

RSA Seminar: Navigating Housing Court *Another Sold-Out Program*

In order to provide members with some guidance on recent developments in the area of holdover and non-payment proceedings, RSA held a seminar on December 2nd called "Navigating Housing Court." The seminar was held at the New York County Lawyers Association and was moderated by RSA Deputy Counsel Robin Bernstein. RSA General Counsel Mitchell Posilkin introduced the program and briefly discussed three recent Court of Appeals' decisions which significantly impact the industry (see front page article). Mr. Posilkin also discussed recent developments in the lawsuit brought by RSA, CHIP and property owners challenging DHCR's amendments to the Rent Stabilization Code. RSA President Joseph Strasburg then discussed the favorable outcomes in the November State Senate races, the upcoming State legislative session in which the rent laws are due to sunset in June, 2015, and the importance of the Urstadt Law to property owners and the efforts by tenant advocates to repeal that law. (See October 2014 Reporter)

While the seminar was initially intended to address only Housing Court proceedings, the program was expanded to include two additional speakers, Commissioner Steve Banks from the Human Resources Administration and Commissioner Gilbert Taylor from the Department of Homeless Services. In response to outreach from them and the Mayor's Office to ensure that owners learn about the City's efforts to aid the homeless, RSA agreed to give time in our program to Commissioner Banks and Commissioner Taylor to discuss three new rental assistance programs under the umbrella of a program known as LINC (Living in Communities) which are intended to enable the homeless to leave shelters for privately-owned apartments. (For more on the LINC programs see page 5)

After the City's presentation, Howard Stern, Administrator of RSA's Legal Plan and Ron Hariri, an RSA Legal Plan attorney, spoke about non-payment proceedings. They stressed the importance of proper documentation and drafting proper petitions. They also discussed the requirement of properly serving the tenant with a rent demand and both the Notices of Petition and the Petition to avoid having the case dismissed.



From L-R: Howard Stern, Joseph Strasburg, Robin Bernstein, Ron Hariri, Matthew Brett, Neil C. Dwork and Mitch Posilkin.



RSA President Joseph Strasburg updates the audience on the impact of the November State elections.

Matthew Brett of Belkin, Burden, Wenig & Goldman spoke about Airbnb-related issues, the end of deemed leases and issues relating to tenant buyouts. He stressed the fact that every Airbnb-type case turns on its particular facts. Neil C. Dwork of Rosenberg & Estis spoke about the importance of properly drafting predicate notices in non-primary residence and owner occupancy cases.

The panelists stayed well past the conclusion of the program to answer numerous questions from individual members. The complete seminar materials are available on RSA's website in the Resources section at <http://bit.ly/1FOWQ6e>. ■

Major Court Decisions Issued in November *(Continued From Cover...)*

actions. Class actions are an easier way for the tenants' lawyers to pursue these cases because they place an enormous financial administrative and legal burden on owners to defend and can result in substantial legal fees for the tenants' lawyers. State law prohibits the use of class actions to recover a "penalty" and treble damages for willful overcharges are described in the rent laws as a "penalty." To circumvent that obstacle, the tenants' lawyers waived the right to seek treble damages. However, the Court of Appeals had previously ruled that neither tenants nor owners can waive any of their rights under the rent laws which, the owners

argued, includes the right to seek treble damages. The issue before the Court in these three cases was whether the tenants could waive their rights to seek treble damages in order to enable them to pursue their class actions. Unfortunately, but perhaps no longer surprisingly, the Court ruled that the tenants could waive their rights to seek treble damages and allowed the class actions to continue, to the detriment not only of the property owners in those cases, but also any property owner potentially affected by the ruling in *Roberts*. ■