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HARRY GURAL, *Tenant / Appellant*, v. EQUITY RESIDENTIAL MANAGEMENT LLC and SMITH PROPERTY HOLDINGS VAN NESS, LP, *Housing Providers / Appellees*	Case No.: 2016-DHCD-TP-30,855 In Re: 3003 Van Ness Street, NW Unit S 707

HOUSING PROVIDER'S CLOSING ARGUMENTS

Dated: April 19, 2024

Respectfully submitted,

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I. STATEMENT OF THE CASE

Housing Provider/Respondent Smith Property Holdings Van Ness L.P. ("Housing Provider"), by undersigned counsel, files its Closing Argument in response to Tenant's Closing Arguments (hereinafter, "TCA").[1]

Mr. Gural is one tenant in a building consisting of over six hundred units.[2] This case was remanded for a very limited purpose—to allow Mr. Gural an opportunity to call Ms. Duvall (or another representative of Housing Provider) as a witness regarding his retaliation claims arising from the demand to sign a new term lease and the initiation of an action for possession against the Tenant and for the evaluation of Mr. Gural's rent increase claims. Mr. Gural failed to produce a witness with personal knowledge of his case to support his retaliation claims.

As to the issue of bad faith, Mr. Gural relies on argument over a disputed interpretation of "rent charged" to support his unlawful rent increase claim. The definition of "rent charged" required clarifying legislation and is still the subject of differing legal interpretations in this jurisdiction—including by this Court. The very documents relied upon by Mr. Gural to demonstrate that Housing Provider noticed rent increases in "bad faith" notate the split of authority. Similarly, Mr. Gural points to several documents not in evidence and arising long after the filing of his tenant petition to support a claim of bad faith. None of these documents are availing.

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[1] Mr. Gural late filed his closing arguments on April 2, 2024, without seeking leave of Court to do so. This is a basis for the Court to strike or disregard his closing arguments. *See, e.g.*, *Nwachukwu v. Karl*, 216 F.R.D. 176, 178 (D.D.C. 2003) (noting that a Court may strike a pleading that is not timely filed.).

[2] Based on Mr. Gural's recent filings, it is unclear if he still lives in the District of Columbia or has become a fulltime Pennsylvania resident. *See* generally TCA at p. 1 (cover sheet).

In short, Mr. Gural has offered no new evidence to support his retaliation claims and no evidence of bad faith to support his request for treble damages. *Fineman* should not be held to apply retroactively. Judgment should be entered for Housing Provider.

II. BACKGROUND

A. PROCEDURAL HISTORY

1. The First Trial.

Mr. Gural filed the instant Tenant Petition on or about August 30, 2016. *See* Tenant Petition. In the petition, Tenant alleged that Housing Provider violated various provisions of the Rental Housing Act of 1985 in relation to his tenancy at 3003 Van Ness Street, NW. *See id.* In particular, Tenant asserted that (1) the rent increase he received was larger than the increase permitted by law; (2) Housing Provider did not file the correct rent increase forms with the Rental Accommodations Division (the RAD); (3) the Housing Provider, property manager, or other agent of the Housing Provider took retaliatory action against him; and (4) a Notice to Vacate served on Tenant violated D.C. Code § 42-3505.01.[3]

On April 12, 2017, this Honorable Court entered an Order Granting in Part and Denying in Part Housing Provider's Motion for Summary Judgment; Denying Tenant's Motion for Partial Summary Judgment and Granting Tenant's Request to Withdraw One Claim in his Tenant Petition. *See* Order of April 12, 2017. Mr. Gural filed his Notice of Appeal on September 28, 2017. On February 18, 2020, Chief Administrative Judge Spencer of the District of Columbia Rental Housing Commission ("RHC") entered a Decision and Order reversing and remanding in part the Order. The RHC vacated the Order in part and remanded for further proceedings to provide the Tenant the opportunity to call the Community Manager, Ms. Duvall, as a witness regarding his

[3] Petitioner withdrew this claim at a status hearing on January 13, 2017.

retaliation claims arising from the demand to sign a new lease term and the initiation of an action for possession against the Tenant. The Court dismissed the Tenant's appeal on the issue of the Housing Provider's conduct in pursuing the action for possession. The Court affirmed the Order on the issue of whether the late fees imposed by the Housing Provider were retaliatory. In its Order, the Court relied on *Fineman v. Smith Prop. Holdings Van Ness, LP*.

2. The Proceedings on Remand.

Upon remand, Mr. Gural sought, and obtained the following continuances;

(i) On July 26, 2021, Tenant filed a request to reschedule the evidentiary hearing in this matter to December 2021 or January 2022 because he "need[ed] more time to prepare due to much increased personal demands during COVID. I have been representing myself but I would like to hire an attorney, which is difficult for this issue." *See* Order on Motion for Discovery at 1-3.

(ii) On October 7, 2021, Tenant filed a second request to reschedule the evidentiary hearing because he "need[ed] more time to find an attorney and to give the attorney time to catch up on the long case history. I have greatly increased family responsibilities due to COVID, which has slowed the process." *See id*. at 3.

(iii) On January 28, 2022, Tenant filed a third request to reschedule the evidentiary hearing because he had "been out of town a lot due to COVID and have increases family responsibilities. **I didn't realize the deadline for documents is today.** I have been working without an attorney so it will take longer to assemble my case". *See id*. (emphasis added).

(iv) Tenant again missed the deadline to file his witness list or exhibits, so this honorable Court scheduled a pre-hearing conference on August 25, 2022. On August 10, 2022, Tenant filed a fourth request to reschedule the evidentiary hearing because he had "a heavy

burden of family responsibilities caring for my elderly mother during COVID, including helping her move. I am working without an attorney, and must review hundreds of pages of documents as well as write legal filing (sic-filings) that compete against the filings of a corporate law firm." *See id*. at 4.

(v) On November 10, 2022, Tenant filed a fifth request to reschedule the pre-hearing conference and evidentiary hearing due to a death in his immediate family. *See id*.

On July 31, 2023, Mr. Gural filed a Motion for Discovery. The Court issued a ruling on October 17, 2023 granting Mr. Gural leave to issue a document request. Over a month later, on December 4, 2023, Mr. Gural issued his document request. Housing Provider subsequently produced responsive documentation. On December 15, 2023, at 11:50 p.m., Mr. Gural filed his witness and exhibit list. The filing was late. *See* OAH R. 2809.3. Mr. Gural filed a Motion to append additional exhibits on January 12, 2024, which the Court granted. The filing brought Mr. Gural's numbered exhibits up to two hundred thirty-one (231). Housing Provider filed a Motion *in Limine* on or about January 25, 2024, which the Court granted in part by excluding 129, 148, 151, 152, 153, 154, 156, 157, and 158 (by stipulation) and 625, 631, and 639-650 (over Tenant's objection).

The evidentiary hearing on remand took place on January 24, 2024. Mr. Gural failed to serve Avis Duvall within the requirements of the OAH Rules, so his subpoena as to her was quashed. *See* Order of Jan. 25, 2024. Mr. Gural was given additional time to serve subpoenas on witnesses he wished to call, and the hearing was continued to February 28, 2024, over Housing Provider's objection.

Mr. Gural subsequently sought subpoenas as to Frances Nolan and Jesse Jennell, both of whom he failed to serve within the requirements of the OAH Rules. Both subpoenas were quashed

at the continued evidentiary hearing on February 28, 2024. Mr. Gural called himself at the continued hearing and a representative of Housing Provider—Mr. Joshua Luper (who did not work for Housing Provider until after Mr. Gural's tenant petition was filed). Before the continued hearing, Mr. Gural sought to file a "Pre-Hearing Brief as to the Time Frame for Calculating Damages," to which he appended multiple exhibits not introduced at trial, and which was stricken by the Court.

Subsequent to the conclusion of the February 28, 2024, hearing, Mr. Gural filed a Motion to Reconsider Exhibits Not Admitted as Evidence (March 15, 2024) and a Motion to Admit (March 26, 2024). These motions were both opposed by the Housing Provider and await a ruling from this Honorable Court. Mr. Gural filed his Closing Brief late—on the day after the deadline set by the Court, on April 2, 2024.

B. FACTUAL BACKGROUND

1. The Housing Accommodation located at 3003 Van Ness is owned by Smith Property Holdings Van Ness LP and managed by Equity Residential Management LLC. *See* Court's Order on Motion for Summary Judgment of April 12, 2017 at 3.

2. The Housing Accommodation is subject to the rent stabilization provisions of the Act. *See id*.

3. Ms. Avis Duvall was the general manager for the Housing Accommodation at the time the challenged rent increase in this petition was noticed. *See* Final Order of September 12, 2017 (hereinafter "Order in First Trial") at 8 (citing testimony of Ms. Duvall).

4. Mr. Gural is the Tenant unit S707 (the "Unit") since at least April 1, 2014 (though it is unclear if he still resides at the property or lives fulltime in Pennsylvania). *Compare id*. (citing testimony of Harry Gural) with TCA (cover sheet), filed April 2, 2024.

5. Tenant signed a one-year lease on March 19, 2014, for the Unit for the period of April 1, 2014 through March 31, 2015. The "term sheet" of the lease identified two "monthly recurring charges:" "Monthly Apartment Rent" of $2,048 per month and "Monthly Reserved Parking" of $100. *See* Order in First Trial at 8 (citing RX 200).

6. The term sheet also identified a "Monthly Recurring Concession" of $278 per month. *See id*.

7. The lease included a "Concession Addendum," which stated, in pertinent part:

> You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.
>
> Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice."
>
> It is understood and agreed by all parties that the monthly recurring concessions is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

See id. at 8-9.

8. The Term Sheet identified "Additional Lease Addenda," which include "Residential Lease-Terms and Conditions." On page 2 of the Term Sheet, it states as follows. Tenant signed the Term Sheet.

> By signing this Term sheet, you acknowledge that each of the Additional Lease Addenda are attached to this [T]erm Sheet and are therefore made a part of Lease. You further acknowledge that you have read and that you

> agree to all of the provisions set forth in this Term Sheet and the Additional Lease Addenda.

See id. at 9.

9. Paragraph 1 of the Lease Terms and Conditions states: The term of this lease is set forth in the Lease Term section of the Term Sheet. At the end of your lease term, if you do not move out, your Lease will automatically renew on a month-to-month basis. *See id*.

10. Paragraph 26 of the Lease Terms and Conditions states:

> In cases where default is due to non-payment of rent, you hereby expressly waive the right to receive from us a 30 day notice of such payment-related lease violation, and the Lease is hereby terminated . . . . In all cases, we reserve the right to report your payment history, outstanding balances, returned item fees, late fees, defaults, and other payment-related activity to consumer reporting agencies who track such information.

See id. at 9-10.

11. Tenant did not read the Lease before he signed it. *See id*. at 10 (citing testimony of Mr. Gural).

12. Throughout the term of the written lease, Tenant paid $1,870 per month to Housing Provider. This sum equals the "Monthly Apartment Rent" and the "Monthly Reserved Parking" combined, less the "Monthly Concession." Tenant paid $100 per month for reserved parking. *See id*.

13. Tenant continued to reside in the Unit after the written lease expired on March 31, 2015. *See id*.

14. On January 15, 2015, Housing Provider provided Tenant with RAD Form 8, "Housing Provider's Notice to Tenants of Adjustment in Rent Charged" which stated that "your current rent charged" for the Unit would increase from 2,048 to $2,118, effective April 1, 2015.

See Order on Motion for Summary Judgment at 4 (citing Notice attached to Housing Provider's motion for summary judgment as Exhibit F).

15. For the months April 2015 through March 2016, Tenant paid to Housing Provider $1,930 each month, which amount included $100 for reserved parking. *See* Order in First Trial at 10 (citing testimony of Mr. Gural).

16. Until approximately November 2016, Housing Provider's policy was that it would only offer a rent concession of a tenant signed a written lease. *See id*. (citing testimony of Avis Duvall).

17. At some point in early 2016, Housing Provider conducted an audit of all the rental accounts for the Housing Accommodation and discovered that Tenant was being granted a rent concession despite the fact that he had not signed a lease. *See id*. at 11.

18. On January 27, 2015, Housing Provider filed RAD Form 9, "Certificate of Notice to RAD of adjustments in rent charged," with the RAD. The appendix attached to the Certificate listed the Unit and stated that the "prior rent" was $2,048, the increase was $70, the new "rent charged" was $2,118, the percentage increase was 3.4%, and the effective date was April 1, 2015. *See* Order on Mot. for Summ. J. at 5 (citing Certificate attached to Motion as Exhibit G).

19. On January 15, 2016, Housing Provider gave Tenant another RAD Form 8. This one stated that "rent charged" for the Unit would increase from $2,118 to $2,192 (a 3.5% increase), effective April 1, 2016. *See id.* (citing Notice attached to Motion as Exhibit H).

20. On February 2, 2016, Housing Provider filed RAD Form 9 with the RAD. The appendix attached to that Certificate listed the Unit and noted that the "rent charged" was $2,118, the increase was $74, the new "rent charged" was $2,192, the percentage increase was 3.5%, and the effective date was April 1, 2016. *See id.*

21. In March 2016, Housing Provider offered Tenant a one-year lease which identified "Monthly Apartment Rent" as $2,192 and provided for a "Monthly Recurring Concession" of $297. If tenant signed the lease, he would pay $1,895 each month for rent. Housing Provider instructed Tenant that if he did not sign a lease, he would be responsible for paying the entire "Monthly Apartment Rent," or $2,192, without the befit of a concession, effective April 1, 2016. *See* Order in First Trial at 11 (citing RX 204).

22. Tenant refused to sign the offered lease. *See id.* (citing Testimony of Tenant).

23. On April 1, 2016, Tenant sent Ms. Duvall an email in which he refused to sign the offered lease or to pay the "Monthly Apartment Rent" of $2,192. In his email to Ms. Duvall, Tenant wrote: "Increases beyond those stipulated in rent control law are illegal. Moreover, you cannot force me to sign a lease to get the (maximum) increase allowed by law. This is also illegal. If your lawyers are so confident that they are right they should sue me." *See id*. (citing Testimony of Ms. Duvall).

24. On March 25, 2016, Tenant paid Housing Provider $1,995, which amount included $100 for reserved parking, for the month of April, 2016. *See id.* (citing RX 204).

25. Housing Provider considers rent to have been paid late if the full amount of rent due is not received within the grace period allowed by a lease; usually, and in Tenant's case, by the fifth of each month. *See id*. at 12 (citing testimony of Ms. Duvall).

26. If it is necessary to file a claim for non-payment of rent in the D.C. Superior Court, Housing Provider generally tries to do that as soon after the expiration of the grace period as possible. However, Ms. Duvall usually did not review the accounts for non-payment until the 11th of each month. *See id.*

27. On April 27, 2016, Housing Provider filed a complaint for non-payment of rent in the Landlord-Tenant Branch of D.C. Superior Court (the LTB Case). It was assigned case number 2016 LTB 010863.

28. Tenant filed Tenant Petition 30,818 on May 12, 2016, alleging that Smith Property Holdings Van Ness LP and Equity Property Management violated various provisions of the Act.

29. At the initial hearing in the LTB Case on May 19, 2016, a Drayton stay was entered by consent. Additionally, a protective order was signed requiring Tenant to pay $297 per month into the court registry during the pendency of the case.

30. In TP, 30,818, Housing Provider filed a motion for summary judgment on June 28, 2016. In his response to that motion, Tenant stated that he wished to voluntarily dismiss the Petition without prejudice. Presiding Administrative Law Judge Vergeer granted that request and on July 28, 2016, TP 30,818 was dismissed without prejudice.

31. On August 23, 2016, Housing Provider filed a motion to vacate the Drayton stay in the LTB Case.

32. On August 30, 2016, Tenant filed the Tenant Petition in this matter.

33. On September 1, 2016, Housing Provider's motion to vacate the Drayton stay was denied and the stay remains in place as of the date of the instant filing.

Mr. Gural has attached two new exhibits (Referred to as Appendix A and B but Exhibits A and B on the documents themselves) as evidence of his "Other Material Facts not in Dispute." These documents are not admitted into evidence and may not be considered by the Court at this time. *See* TCA at 7. *See Harris v. District of Columbia Rental Hous. Comm'n* , 505 A.2d 66, 68 (D.C. 1986) (citing *Carey v. District of Columbia Unemp. Comp. Bd.*, 304 A.2d 18, 20 (D.C. 1973)

(noting that new evidence submitted post-hearing may not be admitted into the record and therefore may not provide a basis upon which an agency may base a decision).

III. RENT INCREASES

A. THE DEFINITION OF "RENT CHARGED" IS SUBJECT TO DIFFERING LEGAL INTERPRETATIONS BY COURTS IN THIS JURISDICTION.

Mr. Gural's entire case rests on his assertion that the term "Rent Charged" is so obvious that any disagreement constitutes "bad faith." *See* TCA at 8. Mr. Gural ignores the fact that the term is the subject of differing interpretations by Courts in the District of Columbia and is the subject of clarifying legislation. Mr. Gural's assertion is further undermined by the documents on which he relies. *See id.* at 22 (citing Exhibit 616) ("The issue has been litigated, however as yet we have ***no judicial clarity*** on the matter.") (emphasis added).

1. At the Time of the Rent Increase, the Use of Rent Concessions had Been Held to Be Permissible Multiple Times.

Mr. Gural believes his rent was increased $288 more than would be permissible using his then current payment, which included a concession. *See* TCA at 8-12. This misses the point. At the time of the disputed rent increase, January 15, 2016, Housing Provider's use of pre-concession rent to assess rent increases had been approved on multiple occasions by OAH. *See Maxwell v. Equity Management*, 2015 DHCD-TP 30,704 final order of April 22, 2016 at 5-6 ("[T]here is nothing in the Rental Housing Act that prohibits a housing provider from offering rent concessions as long as the rent charged does not exceed the legally authorized rent that is on file."); *Pope v. Equity Residential Management*, 2014 DHCD-TP 30,612 (same); *Jenkins v. Equity Residential Management*, 2012 DHCD TP 30,191; *see also* Order on Remedies of April 23, 2021, 2017 CA 008334 B (Williams, J.) ("These OAH decisions all found in favor of the housing provider, and

determined that Equity's use of the pre-concession rent for 'rent charged' was appropriate as long as it do not exceed the maximum allowable rent.").

2. Housing Provider Permissibly Calculated Tenant's Rent Increase Using The Pre-Concession Rent.

Housing Provider's rent increase was taken against the pre-concession rent, which had been held in multiple proceedings to be permissible. This figure was neither inflated nor incorrect. Indeed, it reflected a plainly-agreed contract which Mr. Gural signed without reading. *See Maxwell*, *supra* at 6-7 ("Tenant argues that she did not understand that the concession would expire . . . . I grant Housing Provider summary judgment on the issue of the validity of the rent concession").

3. The Rent Increase Of $362 Per Month Was Permissible Under Applicable Law.

Mr. Gural's contention that the increase of $362 was more than five times the legal amount is nothing more than a rehashing of his prior arguments. *See* TCA at 9. The assessment was based on pre-concession rent. In short—the calculation of the rent increase was not inflated or incorrect, but a plain application of law that had been held to be permissible on multiple occasions.

B. MR. GURAL HAS OFFERED NO EVIDENCE THAT HE WAS "PRESSURED" TO SIGN A LEASE.[4]

Mr. Gural was not pressured to sign a lease but offered a choice to sign and negotiate a lease renewal that he rejected. In support of Mr. Gural's allegations that he was "pressured to sign an inaccurate lease," Mr. Gural cites emails from Mr. Jesse Jennell (who Mr. Gural failed to produce at trial) pertaining to different tenants—Charlie and Amelia Finch. *See* TCA at 10-11. In addition to being irrelevant, these documents reflect Housing Provider's professional interactions

[4] Mr. Gural appears to mix up his claims related to unlawful rent increases and his claims related to retaliation. This brief tracks Mr. Gural's brief for ease of reference.

with the Tenant and the Housing Provider's good faith belief in its compliance with applicable law. *See* Exhibit 164 ("We will work with any resident regarding their renewal rates and will do so directly with them.") and 165 ("We are certain and confident that we are in full compliance of rent control laws."). Furthermore, Mr. Gural appears to object that the Housing Provider responded to him directly rather than include the D.C. Councilmembers, Chief Tenant Advocate, and the Deputy Mayor on routine email communications regarding negotiating a rent concession. *See* TCA at 11. Exhibit 142 provides no support for the contention that Mr. Gural, an outspoken tenant advocate, was "pressured."[5] Indeed the email is a standard communication over a lease offer that Mr. Gural simply did not agree with—the document itself notes that the decision to sign a new lease is his. *See* Exhibit 142 ("It will be my sincere pleasure to continue doing business with you. Please contact me about your renewal decision.").[6]

Housing Provider's rent concession was a routine practice that had been held to be acceptable on multiple occasions. Advertisements for other units in Mr. Gural's building are irrelevant as to the legality of the challenged rent increase. *See* TCA at 13. Mr. Gural's citation to other units in the building is irrelevant. *Cf. Cowan v. Youssef*, 687 A.2d 594, 603 (D.C. 1996) (declining to certify a class action for complaints related to different units in an apartment building because "applications of the law in all of the counts will turn largely on individual factual determinations"). However, Mr. Gural makes no mention of his own Exhibit 126, which shows

5 Notably, Mr. Gural was not able to produce Ms. Duvall at trial and has offered no new testimony on this issue.

6 Mr. Gural frequently cites to documents that were excluded from the record. *See, e.g.*, TCA at 12 n.5. This, of course, is improper for the Tenant to do, and for the Court to consider. *See Harris*, 505 A.2d at 68 (citing *Carey v. District of Columbia Unemp. Comp. Bd.*, 304 A.2d 18, 20 (D.C. 1973) (noting that new evidence submitted post-hearing may not be admitted into the record and therefore may not provide a basis upon which an agency may base a decision).

numerous units at the same or a higher rent than the rent for his unit and the same percentage of rent increase as numerous other tenants.

Notably, Mr. Gural has cited no testimony, exhibits, or evidence for his contention that the rent "concession" that the Housing Provider offered to Tenant was an "accounting trick." *See* TCA at 13. There is no evidence to support Mr. Gural's contention that he was "pressured" to sign a lease. Mr. Gural has not met his burden on this issue.

C. HOUSING PROVIDER FOLLOWED ITS STANDARD PROCEDURE FOR FILING A COMPLAINT FOR POSSESSION.

Mr. Gural remains incredulous that he did not pay his full rent, invited the Landlord to sue him, then was sued. *See* TCA at 13-14 (citing Exhibit 653). As Ms. Duvall testified, and this Court credited, here, on March 26, 2016, Mr. Gural made a payment of $1,895 for rent for April 2016. He told Ms. Duvall that he would neither sign a lease nor pay the $2,192 "Monthly Apartment Rent" demanded by the Housing Provider. Once the grace period passed, Housing Provider referred the matter to its attorney, who filed the LTB case on April 27, 2016. Housing Provider followed a policy applicable to all tenants: if rent was not paid in full by the time the grace period had expired, Housing Provider would seek legal recourse. *See* Order in First Trial at 21.

Mr. Gural's reliance on a Court protective order is unavailing. Despite objecting to the protective order repeatedly in these proceedings, Mr. Gural has not once challenged the protective order in the Superior Court—the correct venue in which to do so. *Compare* Tenant Closing Brief at 15 *with* Docket. Indeed, despite making multiple requests for Housing Provider to lift the protective order, he has never once sought to do so on an opposed basis as would be his right under D.C. Superior Court Landlord-Tenant Rule 12-I(c). It is not the Housing Provider who is forcing the Tenant to pay $297 into the Court registry, but the Superior Court itself—an order which Mr. Gural has never challenged through an applicable motion. The protective order provides no support

for Mr. Gural's claims that his rent increase was unlawful or that the Housing Provider is proceeding in bad faith.

IV. PROPOSED CONCLUSIONS OF LAW

Mr. Gural cannot prevail on his claim that the rent increase was larger than permitted under the Rental Housing Act because *Fineman* cannot be held to apply retroactively. Mr. Gural's reliance on *Fineman II*, which was not ruled on until years after his rent increase claim, does not support the claim that the rent increase was assessed in bad faith—nor is that case itself a correct interpretation of the law. *See* generally Order of April 23, 2021 (Williams, J.). In Judge Williams' Order of April 23, 2021, the Superior Court of the District of Columbia specifically noted that *Fineman II* "constituted legislative rulemaking that was invalid within the formalities of the DCAPA" and does not have retroactive effect. *See* Order of April 23, 2021, at 25. In its analysis, the Superior Court pointed out that prior to *Fineman II*, there was no interpretation of the RHA's ambiguous use of "rent charged" other than the OAH decisions. *Id.* The Superior Court credited that "before *Fineman II*, the OAH repeatedly held that Equity's use of the pre-concession rent as 'rent charged' to calculate adjustments was not prohibited under the RHA, so long as the amount did not exceed the maximum legal rent." *Id.* Plainly, *Fineman* cannot be held to apply retroactively in the instant case. Prudential reasons also caution against holding *Fineman II* to apply retroactively. *See id*. at 27 ("Rent concessions are commonly used in the District of Columbia. A retroactive application in this case would give rise to an onslaught of lawsuits against housing providers who followed similar rental adjustment calculations that were reviewed and permitted at the time.")[7] (internal citations omitted).

[7] Of note, the District of Columbia Office of Attorney General did not appeal Judge Williams' extensive opinion.

V. MR. GURAL'S CLAIMED OVERCHARGES ARE OVERBROAD AND OUTSIDE THE SCOPE OF THIS TENANT PETITION.

A. RENT INCREASES AFTER AUGUST 30, 2016, ARE OUTSIDE THE SCOPE OF THIS TENANT PETITION.

Mr. Gural's arguments related to alleged overcharges assessed after the challenged rent increase in this case are irrelevant to the instant proceeding and beyond the scope of the claims in the instant Tenant Petition and irrelevant to the claims at issue in this case. In *Parreco v. District of Columbia Rental Housing Commission*, 885 A.2d 327, 334 (D.C. 2005), the Court held that

> A petition must give a defending party fair notice of the grounds upon which a claim is based, so that the defending party has the opportunity to adequately prepare its defense and thus ensure that the claim is fully and fairly litigated.

The Rental Housing Commission similarly has held that only events that occur *prior* to the filing of a petition are relevant matters that may be considered. In *Menor v. Weinbaum*, TP 22,769 (RHC August 4, 1993), the Commission stated at footnote 6:

> [W]e would like to clarify that conditions that occur prior to the filing of a tenant petition are the relevant matters that the parties are adjudicating…if the filing of the petition were not the cut off point for the issues to be adjudicated, the landlord would never know what was to be defended.
>
> Furthermore, simply checking a box on a petition, without more, is not sufficient to put a housing provider on notice of a claim.

See also Blake & Wendy Nelson et al v. B. F. Saul Company et al, RH-TP-08-29,205, Order Consolidating Petitions for Hearing: Scheduling Joint Status Conference and Orders to Show Cause (OAH September 27, 2012) at p. 15 (Merely checking a box in a tenant petition is insufficient for providing notice to a housing provider. Tenants were not permitted to amend the tenant petitions to elaborate as the cases had been pending for several years).

Mr. Gural cites rent increases assessed, April 2017, April 2018, April 2019, and March 2022. *See* TCA at 19-20. Mr. Gural did not file a tenant petition for any of those increases. Nor did Mr. Gural successfully amend his Tenant Petition in this matter. Notably, the statute of limitations has run for three of these increases. Mr. Gural cannot now raise additional rent increases that were outside the scope of his Tenant Petition and which are time-barred.

Further—Mr. Gural attaches "Exhibit A"—which was not introduced at trial, identified at trial, or identified in Mr. Gural's witness and exhibit list and is not appropriate for the Court's consideration. *See* TCA at 20.

B. MR. GURAL HAS OFFERED NO EVIDENCE THAT ALLEGED OVERCHARGES WERE MADE IN BAD FAITH.

The D.C. Court of Appeals has defined "bad faith" as the "intent to deceive or defraud." *See Bernstein Mgmt. Corp. v. D.C. Rental Hous. Comm'n*, 952 A.2d 190, 198 (D.C. 2006) (citing *P'ship Placements. Inc., v. Landmark Ins. Co.*, 722 A.2d 837, 845 (D.C. 1998)). Bad faith is equated with an intent on the part of the housing provider to misrepresent or to defraud the tenants or to avoid detection by the District of Columbia. *See Nelson v. D.C. Rental Hous. Comm'n*, 184 A.3d 865, 870-71 (D.C. 2018). Willfulness goes to intent to violate the law and demands a more culpable mental state than the word "knowingly," which is simply that you know what you are doing. *See Bernstein*, 952 A.2d at 199; *see also Pearson v. R.C. Rental Hous. Comm'n*, 270 A.3d 907, 912 (D.C. 2022) (alternatively defining bad faith as "the conscious doing of a wrong because of the dishonest motive or moral obliquity, a deliberate refusal to perform with just . . . cause or excuse, and a continuing, heedless disregard of duty." (internal citations omitted).

Mr. Gural offers no citations to the record to support the existence of bad faith and failed to produce a witness with personal knowledge around the circumstances of his case. *See* TCA at 20-21. Mr. Gural makes much out of the testimony of Mr. Luper—who was not employed by

Housing Provider at the time of the challenged rent increase, and had no personal knowledge of the circumstances of Mr. Gural's challenged rent increase.

Mr. Gural emphasizes the subsequent decisions issued years after the challenged rent increase was implemented. *See* TCA at 21. Of course, these cases did not exist at the time of the challenged rent increase and cannot be used as a basis to establish bad faith. Mr. Gural never amended his tenant petition to include any contested rent increases after the effective date of these cases. *See, e.g., Menor v. Weinbaum*, TP 22,769 (RHC August 4, 1993)

Moreover, Mr. Gural conspicuously omits the body of case law holding that the use of pre-concession rent to calculate rent increases is permissible. *See Maxwell, supra*, Final Order of April 22, 2016 at 5-6 ("there is nothing in the Rental Housing Act that prohibits a housing provider from offering rent concessions as long as the rent charged does not exceed the legally authorized rent that is on file."); *Pope, supra* (same); *Jenkins, supra*; *see also* Order on Remedies of April 23, 2021, *supra* (Williams, J.).

The very document that Mr. Gural offers in support of the claim that "District officials warned Housing Provider that its rent increases were illegal" states explicitly: "The issue has been litigated, **however as yet we have no judicial clarity on this matter**. Nor to my knowledge have all the legal arguments been made." *See* TCA at 22 (citing Exhibit 616) (emphasis added). Exhibit 626 offers no further support but merely asks for Mr. Cohn of the D.C. Office of the Tenant Advocate to look into the matter, to which Mr. Cohn responds with his opinion with the caveat that there is no judicial clarity in the matter. *Compare* Exhibit 626 (sent October 21, 2015) *with* Exhibit 616 (sent September 22, 2015). These documents do not evidence bad faith.

Mr. Gural's reliance on rent increase exchanges pertaining to other tenants offers no support for his position and only lends further credence to Housing Provider's position that Mr.

Gural was not treated differently than other tenants. *See* TCA at 24 (citing Exhibits 164 and 165). Mr. Gural's discussion of Exhibit 637 and 624 is wholly inappropriate as those documents were not admitted into evidence. Mr. Gural failed to produce Duvall or Jennell at the hearing to testify as to these communications and failed to establish foundation.

With a lack of factual evidence to support his case, Mr. Gural refers to numerous documents outside of the trial record—the "internal records" cited by Mr. Gural were not admitted into evidence. *See* TCA at 24-25. Mr. Gural also cites an "Exhibit X" which was not admitted or introduced at any stage in the proceedings. Additionally, Mr. Gural references FOIA documents that were never introduced at trial, admitted at trial, or even identified on his witness and exhibit list. *See id.* Finally, Mr. Gural references filings from 2019—three years after the filing of his Tenant petition—that were not identified in Mr. Gural's witness and exhibit list, introduced at trial, or admitted at trial. These documents are irrelevant to the instant proceedings and well outside the scope of this proceeding.

In short, Mr. Gural has offered no evidence of bad faith, but merely cited documents supporting his interpretation of "rent charged." There is no basis to find bad faith here, much less to assess treble damages. *See infra* Sec. VI.

VI. MR. GURAL HAS FAILED TO ESTABLISH A CLAIM FOR RETALIATION.

Mr. Gural has offered no new evidence regarding his claims of retaliation. Mr. Gural failed to produce a witness with personal knowledge to testify as to the alleged retaliatory actions taken against him—which was the entire purpose for the remand on the retaliation issue. *See* RHC Order at 26. In the absence of new evidence on this point, the Court's original order in this matter is the appropriate law of the case.

A. MR. GURAL'S INVOLVEMENT IN PROTECTED ACTIVITIES HAS ALREADY BEEN ESTABLISHED AND IS NOT RELEVANT HERE.

Mr. Gural's argument as to his protected actions is irrelevant as his involvement in protected activities has been established and affirmed on appeal. Because Mr. Gural's activity had been ongoing and persistent since 2013, and Housing Provider was aware of Tenant's involvement with the Van Ness South Tenant Association, each act about which Tenant complains is within a six-month window pursuant to D.C. Code § 42-3502.02. *See* Order in First Trial at 17-18. Moreover, in Mr. Gural's brief on this point, he refers to multiple documents not admitted into evidence. These documents are inappropriate for the Court to consider on closing. *See* TCA at p.28 n.25 (citing excluded Exhibits 159, 160, 161, 162, 617, 618, 619, 620, 621, and 622); *see Harris*, 505 A.2d at 68.

B. THE DECISION TO HAVE MR. GURAL SIGN A WRITTEN LEASE TO RECEIVE A CONCESSION WAS A ROUTINE AND GENERALLY APPLICABLE POLICY.

Mr. Gural failed to produce a witness with personal knowledge of his case to testify as to the Housing Provider's decision to require that Mr. Gural sign a written lease to obtain a concession. Indeed, the principal email that Mr. Gural offers for support notes that the decision to sign the lease was "your renewal decision." *See* Exhibit 141. Further, Mr. Gural's reliance on Exhibit 144 is misplaced—the Court has specifically credited the testimony of Ms. Duvall that permitting Mr. Gural to have a concession without a written lease "was a mistake that was discovered in an audit of all rental accounts in the Housing Accommodation." *See* Order in First Trial at 19. Mr. Gural offered no new evidence on this point. As this Court has already held—the policy to have Mr. Gural sign a written lease to obtain a concession was a policy that applied to

all tenants equally. *See id.* Mr. Gural was not singled out, nor was a written lease demanded for the purpose of getting back at him for his protected actions. *See id.*

C. THE DECISION TO FILE A LANDLORD/TENANT COMPLAINT WAS A ROUTINE BUSINESS DECISION.

Mr. Gural also failed to produce a witness with personal knowledge of his case to testify as to the Housing Provider's decision to file a Complaint for Non-Payment of Rent. In support of his claim that the decision to do so was retaliatory, Mr. Gural relies on the assertion that Ms. Duvall could not recall another instance of a tenant being sued for such a small amount. *See* TCA at 28-29. This argument was considered and rejected by this Court. *See* Order in First Trial at 21 ("Tenant argues that Ms. Duvall's inability to remember if Housing Provider ever sought legal recourse in a situation where so little rent remained due after the grace period is evidence that Housing Provider singled Tenant out because of his protected activities. However, there is no evidence to support this argument."). As new evidence has not been offered on this issue, the Court's prior ruling should stand.

1. Housing Provider Has Already Established that the Challenged Actions were Not Retaliatory and Mr. Gural has Offered no New Evidence to Undermine this Fact.

This case was remanded to give Mr. Gural an opportunity to call Ms. Duvall or another representative of Housing Provider to support his claim for retaliation. As Mr. Gural has failed to produce a witness with personal knowledge, the Court's original decision remains sound. A tenant has an available remedy if a housing provider engaged in a prohibited retaliatory act against him or her. That remedy is the imposition of a civil fine of up to $5,000, payable to the District of Columbia, if there was a willful violation of the Act. D.C. Code § 42-3509.01(b). D.C. Code § 42-3505.02 states that:

> (a) No housing provider shall take any retaliatory action against any tenant who exercises any right conferred upon the tenant by this chapter, by any

rule or order issued pursuant to this chapter, or by any other provision of law. Retaliatory action may include any action or proceeding not otherwise permitted by law which seeks to recover possession of a rental unit, action which would unlawfully increase rent, decrease services, increase the obligation of a tenant, or constitute undue or unavoidable inconvenience, violate the privacy of the tenant, harass, reduce the quality or quantity of service, any refusal to honor a lease or rental agreement or any provision of a lease or rental agreement, refusal to renew a lease or rental agreement, termination of a tenancy without cause, or any other form of threat or coercion.

(b) In determining whether an action taken by a housing provider against a tenant is retaliatory action, the trier of fact shall presume retaliatory action has been taken, and shall enter judgment in the tenant's favor unless the housing provider comes forward with clear and convincing evidence to rebut this presumption, if within the 6 months preceding the housing provider's action, the tenant:

(1) Has made a witnessed oral or written request to the housing provider to make repairs which are necessary to bring the housing accommodation or the rental unit into compliance with the housing regulations;

(2) Contacted appropriate officials of the District government, either orally in the presence of a witness or in writing, concerning existing violations of the housing regulations in the rental unit the tenant occupies or pertaining to the housing accommodation in which the rental unit is located, or reported to the officials suspected violations which, if confirmed, would render the rental unit or housing accommodation in noncompliance with the housing regulations;

(3) Legally withheld all or part of the tenant's rent after having given a reasonable notice to the housing provider, either orally in the presence of a witness or in writing, of a violation of the housing regulations;

(4) Organized, been a member of, or been involved in any lawful activities pertaining to a tenant organization;

(5) Made an effort to secure or enforce any of the tenant's rights under the tenant's lease or contract with the housing provider; or

(6) Brought legal action against the housing provider.

A tenant is entitled to a presumption of retaliation if it is established that the housing provider's conduct occurred within six months of the tenant performing a protected act listed in D.C. Code §

42-3505.02(b) or 14 DCMR § 4303.4. If retaliation is presumed, then the burden is shifted to the housing provider to provide clear and convincing evidence[8] that its actions were not retaliatory. 14 DCMR § 4303.4; *Youssef v. United Mgmt. Co., Inc.*, 683 A.2d 152, 155 (D.C. 1996). To rebut this presumption, the housing provider must provide a legitimate, non-retaliatory reason for its action. *Gomez v. Indep. Mgmt. of Delawar*e, 967 A.2d 1276, 1291 (D.C. 2009), citing *Robinson v. Diamond Housing Corp*., 463 F.2d 853, 865 (D.C. 1972) ("Once the presumption is established, it is up to the landlord to rebut it by demonstrating that he is motivated by some business purpose rather than by the illicit motive which would otherwise be presumed."). If the housing provider does so, the burden is shifted back to the tenant to prove by a preponderance of the evidence that the housing provider acted in a retaliatory manner. *Wilson v. Archstone-Smith Communities, LLC, et al*, TP 28,907 (RHC Sept. 25, 2015), aff'd 2017 D.C. App. LEXIS 97 (D.C. May 18, 2017). In doing so, the tenant "must prove that the Housing Provider committed a retaliatory action. . . that was intended to 'injure or get back at' the tenant for exercising a right protected by the law." *Id*. (quoting *Smith Prop. Holdings, LLC v. Lutsko*, TP 29,149 (RHC Mar. 10, 2015). In *Wahl v. Watkins*, 491 A.2d 477, 480 (D.C. 1985) the Court ruled that "[t]he retaliation statute is applicable only where a landlord takes an action not otherwise permitted by law." *See also Triplett v. Brown*, H/P 20,431 (RHC April 4, 1990); *Peterson v. Shelton*, TP 20,537 (RHC February 19, 1988); D.C. Code § 42-3505.02(a).

The Housing Provider has already established, and this Court has held, that the decision to have Mr. Gural sign a written lease to obtain a concession was not retaliatory. *See* Order in Original

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[8] "Clear and convincing evidence is most easily defined as the evidentiary standard that lies somewhere between a preponderance of the evidence and evidence probative beyond a reasonable doubt; it is such evidence as would produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *In re Ingersoll Trust*, 950 A.2d 672, 693 (D.C. 2008) (Internal quotations and citations are omitted).

Trial at 19 ("Housing Provider's policy applied to all tenant equally. Tenant was not singled out; nor was a written lease demanded for the illicit purpose of "getting back" at him for his protected actions."). The Housing Provider has already established, and this Court has held, that the decision to file a Complaint for Non-Payment of Rent was a routine procedure by which Housing Provider "followed a policy that was applicable to all tenants: if rent was not paid in full by the time the applicable grace period had expired, Housing Provider would seek legal recourse." *See id.* at 21.

The RHC noted on appeal that "the record reveals substantial evidence with respect to each of these [retaliation] issues, namely, direct and cross-examination testimony by Ms. Duvall." The remand was "to allow the Tenant to put on all relevant evidence of the Housing Provider's decision making before the ALJ." *See id.* at 22. Mr. Gural has offered no new testimony by any individual with personal knowledge of his case. Notably, Mr. Gural cites no new testimony in this portion of his brief—chiefly because he has offered nothing to undermine the Housing Provider's testimony that the decision to have Mr. Gural sign a lease to receive a rent concession, and the decision to file a landlord-tenant complaint, was an ordinary business decision. As it did at the initial hearing in this case, the Housing Provider has once again rebutted the retaliation claims by clear and convincing evidence. Judgment should be entered for Housing Provider.

VII. THE REMEDIES SOUGHT BY MR. GURAL ARE EXCESSIVE AND INAPPROPRIATE.

A. "RENT CHARGED" IS THE SUBJECT OF DIFFERING JUDICIAL INTERPRETATIONS AND REQUIRED A CLARIFICATION ACT.

Housing Provider incorporates by reference the arguments made in its Motion for Summary Judgment as if fully set forth herein.

Mr. Gural's entire "bad faith" argument relies on a disputed interpretation of "rent charged." The very fact that the definition of "rent charged" required a clarification act undermines

Mr. Gural's assertion that the use of pre-concession rent to calculate his rent increase was undertaken in bad faith. *Compare* TCA at 32-33 *with* D.C. Act 22-574 ("To amend the Rental Housing Act of 1985 to ***clarify*** the definition of the term "rent charged.") (emphasis added). Indeed, Judge Williams came to the opposite conclusion of the RHC as to the retroactivity of *Fineman* in her order on remedies in the Superior Court. *Compare* RHC Order ("The Commission is satisfied, however, that the Clarification Act does not result in any change in the legal standards that applied to the Housing Provider from 2006 to 2019. The Clarification Act essentially ratified the Commission's decision in *Fineman*, which was decided based on the test and history of the 2006 Amendments) *with* Williams, J. Order at 21 ("*Fineman II* Constituted a Legislative Rule and Does Not Apply Retroactively.").

This Court can only calculate damages based on alleged overcharges for the period before the petition was filed. It can use the highest number of the overcharge for that period to the date of the hearing to calculate any additional damages after the petition was filed—but it may not take into account increases during the period after the petition was filed. *See Menor v. Weinbaum*, TP 22,769 (RHC August 4, 1993). Mr. Gural filed to amend his petition and is now foreclosed by the statute of limitations from challenging them. Notably, Mr. Gural offers no case law or statutory support for the proposition that circumstances after the filing of the tenant petition can be considered. *See* TCA at Sec. V.B. Notably, the cases cited by Mr. Gural for the proposition that *remedies* are calculated until the final hearing do not deal with subsequent rent increases that are not challenged by the tenant. *See Union Dominion Mgmt. Comp. v. Rice*, RH-TP-06-28,749 (challenging one rent increase notice). Mr. Gural is limited to relief based on the initial rent increase assessed and pled in the Tenant Petition.

B. THERE IS NO BASIS TO ASSESS TREBLE DAMAGES.

Mr. Gural has offered no evidence to substantiate a claim for bad faith but has merely referred this Court to his communications regarding his interpretation of the definition of "rent charged" and communication from the Office of the Tenant Advocate noting that there is "no judicial clarity" on the issue. *See* TCA at Part III(b) (citing exhibits 616 and 626). Mr. Gural has not offered testimony from any representative of Housing Provider with personal knowledge of the circumstances around his rent increase. This falls well short of the standard articulated in applicable case law. *See, e.g.*, *Bernstein*, 952 A.2d at 199. Mr. Gural's arguments related to alleged bad faith arising *after* the challenged rent increase in this case are irrelevant to the instant proceeding and beyond the scope of the claims in the instant Tenant Petition and irrelevant to the claims at issue in this case. *Parreco*, 885 A.2d at 334.

C. THERE IS NO BASIS TO ASSESS TREBLE DAMAGES FOR LATE FEES.

For the same reasons as set forth *supra* Sec. IVA-B, the assessment of treble damages is not appropriate. Moreover, the Rental Housing Commissions has already affirmed the assessment of late fees and that the same was not retaliatory. *See* RHC Order at 25 ("Because the late fees were issued by an automated system, the Commission is satisfied that the ALJ could rationally conclude that the Housing Provider did not act with the purpose of retaliating against the Tenant because of his protected activities.").

D. THERE IS NO BASIS TO ASSESS FINES FOR ALLEGED FALSE FILINGS.

There is no basis to assess fines for alleged false filings because the statute cited pertains only to willful false statements. *See* D.C. Code § 42-3509.01. For the same reasons as set forth above, the filings were not false, but based on a good-faith interpretation of the Act and its interpreting case law as it existed at the time the rent increase was assessed—at the time *before*

the Clarification Act. There is no basis for this Court to assess fines related to the filings made by Housing Provider.

E. MR. GURAL HAS OFFERED NO EVIDENCE AS TO PROCESSING FEES OR INTEREST.

Mr. Gural offered no evidence as to processing fees that he may or may not have paid. *See* TCA at 38 but simply states that "Receipts are available on request." Mr. Gural did not identify these documents on his witness or exhibit list nor seek to introduce them at trial. Nor has he offered any statutory basis to assess interest or processing fees. Any award of fees or interest is inappropriate.

F. MR. GURAL'S CLAIMS RELATED TO PERJURY ARE IRRELEVANT TO THE INSTANT PROCEEDING AND ARE NOT SUPPORTED BY THE EVIDENCE AND APPLICABLE LAW.

Mr. Gural has offered no evidence of perjury and does not offer a definition for the court's consideration. The Supreme Court has stated that a witness testifying under oath or affirmation commits perjury if he or she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than a result of confusion, mistake, or faulty memory. *See United States v. Chattman*, 1994 U.S. App. LEXIS 14452 (4th Cir. June 8, 1994). Mr. Gural has offered no evidence as to the signatory of these documents' intent. Indeed, the very basis for Mr. Gural's claim that the "rents charged" on the form were incorrect is based on the interpretation of "rent charged" which is the subject of differing interpretations within this jurisdiction and which required clarifying legislation. Finally, the certification itself states that it is given to "the best of my knowledge." *See* Exhibit 125-126. There is no basis to assess fines related to perjury in this instance—nor is this the correct proceeding in which to do so.

G. "OTHER CONSIDERATIONS REGARDING REMEDIES" ARE INAPPROPRIATE, UNSUPPORTED BY CASE LAW, AND IRRELEVANT.

Mr. Gural's arguments as to "other considerations regarding remedies" are inappropriate, unsupported by any applicable case law, and ignore the economic realities of the case. As set forth more fully, *supra*, the assessment of penalties in this matter is wholly inappropriate based on Housing Provider's reasonable interpretation of applicable case law at the time of the challenged increase. There has not yet been a Court of Appeals ruling on the retroactivity of *Fineman*, and different courts in this jurisdiction have come to different conclusions.

Mr. Gural's choice to prolong this case to last over eight years is self-inflicted. *See* TCA at 39-40. Mr. Gural, at his sole discretion, extended these proceedings at least six times since remand from the RHC. Further, Mr. Gural's choice to proceed *pro se* was his own election—even though he twice sought a continuance on the basis that he was seeking and retaining legal support. Indeed, Mr. Gural had counsel enter an appearance on his behalf in the Landlord-Tenant case. *See* Docket.

The Housing Provider is under no obligation to "concede[] the case" based on a split of authority as to the retroactivity of *Fineman*. Indeed, as set forth above, Mr. Gural (if he felt so strongly as to his position on the retroactivity of *Fineman*) could have filed to modify or release the protective order at *any time* but has elected not to do so. *See id.*

Mr. Gural's argument that the "Housing Provider has benefited handsomely" relies on material not admitted into evidence or on the record. *See* TCA at 40. Further, it ignores the enormous amount of attorney time that has been spent on defending Mr. Gural's case which he prolonged over eight years.

VIII. CONCLUSION.

Mr. Gural's case is neither unique nor novel. His rent increase was based on a good-faith interpretation of the Act. The act itself required a clarifying legislation and is the subject of

differing interpretations as to the term "Rent Charged." Mr. Gural is one tenant in a building containing over six-hundred units—the decision to have him sign a new lease to obtain a rent concession and to file a complaint for non-payment of rent was routine. Mr. Gural has proffered no new evidence to support his claim as to retaliation. Judgment should be entered for Housing Provider.

Dated: April 19, 2024

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, PC

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CERTIFICATE OF SERVICE

THE UNDERSIGNED COUNSEL HEREBY CERTIFY that a copy of the foregoing was served this 19th day of April, 2024 by email, upon:

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