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Property—Year-Delay Clause in Legislation in Regard to Fixation of Maximum Rent Constitutional

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The landlord's arguments before the Court of Appeals followed two courses. The Court rejected the landlord's first contention that the regulation was invalid because it was in conflict with the authorizing statute of the Commission. It was held that while Section 2 gave the Supreme Court the power to determine the amount of the increased rent, Section 13 merely gave the Commission the power to rule on the validity of the change from residential to business use. The Court concluded that "lawfully occupied" as used in Section 2 included the later regulation known as Section 13 and that decontrol orders were necessary before Section 2 emergency rent could be allowed by the Supreme Court. The holding refuted any authority in the Supreme Court to rule for itself on the validity of the conversion to business use.

Sipal Realty then contended that even if the sections were consistent, Section 13 had no application to these facts. Noting that one basic purpose of Section 13 was to prevent the unscrupulous landlord from forcing the tenant of residential property into signing a business lease so as to take advantage of emergency rent,³³ it was argued that, here, no such unethical practices could take place since there were structural changes that evidenced a conversion of residential to business property.

Along the same lines, appellant argued that the changes were such that no longer were the premises "housing accommodations" within the meaning of Section 13. The landlord cited the Residential Rent Law which defines "housing accommodations" in terms of sleeping places and boarding houses.³⁴ Appellants then attempted to show that the suites in question were no longer suitable for these uses.

The Court answered both arguments by stating that structural change was only one of the factors to be considered by the Administrator in determining whether there had been a good faith conversion.

As a result of this decision it is now settled that when residential space is converted to business space, the Commission and not the Court must be satisfied that the conversion is legitimate and not merely a device to get increased rent, before the Supreme Court can increase the rent as authorized by Section 2. Until decontrol orders are issued the premises are subject to residential rent control.

P. D. C.

YEAR-DELAY CLAUSE IN LEGISLATION IN REGARD TO FIXATION OF MAXIMUM RENT CONSTITUTIONAL

In *I.L.F.Y. Co. v. Temporary State Housing Rent Commission*,³⁵ the

became due was when the premises were converted to business space. In addition the landlord argued that since rent control was in derogation of his common law rights, any provision must be construed in the light most favorable to him.

33. See "Note of Commission" following Section 13 of the Rent and Eviction Regulations.

34. N.Y. Unconsol. Laws § 8582(2) (McKinney 1961).

35. 10 N.Y.2d 263, 219 N.Y.S.2d 249 (1961).

plaintiff challenged the validity of an amendment to the Emergency Housing Rent Control Law.³⁶ Plaintiff had purchased a rent-controlled apartment house in Manhattan on February 20, 1961. Pursuant to statute,³⁷ the plaintiff tendered an application to the Rent Commission for the purpose of fixing higher rents computed on the new valuation of the apartment house. Prior to the Rent Commission's action on the application, the State Legislature passed the amendment in controversy.³⁸ The amendment states that a purchaser of a rent-controlled apartment house cannot increase the rents based on the new purchase price for one year from the date of purchase. This amendment was a modification of the past law which permitted an owner of newly acquired property to immediately increase his rents as provided by the former statute. Consequently, plaintiff was deprived of one year's increase in rent which he would have been able to receive prior to the enactment of the amendment. Plaintiff argued that due process demands that a law be not unreasonable or arbitrary and that it be reasonably related and applied to some actual and manifest evil.³⁹

The Court of Appeals shows by sufficient factual data that the legislature has made a substantial investigation to warrant its legislation.⁴⁰ The Court further states that even if there were no record of the investigation, it may be presumed that the Legislature has made sufficient inquiry into the matter.⁴¹

The purpose of rent control is to prevent undue rent increases and is, therefore, beneficial to the public welfare.⁴² Therefore, the constitutionality of the amendment is upheld by the Court on the basis of the police power of the State, which can be utilized to deter unwarranted and abnormal increases in rents so as to protect public health, safety and general welfare. The strong presumption in favor of the constitutionality of legislation coupled with the strong police power of the State point to the soundness of the Court's opinion.

L. H. S.

STATUTORY RELIEF FOR TENANTS OF DESTROYED PREMISES RENDERED IN-
APPLICABLE BY PARTIES' CONTRARY AGREEMENT

At common law, absent an agreement to the contrary, destruction of a building on land held under lease did not entitle the tenant to terminate his

36. N.Y. Unconsol. Laws § 8584(4)(a)(1)(v) (McKinney 1961).

37. N.Y. Unconsol. Laws, Rent and Eviction Regulations of the Temporary State Housing Rent Commission § 33(5) (McKinney's Appendix 1961).

38. *Supra* note 36.

39. *Nebbia v. New York*, 291 U.S. 502 (1934); *Defiance Milk Products Co. v. DuMond*, 309 N.Y. 537, 132 N.E.2d 829 (1956); *Matter of Jacobs*, 98 N.Y. 98 (1885).

40. See Rep. of the Comm. to Study Rents and Rental Conditions, Report on Rent Control, N.Y. Laws 1961, p. 1971; Report of Spec. Comm. to Study the Sales Price Basis and Evictions for New Housing under the Emergency Housing Rent Control Law, Report on Rent Control, N.Y. Laws 1961, p. 1985.

41. *Defiance Milk Products Co. v. DuMond*, *supra* note 39; *Lincoln Bldg. Associates v. Barr*, 1 N.Y.2d 413, 153 N.Y.S.2d 633 (1956).

42. *New York University v. Temporary State Housing Rent Commission*, 304 N.Y. 124, 106 N.E.2d 44 (1952).