment. The day that tenant signed a stipulation in court in 2003, the gas lines were cut, in the store area. The tenant stated it was unusual for the owner to want to convert from gas to electric but she speculated that because gas lines were in an area that the owner wanted to eliminate in order to convert to commercial space, that the changeover to electric occurred. The tenant stated the owners did not initially have proper permits for this change and never received a DHCR order for this modification in service.

Finally the tenant stated because of the owner's actions, there had been a tremendous turnover in the building which had resulted in the elimination of all rent regulated apartments in the building except for apartment 12. She asked that the agency investigate this matter.

The owner stated that the photo incident concerning Ben Ohebshalom was not a premeditated incident of harassment. The owner went to the apartment based on a court stipulation in a non-primary residence case where the tenant was using the apartment as an art studio which was filled with art supplies. The owner needed to document, pursuant to the agreement, that the tenant had cleaned out the apartment. There was no need for the tenants to take pictures of Mr. Ohebshalom. It was disconcerting for him to have tenants take his picture. He wanted to leave the area but the door was locked behind him. This was not done to harass [UD410026HL](#) as the owner did not know she would be present and didn't know who she was.

The owner has spoken to Mr. Bailey about his appearance at the tenants' meeting. He was not sent at the direction of the owner, they don't know why he went to the meeting and were displeased by his actions. Currently, the owner only uses Mr. Bailey for a few minor matters.

The overcharge complaint filed by [UD410026HL](#) represented a complicated legal issue involving a changing area of law, preferential rents. The owner inherited this situation and had a right to defend itself from the tenants' claim. The owner was forced to bring a holdover once the matter could not be resolved amicably and the tenants did not renew the lease because of the security deposit dispute. DHCR ruled against the tenants on the lease renewal issue and the holdover action was settled by stipulation which resolved the issues of the rent and security. Ultimately, the owner's position concerning the preferential rent was essentially upheld as the \$891 rent agreed upon was far in excess of the \$625 preferential rent paid previously.

The Supreme Court action referred to by the tenant was brought against HPD to prevent them from making emergency repairs without first giving the owner a chance to make the repairs to the tenant's stove. The owner showed that it had first offered the tenants an electric stove after the gas lines were cut and therefore there was no basis for HPD to install a stove and bill the owner.

Regarding the tenant's claim that the change from a gas stove to an electric stove required an order from DHCR, the owner stated that it is not believed a DHCR order is required for such a change. In any event, the tenant cannot now challenge such a modification since she has settled all matters prior to July 28, 2005 by virtue of the so-ordered stipulation signed that day. That stipulation specifically concerned the stove, among other issues. The owner stated that public policy prevented the tenant from raising any issues that were resolved in the July 2005 stipulation.

The owner has no knowledge of any problem with Con Ed meters. The letter from Con Ed indicates the meter was changed back. It is presumed this was an issue between the tenant and Con Ed.

Regarding the brown water, this does not appear to be due to anything caused by the owner and seems to have ended now. The owner is not aware of any high lead levels in the water and the second test seems to indicate no current problems. The water temperature has been adjusted downward so it is believed the problem which caused scalding water has been resolved. The problem with water not getting hot from 2.5 to 5 minutes will be investigated. Since HPD inspectors allow some minutes for water to get hot, this may be within legal limits.

It is believed the owner has now eradicated the leak from the skylight. There was no leaking during the heavy rains of the past few weeks. The mold condition in the tenant's apartment has been remedied and has not reoccurred.

The owner acknowledged that there was a violation regarding the tenant's floors and stated that the condition will be remedied with a qualified contractor. The name and address of the contractor will be provided so the tenant can investigate its qualifications prior to agreeing to the work.

The owner stated that it has purchased the subject building at market rate and has been able to invest large amounts of money to improve the building and to offer buyouts to tenants to obtain vacancies. The offering of money to tenants is not harassment and settling tenants have been satisfied with the arrangement and have not accused the owner of harassment. It was pointed out that 6 of the units were deregulated already when the owner took title.

The owner stated that the electrical violation cited by the tenant was actually a checklist of things the owner had to respond to with DOB as to vacant apartments which were being renovated and had nothing to do with the tenant's apartment. The amperage in the tenant's apartment has not been decreased. This is an old unit and has always had 20 amps. The renovated apartments have 60 amps. It was pointed out that electric problems in the tenant's apartment have ceased after the August 2005 repairs. The owner stated it would correct any electrical violations on record.

In rebuttal, the tenant stated that the woman whose apartment Ben Ohebshalom was inspecting was using the apartment as her primary residence in addition to using it as an art studio. She took the buyout agreement because she was dying and used the money for her hospice care. Tenants needed to document the conditions when Mr. Ohebshalom was there for court. She agreed that Mr. Ohebshalom's actions were not premeditated and stated tenants did not prevent him from leaving.

The tenant felt the owner's actions in starting the holdover and charging the full amount of rent in the nonpayment action did not show good faith on the part of the owner. Because judges pressure parties to settle cases, tenants are often forced to agree to lesser terms.

The tenant, in regard to the HPD proceeding stated that she wanted a stove of equal value and the stove provided by the owner which was refused was not equal. Thereafter, the owner delayed in providing a proper stove.

The tenant stated that the Con Ed matter was the owner's responsibility as the owner changed from gas to electricity and caused the meters to be changed in the basement.

UD410026HL stated that she believes the water pressure problem she is experiencing is caused by an increase in the number of tenants in the building as most of the apartments are now occupied by multiple numbers of students. She believes that HPD will only wait three minutes for the hot water to get hot and often the water takes longer than this in her apartment.

The owner did not fix the mold problem properly initially as the grout that was placed was washed away. The owner had to come back before it was corrected. The tenant also stated that the window to her fire escape is hard to open and close and should be remedied as that is her only secondary means of egress.

She stated that the super is not always available should there be an electrical outage and access to the basement is needed. The owner stated in addition to contacting the super, the tenant could contact the office number which is monitored even after hours.

It was agreed that Mr. Marino would provide the name and number of the floor contractor. Thereafter, assuming the tenant is satisfied with the qualifications of the contractor, access would be arranged for an inspection of the work and the tenant and contractor could arrange for the work thereafter. The owner should also contact the tenant to arrange access to inspect the fire escape window and take any corrective action needed. The owner will investigate the tenant's complaint concerning the problem with the hot water taking too long to get hot. This office will investigate to determine if there is any outstanding electrical violation(s) placed on the tenants' apartment and the owner will be notified of any current violation.

This office will monitor these agreements and the agreements reached at the nine other conferences (five of which are still to be held). Any further conclusions or recommendations by this office will await the results of those conferences and the results of a pending investigation by the District Attorney's office into similar matters. Although the tenant requested this office investigate the rents charged in apartments which have been vacated in her building, this is beyond the scope of the investigation of these harassment complaints. The tenant may wish to write a letter to DHCR's Commissioner with such a request. Additionally, tenants who move into the vacated apartments may file overcharge complaints to have DHCR determine if the units were properly deregulated (if the owner could legally reach the \$2,000 threshold).

Very truly yours,

Jon Wallach  
Associate Attorney  
718-262-5091

cc. Shalom Tenants Alliance  
James Marino