



Central Brooklyn Independent Democrats: 2021 Judicial Candidate Questionnaire

Candidate Name: Honorable Heela D. Capell **Office Sought:** Countywide Civil Court
Candidate Email Address: Heelacapell@gmail.com **Candidate Phone Number:** 6462901661
Campaign Contact Name: Gregorio Mayers **Campaign Contact Phone:** 3477150555
Campaign Contact Email: gmayersconsulting@gmail.com
Name of person filling out this questionnaire: Hon. Heela D. Capell

Please answer each of the following questions to the best of your ability:

1) Are you the incumbent? If yes, how many years/terms have you served?

No

2) Have you been endorsed by CBID before? If so, in what year(s) and for what office(s)?

No

3) What portion of campaign funds do you expect to self-fund? What do you expect to spend in support of your candidacy? If you are accepting outside donations what, if any, groups or industries will you not accept campaign contributions from? If any, please note specifically whose money you will not accept.

I am not sure how much I intend to self fund, and given COVID, am still determining a budget as of the time of this application. I am not permitted to know who donated, nor how much, to my campaign. However, I would not accept funds from a large corporation, nor do I foresee any large corporations seeking to donate to my campaign.

4) What endorsements from community leaders, elected officials, political organizations or newspapers have you received thus far?

I have not received any endorsements as of the time of this application.

5) Is your candidacy receiving any support from the Kings County Democratic Party? If so, what type? (note that this includes any assistance in printing and collecting signatures for petitions even if you are ultimately paying for this assistance)

As of the time of this application the Kings County Democratic Party has not voted on who they will support.



6) What sitting Supreme Court justice do you most admire and why?

Jennifer Schechter in the Commercial Division of the Supreme Court in Manhattan. She is a Judge with a high moral fiber, integrity and is not afraid to make a significant decision. She is an excellent writer, a supreme legal mind, as well as kind enough to mentor others, such as myself.

7) Please include as a link or attachment the following documents:

- a. Citations for your three most significant decisions (if a judge).
- b. Resume
- c. Any published articles pertinent to the office you seek.
- d. Any application filled out for other organizations

Westwood House LLC v Javier, 64 Misc 3d 979, [2019 NY Slip Op 29215](#)

Johnson v NYCHA Boulevard Houses, Index 11665/20 (attached)

3505 BWAY Owner LLC v McNeely 67 Misc 3d 583, [2020 NY Slip Op 20019](#)

8) If you are currently serving as a Judge please list the names and contact information of the lawyers involved in the last three written opinions that you have issued. If not a judge, please provide the names and contact information of three professional references.

Johnson v NYCHA Boulevard Houses, Index 11665/20

For the Petitioner:

Communities Resist by Marilia Richards, Esq.

(646) 974-8775

Mrichards@communitiesresist.org

For the Respondent:

NYCHA by Stephanie Jones, Esq.

(212) 776-5227

Stephanie.jones@nycha.nyc.gov

5712 Realty v Osvaldo Greene, Index 94772/16

For the Petitioner:

Tenenbaum Berger & Shivers by Robert Price, Esq.

(718) 596-3800 ext.24

rp@tsllplaw.com

For the Respondent:

New York Legal Assistance Group, by Joseph Scofield, Esq.

(212) 659-6102

jschofield@nylag.org

Gonzales v NYCHA Borinquen Houses, 11654/20

For the Petitioner:



DC-37 by Mohammed Abdul, Esq.
(212) 815-1875

mabdul@dc37.net

For the Respondent:

NYCHA by Marisa Shemi, Esq.

(212) 776-5291

Marisa.shemi@nycha.nyc.gov

9) Provide citations to your last 5 published opinions. If you have less than 5, please provide copies of enough unpublished opinions to bring the total to 5. All published decisions first, then fill in the balance with the most recent unpublished decisions.

350 Central Park West Assoc., L.L.C. v. Udo, 65 Misc3d 1235(A) (2019)

West 152 Assoc, L.P. v. Gassama, 65 Misc3d 1218(A) (2019)

Westwood House, LLC v. Javier, 64 Misc3d 979 (2019)

1 BK St. v. Sykorova, 61 Misc3d 48 (2018)

87th St. Realty v. Mullholland, 62 Misc3d 213 (2018)

10) Are you a member of a political club, or have you ever been? If yes, what is the name of the club? And what positions have you held? Please include dates.

Yes, I was a member at large of:

Lexington Democratic Club 2009-2011

Lenox Hill Democratic Club 2009-2011

Independent Neighborhood Democrats 2016 –2018

Central Brooklyn Independent Democrats 2016 - 2018

11) Have you ever been elected to any public office or political party position? If so, please describe the office or position.

No

12) Have you performed any pro bono work in the past three years? Please describe the type of pro bono work you have performed.

As a judge I am not permitted to perform pro bono work.



13) What Civic Organizations do you belong to? Please describe that the organization does, and what role you play within the organization. For each Civic Organization, provide contact information for the Executive Director, CEO or organization head. If you are the executive Director or organization leader, please provide the contact information for at least one Board Member.

In addition to being a member of various bar associations and committees, where I endeavor to better the legal community I am also actively involved in both of my children's schools, as a class parent and parent ambassador.

14) What bar associations do you belong to? What sections or committees do you belong to? What is your role with the section or committee?

Brooklyn Bar Association 2018-Present, Civil Court Committee and Lawyers

Helping Lawyers Committee

Brooklyn Women's Bar Association 2018-Present, Mentorship Committee Co-Chair, Member of the Board and DV liaison to WBASNY

Brooklyn Brandeis Society 2019 - Present

Inns of Court 2019 - Present

15) List any CLE's that you have taught within the last three years, if any. Please provide a syllabus if one is available.

Inns of Court CLE re landlord tenant law. I also organized CLEs for judges and court attorneys re



CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: HOUSING PART O

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MCGARY JOHNSON,

Petitioner,

Index No. L&T 11665/20

- against-

DECISION/ORDER

NYCHA - BOULEVARD HOUSES,

AFTER

TRIAL

Respondent.

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Present: Hon. HEELA D. CAPELL

Judge, Housing Court

Petitioner commenced this “illegal lockout” proceeding pursuant to RPAPL 713(10), to be restored to possession of the premises located at 908 Ashford Street, Apartment 5C, Brooklyn NY (“Premises”) against the New York City Housing Authority - Boulevard Houses (“NYCHA” or “Respondent”). The court could not locate NYCHA’s answer in the file or on NYSCEF and therefore deems the answer a general denial. The court held a trial today. Most of the facts are not in dispute:

McGary Johnson (“Petitioner”) introduced into evidence a New York State issued learner’s permit issued May 5, 2016 listing the Premises as his address (Pet Ex. 1). Petitioner testified he has been residing at the Premises since 1998, that he has never been added to the lease, nor to an annual recertification. He maintained that his parents were the tenants of record until his mother, Loretta Johnson, passed away. Mr. Johnson testified that he requested to be added to the lease but was denied permission. Neither party submitted evidence of same.

The parties agree that Petitioner was removed from possession of the Premises by NYPD on December 10, or 11, 2020, pursuant to a police raid. Both Petitioner and Johnson Varughese, NYCHA’s manager, explained that after the raid, the door to the Premises was damaged. Mr. Varughese testified that NYCHA changed the door to the Premises and installed a padlock to the door as a safety measure. Mr. Varughese asserted that NYCHA did not issue Petitioner a key because he is not a tenant.



Petitioner also introduced into evidence a 10 Day Notice to Quit dated June 18, 2019 which was addressed to Petitioner and “Jor Johnson” at the Premises (Pet Ex. 2). It is undisputed that Respondent never pursued a holdover proceeding against Petitioner thereafter. Respondent’s witness testified that NYCHA was waiting to obtain certain documents prior to commencing a proceeding against Petitioner. Respondent’s witness explained NYCHA learned of the passing of the tenant of record, Loretta Johnson, (“tenant”) in 2018 after commencing a nonpayment proceeding against her, and learned that the tenant died on September 17, 2018. Mr. Varughese explained that NYCHA did not know of Petitioner but issued the 10 Day Notice to him because he had accompanied Jor Johnson to the office at a certain point after the tenant of record passed away.

Ordinarily, a licensee cannot be restored to possession where restoration would be futile. *Andrews v Acacia Network*, (59 Misc3d 10 [App Term 2d Dept 2018]); *Viglietta v Lavoie*, (33 Misc3d 36 [App Term 2d Dept 2011]). However, here, Petitioner was not permitted entry to the Premises to collect his documents and prove entitlement to possession. He testified that he was the son of the tenant of record and accordingly, may in fact have rights to the apartment, despite NYCHA’s manager’s testimony that he was not listed on the appropriate paperwork.

Furthermore, the court takes notice that we are in the midst of a global pandemic during which time it is appropriate to weigh the equities in this proceeding. Here, Petitioner credibly testified that he has resided at the Premises, his family home, since 1998 and was locked out of his home without due process of law. He asserted that he is living and sleeping in an abandoned car in the cold. Furthermore, it is clear that NYCHA was aware that the tenant of record had died since 2018 and indeed began, but never pursued, eviction proceedings against Petitioner. As aptly stated by Judge Jack Stoller in *Watson v NYCHA-Brevoort Houses*, (2020 NY Slip Op 20335 [Civ Ct Kings County, 2020]), “To lose one's home of that duration with no notice or opportunity to plan for an orderly relocation in the midst of a pandemic weighs against holding any futility of restoration against Petitioner.”



Accordingly, Petitioner is awarded a final judgment of possession against the Respondent. Respondent is ordered to restore Petitioner to possession of the Premises forthwith. This decision and order is without prejudice to any causes of action NYCHA and Petitioner may have against each other for possession of the Premises, including an eviction proceeding or remaining family grievance, and their respective defenses thereto.

This constitutes the decision and order of the court.

Dated: Brooklyn, New York
January 11, 2021

HON. HEELA D. CAPELL
J.H.C.