

NEW YORK STATE BAR ASSOCIATION

NYSBA CLE

*CLE Course
Materials*

Note: Complete course materials are also distributed in electronic pdf format online in advance of the program.



**Landlord &
Tenant Law Update**

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Committee on Continuing Legal
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Real Property Law Section



Respondent brother and sister alleged that they were the children of the prior rent-controlled tenant and had been in continuous occupancy of the subject apartment for many years (excepting while attending college). *90 Elizabeth Apt. LLC v. Eng*, 58 Misc.3d 300, 64 N.Y.S.3d 486 (Civ. Ct., NY County 2017). The mother had executed a stipulation surrendering possession of the subject premises to settle a summary proceeding a few years prior but continued to pay rent thereafter. Even though it was acknowledged that the tenant had been relocated to a nursing home, the children testified that the mother wanted to return to the apartment thereafter. Coupled with testimony establishing a nexus to the apartment, the court ruled in favor of succession, finding that the tenant had not "permanently vacated" until after two years of co-tenancy in the three bedroom apartment and dismissed the holdover proceeding against them.

11. ILLEGAL ACTIVITY AND EVICTIONS

The opening paragraph (1) of RPAPL 715 grants:

An owner or tenant, including a tenant of one or more rooms of an apartment house, tenement house or multiple dwelling, of any premises within two hundred feet from other demised real property used or occupied in whole or in part as a bawdy-house, or house or place of assignation for lewd persons, or for purposes of prostitution, or for any illegal trade, business or manufacture, or any domestic corporation organized for the suppression of vice, subject to or which submits to visitation by the state department of social services and possesses a certificate from such department of such fact and of conformity with regulations of the department, or any duly authorized enforcement agency of the state or of a subdivision thereof, under a duty to enforce the provisions of the penal law or of any state or local law, ordinance, code, rule or regulation relating to buildings, may serve personally upon the owner or landlord of the premises so used or occupied, or upon his agent, a written notice requiring the owner or landlord to make an application for the removal of the person so using or occupying the same,