

CIVIL COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS: HOUSING PART B

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MARINE TERRACE ASSOCIATES,

Petitioner,

-against-

Index No. 81849/06

GEORGE KESOGLIDES,

**DECISION/ORDER**

Respondent.

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HON. MARIA RESSOS:

Upon respondent's motion, petitioner's affirmation in opposition and cross-motion and respondent's reply, together with exhibits, respondent's motion is granted and the proceeding is dismissed.

Petitioner commenced the within holdover proceeding against respondent, by service of a Notice to Quit to Licensee, Petition and Notice of Petition. Petitioner alleged that the tenant of record, Vasiliki Kesoglides passed away in 2005 and was the only person listed on the recertification agreement with Housing and Urban Development. The petitioner alleges that the respondent is therefore a licensee.

Respondent, George Kesoglides, seeks dismissal of the within proceeding pursuant to CPLR 3212, on the grounds that petitioner failed to name and serve a necessary party to wit, the estate of the deceased tenant. Respondent claims that from 1983 to 1991 he was listed on the Owner's Certification of Compliance with HUD. In 1991 he was removed from the lease due to lack of income. He continued to reside in the apartment with his mother, Vasilika Kesoglides who was also listed on the certification. The respondent left the apartment in 1999 and returned in 2000, and he alleges that he has resided in the apartment ever since.

Petitioner cross-moves to add the tenant's estate as a party to this proceeding. Respondent opposes and argues that adding the estate as a party does not salvage petitioner's case.

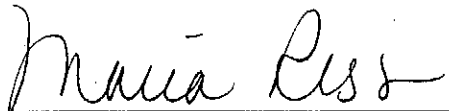
Service of a valid predicate notice is a condition precedent to the commencement of a proceeding, *Chinatown Apartments v. Chu Cho Lam*, 51 NY 2d 786. Dismissal of a proceeding is mandated where a person found to be a necessary party has not been named in or served with the petition, *Stanford Realty Assoc. v. Rollins* 161 Misc. 2d 754, 615 NYS2d 229 (Civ. Ct. NY Co. 1994). Further, a lease for a fixed term does not terminate on the death of the tenant, *Westway Plaza Assoc. v. Doe*, 179 AD2d 408, 578 NYS2d 166 (App. Div. 1<sup>st</sup> Dep't 1992) If a landlord commences a summary proceeding prior to the lease ending, the estate of the tenant is a

necessary party, and failure to name the estate requires dismissal. *Westway Plaza, supra.*

Accordingly, petitioner failed to name a necessary party and therefore, the respondent's motion is granted and the within proceeding is dismissed.

This constitutes the Decision and Order of the Court.

Dated: Jamaica, New York  
July 20, 2007

  
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MARIA RESSOS, J.H.C.