

## **Mutual Redevelopment Houses, Inc. v. Manyevitch**

Civil Court of the City of New York, New York County

May 8, 2026, Decided

Index No. L&T 311470/22

### **Reporter**

2026 N.Y. Misc. LEXIS 5006 \*; 2026 NY Slip Op 26067 \*\*; 2026 LX 253889; 2026 WL 1279711

Mutual Redevelopment Houses, Inc., Petitioner, v.  
Oraya Manyevitch, FREDERICK LYNN MARDIS, JOHN  
DOE, JANE DOE, Respondents.

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### **Core Terms**

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occupancy, summary judgment, counterclaim, evict,  
successor, succeed, subject premises, certificate,  
primary residence, spouse

### **Case Summary**

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#### **Overview**

#### **Key Legal Holdings**

- Where a successor (Nestor) died before obtaining shares but after HPD granted succession rights, and no formal termination of original occupancy agreement occurred after 2013 eviction certificate, the successor's spouse (Manyevitch) who maintained primary residence can succeed to the apartment, with succession flowing back to the original Lewis instruments.
- Where claimant (Mardis) appeared on only two non-consecutive income affidavits (2012, 2021) and provided only attorney affirmation without corroborating evidence of emotional/financial commitment with deceased occupant, summary judgment against succession claim is appropriate.

#### **Material Facts**

- Original shareholders Lila and Elodie Lewis took possession in 1983.
- Lila Lewis died March 7, 2007.
- HPD issued certificate of eviction against Elodie Lewis September 2013 for non-primary residence.
- HPD granted Nestor succession rights November 2018.
- Nestor married Manyevitch June 22, 2021.
- Nestor died September 25, 2021 without obtaining shares.
- Mardis appeared on income affidavits only in 2012 and 2021.

#### **Controlling Law**

- Private Housing Finance Law Article V, City Agreement Section 210 (succession provisions), cooperative bylaws Article VII, CPLR summary judgment standards. Court distinguished Mitchell-Lama cooperatives where DHCR/HPD have exclusive jurisdiction.

#### **Court Rationale**

PHFL Article V promotes affordable housing and succession should not face unduly stringent barriers. HPD's 2018 succession determination for Nestor was valid despite 2013 eviction certificate. Since no formal termination occurred, succession flows to original instruments. Court has jurisdiction over Article V claims unlike Mitchell-Lama. Mardis failed to meet evidentiary burden for non-traditional succession.

**Outcome****Procedural Outcome**

Summary judgment granted to Ms. Manyevitch; petition dismissed as to her. Summary judgment granted to petitioner against Mr. Mardis with possessory judgment and warrant of eviction (execution stayed until July 1, 2026). Petition dismissed against John/Jane Doe without prejudice. Attorney fees counterclaims stricken but subject to restoration by motion.

**LexisNexis® Headnotes**

Public Health & Welfare Law > Housing & Public Buildings > Low Income Housing

Real Property Law > Common Interest Communities > Cooperatives > Management

**[HN1](#) Housing & Public Buildings, Low Income Housing**

In the context of PHFL Article II Mitchell-Lama cooperative housing, succession is in the spirit of the statutory scheme, whose goal is to facilitate the availability of affordable housing for low-income residents and to temper the harsh consequences of the death or departure of a tenant for their traditional and non-traditional family members.

Administrative Law > Judicial Review > Standards of Review > Deference to Agency Statutory Interpretation

**[HN2](#) Standards of Review, Deference to Agency Statutory Interpretation**

Deference is to be given to a rational agency policy if it is consistent with applicable statutes and regulations.

Evidence > Types of Evidence > Documentary Evidence > Affidavits

**[HN3](#) Documentary Evidence, Affidavits**

While failure to appear on income affidavits may be excusable in determining succession to a regulated

apartment, this is only the case where there is ample evidence to support a finding of succession.

**Counsel:** **[\*1]** Brian A. Campbell, Esq., Kucker, Marino, Winiarsky & Bittens, LLP, New York, NY.

Attorneys for petitioner, Carly A. Gartenberg, Esq., Manhattan Legal Services, New York, NY.

Attorneys for respondent Orya Manyevitch, Michael Pereira, Esq., Mobilization for Justice, Inc., New York, NY.

Attorneys for respondent Frederick Lynn Mardis.

**Judges:** HON. CLINTON J. GUTHRIE, J.H.C.

**Opinion by:** CLINTON J. GUTHRIE

**Opinion**

Clinton J. Guthrie, J.

**[\*\*1]** Recitation, as required by [CPLR § 2219\(a\)](#), of the papers considered in the review of respondent Orya Manyevitch's motion for summary judgment (seq. 3) and petitioner's (cross) motion for summary judgment and to dismiss respondents' affirmative defenses and counterclaims (seq. 4):

Upon the foregoing cited papers, the decision and order on respondent Manyevitch's motion and petitioner's (cross) motion, consolidated for determination herein, is as follows.

**PROCEDURAL HISTORY**

This summary "licensee" holdover proceeding was filed in July 2022. Respondent Orya Manyevitch ("Ms. Manyevitch") appeared through counsel and filed an answer in November 2022. Respondent Frederick Lynn Mardis ("Mr. Mardis") filed a pro se answer in December 2022. Counsel appeared for Mardis in February 2023 and an amended answer on his behalf **[\*2]** was filed on consent in May 2023.<sup>1</sup>

Thereafter, petitioner brought a motion for summary judgment and respondents jointly cross-moved for discovery. By three-attorney stipulation dated July 8, 2024, the motions were settled, respondents agreed to

<sup>1</sup>The respondents have retained separate legal services offices as their respective attorneys.

pay use and occupancy, and petitioner consented to discovery. Following several adjournments while discovery was conducted, Ms. Manyevitch moved for summary judgment on her second defense and first counterclaim and petitioner made a motion (effectively a cross-motion) for summary judgment and for the dismissal of respondents' affirmative defenses and counterclaims. After briefing on the motions was complete, this court heard argument on October 7, 2025.

## DISCUSSION

### I. Summary Judgment — *Orya Manyevitch*

Both petitioner and Ms. Manyevitch have moved for summary judgment. The court first assesses those motions as they relate to Ms. Manyevitch. Petitioner asserts in its motion that Ms. Manyevitch is unable to succeed to the subject apartment, which is located in an Article V housing cooperative organized under the Private Housing Finance Law (PHFL). Petitioner's primary argument is that because cooperative shares did not issue to George Nestor, Ms. Manyevitch's [\*3] late husband and the person whose occupancy she seeks to succeed, Ms. Manyevitch is foreclosed from succeeding under petitioner's bylaws, specifically Article VII. Secondarily, petitioner claims that Ms. Manyevitch cannot meet the requirements for succession under the Section 210 of the Fourth Amendatory Agreement ("City Agreement") between petitioner and the City of New York.

In her motion for summary judgment, Ms. Manyevitch argues that as a spouse, under Section 210(d)(i) of the City Agreement, she needed only to demonstrate that: (1) the occupancy agreement was not terminated for cause; and (2) that she maintained the subject premises as her primary residence at the time that the tenancy agreement was terminated in order to succeed to Mr. Nestor's tenancy, notwithstanding the absence of shares issued to Mr. Nestor before he died.

The factual history involving the subject apartment is somewhat complex. In 1983, Lila Lewis and Elodie Lewis took possession as shareholders subject to an occupancy agreement. On September 9, 2013, the Department of Housing Preservation and Development (HPD) Administrative Hearing Officer Frances Lippa issued a "Decision and/or Certificate of Eviction" finding that Elodie Lewis had [\*4] failed to maintain the subject apartment as her primary residence and issued a certificate of eviction against Elodie Lewis and the

Estate of Lila Lewis (*see* NYSCEF Doc. 85). According to petitioner, Elodie Lewis's shares were never surrendered after [\*\*2] the certificate of eviction was issued (*see* Monika Zajac Aff., ¶ 23 [NYSCEF Doc. 76]). Hearing Officer Lippa's Decision also observed that Lila Lewis died on March 7, 2007. Several years later, Hearing Officer Lippa rendered a "Granting of Appeal for Succession Rights," dated November 8, 2018, which found that George Nestor had demonstrated his entitlement to succession based on shared financial and emotional commitment and interdependence with Lila Lewis before her death (*see* NYSCEF Doc. 86). Subsequently, Mr. Nestor and Ms. Manyevitch were married on June 22, 2021 (*see* NYSCEF Doc. 67), and Mr. Nestor died on September 25, 2021 (*see* NYSCEF Doc. 66). It is undisputed that neither shares nor an occupancy agreement were issued to Mr. Nestor before he died.

Contrary to petitioner's contention, as a spouse, Ms. Manyevitch was not obligated to be listed on the last 2 consecutive income affidavits before a succession determination, as that requirement [\*5] is only required for a *Braschi*-type successor (*see* City Agreement, §§ 210(a)(ii), 210(d)(i) [NYSCEF Doc. 80]).<sup>2</sup> Petitioner does not meaningfully dispute either that Ms. Manyevitch was Mr. Nestor's spouse at the time of his death or that Ms. Manyevitch maintained the subject premises as her primary residence at the time of Mr. Nestor's death and thereafter. Ms. Manyevitch annexes her marriage certificate and various proof of residence, including a New York State Drivers License, a Social Security Administration letter, a New York City Human Resources Administration letter regarding SNAP (Supplemental Nutrition Assistance Program) benefits, and Mr. Nestor's death certificate, which lists Ms. Manyevitch, with an address at the subject premises, as the informant (*see* NYSCEF Docs. 66-70).

Thus, Ms. Manyevitch meets the requirements of the second prong for a spouse to succeed under the City Agreement. However, the first requirement, that the occupancy agreement not be terminated for cause, is complicated here by the fact that no occupancy agreement ever issued in Mr. Nestor's name. The only occupancy agreement of record was issued to Lila

<sup>2</sup> In [Braschi v Stahl Assocs. Co.](#), 74 NY2d 201, 212-213, 543 N.E.2d 49, 544 N.Y.S.2d 784 [1989], the Court of Appeals held that "non-traditional" family members could succeed to a rent regulated apartment on the basis of various factors, including the longevity of the relationship, emotional and financial commitment, and mutual reliance.

Lewis and Elodie Lewis in 1983 (see NYSCEF Doc. 83). The HPD Hearing Officer held [\*6] in September 2013 that Elodie Lewis had breached the agreement by failing to maintain the subject premises as her primary residence (see NYSCEF Doc. 85). Nonetheless, notwithstanding that determination, the same HPD Hearing Officer held in November 2018 that George Nestor was entitled to succeed to Lila Lewis's occupancy. There is a significant dispute between the parties as to the precise procedure for how shares and an occupancy agreement are to be issued to a successor and upon whom the burden of effectuating the issuance is placed. Petitioner asserts that under Article VII, § 3(i) of its Bylaws, it was Mr. Nestor's burden to ensure that Elodie Lewis's shares were surrendered and to purchase the apartment from petitioner, whereupon shares and an occupancy agreement would have been issued to him. Ms. Manyevitch, on the other hand, argues that petitioner improperly failed to afford Mr. Nestor the ability to obtain shares and that the only relevant inquiry is whether she qualifies as a successor under Section 210(d)(i) of the City Agreement.

**HN1** The Court of Appeals has held, in the context of PHFL Article II (Mitchell-Lama) cooperative housing, that "[s]uccession is in the spirit of the statutory scheme, whose goal is to [\*\*3] facilitate the [\*7] availability of affordable housing for low-income residents and to temper the harsh consequences of the death or departure of a tenant for their 'traditional' and 'non-traditional' family members." (*Matter of Murphy v New York State Div. of Hous. & Community Renewal*, 21 NY3d 649, 653, 999 N.E.2d 524, 977 N.Y.S.2d 161 [2013]; see also *Matter of Jourdain v New York State Div. of Hous. & Community Renewal*, 159 AD3d 41, 47, 70 N.Y.S.3d 239 [2d Dept 2018] ["The purpose of the succession rule [in rent-stabilized housing] is to prevent displacement of family members who have been residing with tenants at housing accommodations for long periods of time."]). The court notes that the HPD Commissioner repealed the Rules governing redevelopment companies formed pursuant to Article V of the PHFL on January 10, 2017 (see "Notice of Adoption" posted at <https://www.nyc.gov/assets/hpd/downloads/pdfs/about/redevelopment-companies-rules-1-10-17.pdf> [last accessed May 5, 2026]). In the absence of governing Rules, HPD has applied the relevant City Agreement provisions on succession for the subject building, as reflected in Hearing Officer Lippa's determination granting Mr. Nestor succession rights in November 2018

(see NYSCEF Doc. 86, Pages 4-5).<sup>3</sup>

As the "purpose of the Redevelopment Companies Law was to provide for the development and maintenance of moderate income housing in New York City" (*Joint Queensview Housing Enterprise, Inc. v Grayson*, 179 AD2d 434, 435, 577 N.Y.S.2d 856 [1st Dept 1992]), the court finds that it would be contrary to [\*8] the law to impose unduly stringent barriers to succession when the successor otherwise meets the relevant requirements (see *Matter of Murphy*, 21 NY3d at 654-655).<sup>4</sup> While no occupancy agreement was issued to Mr. Nestor before his death, HPD's issuance of a certificate of eviction in 2013 as against Elodie Lewis and the Estate of Lila Lewis did not preclude HPD's determination in 2018 that Mr. Nestor could succeed to the subject apartment. In line with that rationale, the court finds that Ms. Manyevitch, who has met the requirements for succession under Section 210(d)(i) the City Agreement as the spouse of the prior successor who maintained her primary residence at the subject premises all times during her co-residency with the prior successor until his death, is entitled to succeed to the subject apartment, notwithstanding the lack of shares and an occupancy agreement issued in Mr. Nestor's name. Since there is nothing in the record to demonstrate that either petitioner or HPD terminated the original occupancy agreement or the shares after the issuance of the certificate of eviction, succession flows back to those instruments.<sup>5</sup> In making this determination, the court

<sup>3</sup> **HN2** Deference is to be given to a rational agency policy if it is consistent with applicable statutes and regulations (see *Leggio v Devine*, 34 NY3d 448, 461, 121 N.Y.S.3d 206, 143 N.E.3d 1084 [2020]).

<sup>4</sup> The income affidavits for the subject apartment annexed to petitioner's motion confirm that the building has retained its moderate-income status.

<sup>5</sup> The court finds that it is empowered to decide the issue of succession, as unlike in the context of state-assisted and city-assisted Mitchell-Lama cooperatives, where DHCR and HPD have sole jurisdiction over succession claims (see *Bedford Gardens, Co., LP v Jacobowitz*, 29 AD3d 501, 502, 815 N.Y.S.2d 149 [2d Dept 2006]; *Rochdale Village, Inc. v Goode*, 16 Misc 3d 49, 52, 842 N.Y.S.2d 142 [App Term, 2d Dept, 2d & 11th Jud Dists 2007]), there is nothing contained in Article V of the PHFL that vests exclusive jurisdiction in HPD to decide such claims. The repeal of HPD's rules governing redevelopment companies only bolsters this assessment (cf. *Goode*, 16 Misc 3d at 52-53 [Noting the relevant DHCR and HPD regulations and rules governing succession in the respective types of Mitchell-Lama housing]; *Ocean Bay RAD, LLC v Camacho*, 245 N.Y.S.3d 887, 2025 NY Slip Op 25244,

[\*\*4] stresses that Ms. Manyevitch will have to follow the applicable provisions [\*9] of the City Agreement and Bylaws to effectuate the issuance of shares and/or an occupancy agreement in her name. Nonetheless, as Ms. Manyevitch has demonstrated that she is a valid successor, rather than a licensee, she is granted summary judgment and the petition is dismissed solely against her. Petitioner's motion for summary judgment and to strike respondents' defenses and counterclaims is denied to the extent that they apply to Ms. Manyevitch. Ms. Manyevitch's legal fees counterclaim is stricken, though subject to restoration by motion on notice.

## II. Summary Judgment — Frederick Mardis

Petitioner also moves for summary judgment and to strike Mr. Mardis's defenses and counterclaims. While Mr. Mardis does not cross-move for summary judgment, he opposes petitioner's motion in its entirety. Petitioner argues that it has established its prima facie claim that Mr. Mardis is a licensee and that he has no viable defenses or counterclaims.

First, the court finds that petitioner has established the prima facie elements of its claim against Mr. Mardis. Petitioner annexes the original occupancy agreement and stock certificate issued to the Lewises by petitioner, a certified multiple dwelling [\*10] registration, the pleadings, the building bylaws, the 2013 and 2018 HPD Hearing Officer decisions, income affidavits from 2001-2021, and the relevant provisions of the City Agreement governing succession. The motion is also accompanied by an affirmation from Monika Zajac, petitioner's legal coordinator, who details the history of the subject apartment's occupancy since 1983. Petitioner asserts that under Section 210(a)(ii) of the City Agreement, Mr. Mardis does not qualify for succession because he does not meet the standard set out for [Braschi](#)-type successors.

As petitioner has met its prima facie burden, the obligation shifts to Mr. Mardis to offer admissible evidence demonstrating that an issue of fact exists as to one of his defenses ([Zuckerman v City of New York](#), 49 N.Y.2d 557, 560, 562, 404 N.E.2d 718, 427 N.Y.S.2d 595 [1980]). Mr. Mardis claims that he independently qualifies for succession based on his family-type relationship with Mr. Nestor. Under Section 210(a)(ii) of the City Agreement, an adult who is not a spouse, child, stepchild, adopted child, parent, sibling, or grandparent of the occupant of record may qualify for succession if:

(1) they resided with the occupant in the subject apartment as a primary residence for at least 2 years; (2) they were listed on the income affidavits for at least 2 consecutive [\*11] reporting periods immediately prior to the succession determination; and (3) they can prove emotional and financial commitment and interdependence with the occupant of record. There are 8 separate categories of evidence to be considered as to whether the requisite emotional and financial commitment and interdependence exist, largely tracking the [Braschi](#) succession criteria set out in the New York City Rent and Eviction Regulations (governing Rent Control) and Rent Stabilization Code.

Petitioner annexes the relevant income affidavits to show that Mr. Mardis only appeared on the income affidavits for 2012 and 2021. [HN3](#) While failure to appear on income affidavits may be excusable in determining succession to a regulated apartment, this is only the case where there is "ample evidence" to support a finding of succession ([Matter of Murphy](#), 21 NY3d at 655). Here, Mr. Mardis has failed to come forth with *any* admissible evidence of emotional and [\*5] financial commitment and interdependence with Mr. Nestor. Indeed, his opposition to petitioner's motion solely consists of an attorney affirmation and memorandum of law. The memorandum of law refers back to an earlier affirmation by Mr. Mardis made under the penalties of perjury in February [\*12] 2024 (see NYSCEF Doc. 39). However, the statements in the earlier affirmation are not corroborated with any tangible evidence. Thus, Mr. Mardis has failed to raise any issue of material fact relating to his succession defense and counterclaim. Nor has Mr. Mardis demonstrated merit to any of his remaining defenses in this proceeding that would require a trial. Accordingly, petitioner is granted summary judgment against Mr. Mardis. Mr. Mardis's defenses and first counterclaim are dismissed, and the attorney's fees counterclaim is stricken. A possessory judgment is granted as against Frederick Lynn Mardis and a warrant of eviction shall issue forthwith. The warrant shall not be effective against Ms. Manyevitch, who is entitled to possession of the subject premises, and the marshal shall exercise care in executing the warrant to comply with this mandate (see [Parkash 2125 LLC v Galan](#), 61 Misc 3d 502, 513-514, 84 N.Y.S.3d 724 [Civ Ct, Bronx County 2018]). Execution of the warrant of eviction shall be stayed through June 30, 2026. The earliest eviction date (EED) shall be July 1, 2026. A marshal's notice shall be served prior to execution on default.

Although petitioner named a John Doe and Jane Doe,

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\*6-7 [Civ Ct, Queens County 2025].

[CPLR § 1024](#) requires due diligence before naming a respondent fictitiously. In the absence of **[\*13]** a showing of due diligence or any demonstration of a genuine belief that individuals whose identities are unknown are residing in the subject premises, the court will not grant relief against John Doe and Jane Doe as mere placeholders (see [Wilmington Trust, N.A. v Shasho](#), 197 AD3d 534, 536, 152 N.Y.S.3d 695 [2d Dept 2021] [citing [CPLR § 1024](#); [Michaelangelo Pres., LLC v Burgos](#), 75 Misc. 3d 1209[A], 167 N.Y.S.3d 771, 2022 NY Slip Op 50424[U] [Civ Ct, Bronx County 2022]). Pursuant to [CPLR § 409\(b\)](#) ("The court shall make a summary determination upon the pleadings, papers and admissions to the extent that no triable issues are raised"), the petition is dismissed against John Doe and Jane Doe without prejudice.

This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: May 8, 2026

Queens, New York

HON. CLINTON J. GUTHRIE, J.H.C.