

SUPREME COURT FOR THE STATE OF NEW YORK  
COUNTY OF NEW YORK

A B. GILBERT, on behalf of himself and all  
others similarly situated,

Plaintiff,

-v-

24th STREET LIC LLC

Defendant.

Date Filed: March 28, 2022

Index No. \_\_\_\_\_  
(NYSCEF Case)

**SUMMONS**

Plaintiff designates New York County  
County as the place of trial. The  
basis of venue is Defendant's place of  
residence.

TO THE ABOVE-NAMED DEFENDANT:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve  
a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of  
appearance on the Plaintiff's attorneys within twenty (20) days after the service of this summons,  
exclusive of the day of service (or within thirty (30) days after the service is complete if this  
summons is not personally delivered to you within the State of New York); and in case of your  
failure to appear and answer, judgment will be taken against you by default for the relief demanded  
in the complaint.

Dated: New York, New York  
March 28, 2022

**NEWMAN FERRARA LLP**



By: \_\_\_\_\_

Lucas A. Ferrara  
Roger A. Sachar Jr.  
1250 Broadway, 27<sup>th</sup> Floor  
New York, New York 10001  
(212) 619-5400  
[lferrara@nflp.com](mailto:lferrara@nflp.com)  
[rsachar@nflp.com](mailto:rsachar@nflp.com)

**Defendant's Address:**

24th STREET LIC LLC  
c/o The World Wide Group  
950 Third Avenue, 18<sup>th</sup> Floor  
Attn: David Lowenfeld  
New York, New York 10022

SUPREME COURT FOR THE STATE OF NEW YORK  
COUNTY OF NEW YORK

A B. GILBERT, on behalf of himself and all  
others similarly situated,

Index No.:

Plaintiff,

-v-

**PLAINTIFF’S CLASS ACTION  
COMPLAINT**

24th STREET LIC LLC

Defendant.

Plaintiff A. B. Gilbert (“Plaintiff”), individually, and on behalf of all others similarly situated, by and through his attorneys, bring this class action complaint against Defendant 24th STREET LIC LLC (“Defendant”).

**INTRODUCTION**

1. Defendant is the owner-in-fee of the apartment building located at 41-42 24<sup>th</sup> Street, in Long Island City, commonly referred to as “the QLIC.”

2. The QLIC participates in the 421-a Program, which requires landlords to register their units with the Division of Housing and Community Renewal, (“DHCR”), and that those apartments be treated as rent-stabilized.

3. Defendant has evaded the 421-a Program’s requirements, and governing rent-stabilization laws, in two ways.

4. *First*, the initial legal regulated rent to be registered for an apartment in a 421-a building must be the “monthly rent charged and paid by the tenant,” and all subsequent rent increases are to be derived from that number.

5. Here, the landlord registered initial rents for the 2015 registration year, in 2018, as demonstrated by the rental history for Unit 1011.

2015-1	RS	08/24/2018	3795.00		
	TENANT: VACANT			IMPRVMT	
2016	RS-V	07/22/2016	0.00		
2017	RS	07/26/2017	3126.00		09/01/2016
	TENANT: JAMIE MASTEN			VAC/LEAS	08/31/2017
	CHRISTOPHER HILLYARD				

6. There can be no rational justification for the *ex post facto* registration in the amount of \$3,795.00, as there was no tenant in occupancy in 2015, and the apartment does not appear to have been occupied until September 1, 2016, with a lease amount of \$3,126.00.

7. Upon information and belief, that first rent figure also appears to be inflated.

8. Contemporaneous advertisements, on the online apartment website “Streeteasy,” show that Defendant was advertising Apartment 1011 as follows:

Rentals > Queens > Long Island City > 41-42 24th Street #1011

41-42 24th Street #1011

**\$2,885** FOR RENT

NO LONGER AVAILABLE ON STREETEASY ABOUT 5 Y

NO FEE

3 rooms 1 bed 1 bath

Rental Unit in Long Island City

+ ADD NOTES TO THIS LISTING

Listing by Citi Habitats, Limited Liability Broker, 387 Park Ave South, New York NY 10016.

REQUEST A TOUR

ASK A QUESTION

LISTED BY

QLIC Leasing Office  
Citi Habitats

9. Based upon that Streeteasy advertisement, the first rent “charged and paid” by the tenant was \$2,885.00, not \$3,126.00 or \$3,795.00.

10. **Second**, RSC § 2521.2 guides that a “preferential rent” is triggered when the owner agrees to accept a sum that is lower than the unit’s legal regulated rent.

11. The Housing Stability and Tenant Protection Act (“HSTPA”) of 2019 provides that at renewal, a landlord can only increase a preferential rent by the permitted Rent Guidelines Board (“RGB”) increase.

12. In other words, the preferential rent functions precisely as a legal regulated rent does, during the entirety of a tenancy.

13. The rent regulations require that tenants in rent-stabilized units, such as that of the Plaintiff’s, be given one-, or two-, year lease options.

14. Here, Defendant improperly manipulated lease terms, and payment amounts, so that it could evade the preferential rent protections afforded by HSTPA.

15. Plaintiff first occupied Unit 1011 on May 30, 2021.

16. Instead of providing Plaintiff a one-, or two-, year lease, Defendant offered an “Early Occupancy Of Apartment License Agreement” entitling Plaintiff to reside in Unit 1011 for the period between May 30, 2021 and August 1, 2021, after which the lease term ostensibly commenced, and expires on July 31, 2022.

17. Of course, the distinction between licensee and tenant in this instance is an artificial construct.

18. Plaintiff had exclusive use and occupancy of the apartment, and the right to exclude others - - the so-called “License Agreement” provided that only “authorized” persons could use the apartment - - clearly Plaintiff was a tenant, not a “licensee.”

19. Defendant, specifically advised Plaintiff that it was offering him the Early Occupancy Rider in order to remove Unit 1011 from the protections of rent stabilization.

20. And the Early Occupancy Rider notes that the Plaintiff was required to agree that his unit was “exempt from and is not covered by the Rent Stabilization Law, the Rent Stabilization Code, the City Rent Law, or the Rent and Eviction Regulations.”

21. Further, the lease contained a purported Legal Regulated Rent of \$3,745.35, a purported preferential rent of \$3,364.00, but Plaintiff actually paid far less than either of these figures, on average monthly basis, because Defendant manipulated the way payments were to be allocated.

22. Plaintiff was given a rent concession of \$13,456.00.

23. Thus, for the initial fourteen (14) months of Plaintiff’s occupancy, the monthly rent “agreed and paid” was effectively \$2,402.86, and that figure represents the true preferential rent for the apartment.

24. The correct amount of Plaintiff’s legal regulated rent must be calculated pursuant to the rent laws.

25. Given Defendant’s exclusive possession and control of the pertinent rent histories and supporting lease documentation, the correct amount of Plaintiff’s legal regulated rent can only be determined after discovery.

26. The aforementioned conduct demonstrates an attempt by Defendant to circumvent the requirements of law, all at the expense of the QLIC tenants.

**PARTIES**

**Plaintiff**

27. Plaintiff A.B. Gilbert resides in Unit 1011 at 41-42 24<sup>th</sup> Street, in the County of Queens, in the City and State of New York.

28. Unit 1011’s rent history shows that it was registered, prior to any tenancy, with a legal regulated rent of \$3,795.00.

29. The first tenant in Unit 1011 is listed as having a rent of \$3,126.00, but that figure appears to be false, based upon the StreetEasy advertisements for the unit.

30. The failure to properly register Unit 1011 initially has tainted the entire rent history.

31. Unit 1011's correct legal regulated rent must be calculated pursuant to the rent regulations, but that number is currently unknowable to Plaintiff, and can only be determined after discovery.

32. Furthermore, Defendant violated HSTPA by improperly setting preferential rents so that it could take more than the legally permitted increase.

### **Defendant**

33. Defendant 24th Street LIC LLC is a foreign limited liability company registered in Delaware.

34. Defendant 24th Street LIC LLC is the QLIC's registered owner.

35. Upon information derived from New York City Department of Finance tax records, Defendant 24th Street LIC LLC conducts and transacts business in the City, County, and State of New York.

36. Upon information and belief Defendant 24th Street LIC LLC maintains offices at 950 Third Avenue, New York, New York.

37. Upon information and belief, Defendant 24th Street LIC LLC is part of the World Wide Group real-estate portfolio.

## THE APPLICABLE STATUTORY AND REGULATORY ENVIRONMENT

### **The Rent Stabilization Law and the Rent Stabilization Code**

38. In 1969, citing a continuing shortage of residential rental housing, the New York City Council enacted a rent stabilization statute, the Rent Stabilization Law (“RSL”), N.Y. Unconsol. Law § 26-501 (McKinney).

39. Thereafter, the New York City Council gave DHCR authority to promulgate regulations in furtherance of the RSL. And DHCR did so by establishing the Rent Stabilization Code (“RSC”), N.Y. Comp. Codes R. & Regs. Tit. 9, § 2520.1, *et seq.*

40. The RSL and RSC limit the rent that landlords can charge and, *inter alia*, circumscribe the manner in which landlords are able to raise rents, cover the cost of improvements, and deregulate apartments.

41. The rent that a landlord may charge for a regulated unit is based on an initial legal rent.

42. For the QLIC, the initial legal rent is based on the rent “charged and paid,” by the unit’s first tenant.

43. Landlords of rent-stabilized apartments may be entitled to increase rents:

- a. when permitted by the Rent Guidelines Board (“RGB”);
- b. following a DHCR approved Major Capital Improvement;
- c. an increase following a vacancy; and/or
- d. following Individual Apartment Improvements that are properly supported by documentation, and made either during the vacancy of an apartment or agreed upon by the tenant.



44. In New York City, the RGB sets the maximum rates for rent increases once a year that are effective for rent stabilized leases commencing on or after October 1<sup>st</sup> of each year through September 30<sup>th</sup> of the following year. (RSC § 2522.4)

### **The 421-a Program**

45. In 1971, the New York State Legislature enacted the Real Property Tax Law (“RPTL”) § 421-a, which provides tax incentives for developers who construct new, market-rate, multi-family housing.

46. As a condition to receiving 421-a Program benefits, a building owner must provide its tenants with the protections of the rent stabilization laws, even if those apartments would otherwise be exempt.

47. Because buildings participating in the 421-a Program are new construction, an initial legal regulated rent must be established

48. Under RSL § 26-517(a) (4), a landlord must register that legal regulated rent with DHCR.

49. RSC § 2521.1(g) provides, with respect to buildings participating in the 421-a Program, “[t]he initial legal regulated rent for a housing accommodation constructed pursuant to section 421-a of the Real Property Tax Law shall be the *initial adjusted<sup>1</sup> monthly rent charged and paid* but not higher than the rent approved by [the New York City Department of Housing and Preservation] pursuant to such section for the housing accommodation or the lawful rent charged and paid on April 1, 1984, whichever is later.”<sup>2</sup>

### **HSTPA and Preferential Rents**

---

<sup>1</sup> “Adjusted” refers to the fact that the initial rent cannot include charges for “parking facilities, and electricity, gas, cooking fuel, and other utilities.” RPTL 421-a(1)(a)

<sup>2</sup> Emphasis added.

50. RSC § 2521.2 provides that a “preferential rent” is a rent which the owner agrees to charge that is lower than the legal regulated rent for the unit.

51. RSL § 26-511(c)(14) prohibits owners who offer tenants preferential rents from increasing the preferential rent upon a lease renewal at an amount in excess of the RGB enacted increase.

**DEFENDANT’S PRACTICE TO DEPRIVE ITS TENANTS OF THE PROTECTIONS  
OF THE RENT STABILIZATION LAWS**

52. Upon information and belief, all units at the QLIC are subject to the RSL because the QLIC received benefits under the 421-a Program.

53. Upon information and belief, Defendant knowingly and willfully failed to comply with the requirements of the 421-a Program by, among other things, improperly registering its apartments with DHCR.

54. Defendant did not register the QLIC’s units at the monthly rent actually “charged and paid” by the tenants.

55. Defendant registered the units, prior to occupancy by the first tenant, at an artificially high amount.

56. Moreover, Defendant then utilized early occupancy agreements to manipulate the monthly rent for the units.

57. Defendant also offered its tenants “rent concessions,” which provided for “free” rent of a month or more.

58. Defendant’s “rent concessions” were simply “preferential rents” by another name.

59. Rather than give a discount each month, Defendant engaged in sleight-of-hand, and simply combined the discount into “free rent” for a certain period.

60. Whether termed a preferential rent, or a concession, the effect is the same - - the rent “charged and paid” by the tenant is less than the initial legal registered rent.

61. By camouflaging the preferential rent as a concession, Defendant was able to take excess rent increases on subsequent renewals, in violation of governing law.

62. Upon information and belief, Defendant’s registration and concession scheme extends to all of the apartments at the QLIC.

**CLASS ALLEGATIONS**

**The Class and Sub-Class**

63. This action may be properly maintained as a class action under the provisions of Article 9 of the CPLR.

64. The proposed Class is defined as all tenants of the QLIC, who occupied their apartments between March 28, 2016 and the present.

65. The Class seeks certification of claims for damages arising out of Defendant’s rent-concession and registration scheme.

66. Unless the law is changed, Plaintiff, and the members of the putative class, will NOT seek any penalties in the event the Class is certified.

67. In addition, Plaintiff proposes a Sub-Class consisting of all current tenants, who reside at the QLIC.

68. The Sub-Class seeks certification of claims for declaratory and injunctive relief as described more fully below.

**Class and Sub-Class Meet Requirements for Certification**

69. The Class and Sub-Class are so numerous that joinder of all members is impracticable.

70. Although the exact number and identities of the members of the Class and Sub-Class are currently unknown to Plaintiff, it is reasonable to conclude that the practices complained of herein affect more than one thousand (1000) current and former QLIC tenants.

71. Nearly all factual, legal, and statutory issues that are raised in this Complaint are common to each of the members of the Class and Sub-Class and will apply uniformly to every member of the Class and Sub-Class.

72. The claims of the representative Plaintiff are typical of the claims of each member of the Class.

73. Plaintiff, like all other members of the Class, sustained damages arising from Defendant's fraudulent scheme to evade the rent stabilization laws.

74. The representative Plaintiff and the members of the Class were, and are, similarly or identically harmed by the same unlawful, deceptive, unfair, systematic, and pervasive pattern of misconduct.

75. The claims of the representative Plaintiff are typical of the claims of each member of the Sub-Class.

76. Plaintiff, like all other members of the Sub-Class, is entitled to the same declaratory and injunctive relief as the members of the Sub-Class.

77. The Plaintiff will fairly and adequately represent and protect the interests of the Class and Sub-Class.

78. There are no material conflicts between the claims of the representative Plaintiff and the members of the Class and Sub-Class that would make class certification inappropriate.

79. The counsel selected to represent the Class and Sub-Class will fairly and adequately protect the interest of the Class and Sub-Class, and they are lawyers who have experience in class and complex litigation and are competent counsel for this class action litigation.

80. Counsel for the Class and Sub-Class will vigorously assert the claims of all members of the Class and Sub-Class.

81. Upon certification of the Class, Plaintiff will forego any claim to any penalty, or treble damages, unless existing law is changed, or modified.

82. This action is properly maintained as a class action in that common questions of law and fact exist as to the members of the Class and Sub-Class and predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- a. the interests of the members of the Class and Sub-Class in individually controlling the prosecution or defense of separate actions and/or proceedings;
- b. the impracticability or inefficiency of prosecuting or defending separate actions and/or proceedings;
- c. the extent and nature of any litigation concerning the controversy already commenced by or against members of the Class and Sub-Class;
- d. the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
- e. the difficulties likely to be encountered in the management of a class action.

83. Among the numerous questions of law and fact common to the Class and Sub-Class are:

- a. whether the Defendant acts or refuses to act on grounds generally applicable to the Plaintiff, the Class, and the Sub-Class;
- b. whether the Defendant has established a pattern, practice, or policy of misrepresenting legal regulated rents;

- c. whether Defendant has established a pattern, practice, or policy of overcharging rent;
- d. whether Defendant's practices, acts, and conduct violate the RSL and RSC;
- e. to what extent Plaintiff and members of the Class are entitled to damages; and
- f. to what extent Plaintiff and members of the Sub-Class are entitled to declaratory and injunctive relief.

**COUNT ONE**  
**VIOLATION OF THE RENT STABILIZATION LAWS AND REGULATIONS**  
*(on behalf of the Class)*

84. Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1 thru 83 of this complaint.

85. At all times relevant hereto, apartments of Plaintiff and the Class were subject to the provision of the RSL.

86. Defendant entered into leases with Plaintiff and the Class, which misrepresented the amount of rent Defendant was legally entitled to charge and collect.

87. Defendant charged Plaintiff and the Class rents more than the correct legal regulated rent

88. Defendant overcharged Plaintiff and the members of the Class an amount equal to the difference between their monthly rents and the appropriate legal regulated rent-stabilized rents.

89. Plaintiff and members of the Class are entitled to recover monetary damages from Defendant based on the unlawful overcharges, as well as an award of interest thereon.

**COUNT TWO**  
**VIOLATION OF THE RENT STABILIZATION LAWS AND REGULATIONS**  
*(on behalf of the Sub-Class)*

90. Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1 thru 83 of this complaint.

91. A justiciable controversy exists between the parties in that, among other things, Plaintiff and the members of the Sub-Class allege that their respective apartments are subject to rent stabilization coverage, pursuant to the RSL.

92. Defendant entered into leases with Plaintiff and the members of the Sub-Class, which incorrectly, falsely, and illegally misrepresented the amount of rent Defendant was legally entitled to collect.

93. As described above, and upon information and belief, Defendant's conduct was wrongfully and unlawfully designed to deprive Plaintiff and members of the Sub-Class of the protections of rent stabilization.

94. A justiciable controversy exists in that, upon information and belief, Defendant disputes that it acted unlawfully and believes the rent amounts it collected for its QLIC units were somehow justifiable

95. Plaintiff and members of the Sub-Class lack an adequate remedy at law.

96. By reason of the foregoing, Plaintiff and members of the Sub-Class are entitled to a declaratory judgment adjudging and determining:

- a. the apartments of Plaintiff and members of the Sub-Class are each subject to the RSL and RSC;
- b. Plaintiff and members of the Sub-Class are each entitled to a rent-stabilized lease in a form promulgated by DHCR;
- c. the amount of the legal regulated rent for the apartments of Plaintiff and members of the Sub-Class; and,

- d. Plaintiff and members of the Sub-Class are not required to pay any rent increases unless and until legally permissible rent-stabilized lease offers are made to, and accepted by, Plaintiff and members of the Sub-Class.

97. Plaintiff and members of the Sub-Class are also entitled to reformation of their leases to represent the actual amount of rent Defendant is legally entitled to charge Plaintiff and members of the Sub-Class.

**COUNT THREE**  
**DECLARATORY RELIEF**  
*(on behalf of the Sub-Class)*

98. Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1 thru 83 of this complaint.

99. A justiciable controversy exists between the parties in that, among other things, Plaintiff and members of the Sub-Class allege that their respective apartments are subject to rent stabilization coverage.

100. Notwithstanding the clear requirements of the RSL and RSC, Defendant has not provided Plaintiff and members of the Sub-Class with rent-stabilized leases and/or rent-stabilized leases in the correct amounts, as required by law.

101. Moreover, as set forth in more detail above, and upon information and belief, Defendant's conduct was willful and designed to remove the apartments of Plaintiff and members of the Sub-Class from the protections of rent stabilization.

102. Upon information and belief, Defendant disputes that it acted unlawfully and believes the rent amounts it collected for its QLIC's units were somehow justifiable.

103. Plaintiff and members of the Sub-Class lack an adequate remedy at law.

104. By reason of the foregoing, Plaintiff and members of the Sub-Class are entitled to a declaratory judgment adjudging and determining:



- a. the apartments of Plaintiff and members of the Sub-Class members are subject to the RSL and RSC and any purported deregulation by Defendant was invalid as a matter of law;
- b. Plaintiff and members of the Sub-Class are each entitled to a rent-stabilized lease in a lease form promulgated by DHCR;
- c. the amount of the legal regulated rent for the apartments of Plaintiff and members of the Sub-Class;
- d. any leases offered by Defendant to Plaintiff and members of the Sub-Class are invalid and unlawful unless they are offered on lease forms and terms prescribed by DHCR; and
- e. Plaintiff and members of the Sub-Class are not required to pay any rent increases unless and until legally permissible rent-stabilized lease offers are made to, and accepted by, said Plaintiff and members of the Sub-Class.

**COUNT FOUR**  
**ATTORNEYS' FEES**  
*(on behalf of the Class)*

105. Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1 thru 83 of this complaint.

106. Plaintiff is entitled to reasonable attorneys' fees under, *inter alia*, CPLR 909, in a sum to be determined by the Court, but not less than \$250,000.00.

**PRAYER FOR RELIEF**

WHEREFORE, and for the foregoing reasons, Plaintiff prays to this Court for the following relief:

- A. Certifying the Class and Sub-Class proposed by Plaintiff, appointing the Plaintiff as representatives of the Class and Sub-Class; and appointing Plaintiff's counsel as Class Counsel for the Class and Sub-Class;
- B. Appropriate money damages against Defendant resulting from its willful and wrongful violation of the RSL and RSC;

- C. Because Plaintiff and members of the Sub-Class have no adequate remedy at law for Defendant's ongoing violations of the RSL and RSC, Plaintiff requires injunctive relief in order to undertake all appropriate and corrective remedial measures, including, but not limited to, appointing an independent individual or entity to audit and undertake an accounting of every apartment at the QLIC, and reforming leases to comply with the RSL and RSC, where necessary;
- D. Temporarily, preliminarily, and permanently enjoining Defendant from continuing to violate the RSL and RSC;
- E. A money judgment against Defendant for disgorgement of profits from fees earned as a direct and proximate result of rent overcharges;
- F. A money judgment against Defendant for judgment in the amount of Plaintiff's attorneys' fees, costs and disbursements in an amount to be determined at a hearing or trial; and
- G. Granting such other and further relief as this Court deems just and proper.

DATED: New York, New York  
March 28, 2022

**NEWMAN FERRARA LLP**



By: \_\_\_\_\_

Lucas A. Ferrara  
Roger A. Sachar Jr.  
1250 Broadway, 27<sup>th</sup> Floor  
New York, New York 10001  
(212) 619-5400  
[lferrara@nflp.com](mailto:lferrara@nflp.com)  
[rsachar@nflp.com](mailto:rsachar@nflp.com)