

EXHIBIT J

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS
PART Q

-----X
Judith Grunbaum,

Petitioner,

-against-

Jules Skloot, et al.,
-----X

L&T Index Nos.: 62648, 62649,
62815, 62816, 62817, 62945/2016

DECISION

Hon.: Thomas M. Fitzpatrick

Recitation, as required by CPLR 2219(a), of the papers considered in review of this motion:

Papers	Numbered
Notice of Motion and Affidavits Attached.....	1
Notice of Cross-Motion/Opposition to Motion and Affidavits Annexed.....	2
Answering Affidavits.....	
Replying Affidavits.....	
Exhibits.....	
Oral Argument.....	

Upon the foregoing cited papers, the Decision/Order on this Motion is as follows:

Petitioner commenced these owner’s use holdover proceedings, index numbers 62648/2016, 62649/2016, 62815/2018, 62816/2016, 62817/2016 and 62945/2016, to recover possession of the rent stabilized units: Ground Floor Back, 4th Floor Back with Storage Room, 1st Floor Front, 3rd Floor Front with Alcove, 3rd Floor Back, 4th Floor Front with Storage Room, all located at 433 Dean Street, Brooklyn, New York. The predicate notices allege that petitioner elected not to renew the rent stabilized tenancies based upon the fact that the owner intends to use the subject premises for her own personal use and occupancy and primary residence, and to accommodate her large family. The matters were calendered for various dates. Respondents, by counsel, interposed their Answers, and

after extensive motion practice, the proceedings were transferred trial ready to the trial part for a consolidated trial.

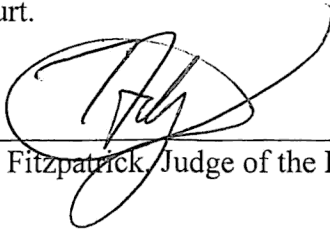
Respondents now move for an order dismissing the proceeding pursuant to CPLR 32119a)(1) and or (a)(7), based upon failure to state a cause of action, pursuant to the Housing Stability and Tenant Protection Act of 2019 (HSTPA). Respondents argue that the HSTPA bars petitioner from recovering multiple rent stabilized units based upon owners' use. Respondents contend that the rent stabilization laws as amended by the HSTPA permits an owner to recover only one dwelling unit as a primary residence or for use and occupancy of a member of his or her immediate family as his or her primary residence because of an immediate and compelling necessity.

Petitioner opposes and cross moves for an order seeking leave to discontinue the proceeding without prejudice pursuant to CPLR 3217(b). Petitioner counters that rather than dismissing the proceeding, the court should grant it leave to discontinue since the constitutionality of the HSTPA is currently in litigation, and that the owner may, at an uncertain time in the future, want to seek recovery of one or more of the units upon different grounds. Petitioner argues that dismissal of the proceeding or discontinuance proceeding with prejudice may impact its right to recover the subject premises in the future.

The motions and cross-motions are consolidated for disposition. Petitioner's motion is granted to the extent that the proceedings shall be deemed discontinued with prejudice to the predicate notice. See, CPLR 3217(b). Petitioner's concern that she would be foreclosed from bringing a new proceeding to recover the subject premises if the HSTPA is deemed unconstitutional or upon other grounds unless petitioner is allowed to discontinue the proceeding without prejudice is overstated. Consequently, respondent's motion to dismiss is denied as moot.

This constitutes the decision and order of this court.

Dated:
June 10, 2020



Thomas M. Fitzpatrick, Judge of the Housing Court