



New York State Division of Housing and Community Renewal

Gertz Plaza 92-31 Union Hall St.

Jamaica, NY 11433

Web Site www.nysdhr.gov

Docket Number:

YK420003OD

**Order Granting Permission to Change or Decrease
Dwelling Space, Essential Services, ETC., in Occupied
Apartment(s)**

Mailing Address Of Tenant:		Mailing Address Of Owner/Owner's Rep:	
Various 142 East 49th Street New York NY 10017		Samson Management LLC 97-77 Queens Blvd. Suite 710 Rego Park NY 11374	
Subject Building (Number and Street)	(If Different From Tenant's Mailing Address)	(Apt. No.)	(Municipality)

Applicable Regulations:

- ☐ Section 2102.5 of the State Rent and Eviction Regulations
- ☐ Section 2502.4 of the Tenant Protection Regulations
- ☒ Section 2202.21 of the NYC Rent and Eviction Regulations
- ☒ Section 2522.4 of the Rent Stabilization Code

Determination:

After consideration of all the evidence in the record, the Rent Administrator finds:

The owner's application to modify the service of an intercom system that has a bell and buzzer with a black and white monitor to a telephone-based intercom system is hereby granted pursuant to the provisions outlined in this order.

On November 15, 2010 the owner filed to replace the current video intercom with a telephone-based intercom system. Attached to the application was a copy of the contract detailing the work to be done. The owner also added that the building has a doorman on duty from 8 am to 12 midnight and that the current system is deteriorated, needs replacement and cannot be repaired. The owner also stated that security will be increased because visitors to the commercial spaces (the entrances of which are located between the entrance and vestibule doors) will now be buzzed into the vestibule and not into the residential portion of the building.

The tenants were served a copy of the owners' application on December 23, 2010. In response, the tenants' representative stated there will be a decrease in security because the tenants will no longer be able to view who will gain entry into the building and that it interferes with phones lines. The tenants with call waiting will have their calls interrupted and those without call waiting will get a busy signal. The representative also cited three (3) prior DHCR Orders where a modification of services (which decreased services) was approved only if there was an adequate substitute for the eliminated service. They feel the owner provides no adequate substitution for the eliminaton of the video monitor.

The tenants' representative also stated that the applicant does not appear on the NYC Dept. of Housing Preservation and Development as the owner or managing agent of the building.

On October 11, 2011, the owner was served a notice requesting a response to the tenants' representative concerns and whether there will be a monthly fee for the new telephone line; or whether the tenants will incur any additional fees if the intercom is activated (from a landline or cell phone). The owner was also asked how will tenants without a landline or cell phone be accommodated (will the apartments be equipped with an intercom handset) and will there be a charge to enter a

new telephone number for any tenants whose number changes. In response, the owner stated the system utilizes the tenants' existing phone line. The building has to maintain a phone line from the intercom system to call the specific numbers indicated. The coop is responsible for maintaining this building line and there is no charge for this telephone line to any tenant or shareholder.

If a tenant has unlimited calling for a flat fee from either their landline or their cell phone, there is no usage fees. Should a tenant have landlines or cell phones which bill is based on minutes or usage time, there will be a minimal fee from their phone providers. All of the three (3) affected tenants have provided landline contact numbers and in most cases additional cell phone contact numbers. Two of the three affected tenants have provided multiple contact numbers so that the system will dial their other number in case the first number is busy. Should any tenant change their existing number the owner of the tenants' apartment may be charged a service charge by Academy; however, those fees incurred will not be charged to the tenants.

The owner further addressed the tenants' claims of a decrease in services due to loss of the video monitor. The owner stated that the video screens, the video signal and the intercom had seriously deteriorated. The very small 2x2 screen was unable to provide any detail and the camera providing the picture had also deteriorated resulting in the tenants relying much more on the voice than on the picture.

Pursuant to the Rent Regulatory Regulations, an owner may file an application to modify or substitute required service on the grounds that such modification or substitution is not inconsistent with the Rent Stabilization Code or the NYC Rent and Eviction Regulations.

The Rent Administrator, after consideration of the evidence on file, finds that the owner's application for permission to change the existing intercom system to a telephone-based intercom system is not inconsistent with the rent laws and regulations. However, while applications to migrate to telephone based intercom service has been approved in the past, changing technology requires certain conditions be observed to ensure that there is intercom service provided physically in the apartment and that the resulting change in service does not actually decrease service to the tenants.

The application is therefore granted under the following conditions:

- 1) Intercom service must be supplied to every apartment in the building.
- 2) Tenants must continue to have a choice of telecommunications company that provides service in the area.
- 3) Each apartment must have touch-tone service. DHCR requires that all apartments have a landline phone in order to maintain intercom service to the apartment. If a tenant in occupancy refuses to install a telephone in the apartment after receiving the rent decrease ordered herein, no rent reduction application shall be granted based upon a lack of intercom service.
- 4) In order to offset the cost to the tenants to maintain a landline phone, the legal rent of all rent regulated tenants is permanently reduced by \$15.00, the approximate cost of basic telephone service. Such reduction takes effect the first of the month following the completion of the installation.
- 5) As many tenants rely on cell phones and no longer have permanently installed telephones in their apartments, such tenants are to be compensated by the owner if any new installation costs are incurred to install such landline phone in the tenant's apartment. Tenant should provide a copy of their phone bill to owner to verify such costs.

If you believe this order is based on an error in law and/or fact, you may file a Petition for Administrative Review (PAR), form RAR-2, no later than 35 days after the issuance date of the order. PARs filed after the time limit specified above will be considered late and will be dismissed. Call (718) 739-6400 or visit your local Rent Office and request form RAR-2. This form is also available on our website at www.nysdhcr.gov.

January 20, 2012
Issue Date



Rent Administrator