

Civil Court of the City of New York
County of Kings, Housing Part

Page 2 Date: **2001 03 30**

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Index No. LT **07826/00**

4. I allege that I have a good defense because:

Defense

- | | | | |
|-------------------------------------|---|-------------------------------------|--|
| <input type="checkbox"/> | I was improperly served | <input type="checkbox"/> | petitioner is not the owner |
| <input type="checkbox"/> | the amount being claimed is incorrect | <input checked="" type="checkbox"/> | no rent was demanded |
| <input type="checkbox"/> | there is credit due for rent overcharge | <input type="checkbox"/> | the rent has been partially/fully paid |
| <input type="checkbox"/> | the rent has been offered but refused | <input type="checkbox"/> | I have been harassed |
| <input checked="" type="checkbox"/> | there are conditions in the apartment which need repair, or services which have not been provided | | |
| <input checked="" type="checkbox"/> | heat | <input type="checkbox"/> | health and safety |
| <input checked="" type="checkbox"/> | hot water | <input type="checkbox"/> | other sanitary conditions |
| <input type="checkbox"/> | electrical | <input type="checkbox"/> | pests & vermin |
| <input checked="" type="checkbox"/> | oven / stove | <input type="checkbox"/> | plumbing |
| <input checked="" type="checkbox"/> | refrigerator | <input type="checkbox"/> | walls & paint |
| <input checked="" type="checkbox"/> | security | <input type="checkbox"/> | garbage |
| <input type="checkbox"/> | doors / windows | <input type="checkbox"/> | recycling |
| <input checked="" type="checkbox"/> | other - describe | Doorbell | |

Explain rent payments, if any, or other defense:

No rent has been requested, and the Landlord has failed to make the required repairs - and the Judge had stated clearly that no rent is to be paid until the repairs have been made. Further, in light of the Decision and Order of March 13 and the (cont. page 3)

5. Request

I request that the Judgment be vacated, that the case be restored to the calendar, and that I be granted permission to serve these papers in person

6. Prior Order

I have not had a previous Order to Show Cause regarding this index number
 I have had a previous Order to Show Cause regarding this index number, but I am making this further application because:

The Petitioner has still failed to comply with the terms of the stipulation; the Decision and Order appears to be defective, in that it does not comply with the "Recitation, as required by CPLR 2219(a), of the papers considered in the review of this Motion" (cont. page 5)

Sworn to me this **30** day of **March** 20 **01**

Signature of Court Employee and Title

Signature of Tenant / Respondent

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Index No. LT **70826/00**

Continuation of: Excuse Defense Request Prior Order

As Respondents in this case, we have filed numerous motions and affidavits, and have introduced a significant body of evidence material to the case in conjunction with these Motions and Affidavits. In response to the Judge's Interim Order requiring us to provide copies of all the documents we had filed in the case, as the Court's copies had been lost, we had provided a detailed chronological listing of our motions, affidavits and evidence in the case when the papers were presented to the Court, and respectfully request that any final Decision and Order acknowledge all of these papers - including the instant Affidavit - that have been filed in case in the Recitation of the papers considered. While I recognize that this is not a fatal omission, and is one that can readily be corrected, I would humbly submit that the Decision and Order should not be executed until the failure to comply with CPLR 2219(a) is corrected.

Furthermore, we are concerned that while these proceedings are in a Civil and not a Criminal, Court, the Decision and Order is severely punitive in nature, by virtue of its lack of provision for a reasonable time - less than two weeks from our receipt of the Decision and Order - for Respondents to make arrangements to move and by virtue of the severity of its impact on our lives and our work, and the severe - and potentially fatal - threat to the viability of timely vital work in critical areas of public health and global policy through my work at the United Nations, as the scheduled eviction for April 2, 2001 comes at a time when the level of my responsibilities in key United Nations proceedings has reached an extremely critical point, where I am on the verge of realizing and making available the fruits of a lifetime's work of public service and vital applied scientific research.

The eviction, and the related severe disruption of our lives, including the prospects of our being homeless, would also place in severe jeopardy Christine Fye's employment in a position she has held for less than three months. The modest income from her position - as personal assistant to the Executive Editor of an alternative new media organization - Globalvision / mediachannel.org - has represented a critically needed opportunity for us to begin to move from a precarious existence after a year in which we have had virtually no income or financial assets - and also offers the prospect of an opportunity to return to her earlier career as an award-winning producer and director of film and video - a career whose high point was the 1980 Academy Award for Best Feature-length Documentary for "Best Boy" - a film that she had conceived - having noticed how Philly - the subject of the film, a mentally-retarded man in his fifties whose parents were no longer able to care for him - was not being seen or treated as a person by his family - and had guided the film's direction by a cousin of Philly, and her partner at the time - who actually received the award - without, incidentally, ever publicly acknowledging her role .

Meanwhile, I am currently serving as convener of a Communications Working Group for non-governmental organizations (NGOs) participating in preparation for the United Nations General Assembly Special Session on HIV/AIDS that will take place in June 2001 at UN Headquarters in New York, and have established a new Internet domain - hiv-care-aids.net- designs for which includes a pioneering demonstration of the holistic use of information technology in responding to the challenges of HIV/AIDS. These designs include a systematic framework for organizing and making available vital information and communication concerning the epidemic and care, treatment and prevention measures, with a special focus on the value of geographic information systems as key tools for observing, analyzing and monitoring the status of the HIV/AIDS epidemic, and in enabling and planning the mobilization of resources for care, treatment and prevention for people, families and communities affected by the most severe public health emergency in human history.

(Cont. page 6)

Tenant's Initials

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Continuation of: Excuse Defense Request Prior Order

I am currently in the process of preparing a funding proposal for hiv-aids-care.net , and have already received indications of a favourable response from charitable foundations and from within the information technology industry. I am also at a critical point in preparing a presentation and materials for a key two day planning meeting of NGOs and New York City groups working with HIV/AIDS on April 6 & 7. I am attaching a copy of the initial home page of the hiv-aids-care.net home page - and a representative page from the ffd-forum.net site (see below) - so that the Court can have in its possession evidence that corroborates the information submitted in this Affidavit.

Another major project for which I have responsibility involves administering the Financing for Development Forum - FfD Forum - as a structure to enable broad-based, informed dialogue in preparations for an upcoming International Conference on Financing for Development that will be held in Mexico, tentatively in the spring of 2002. There is a critical Preparatory Committee meeting - negotiation session - that will take place in early May at UN Headquarters, in which the FfD Forum can play a critical role - in terms of developing a systematic framework for organizing and making available relevant documents and information and designing a structure to assist with the negotiation process - using methodologies of a parallel design to that conceived for the proposed information systems for this Housing Court - and in focusing attention on the critical importance of, and opportunities for, financing for development in the new knowledge-based economies in the context of this Conference - and, *inter alia*, through hosting a series of Roundtable Dialogues, two of which have been held to date at the UN with the support of the Permanent Mission of Egypt to the UN.

There appear to be a growing number of representatives of UN Member States who share the concern that this is a vital - even perhaps the most important - issue to address in the Conference given the extent and manner in which information technologies have been transforming the nature and face of almost all aspects of finance and business, and given the broader context of a transition to a global knowledge-based economy - a transition that was recognized by the UN Economic and Social Council (ECOSOC) as the priority theme for the High-level segment of ECOSOC 2000 and of a related Ministerial Declaration. The Financing for Development Conference is widely seen by developing country representatives as the UN as an exceptionally important conference; at regional hearings for the Conference in Latin America last Fall, a U.S. representative stated that it is the most important of the series of global conferences that have taken place at the UN in the past decade.

Meanwhile, as the NGO that has pioneered the use of information and communications technologies by NGOs involved in the 1992 Earth Summit, and the follow-up to the summit, Information Habitat is also engaged in preparation for a major presentation in conjunction with the year's Session of the Commission on Sustainable Development - to be held for two weeks in April 2001, also at UN Headquarters - which will include a major focus on information for decision-making - and with a subsequent one-week Preparatory Committee for the ten year review of the 1992 Earth Summit - to be held next year in Johannesburg, South Africa.

Finally, in terms of the projects on the immediate horizon, Information Habitat is poised to play a key role in the preparations for the Istanbul+ 5 review of the Habitat Agenda, in June 2001, also at UN Headquarters; this presentation will involve a comprehensive report on the many initiatives - under the broad heading of a "Case Study in Information Ecology and Human Settlements" - that have been created under the auspices of the Habitat Partners Network and the Habitat Online Partnership Plan of Action that have been developed and facilitated by Information Habitat. I would be happy to provide evidence of these initiatives, should (cont. page 7)

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Continuation of: Excuse Defense Request Other

the Court require it, however, I am hesitant to burden this Court with any additional documents to review; some of this information will be made available very shortly on Information Habitat's World Wide Web site at <http://one-light.net>.

Meanwhile, as fate would have it and through the assistance of a good friend and neighbour, we have very recently learned of - and have seen for the first time less than a week ago - a vacant house in our immediate neighbourhood that has been unoccupied for ten years or more and that appears to be structurally sound, although in need of some repairs - mostly plumbing, re-wiring, some sheetrock installation and painting - before occupancy. We are cautiously optimistic that we will be able to make arrangements to occupy the house and take responsibility for its renovation. The building - and an adjoining one that is in need of more substantial improvements, including some structural repair - is owned by an Order of Catholic nuns, and we are preparing a preliminary proposal to initiate exploratory negotiations. Provided that we do not encounter any significant obstacles, it is not unreasonable to believe that we might be able to reach a mutually-acceptable agreement - and to make the requisite repairs - in time for occupancy by the end of June 2001 - at which point we would be happy to vacate the premises. We note too that a June 30 deadline should also give the Petitioner adequate time to make the requisite repairs to the premises that are called for in the Stipulations of Settlement.

Given the magnitude and importance of these commitments - as well as to other ongoing commitments at a neighborhood level - e.g. Christine Fye is serving as Secretary of the Board of Neighborhood Women's Renaissance, a low-income community-based housing complex at a former hospital on Kingsland Avenue - Respondents respectfully request that the Court take into consideration the above circumstances and amend its Decision and Order to set a date no earlier than June 30 2001 for Respondents to vacate the premises.

In its Decision and Order of March 13, the Court did not cite any emergency conditions pertaining to the case that might reasonably call for the virtually immediate execution of the warrant, nor was the time - almost six months - that the Court took to issue its Decision and Order indicative of an emergency in this case. Petitioner's attorney has not submitted any claim to the Court that additional delay in resolving this case would create any particular hardship for Petitioner, or that Petitioner's immediate or future welfare is in any jeopardy as a result of the case; indeed the lack of evidence of any hardship on Petitioner's behalf is also corroborated - as documented in Section 4, page 2, of this Affidavit - by the fact that Petitioner has made no request or demand for any rent from Respondents for the use of the premises and has not taken the trouble to make the repairs called for in the Stipulation that would legitimize a request for rent by the Landlord.

Tenant's Initials