

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

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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 Providers' Opposition to Tenant's Motion to Conduct Discovery

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

Name:	Richard W. Luchs, Esq. Spencer B. Ritchie, Esq. Natasha N. Mishra, Esq.	Telephone:	202-452-1400
		E-mail address:	rwl@gdllaw.com sbr@gdllaw.com nnm@gdllaw.com
Address:	Greenstein DeLorme & Luchs, P.C. 801 17 th Street, NW, Ste. 1000	Representing:	Respondent
City, State, Zip:	Washington, DC 20006		

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, D.C. 20008

Method of sending:

- Mail
 Fax (Give Fax number) _____
 Hand delivery
 Email (only if the person has agreed; provide email address: harrygural@gmail.com)

Date the papers were sent: August 7, 2023

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

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
One Judiciary Square
441 Fourth Street, N.W., Suite 450N
Washington, DC 20001-2714

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HARRY GURAL,

Tenant / Appellant,

v.

EQUITY RESIDENTIAL MANAGEMENT
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

OPPOSITION TO TENANT’S MOTION TO CONDUCT DISCOVERY

COMES NOW Housing Provider and opposes the Tenant’s Motion to Conduct Discovery (the “Motion” or “Mot.”). Tenant has been vigorously litigating this case for nearly seven (7) years.¹ Tenant now seeks leave to conduct extensive discovery, largely of nonparties over whom the Court has no power to order a response absent the issuance of a subpoena (which Tenant has not sought). Tenant has not articulated good cause for this belated request. The request should be denied.²

¹ See Harry Gural, July 31, 2023, Twitter: “Today I filed a motion against Equity Residential in my 7-year legal battle.” www.twitter.com/HarryGural.

² Housing Provider also wishes to flag the impropriety of Tenant seeking legal advice from the Court regarding subpoenas, *see* Mot. at 2 (“The Tenant respectfully requests that the Administrative Law Judge provide additional instruction about whether such information should be obtained by a subpoena submitted by the Tenant, or whether the Tenant should request that the Administrative Law Judge submit such a subpoena to the Housing Provider.”). Tenant is a sophisticated *pro se* litigant, having prosecuted this case for years. This request should be disregarded by this Court.

I. Relevant Background.

Tenant filed the instant Tenant Petition on or about August 30, 2016. 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. Tenant 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 entered a Decision and Order reversing and remanding in part the Summary Judgment 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 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.

Since the case was remanded, Tenant has sought, and obtained multiple continuances. Housing Provider filed a Motion for Partial Summary Judgment on or about January 23, 2023 which was denied on or about May 8, 2023. At a status hearing on June 14, 2023, Tenant sought to amend his Petition, which the Court denied. Tenant filed the instant motion for discovery on July 31, 2023. This case is set for a two-day evidentiary hearing on January 24, 2024.

II. Legal Standard

Discovery is generally not permitted. OAH Rule 2825.1. An administrative judge may authorize discovery for good cause shown, but interrogatories and depositions are disfavored. *Id.* Any Motion for discovery shall explain the relevance of the information that is sought and shall describe all attempts to obtain consent from the opposing party, including a description of all

discovery to which the opposing party has agreed. *Id.* 2825.3. Where the OAH Rules do not address a procedural issue, an Administrative Law Judge may be guided by the District of Columbia Superior Court Rules of Civil Procedure to decide the issue. *Id.* R. 2801.1. Interrogatories are to be served on parties. D.C. Super. Ct. R. 33(a)(1).

III. Analysis

Tenant has not articulated good cause for his request nor complied with the procedural requirements of a motion for discovery. At the outset, Tenant does not describe “all attempts to obtain consent from the opposing party, including a description of all discovery to which the opposing party has agreed.” *Compare* OAH Rule 2825.3 *with* Motion, *passim*.

A. Depositions

Tenant seeks leave to depose Stacy Aguiar and Frances Nolan. Tenant articulates no reason why depositions are necessary besides that they might “lessen the need for extensive examination and cross-examination of Equity Residential employees during the hearing before the Administrative Law Judge, and they can reveal far more relevant and perhaps decisive information than a hearing that is conducted live.” Mot. at 2. First, depositions are conducted live. Second, Tenant has articulated no relevant information that Ms. Aguiar or Ms. Nolan have that cannot be gleaned from other sources or developed through testimony in court besides that: “Housing Provider previously has claimed that its actions that appear to be acts of retaliation against the Tenant were unintentional The Tenant plans to argue that this action, as well as other alleged acts of retaliation in his Tenant petition, were intentional.” This is not a new theory of the case, and indeed Tenant has been making this claim since the Tenant Petition was filed in 2016. *See* Tenant Petition 30,855 at 3 (“I believe that Equity Residential’s actions against me are in part because I am the President of the Van Ness South Tenants Association.”). Finally, there are two days set aside for hearing in January, providing Tenant more than enough time to develop his lines

of questioning. Indeed, Tenant concedes that “some information will likely be revealed in the testimony of Housing Provider employees.” Mot. at 2. Further Tenant concedes that “some relevant information is part of the public record.” *Id.* at 1.

B. Interrogatories and Document Requests

Tenant seeks to issue interrogatories to nonparties to the case, Avis Duval, Jesse Jennell, Marco Cruz, and Marci Kearney. Of course, these individuals are nonparties to the case, and have no obligation to respond to any such requests. *E.g.*, D.C. Super. Ct. R. 33(a)(1). Second, Tenant has articulated no relevant information that each individual, party or nonparty, possesses that is relevant to the case and, for the same reasons as set forth above, the motion should be denied. As it pertains to interrogatories directed to current employees of housing provider, they should not be permitted for the same reasons articulated above. Tenant’s document requests are vague and overbroad, and do not articulate how, if at all, they are relevant to the instant case. Considering that Tenant has had nearly seven years to develop this case, and the presumption in the OAH rules against the issuance of discovery, this request should be denied.

For the foregoing reasons, the Motion should be denied. A proposed Order is attached.

Dated: August 7, 2023

Respectfully submitted,
GREENSTEIN DELORME & LUCHS, PC

/s/ Spencer B. Ritchie

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Counsel for Housing Providers / Appellees

CERTIFICATE OF SERVICE

THE UNDERSIGNED COUNSEL HEREBY CERTIFY that a copy of the foregoing was served this 7th Day of August, 2023 by email and first class mail, postage prepaid, upon:

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/s/ Spencer Bruce Ritchie
Spencer B. Ritchie

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PROPOSED ORDER

UPON CONSIDERATION, of Tenant's Motion for Discovery, and Housing Provider's Opposition thereto, and for the reasons set forth in that Opposition, it is this ____ day of _____, 2023, hereby

ORDERED that the Motion is **DENIED**.

SO ORDERED.

ALJ Colleen Currie

Copies to all parties of record