

Illegal Rent Fees— Few Fear the Law

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(Last of a series)

The resident manager of a Queens apartment complex goes on trial next week on criminal charges of accepting illegal fees.

This is unusual: It's one of the rare cases in which allegations of illegal rent fees have actually been brought to the attention of law enforcement agencies and scheduled for trial.

A widespread practice exists throughout the city of collecting rental fees from tenants—even if they have found their apartments on their own. These fees, more often than not, fall within the letter of the law. Where they don't they are usually paid in cash—no receipts, and no evidence to be used in court.

But twenty-seven tenants of the Bay Country Club apartments at 23-45 Bell Blvd. in Bayside have come forth with cancelled checks and receipts for cash—some

marked "rental fee"—they say they paid to Mrs. Cleo De Krechewo, a mother of three young children and resident manager of the four-building, 240-unit upper-middle-class complex near Little Neck Bay. The average two-bedroom rent is \$260, top rent is about \$350 and until vacancy decontrol the apartments were rent stabilized.

What's unusual about this case, says Assemblyman Leonard Stavisky (D-L-Queens), who has assisted the tenants in bringing the case to court, "is that generally tenants don't come forth with this kind of evidence because they feel powerless alone and fearful of harassment by the landlord."

Housing Development Administration Inspector General Maurice Sieradzki, whose office handles rent gouging and key money complaints for controlled and stabilized apartments, confirms sta-

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visky's view that many tenants are too intimidated.

In 1970, Sieradski says his office recovered \$46,456.82 for tenants who paid unlawful fees charged by landlords or their agents. In 1971 the figure dropped to \$36,487.89 because of vacancy decontrol and elimination of the clear prohibitions spelled out under rent control.

"Most Tenants Uninformed" "Most tenants," Sieradski says, "are uninformed and don't realize that a demand for under-the-table payment is a crime."

Last month, according to Queens DA Mackell's office, Mrs. De Kreebevo was arrested and arraigned in Queens Criminal Court on 27 counts—one count for each tenant complaint filed—of accepting illegal fees, a Class B misdemeanor which carries up to 90 days in jail and/or a \$500 fine upon conviction for each count. Her trial will begin next Thursday.

The canceled checks, receipts and sworn affidavits prove that the tenants paid in excess of \$7000 in fees, according to Peter Silverman, a resident of the building who is acting as attorney for the tenant association at no fee. Silverman is a partner in the Brooklyn firm of Mandel & Silverman, 66 Court St.

"Most of the tenants," says Assemblyman Stavisky, "went directly to the so-called rental agent. They knew of the building through friends and expressed interest in renting."

"They were shown an apartment," Stavisky added, "and then were asked to



The Bay Country Club Apartments in Bayside, Queens.

Post Photo by Arthur Pomeroy

make out three checks—one month's rent, one month's security and the third varied between a half and one month's rent for the fee. It was clearly indicated by the agent that this was a fee for living the apartment. That is prohibited by law. According to the tenants, no service was rendered for this fee."

Abraham Weitel of 160-16 Jamaica Av., attorney for Mrs. De Kreebevo, says she has entered a plea of not guilty and since her case is yet to come to trial neither he nor she is free to comment.

Says attorney Silverman: "It's taking advantage of an incredibly tight rental situation. I know this practice is common, but it has to be stopped. Where it is so hard to get an apartment already, it's doubly bad to have to pay a premium."

At first, Silverman indicates, the tenants probably could have been pacified if they had received more cooperation about maintenance complaints. In April, the tenants first went to Arnold Goldstein, vice president of

Samson Management Corp., 97-77 Queens Blvd., which owns and operates the building, along with other Queens properties.

"Goldstein asked us for proof," Silverman says, "if we showed him proof, he said we would get a refund."

"After we gave him photographs of \$5000 in payments," Silverman continues, "Goldstein said he would have to consult his attorneys. Then he told us his attorneys advised him not to refund the money because that would be admitting complicity."

Goldstein says he was "not aware of what the resident manager was doing" and that reports of his meetings with the tenants have been distorted.

"It is a common practice for supers to receive tips for services rendered," Goldstein says. "New tenants require work to be done, like hanging drapes and other extras and for these services it is customary for a super to receive a small gratuity. I take special pains to notify supers in our buildings that we don't permit and the law doesn't permit them to collect fees. I send out notices about this at least once a year."

Although Goldstein did not want to get into details, he did say: "You know there is something very interesting here. Our attorneys advised us that tenants who bribe or pay illegal fees to get an apartment are a party to the crime but I don't know if we're going to do anything about it yet. It is a crime to bribe someone to receive preferential treatment."

"A tenant would have to be very naive not to know that paying a rental commission to a superintendent was a bribe."

Two laws come into play in this case, Assemblyman Stavisky points out: "One who receives rental fees and is not a real licensed agent or broker is in violation of Section 493A of the Real Property Law of the state which requires licenses for them."

"And the State Penal Law, Section 160.55, makes it illegal for any person when renting an apartment to solicit or accept some consideration of value beyond the lawful rental as a condition for renting that property," Stavisky adds.

He continued: "The legislative intention of the Real Property Law was to permit the payment of fees to real brokers, not to those who have an interest in the property. I am prepared to draft an amendment to the Real Property Law to make it ille-

gal to receive any kind of fee—even if the person is a licensed broker—if he has any type of interest in the property. This should be prohibited because in a sense it is double payment with no rendering of additional services."

Stavisky acknowledged that an ambiguity in the laws seems to have risen amid the confusion following vacancy decontrol. The Queens case is unusually well-defined, since it involved fees allegedly charged by an unlicensed agent. The experience of other tenants around the city are not as clean-cut.

This investigation by The Post has found that apartment hunters all over the city are paying hundreds of dollars to get apartments. In many instances, these charges are cleverly legal. In others they are questionable.

People are in effect forced to pay a premium to lease an apartment.

And they are paying after time-consuming searches on their own to find an apartment without going through a broker. They are only partly clearly entitled to charge a commission.

They are paying doorman, superintendent or other employees of the landlord just to learn of empty apartments. They are paying managing agents and/or landlords who also have brokerage licenses and who "procure" applications and draw up leases. And they are paying superintendents and managers some kind of fee just to get to the landlord from whom they then rent the apartment.

All this has existed with the elimination of rent control. Where authority to administer rent control lay firmly with specific city agencies, under vacancy decontrol authority has been diffused. When it comes to rental fees, authority now rests with the licensing division of the New York Dept. of State and the price control arm of the Internal Revenue Service.

Under the old rules of rent control, clear limitations existed on who could charge what for renting apartments. In no way could a landlord charge a rental fee for an apartment in one of his own properties—that was a form of illegal rent increase.

In no way could the landlord receive a rental fee that a broker who rented that apartment for him. Nor could any unlicensed broker—a superintendent, resident manager, doorman—charge a fee. In the parlance of rent control, all those extra fees were known as key money.

Rent control is now gone—and so are those clear limitations.