

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS, HOUSING PART B

ALEX CIARAMELLO, LISA PETERSON, [REDACTED]
SADYKOV, PAULA THOMAS, and LYRIC
THOMPSON,

Tenants-Petitioners,

-against-

DECATUR ASSETS LLC, FRANK TEHRANI, and
ALEN PAKNOVSH a/k/a ALEN PAKNOUSH a/k/a
ALAN PAKNOUSH a/k/a ALLEN PAKNOUSH,

Landlords-Respondents,

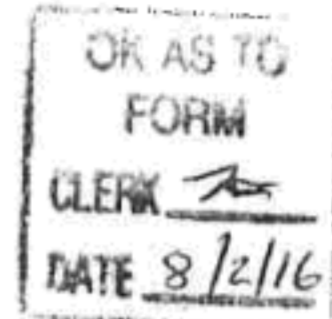
-and-

NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT,

City-Respondent.

002030

Index No. _____



ORDER TO SHOW CAUSE

Premises:

1355-1357 Decatur Street
Brooklyn, New York 11237

UPON reading the annexed Verified Petition and Affidavit of the above named Tenant-Petitioners, sworn to on the 19th day of July, 2016, Affirmation signed on August 2, 2016, and good cause having been shown, it is ORDERED that the Respondents are directed to appear before this Court and show cause at Housing Part B of the Civil Court of the City of New York, to be held at the Courthouse at 141 Livingston Street, Room 409, Brooklyn, New York, on the 16 day of August, 2016 at 9:30 a.m. or as soon thereafter as the parties or their counsel may be heard, why an Order should not be made:

1. Finding that the conditions described in the Verified Petition – lack of cooking gas and hot water - constitute violations, directing City-Respondent Department of Housing Preservation and Development to register said violations, and directing the Landlord-

Respondents to correct said violations within the time provided by Section 27-2115(c) of the Administrative Code of City of New York or be subject to civil penalties provided by for Section 27-2115(a) of said Code;

2. Enjoining Landlord-Respondents from permitting said violations to exist and from permitting any future conditions to exist which endanger the life, health, and safety of Tenant-Petitioners and their families;
3. Imposing upon Landlord-Respondents the civil penalties provided by Section 27-2115(c) of the Administrative Code of the City of New York, based upon Landlord-Respondents' failure to correct the violations hereto contained in notices of violations issued by the Department of Housing Preservation and Development and the Department of Buildings and to enter a judgment against the Landlord-Respondents for the amount of civil penalties imposed by the Court;
4. Directing the Landlord-Respondent to pay Tenant-Petitioners' costs, disbursements and counsel fees for this action; and
5. For such other and further relief as may be just and proper.

It is ORDERED that a copy of this Order and the supporting papers on which it is based shall be served upon the Respondents, either personally or by certified mail, return receipt requested, on or before the 3rd day of August, 2016, and that all such service may be made by any party to this proceeding.

Service upon the owners or managing agent shall be deemed good and sufficient by certified mail, return receipt requested at the addresses so registered with the Department of Housing Preservation and Development,.

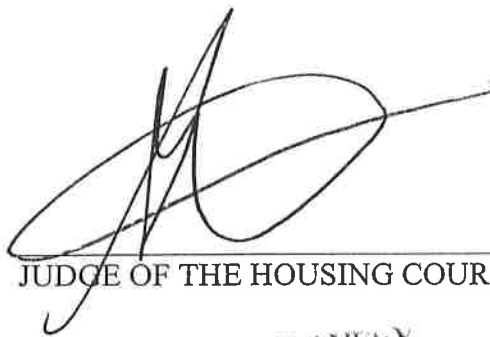
Mailing to the Department of Housing Preservation and Development shall be made to

the Housing Litigation Bureau, 100 Gold Street, New York, NY 10038.

It is FURTHER ORDERED that the filing fee associated with commencing this HP proceeding is waived.

Dated: Brooklyn, New York
August ____, 2016

AUG 2 2016



JUDGE OF THE HOUSING COURT

**SUSAN F. AVERY
JUDGE, HOUSING COURT**

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS, HOUSING PART B

ALEX CIARAMELLO, LISA PETERSON, ██████████
SADYKOV, PAULA THOMAS, and LYRIC
THOMPSON,

Tenants-Petitioners,

-against-

DECATUR ASSETS LLC, FRANK TEHRANI, and
ALEN PAKNOVSH a/k/a ALEN PAKNOUSH a/k/a
ALAN PAKNOUSH a/k/a ALLEN PAKNOUSH,

Landlords-Respondents,

-and-

NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT,

City-Respondent.

Index No. 002030

VERIFIED PETITION AND
AFFIDAVIT

Premises:
1355-1357 Decatur Street
Brooklyn, New York 11237

STATE OF NEW YORK }
 }
COUNTY OF KINGS } ss:

The undersigned, being duly sworn, hereby swear that the following statements are true or that we believe them to be true based on our information or belief.

1. We are the Petitioners herein, and we are tenants in the apartments whose numbers appear next to our signatures, all at the premises known as 1355 Decatur Street and 1357 Decatur Street in Brooklyn, New York.
2. We have standing to bring this proceeding per Section 27-2115 of the Administrative Code of the City of New York and Section 110 of the Civil Court Act of the City of New York.
3. We make this Verified Petition and Affidavit in support of the relief sought in the

foregoing Order to Show Cause.

4. On information and belief, the Respondent DECATUR ASSETS LLC is the owner, and Respondent FRANK TEHRANI is the managing agent of the premises having the address 1355 Decatur Street, and ALEN PAKNOVSH a/k/a ALEN PAKNOUSH a/k/a ALAN PAKNOUSH a/k/a ALLEN PAKNOUSH is the managing agent of the premises having the address 1357 Decatur Street.
5. Attached as "Schedule A" are HPD Summary Violation Reports reflecting housing maintenance code violations documented at the buildings.
6. On information and belief, all of the conditions listed and described in the Complaint History, attached hereto as "Schedule A", constitute violations of the New York City Housing Maintenance Code, Building Code, Multiple Dwelling Law and other applicable laws and regulations.
7. In particular, there are two open immediately hazardous C violations, Violation ID 113228505478489 and 113228585478490, in 1357 Decatur for no gas.
8. We gave multiple oral and written notices to the owner to address these violations and the owner failed to respond.
9. We called 311 and reported additional violations listed in "Schedule B" that still continue to exist.
10. In addition to those violations documented by HPD, all of the conditions listed in the attached "Schedule C" currently exist in our respective apartments and in the common areas of the buildings.
11. On information and belief, all of the conditions described in the attached schedules constitute violations of the Housing Maintenance Code, the Multiple Dwelling Law, and

other applicable laws and regulations.

12. Most recently, on July 20, 2016, National Grid issued a Warning of Hazardous Condition, finding a gas leak in the house piping, requiring that the hot water and gas be turned off attached as "Schedule D." For over a week, the tenants of 1357 Decatur did not have hot water and gas to shower or cook.
13. On information and belief, the Department of Housing Preservation and Development either has failed to issue a notice of violation for the herein described violations or has declined to request penalties based upon Landlord-Respondents' failure to correct any of the existing violations within the time specified in any notices of violation issued or within any additional time which may have been granted under Section D26-51.01(c) of the Administrative Code of the City of New York and no certification of correction has been filed in accordance with the provisions of Section D26-51.01(f) of said Code and more than thirty (30) days have passed since the time to correct the listed violations has expired.
14. On information and belief, the landlord's failure to correct the violations and conditions alleged is intended to cause us to vacate our apartments or to surrender or waive our rights thereto, and constitutes repeated interruptions or discontinuances of essential services of such significance as to substantially impair the habitability of our apartments, thus constituting harassment under Section 27-2004(48) of the Administrative Code of the City of New York, and entitling us to relief under Sections 27-2005 and 27-2115(m) of the Administrative Code of the City of New York.

WHEREFORE we respectfully request that this Court grant the relief set forth in the foregoing Order to Show Cause, along with whatever other and further relief the Court deems just and proper.



Lisa Peterson, 1355 Decatur Street, Apt. 2



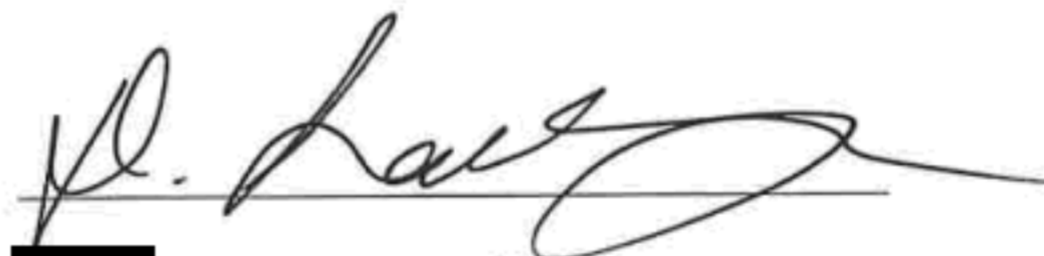
Lyric Thompson, 1355 Decatur Street, Apt. 3



Paula Thomas, 1357 Decatur Street, Apt. 1

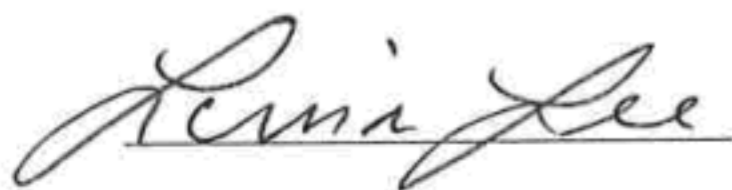


Alex Ciaramello, 1357 Decatur Street, Apt. 2



██████████ Sadykov, 1357 Decatur Street, Apt. 3

Sworn before me this 19 day of July, 2016.



Notary Public - State of New York



SCHEDULE A

HPD Summary Violation Reports

The selected address: **1357 DECATUR STREET, Brooklyn 11237**

HPD#	Range	Block	Lot	CD	CensusTract	Stories	A Units	B Units	Ownership	Registration#	Class	
913840	Active	1357-1357	03431	0128	4	40900	3	3	-	PVT	382790	E

Other Units

Property Owner Registration Information

Charges

Complaint Status

Complaint History

Submit Certificate of Installation

Litigation/Case Status

Tenant Harassment Report

All Open Violations

prior year Open Viol.'s

Recertification

Overdue Lead Paint Viol. Correction

I-Card Images

PROS Online

Map

Building Registration Summary Report

Find Apartment#

Owner	Last Reg Dt Reg Expire Dt	Organization	Last Nm	First Nm	House No	Street Nm	Apt City	State Zip
Head Officer	10/06/2015 09/01/2016		TEHRANI	FRANK	172-13	HILLSIDE AVENUE	201 JAMAICA NY	11432
Corporation	10/06/2015 09/01/2016	DECATUR ASSETS LLC			172-13	HILLSIDE AVE	201 JAMAICA NY	11432
Managing Agent	10/06/2015 09/01/2016	DECATUR ASSETS LLC	PAKNOVSH	ALEN	172-13	HILLSIDE AVE	201 JAMAICA NY	11432

Open Violations - ALL DATES

There are 4 Violations. Arranged by category: **A class: 1 B class: 1 C class: 2 I class: 0**

For Definitions of the columns indicated below, select glossary under the Services option (located at the upper right).

To sort the columns, click on their underlined headers below in the blue area.

<u>Apt Story</u>	<u>Reported Date.</u> nov ISSUED Date	<u>Hzrd Class</u>	<u>Order no</u>	<u>Violation ID.</u> NOV ID	<u>Violation Description</u>	<u>Status</u> Status Date	<u>Certify By</u> Date Actual Cert. Date
2	2016/07/20	C	742 *	11322850	§ 27-2070 adm code provide an adequate supply of gas to the fixtures range in the kitchen located at apt 2, 2nd story	NOV SENT 2016/07/25	2016/08/07
2	2016/07/25			5478489			
1	2016/07/20	C	742 *	11322858	§ 27-2070 adm code provide an adequate supply of gas to the fixtures range in the kitchen located at apt 1, 1st story	NOV SENT 2016/07/25	2016/08/07
1	2016/07/25			5478490			
1	2016/06/15	A	502	11276413	§ 27-2005 adm code properly repair with similar material the broken or defective ceramic tiles on the floor in the 1st room from east located at apt 1, 1st story, 1st apartment from west at north	1 NO ACCESS 2016/07/22	2016/10/04
1	2016/06/17			5454245			
Basement	2016/01/27 2016/02/01	B	502	11095210 5354470	§ 27-2005 adm code properly repair with similar material the broken or defective fire retardant material at ceiling, open space at basement	NOT COMPLIED 2016/07/22	2016/03/21 2016/03/03

The selected address: **1355 DECATUR STREET, Brooklyn 11237**

HPD#	Range	Block	Lot	CD	CensusTract	Stories	A Units	B Units	Ownership	Registration#	Class	
901639	Active	1355-1355	03431	0028	4	40900	3	3	0	PVT	382789	E

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- [PROS Online](#)
- [Map](#)

Building Registration Summary Report

Find Apartment #

Owner	Last Reg Dt Reg Expire Dt	Organization	Last Nm	First Nm	House No	Street Nm	Apt	City	State	Zip
Head Officer	10/06/2015 09/01/2016		TEHRANI	FRANK	172-13	HILLSIDE AVENUE	201	JAMAICA	NY	11432
Corporation	10/06/2015 09/01/2016	DECATUR ASSETS LLC			172-13	HILLSIDE AVE	201	JAMAICA	NY	11432
Managing Agent	10/06/2015 09/01/2016		TEHRANI	FRANK	172-13	HILLSIDE AVE	201	JAMAICA	NY	11432

Open Violations - ALL DATES

There are 5 Violations. Arranged by category: **A class: 2 B class: 3 C class: 0 I class: 0**

For Definitions of the columns indicated below, select glossary under the Services option (located at the upper right).

To sort the columns, click on their underlined headers below in the blue area.

Apt Story	Reported Date	Hzrd Class no	Order no	Violation ID, NOV ID	Violation Description	Status Date	Certify By Date Actual Cert. Date
3	2016/07/20	B	530	11322781	§ 27-2005, 2007 adm code arrange and make self-closing the doors .. in the entrance located at apt 3, 3rd story	NOV SENT 2016/07/25	2016/09/12
3	2016/07/25			5478485			
3	2016/07/20	A	501	11322782	§ 27-2005 adm code properly repair the broken or defective base cabinet door in the kitchen located at apt 3, 3rd story	NOV SENT 2016/07/25	2016/11/11
3	2016/07/25			5478484			
3	2016/07/20	A	501	11322796	§ 27-2005 adm code properly repair the broken or defective entrance door in the 1st room from east located at apt 3, 3rd story	NOV SENT 2016/07/25	2016/11/11
3	2016/07/25			5478484			
Cellar	2016/07/20	B	188 *	11322803	§ 185, 240 m/d law properly fire retard in accordance with the rules and regulations of this department the cellar ceiling at electrical meter room	NOV SENT 2016/07/25	2016/09/12
	2016/07/25			5478486			
1	2016/01/19	B	501	11081230	§ 27-2005 adm code properly repair the broken or defective baseboard radiator at public hall, 1st story	NOT COMPLIED 2016/07/22	2016/03/14
	2016/01/25			5350130			

SCHEDULE B

HPD Complaint History

The selected address: **1355 DECATUR STREET, Brooklyn 11237**

HPD#	Range	Block	Lot	CD	CensusTract	Stories	A Units	B Units	Ownership	Registration#	Class	
901639	Active	1355-1355	03431	0028	4	40900	3	3	0	PVT	382789	E

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Complaint History

Historial de Quejas

Complaints received by the Department of Housing Preservation and Development within the last year are listed below. Note: One complaint # may have multiple complaint conditions associated with it.

If you require information regarding a complaint older than 1 year, you may contact HPD at any of the [Borough Office locations](#) to request a copy. There may be a fee for any requested copies.

TENANTS: If your landlord does not correct the condition(s), you have the right to initiate a tenant action against him/her in Housing Court. The Court has the authority to order the landlord to correct the condition(s) and can assess penalties for failure to comply. There is a \$45 fee to file, which the Court may waive if you are unable to pay. For further information on the court process, you can call the Citywide Task Force on Housing Court at 212-962-4795, weekdays between 2 PM and 5PM.

LANDLORDS: Take immediate action to correct the conditions cited below. Failure to comply may result in the issuance of a violation and/or Housing Court action.

Find Apartment#

Complaint Date	Complaint#	SR#	Apt#	Complaint Condition	Condition Detail	Location
07/25/2016	8053536	1-1-1283518052	2	WATER-SUPPLY	NO WATER	BUILDING-WIDE
07/25/2016	8053289		3	GAS	SHUT- OFF	ENTIRE BUILDING
07/25/2016	8053289		3	ENTIREBUILDING	NO HOT WATER	ENTIRE BUILDING
07/25/2016	8053286		2	ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
07/25/2016	8053286		2	GAS	SHUT- OFF	ENTIRE BUILDING
07/24/2016	8052625	1-1-1282982172	2	WATER-SUPPLY	NO WATER	BUILDING-WIDE
07/24/2016	8052616	1-1-1282981822	3	WATER-SUPPLY	NO WATER	BUILDING-WIDE
07/24/2016	8052615	1-1-1282983892	3	WATER-SUPPLY	NO WATER	BUILDING-WIDE
01/27/2016	7840390		3	WALLS	PAINT DIRTY	ENTIRE APT
01/19/2016	7820139		3	RADIATOR	BRKN OR MISSING	PUBLIC HALL
01/06/2016	7787526		3	RADIATOR	BRKN OR MISSING	PUBLIC HALL
01/06/2016	7787526		3	RADIATOR	BRKN OR MISSING	OTHER
12/18/2015	7753402		3	WINDOW FRAME	LOOSE/DEFECTIVE	OTHER
12/18/2015	7753402		3	RADIATOR	BRKN OR MISSING	OTHER
12/16/2015	7750415	1-1-1189075792	3	APARTMENTONLY	NO HOT WATER	ENTIRE APT
12/11/2015	7746363	1-1-1187426462	3	APARTMENTONLY	NO HOT WATER	ENTIRE APT
12/07/2015	7740017		3	WINDOW FRAME	LOOSE/DEFECTIVE	BEDROOM
12/07/2015	7740017		3	RADIATOR	BRKN OR MISSING	OTHER
12/02/2015	7732535	1-1-1183843492	BLDG	RADIATOR	DISCONNECT APT	PUBLIC HALL
12/02/2015	7732535	1-1-1183843492	BLDG	RADIATOR	DISCONNECT APT	LOBBY
11/17/2015	7705992		3	BLL/BZZR/INTRCM	BRKN OR MISSING	BLDG ENTRANCE
11/17/2015	7705992		3	MOLD	N/A	LIVING ROOM
11/17/2015	7705992		3	RADIATOR	BRKN OR MISSING	OTHER
11/17/2015	7705992		3	DOOR	LOCK BRKN/MISS	BOILER ROOM
10/19/2015	7660186	1-1-1166605752	3	ENTIREBUILDING	NO HEAT	BUILDING-WIDE
10/19/2015	7660170	1-1-1166602672	3	BOILER	BROKEN	BOILER ROOM

10/02/2015	7584770	1-1-1159939522	BLDG RADIATOR	BRKN OR MISSING	BASEMENT
10/02/2015	7584770	1-1-1159939522	BLDG RADIATOR	BRKN OR MISSING	LOBBY
10/02/2015	7584770	1-1-1159939522	BLDG RADIATOR	BRKN OR MISSING	PUBLIC HALL
09/22/2015	7567067	1-1-1156169882	3 DOOR	NOT SELF CLOSE	PUBLIC HALL
09/22/2015	7567067	1-1-1156169882	3 DOOR	LOCK BRKN/MISS	LOBBY
09/14/2015	7560708	1-1-1152634162	1 DOOR	LOCK BRKN/MISS	LOBBY
08/13/2015	7535038	1-1-1140327052	2 MOLD	N/A	ENTIRE APT
08/13/2015	7535038	1-1-1140327052	2 MOLD	N/A	LIVING ROOM
08/13/2015	7535038	1-1-1140327052	2 MOLD	N/A	BATHROOM
08/13/2015	7535038	1-1-1140327052	2 MOLD	N/A	BEDROOM
08/13/2015	7534875	1-1-1140226452	3 MOLD	N/A	OTHER
08/13/2015	7534875	1-1-1140226452	3 MOLD	N/A	LIVING ROOM



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TENANTS: If your landlord does not correct the condition(s), you have the right to initiate a tenant action against him/her in Housing Court. The Court has the authority to order the landlord to correct the condition(s) and can assess penalties for failure to comply. There is a \$45 fee to file, which the Court may waive if you are unable to pay. For further information on the court process, you can call the Citywide Task Force on Housing Court at 212-962-4795, weekdays between 2 PM and 5PM.

LANDLORDS: Take immediate action to correct the conditions cited below. Failure to comply may result in the issuance of a violation and/or Housing Court action.

Find Apartment#

Complaint Date	Complaint#	SR#	Apt#	Complaint Condition	Condition Detail	Location
07/26/2016	8054583	1-1-1284099342		BLDG ENTIREBUILDING	NO HEAT/HOT WTR	BUILDING-WIDE
07/25/2016	8053305			BLDG ENTIREBUILDING	NO HOT WATER	ENTIRE BUILDING
07/25/2016	8053305			BLDG GAS	SHUT- OFF	ENTIRE BUILDING
07/25/2016	8052814	1-1-1283146102	123	ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
07/25/2016	8052814	1-1-1283146102	123	GAS	SHUT- OFF	BUILDING-WIDE
07/24/2016	8052507	1-1-1282872052	123	GAS	SHUT- OFF	BUILDING-WIDE
07/24/2016	8052507	1-1-1282872052	123	ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
07/23/2016	8052136	1-1-1282477812		BLDG GAS	SHUT- OFF	BUILDING-WIDE
07/23/2016	8052136	1-1-1282477812		BLDG SIGNAGE MISSING	ES SERV POSTING	BUILDING-WIDE
07/23/2016	8052134	1-1-1282471972		BLDG ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
07/22/2016	8051757	1-1-1282242122		BLDG ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
07/22/2016	8051757	1-1-1282242122		BLDG GAS	SHUT- OFF	BUILDING-WIDE
07/21/2016	8051107	1-1-1281821752		BLDG GAS	SHUT- OFF	BUILDING-WIDE
07/21/2016	8051103	1-1-1281837312		BLDG GAS	SHUT- OFF	BUILDING-WIDE
07/21/2016	8051103	1-1-1281837312		BLDG ENTIREBUILDING	NO HOT WATER	BUILDING-WIDE
06/11/2016	8017846	1-1-1263221392	1	DOOR FRAME	FRAME BROKEN	BLDG ENTRANCE
06/11/2016	8017846	1-1-1263221392	1	RADIATOR	BRKN OR MISSING	PUBLIC HALL
06/11/2016	8017846	1-1-1263221392	1	RADIATOR	BRKN OR MISSING	LOBBY
06/11/2016	8017840	1-1-1263218222	1	WINDOW FRAME	LOOSE/DEFECTIVE	ENTIRE APT
06/11/2016	8017840	1-1-1263218222	1	RADIATOR	BRKN OR MISSING	PRIVATE HALL
06/11/2016	8017840	1-1-1263218222	1	FLOOR	BRKN/DEFECTIVE	BEDROOM
06/11/2016	8017840	1-1-1263218222	1	FLOOR	BRKN/DEFECTIVE	OTHER
06/11/2016	8017840	1-1-1263218222	1	CABINETS	DEFECTIVE	BATHROOM
06/11/2016	8017840	1-1-1263218222	1	FLOOR	BRKN/DEFECTIVE	LIVING ROOM
06/11/2016	8017840	1-1-1263218222	1	WALLS	PAINT DIRTY	ENTIRE APT
06/11/2016	8017840	1-1-1263218222	1	MOLD	N/A	BATHROOM

06/11/2016	8017840	1-1-1263218222 1	OUTLET/SWITCH	OUTLET DEFECT	BATHROOM
06/11/2016	8017840	1-1-1263218222 1	WALLS	PEELING	BEDROOM
01/27/2016	7840397		PP WALLS	PAINT DIRTY	PUBLIC HALL
01/12/2016	7799633	1-1-1198791932	BLDG ENTIREBUILDING	NO HEAT	BUILDING-WIDE
12/02/2015	7732536	1-1-1183829652	BLDG RADIATOR	DISCONNECT APT	LOBBY
12/02/2015	7732536	1-1-1183829652	BLDG RADIATOR	DISCONNECT APT	PUBLIC HALL



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SCHEDULE C

Additional Conditions Alleged by Petitioners

1355 Decatur Street

Common Areas:

- No heat in hallway
- Broken tiles in hallways
- Front door not properly secured
- Broken plaster around front door
- Broken door frame on front door
- Cut pipes in cellar
- Hallway needs painting
- Hole in wall of cellar
- Mold in cellar
- Smoke detectors not working
- Broken radiator in laundry room

Apartment 3:

- Peeling paint in bathroom
- Malfunctioning light fixture in living room
- Apartment door not self-closing
- Bathroom door falling off
- Hole in bathroom door
- Bathroom cabinets broken
- Mold on wall of balcony
- Broken phone jack
- Stove valve broken

1357 Decatur Street

Common Areas:

- No hot water in entire building since July 20, 2016
- No gas to entire building
- No heat in hallway
- Hallway needs painting

Apartment 1:

- Peeling paint in bedrooms
- Mold on walls in bedrooms
- Inadequate water pressure in toilet
- Inadequate water pressure in shower
- Leaky shower head

- Drain stoppage in bathtub
- Thermostat broken

Apartment 2:

- Patio screen door needs replacement

Apartment 3:

- Floors in kitchen broken/warped
- Radiators in kitchen defective
- Radiators in bedroom defective
- Radiators in living room defective
- Faucet in kitchen leaks
- Pipes in kitchen leak
- Stove broken
- Broken floor tiles in living room
- Broken floors in dining room
- Buzzer broken
- Black mold on balcony
- No covering for air conditioner alcove in bedroom
- Bedroom floor broken
- Outlets in bedroom defective
- Outlets in living room defective
- Outlets in kitchen defective
- Door frame in bedroom broken
- Peeling paint on bedroom window sill
- Bedroom window won't close
- Bathroom electricity defective
- Toilet water pressure inadequate
- Shower water pressure inadequate
- Air vent in bathroom not working
- Shower drain broken
- Stove air vent broken
- Stove light broken
- Paint peeling around stove
- Peephole broken
- Hole in wall in bedroom
- Closet jammed in bedroom
- Mold under sink in kitchen
- Balcony door has no lock

SCHEDULE D

**National Grid
Warning of Hazardous Condition**

nationalgrid

Warning of Hazardous Condition

Condition Type A X B C

(See the back of card for more information.)

Customer: Paula Thomas
Address: 1357 Decatur St Apt 1
Borough/Town: BLK Zip: 10310 Phone: 1050 Unit: 18
Rate Classification: Residential Commercial Industrial

Report of hazardous condition(s) found:

- Gas Leak
- Defective Control
- house piping
- pilot safety switch
- appliance connection
- low water cut-off
- appliance
- spill switch*
- header piping
- relief valve
- gas valve passing gas
- Miscellaneous
- holes in vent, flue pipe, or collector*
- carbon build-up*
- vent not installed or sized properly*
- spillage at diverter*
- cracked/corroded heat exchanger*
- water leak at appliance

*This condition is presently or has the potential of causing carbon monoxide emissions.

Additional Comments: Fd leak at Dressing
connection (unit) needed
service + C/O do not fix

Appliance Type: _____ Make/Model#: on location
Meter Location? In Out Meter Locked? Yes No
Off at "T" Handle Valve? Yes No Isolated? Yes No
House heating turned off? Yes No Temporary Repair Yes No
Location posted for A or B condition in multi-family dwelling?

Please contact a plumbing, heating or other qualified contractor to repair the condition(s) noted above. To have service restored or to request a re-inspection please call National Grid at 1 (718) 643-4050.

Customer's Signature: [Signature] Date: 1/20/16

Emp #: 71002807 Supv: _____ Date: _____
NYC NG0350 (08.10)

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS, HOUSING PART B

ALEX CIARAMELLO, LISA PETERSON, [REDACTED]
SADYKOV, PAULA THOMAS, and LYRIC
THOMPSON,

Tenants-Petitioners,

-against-

DECATUR ASSETS LLC, FRANK TEHRANI, and
ALEN PAKNOVSH a/k/a ALEN PAKNOUSH a/k/a
ALAN PAKNOUSH a/k/a ALLEN PAKNOUSH,

Landlords-Respondents,

-and-

NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT,

City-Respondent.

Index No. 002030

AFFIRMATION AND
SUPPORT OF ORDER TO
SHOW CAUSE

Premises:

1355-1357 Decatur Street
Brooklyn, New York 11237

LINA LEE, ESQ., an attorney permitted to practice law before the courts of the State of New York, affirms pursuant to CPLR § 2106(a) and under the penalties of perjury the following:

1. I am a staff attorney at Brooklyn Legal Services Corporation A (of counsel to Martin S. Needelman and Paul J. Acinapura, Esqs.), attorneys for the Tenant-Petitioners and, as such, am familiar with the facts of this proceeding.
2. I submit this affirmation in support of their petition by order to show cause, for an ORDER:
 - a. Enjoining Landlord-Respondents from permitting said violation to exist and from permitting any other conditions to exist which endanger the life, health and safety of petitioners and their families;

- b. Finding that the conditions in Schedule A, B, and C constitute violations, most urgently the lack of cooking gas and hot water, directing City-Respondents the Department of Housing Preservation and Development to register such violations, and directing the Landlord-Respondents to correct said violations within the time provided by Section 27-2115(c) of the Administrative Code of the City of New York or be subject to the civil penalties provided by for Section 27-2115(a) of said Code;
 - c. Imposing upon Landlord-Respondents the civil penalties provided by Section 27-2115(a) of the Administrative Code of the City of New York, based upon Landlord-Respondents' failure to correct the violations hereto contained in notices of violations issued by the Department of Housing Preservation and Development and Department of Buildings, and to enter a judgment against the Landlord-Respondents for the amount of civil penalties imposed by the Court;
 - d. Directing the Landlord-Respondents to pay petitioners' costs, disbursements and counsel fees for this action;
 - e. For such other and further relief as may be just and proper¹;
3. For the factual basis upon which this action is based, I direct the Court to review the annexed Verified Petition² and the statement of facts below.

PRELIMINARY STATEMENT

4. Tenants-Petitioners bring this action by order to show cause to immediately correct all violations including turning on the gas and hot water for the Petitioners who sides in 1357 Decatur.

¹ For reference, Decatur Assets LLC will be referred to as "the owner"; 1355 and 1357 Decatur Street, Brooklyn, New York 11237 will hereinafter be referred to as the "subject premises."

² Under CPLR § 105(u), the verified petition is the evidentiary equivalent to an affidavit.

5. The owner's persistent failure to perform its basic duties of maintenance and repair has created a dire situation, wherein blameless tenants have been forced to live in hazardous conditions.
6. The owner failed to conduct required repairs causing, for example, the gas pipe to leak. The tenants were left without gas and hot water, preventing them from everyday activities such as showering and cooking.
7. The Tenants-Petitioners seek to remedy egregious conditions of disrepair at the premises and halt harassment by their landlord.
8. Tenant-Petitioners have constantly notified the owner but the owner has failed to make the repairs.
9. Tenant-Petitioners urgently seek to compel Landlord to do its job by repairing the conditions and ending the abuse, neglect, and harassment that threaten their life, health, and safety.

APPLICABLE LEGAL STANDARDS

10. In a special proceeding, where no triable issues of fact are raised, the court must make a summary determination on the pleadings and papers submitted as if a motion for summary judgment were before it. CPLR § 409(b); *Friends World College v. Nicklin*, 671 N.Y.S.2d 489, 490 (2d Dept. 1998).
11. CPLR § 409(b) states "the court shall make a summary determination upon the pleadings, papers and admissions to the extent that no triable issues of fact are raised." A special proceeding under CPLR § 409(b) "is subject to the same standards and rules of decision as apply on a motion for summary judgment."³ Unlike that in a plenary action, the petition in a

³ *Karr v. Black*, 55 A.D.3d 82, 86 (1st Dep't 2008); see also *Friends World College v. Nicklin*, 249 A.D.2d 393, 394 (2d Dep't 1998) ("In a special proceeding, where no triable issues of fact are raised, the court must make a summary determination on the pleadings and papers submitted as if a motion for summary judgment were before it[.]").

special proceeding “must be accompanied by competent evidence raising a material issue of fact.” The petition shall be supported by affidavits, the pleadings and by other available proof.⁴ The supporting affidavit must be made by a “person having knowledge of the facts.”⁵ Alternatively, an attorney’s affirmation based on documentary evidence is also sufficient to comply with the requirements of summary judgment. *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 325 (1986).

12. The petitioner has the initial burden to establish a prima facie showing of entitlement to judgment as a matter of law by tendering evidence sufficient to demonstrate the absence of material issues of fact. *Id.*
13. If the petitioner establishes a prima facie showing, the opposing party must produce evidentiary proof of material issues of fact which demonstrate the need for a trial. *Id.* General denials are insufficient to raise triable issues of facts.⁶
14. Finally, CPLR § 409(b) states that the court may make any orders permitted on a motion for summary judgment. This provision authorizes the court to make partial determinations on one or more causes of action, or as great a portion of the case as possible.⁷ Furthermore, the Court is authorized if a trial is necessary to “make an order in nature of a pre-trial order which would specify the issues to be tried, define the scope of trial and remove from the case facts which are not disputed or which are incontrovertible.”⁸

⁴ *Id.*

⁵ *Id.*

⁶ *Iandoli v. Lange*, 35 A.D.2d 793, 793 (1st Dep’t 1970); *See also Gould v. McBride*, 36 A.D.2d 706, 706-707 (1st Dep’t 1971) stating (a general denial, without more, will not suffice to raise an issue of fact).

⁷ *See* Vincent C. Alexander’s Practice Commentaries on CPLR 409, McKinney’s Consolidated Laws of New York Annotated, Book 7B, quoting N.Y. Adv. Comm. on Prac. & Proc., Third Prelim. Rep., Legis. Doc. No. 17, p. 160 (1959).

⁸ *Id.*

15. Once this Petition is scheduled for hearing and the court is furnished with all papers, this Court should grant summary determination, or, if this court finds issues of material fact, set this matter down for immediate trial.

STATEMENT OF FACTS

16. The subject premises are 1355 and 1357 Decatur Street, Brooklyn, NY 11237.
17. Tenant-Petitioners represent five (5) of the six (6) occupied units at the subject premises.
18. As of writing, HPD has confirmed 9 violations in the premises. *See* Schedule A. These violations include 2 immediately hazardous “C” violations including failure to provide gas. *See* Schedule A.
19. The owner has had ample notice of these conditions, some of which have existed for years. *See* Schedule A.
20. Despite notice, the hazardous conditions of disrepair persist.
21. Most recently, on July 20, 2016, National Grid issued a Warning of Hazardous Condition, finding a gas leak in the house piping, requiring that the hot water and gas be turned off, attached as “Schedule D.” For over a week, the tenants of 1357 Decatur did not have hot water and gas to shower or cook.

ARGUMENT

- I. THIS COURT SHOULD SUMMARILY DETERMINE THAT THE CONDITIONS IN THE PETITION ARE VIOLATIONS, SHOULD BE REGISTERED BY HPD, CORRECTED BY THE LANDLORD
22. Here, the documentary evidence demonstrates that the owner has 9 violations of the HMC. *See* Schedule A and B.
23. Therefore, this Court should issue a summary decision that the owner must correct these conditions.

24. Moreover, the conditions listed in Schedule B and C are also violations of the HMC, which this court may also determine are violations that should be registered by HPD and corrected by the landlord.

25. Therefore, this Court should find that the conditions described in the petition constitute violations, direct the City-Respondents to register such violations, and direct the Landlord-Respondents to correct said violations within the time provided by Section 27-2115(c) of the Administrative Code of the City of New York or be subject to the civil penalties provided by for Section 27-2115(a) of said Code.

II. LANDLORD-RESPONDENTS ARE LIABLE FOR CIVIL PENALTIES

26. HP judges can adjudicate claims for civil penalties. HMC § 27-2115 (c), (h), (i). If an owner has not corrected HMC violations within the time set forth in the Notice of Violation, an occupant may seek civil penalties for failure to correct those violations. HMC §§ 27-2115(i), 27-2116.

27. As demonstrated above, the owner is demonstrably liable for civil penalties for the failure to correct the violations contained in Schedule A.

28. Currently, the owner has failed to correct nine (9) HPD violations: two (2) class “C” violations, four (4) class “B” violations, and three (3) class “A” violations.

29. Because of the landlord’s conduct in this case is flagrant, this Court should impose the maximum penalty for each violation.

30. Therefore, the owner should be fined one hundred fifty dollars (\$150) for its three (3) class “A” violations.

31. For its four (4) class “B” violations, the owner should be fined four hundred dollars (\$400) overall plus ten dollars (\$10) per day for each day the class “B” violations are outstanding. Some of these violations have been outstanding since 2008.
32. For its two (2) class “C” violations, the owner should be fined one hundred fifty dollars (\$150) per violation, for a total of three hundred dollars (\$300) overall, plus one hundred twenty-five dollars (\$125) for each day from the NOV’s or order’s correction date.
33. This Court should also assess costs in this case, totaling (\$150) against the losing owner.
34. Moreover, this Court should also find the owner liable for civil penalties for the violations listed as conditions in Schedule A or do so at the trial.
35. Therefore, this Court should impose civil penalties on Landlord-Respondents pursuant to HMC § 27-2115(c), (h), (i) for its failure to correct and enter a judgment against the Landlord-Respondents for the amount of civil penalties imposed by the Court.

III. LANDLORD-RESPONDENTS SHOULD PAY PETITIONERS’ COSTS, DISBURSEMENTS AND COUNSEL FEES

36. The Second Department recently ruled that when a lease permits an owner to recoup attorney fees, RPL § 234 affords HP tenant-litigants a reciprocal right to attorney’s fees. *Casamento v. Juaraagui*, 88 A.D.3d 345 (2nd Dep’t 2011).
37. Here, Tenant-Petitioner’s leases permit the owner to recoup attorney fees in the event of litigation with a tenant.
38. Therefore, HP Tenant-Litigants should be afforded the reciprocal right to fees pursuant to RPL § 234.
39. Therefore, this Court should direct the Landlord-Respondents to pay petitioners’ costs, disbursements and counsel fees for this action.

Dated: Brooklyn, New York

August 2, 2016



BROOKLYN LEGAL SERVICES CORPORATION A

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By: Lina Lee, Esq.

Preserving Affordable Housing Program

Group Representation Unit

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Index No.

CIVIL COURT OF THE CITY OF NEW YORK
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PRESERVATION AND DEVELOPMENT,

City-Respondent.

ORDER TO SHOW CAUSE AND VERIFIED PETITION AND
AFFIDAVIT



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