

# Owners armed to fight back against Airbnb

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The recent Housing Court decision of 42nd and 10th Associates, LLC v. Ikezi awarding the landlord possession of an apartment being used as a hotel is a shot across the bow to those rent-regulated tenants renting their below-market apartments on Airbnb for financial gain.

This decision has been hailed as a “game changer” in the real estate industry’s battle against online services, such as AirBnb as it now permits a landlord to terminate a lease without affording the tenant an opportunity to cure.

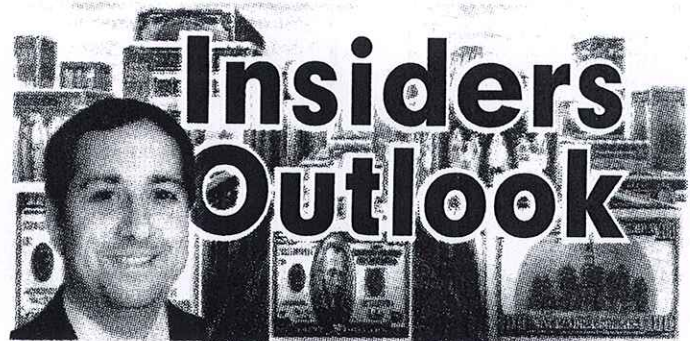
Significantly, the Ikezi decision provides a roadmap for landlords to combat the recent trend of rent-regulated units being used for finan-

cial gain. Within weeks of executing the lease for this unit, the landlord was able to ascertain that Mr. Ikezi was not residing in the apartment, and then found Mr. Ikezi’s advertisement on Airbnb.

The importance of having building personnel monitoring the traffic to and from an apartment cannot be overstated. It was these efforts that helped me to elicit evidence during the trial that the sole purpose of Mr. Ikezi’s leasehold was to profiteer through daily rentals.

To be successful, it is vital for the landlord to become well-versed in the manner online services advertise their rentals. Understanding the search engine and key words used to identify the units in your building can better lead to discovery of these advertisements.

Mr. Ikezi’s post on Airbnb



used many key words that helped the landlord find the listing and confront him with it prior to bringing legal action.

This Ikezi decision is also significant in conjunction with the recent holding in Brookford, LLC v. Penraat, as they reinforce two major issues with the use of online services such as Airbnb in New York City.

First, the tenant’s profiteering while being afforded the benefits of rent stabilization or rent control, which serves to undermine the very purpose of rent-regulation. Rightfully, the courts will not permit a rent-regulated tenant to become a “de facto landlord,” and impose rents that the landlord itself is prohibited from charging.

Second is the use of class “A” multiple dwellings as “transient hotels.” Class “A” multiple dwellings, are intended for permanent residence use, and are not permitted to be utilized as hotels. This serves as a basis to proceed directly to termination of the lease in a situation involving an unregulated tenant.

New York Building, Fire and Housing Maintenance Codes as well as the Multiple Dwelling Law provide for stricter fire and safety standards for transient dwellings as opposed to those rented on a month-to-month

or permanent basis. As such, the utilization of these units for short-term and/or daily rentals changes the “use” of the apartment.

In light of the court’s prior decision in Gold Street Properties, L.P. v. Freeman, where the court permitted the tenant who was utilizing Airbnb for short-term rentals of her unregulated apartment to cure her default, this signals a change in that rationale and now provides landlords with the ammunition it needs to combat this growing epidemic.

This decision also constitutes a victory for law-abiding tenants as well. Not only does the use of online services such as Airbnb have financial implications to the housing market in New York City, but tenant advocates have been quick to point out that the illegal use of apartments on a transient basis adversely impacts the use and enjoyment of the surrounding tenants in the building.

The constant flow of individuals in these apartments causes many people to feel unsafe and introduces an undesirable element to the building.

The impact and consequences of using Airbnb and similar types of online rental services is beginning to take shape with these recent decisions, and landlords now have the tools to fight back. ■