

Matter of 397 Bridge Street

OATH Index No. 123/15, mem. dec. (Sept. 10, 2015)
[Loft Bd. Docket No. TR-1208; 397 Bridge Street, Brooklyn, N.Y.]

Motion to dismiss amended application denied, where amended coverage application related back to a timely petition and Legislature has extended the deadline for coverage applications to June 15, 2017.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
397 BRIDGE STREET
Applicants

MEMORANDUM DECISION

KEVIN F. CASEY, *Administrative Law Judge*

This matter stems from a tenant-initiated Loft Law coverage proceeding involving a building located at 397 Bridge Street, Brooklyn, New York (the “Building”), under Article 7-C of the Multiple Dwelling Law (“Loft Law”) and Title 29 of the Rules of the City of New York (“RCNY”). Mult. Dwell. Law § 281(5) (Lexis 2015); 29 RCNY §§ 2-08, 2-09 (Lexis 2014). On March 7, 2014, applicants William Cotton (3rd Floor), Sandra Paez and Mauro Baiocco (5th Floor), and Mateo Paiva and Lily Lim (6th Floor), who designated themselves “Various Tenants,” filed an application with the Loft Board seeking findings that the Building is an interim multiple dwelling (“IMD”), their units are IMD units, and they are the protected occupants of their units. The former owner of the building, now owned by 397 Bridge LLC (the “Owner”), filed an answer to the coverage application on April 3, 2014. The Loft Board referred the application to this tribunal for conference and hearing. *See* 29 RCNY § 1-06(j)(2)(ii) (Lexis 2014).

On November 14, 2014, an amended application was filed with the Loft Board, alleging that the 5th and 6th floors each had two separate units and adding Louis Lim as an applicant. According to the amended application, the Building has five IMD units, occupied by: William

Cotton (3rd Floor), Sandra Paez (5A), Mauro Baiocco (5B), Mateo Paiva and Lily Lim (6A), and Louis Lim (6B).

The owner moved for summary judgment and dismissal of the amended application on the ground that the additional coverage claims are barred by the applicable statute of limitations. Mult. Dwell. Law § 282-a (1); RCNY § 1-06.1(a). The applicants opposed the motion and argued that the applicable statute of limitations does not bar an amendment to a timely application that adds an additional unit or protected occupant.

For the reasons set forth below, the owner's motion is denied.

ANALYSIS

In 2010, the Legislature amended the Loft Law to expand the definition of an IMD and extend the law's protection to residents of certain buildings residentially occupied by three independent families for 12 consecutive months during 2008 and 2009. The 2010 amendments also created a deadline, requiring coverage applications for IMD units to be filed within six months after the date that the Loft Board adopted implementing rules or regulations. Mult. Dwell. Law § 282-a. Under rules later adopted by the Loft Board, coverage applications had to be filed or before March 11, 2014. 29 RCNY § 1-06.1(a).

Here, the owner claims that the amended application, dated November 14, 2014, should be dismissed because it was filed after March 11, 2014, it added a new applicant, Mr. Lim, and it alleged for the first time that the fifth and sixth floors of the building each contained two IMD units, rather than one IMD unit on each floor, as originally alleged (Resp. Mot. ¶¶ 13, 14). Opposing the motion to dismiss, the applicants contend that amendment was proper because it relates back to the original application and such a result would be consistent with the remedial purposes of the Loft Law (Pet. Ans. ¶ 5). *See Matter of 440 Broadway Tenants*, OATH Index No. 1713/14, mem. dec. at 6-7 (Oct. 30, 2014) (granting motion to amend pending coverage application to add a unit and tenants, where amended motion filed after cutoff date of March 11, 2014).

In a situation, such as this one, where a timely application was filed and is still pending, the owners have offered no compelling reason why the amended application, adding one more

applicant and alleging a different configuration of floors at issue, should not relate back to the original application. Though the Loft Board has not specifically addressed *Matter of 440 Broadway Tenants*, the analysis in that decision is persuasive.

Moreover, the Legislature recently amended the Loft Law again and extended the filing deadline for registration or coverage applications to June 15, 2017. 2015 N.Y. Laws 20 §22, amending Mult. Dwell. Law § 282-a. Because the statute of limitations has been extended, the owner's motion must be dismissed.

Kevin F. Casey
Administrative Law Judge

September 10, 2015

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