

# **Bond Case Briefs**

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## **HOUSING - NEW YORK**

### **Rivera v. Department of Housing Preservation and Development of City of New York**

**Court of Appeals of New York - April 4, 2017 - N.E.3d - 2017 WL 1216070 - 2017 N.Y. Slip Op. 02587**

In first action, residential landlord sought to summarily discharge lien for costs incurred by city department of housing preservation and development (DHPD) to relocate tenants displaced from their apartments as result of emergency vacate order.

The Supreme Court, Kings County, granted department's motion to dismiss. Landlord appealed. The Supreme Court, Appellate Division, affirmed. Leave to appeal was granted. In second action, another residential landlord sought to summarily discharge a lien filed by department. The Supreme Court, Bronx County, granted department's motion to dismiss. Landlord appealed. The Supreme Court, Appellate Division, reversed. Leave to appeal was granted.

The Court of Appeals held that:

- A challenge to the reasonableness of expenses incurred by department does not provide basis for summary discharge of lien as being facially invalid, and
- Department's liens in these cases did not seek non-lienable expenses, as would provide basis for summary discharge of liens.

A lien placed on a privately owned building by city department of housing preservation and development (DHPD), for reimbursement of expenses incurred by department to relocate residential tenants displaced by a vacate order, cannot be summarily discharged by a trial court as facially invalid under the Lien Law, based on the trial court's finding that the notice of lien seeks an unreasonable amount of expenses. Rather, any dispute about the reasonableness of claimed expenses in an otherwise facially valid notice of lien must be resolved through a foreclosure trial.

Notices of liens filed by city department of housing preservation and development (DHPD), on privately owned buildings, did not seek non-lienable expenses, as would provide basis for summary discharge of the liens as being facially invalid, which liens sought reimbursement of expenses incurred by department to relocate residential tenants displaced by vacate orders. Notices stated that they sought "hotel expenses," "administration costs," and "relocation costs," which sufficed to meet the requirement under the Lien Law that the notices contain a statement of "the labor performed or materials furnished."

Expenses incurred by city department of housing preservation and development (DHPD) for temporary shelter services, to relocate residential tenants displaced by a vacate order, are lienable against the privately owned building from which the tenants were displaced, without any express limit on the amount of time during which shelter services may be provided to the displaced tenants.

City department of housing preservation and development (DHPD), in filing a notice of lien on a privately owned building, seeking reimbursement of expenses incurred by department to relocate

residential tenants displaced by a vacate order, is not required to accompany the notice of lien with extrinsic evidence that the tenants vacated the premises because of the vacate order, nor is the department required to provide such evidence if the landlord seeks to summarily discharge the lien.

Ex parte continuance of lien in favor of city department of housing preservation and development (DHPD), after department's ex parte filing of notice of lien against landlord's building, which lien sought reimbursement of expenses incurred by department to relocate residential tenants displaced by a vacate order, did not violate landlord's due process rights.