

**DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS**

**Cover Sheet for Electronic Filing**

I am filing the attached papers at the Office of Administrative Hearings.

**1. Check one of the boxes below.**

- The case number is: 2016-DHCD-TP-30,855.       This is a new case, and a case number has not yet been assigned.

**2. Briefly describe the paper that you are filing:**

Housing Provider's Motion To Quash Subpoena

**3. My name, mailing address, telephone number, and e-mail address are:**

Name:	Debra F. Leege, Esq.	Telephone:	202-452-1400
Address:	Greenstein DeLorme & Luchs 1620 L Street, NW, Ste. 900	E-mail address:	df1@gdllaw.com
City, State, Zip:	Washington, DC 20036	Representing:	Respondent

I agree to receive documents from the court at my email address.      No

**4.** You should complete this form, save it to your computer, and then attach it to an e-mail, along with the papers you are filing. The e-mail address for filing papers at OAH is oah.filing@dc.gov. Papers sent to any other e-mail address will **not** be accepted for filing.

**I sent a copy of the attached papers to all other parties or their representatives as listed below.**

Person to Whom the Papers Were Sent:

Harry Gural  
3003 Van Ness Street, NW  
Apt. S-707  
Washington, DC 20008

Method of sending:

- Mail  
 Fax (Give Fax number) \_\_\_\_\_  
 Hand delivery  
 Email (only if the person has agreed; provide email address \_\_\_\_\_)

Date the papers were sent:      5/19/17

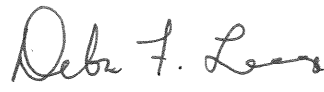
**If you sent the papers to more than two people, provide the above information for the additional people on a separate sheet.**



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Strike was served on this the 19th day of May, 2017, by first class mail, postage pre-paid upon:

Harry Gural  
3003 Van Ness Street, N.W.  
Apt. S-707  
Washington, D.C. 20008



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Debra F. Leege

**DISTRICT OF COLUMBIA  
Office of Administrative Hearings**

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HARRY GURAL,

Tenant/Petitioner,

v.

SMITH PROPERTY HOLDINGS VAN NESS  
L.P.,

Housing Provider/Respondent.

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Case No.: 2016 DHCD TP 30,855  
3003 Van Ness Street, N.W., Apt. S-707

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
HOUSING PROVIDER’S MOTION TO QUASH SUBPOENA TO AVIS DUVAL**

Housing Provider/Respondent Smith Property Holdings Van Ness L.P. ("Housing Provider"), by undersigned counsel, submits its memorandum of points and authorities in support of its Motion to Strike. In support thereof, Housing Provider states as follows:

On May 17, 2017, Mr. Gural issued a subpoena to Ms. Avis Duvall requesting (i) her appearance to testify at the evidentiary hearing on May 22, 2017 and (ii) the production of documents related to rent control increases demanded or implemented from May 17, 2014 through May 17, 2017. See Exhibit A. The subpoena was email to Ms. Duvall and a copy was slipped under the door to her office. See Exhibit B.

Housing Provider does acknowledge it has identified Ms. Duvall as a witness for the evidentiary hearing. However, it is not obligated by the rules of this Court to offer Ms. Duvall as a witness on behalf of the Petitioner. As is detailed below, the Petitioner has failed to properly subpoena Ms. Duvall as a witness.

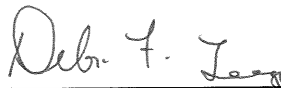
First, the subpoenas were improperly issued pursuant to 1 DCMR § 2934.1(a) and (c). 1 DCMR § 2934 provides that subpoenas can be issued by the Clerk in rental housing cases only with respect to claims regarding (i) rent increases or (ii) conditions, repairs, or maintenance. The sole issue for the evidentiary hearing on May 22, 2017 is retaliation, which is not within subsection 2934.1. Furthermore, 2934.1(c) only permits the production of documents “for the three (3) year period *immediately before the filing of the tenant petition* with the Rent Administrator” (emphasis added). Accordingly, Petitioner is required to file a Motion to seek the issuance of the subpoena to Ms. Duvall. 1 DCMR § 2934.2 (“Section 2824 applies to all other subpoenas for witnesses and documents at hearings in rental housing cases.”).

Further, the subpoena was not properly served. See 1 DCMR §§ 2824.7 (service of subpoena to testify); § 2824.9 (subpoena duces tecum). Ms. Duvall did not agree to accept service of the subpoena duces tecum by electronic means.

For the foregoing reasons, the subpoena must be quashed and Mr. Gural is only entitled to question Ms. Duvall on cross examination.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.



Dated: May 19, 2017

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Richard W. Luchs (D.C. Bar No. 243931)  
Debra F. Leege (D.C. Bar No. 497380)  
1620 L Street, N.W.  
Suite 900  
Washington, DC 20036-5605  
Telephone: (202) 452-1400

Counsel for Housing Provider/Respondent

# **EXHIBIT A**

DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS  
441 Fourth Street, NW · Washington, DC 20001-2714  
TEL: (202) 442-9094 · FAX: (202) 442-4789

DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS

2017 MAY 17 PM 4: 51

SUBPOENA FOR RENTAL HOUSING CASES

Harry Cural  
Petitioner(s)

Case Number: TR 30,855

Equity Residential  
Respondent(s)

3003 Van Ness Street #5707  
Address of Housing Accommodation and Unit Number

To: Avis Dwall, Property Manager, Equity Resdnd  
Requesting Party (Name, Address, Telephone): 3003 Van Ness St NW #5-707  
Washington DC 20008

You are required to comply with the directions in the boxes checked below.

(1)  YOU ARE COMMANDED to appear at the Office of Administrative Hearings, 441 Fourth Street, NW, Suite 450 North, Washington, DC to testify in this case on 5/22 2017 at 9:30 (a.m.) p.m. or any continued date and time.

(2) YOU ARE COMMANDED to produce the documents checked below:

(A)  If housing code violations or services and facilities are at issue: All records in your possession or control not created by a government agency, relating to conditions, repairs, or maintenance to the Rental Unit listed above or any common areas of the Housing Accommodation from [date] \_\_\_\_\_ to [date] \_\_\_\_\_ (not more than three (3) years prior to the date of filing of the petition).

(B)  If illegal rent increases are at issue: All records in your possession or control relating to any rent increases demanded or implemented for the Rental Unit listed above from [date] 5/17/2014 to [date] 5/17/2017 (not more than three (3) years prior to the date of filing of the petition).

(C)  For subpoenas addressed to the Department of Consumer and Regulatory Affairs only: All reports of housing code violations and related documents for the Rental Unit listed above or any common areas of the Housing Accommodation from [date] \_\_\_\_\_ to [date] \_\_\_\_\_ (not more than three (3) years prior to the date of filing of the petition).

(3)  The following specific documents from categories 2(A) through 2(C) above:

YOU ARE COMMANDED to produce any documents at:

The hearing at the Office of Administrative Hearings, 441 Fourth Street, NW, Suite 450 North, Washington, DC on \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m. or any continued date and time.

The following address: \_\_\_\_\_ on or before \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m.



Reba A. Piersa  
Principal Administrative Law Judge  
District of Columbia Office of Administrative Hearings

\*\*\*

DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS  
One Judiciary Square  
441 Fourth Street, NW  
Washington, DC 20001-2714  
(202) 442-9094 Phone (202) 442-4789 Fax

DISTRICT OF COLUMBIA\*\*  
OFFICE OF ADMINISTRATIVE HEARINGS

2017 MAY 17 PM 4: 54

Case Number(s): TP, 30, 855

### CERTIFICATE OF SERVICE

You must send copies of any papers you file at OAH to the other party. By signing this form, you are stating that you sent copies.

My Name: Hans Ovat

My Address: 3003 Van Ness Street, NW  
Washington DC 20008  
City State Zip Code

My Telephone Number(s): (202) 527-2280

My Fax #: \_\_\_\_\_

I have sent a copy of this document to the other party Greenjan Delomen Luchs (their name), on

5/17/2017 (date):

- By Fax to this number: \_\_\_\_\_
- By Mail to the address below, OR and email
- By Hand-delivery to the address below

1620 L Street, NW Unit 900  
(Address of other party)  
Washington, DC 20036  
City State Zip Code

My Signature [Signature] Date \_\_\_\_\_




# **EXHIBIT B**

**Debra F. Leege**

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**From:** Avis Duvall <aduvall@eqr.com>  
**Sent:** Wednesday, May 17, 2017 9:20 PM  
**To:** Debra F. Leege; Denise Beihoffer; Richard W. Luchs  
**Cc:** Jesse Jennell; Kristen VanHaaren  
**Subject:** Fwd: Subpoena  
**Attachments:** Subpoena to Avis Duvall.pdf

  
Avis DuVall  
General Manager  
3003 Van Ness Apartments  
3003 Van Ness Street, NW 20008  
202-244-7811 (Office)

----- Forwarded message -----

From: "Harry Gural" <[harrygural@gmail.com](mailto:harrygural@gmail.com)>  
Date: May 17, 2017 9:15 PM  
Subject: Subpoena  
To: "Avis Duvall" <[aduvall@eqr.com](mailto:aduvall@eqr.com)>  
Cc:

Avis,

The subpoena is attached. I've also sent it to GDL and slipped it under your door.

Harry

DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS  
441 Fourth Street, NW · Washington, DC 20001-2714  
TEL: (202) 442-9094 · FAX: (202) 442-4789

DISTRICT OF COLUMBIA  
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2017 MAY 17 PM 4: 51

SUBPOENA FOR RENTAL HOUSING CASES

Harry Cural  
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The following address: \_\_\_\_\_ on or before \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m.



Rebecca A. Pierson  
Principal Administrative Law Judge  
District of Columbia Office of Administrative Hearings

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DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA\*\*

OFFICE OF ADMINISTRATIVE HEARINGS

OFFICE OF

One Judiciary Square

441 Fourth Street, NW

Washington, DC 20001-2714

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Case Number(s):

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Hans Oural

My Address:

3003 Van Ness Street, NW

Washington DC 20008

City

State

Zip Code

My Telephone Number(s):

(202) 527-2280

My Fax #:

I have sent a copy of this document to the other party

Greenham Delomen Luchs (their name), on

5/17/2017 (date):

By Fax to this number:

By Mail to the address below, OR

and email

By Hand-delivery to the address below

1620 L Street, NW Unit 900

(Address of other party)

Washington, DC 20036

City

State

Zip Code

My Signature

Date