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Non-Traditional Family Member Wins Tenancy To Apartment

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A MAN whose relationships with his gay "soulmate" and his mate's mother formed "a loving and close-knit family" has convinced a judge that he should not be evicted from the rent-controlled Bronx apartment where he has lived for more than a decade.

After Michael Lorge was murdered on Valentine's Day 2009, the landlord of the apartment tried to regain control from Paul Garrison, who had lived there with Mr. Lorge and where the two had cared for Mr. Lorge's ailing mother.

Mr. Garrison resisted eviction, claiming the status of a "non-traditional" member of the Lorge household. He argued that he and Mr. Lorge had cared for Mr. Lorge's mother, Helen, the tenant of record, after her husband, Thomas, died and she suffered a series of strokes before she was placed in a nursing home.

Following a trial in *Fleishman Realty Corp. v. Garrison*, 27904/09, Bronx Housing Court Judge Jaya K. Madhavan concluded that Mr. Garrison "has spent the last 12 years of his life in the Apartment. During that time, he laughed, loved and grieved there with the Lorges. Sadly, Thomas Lorge died; Michael Lorge was murdered; and Helen Lorge was institutionalized. Although respondent has lost the only family he has ever known, he need not also lose his family home," the judge wrote in holding that the deceased Mr. Lorge and Mr. Garrison jointly succeeded to Ms. Lorge's tenancy when she vacated the apartment in 2003.

Mr. Garrison and Mr. Lorge first spoke on a phone chat line in 1995. In January 1998, Mr. Garrison moved from Pennsylvania to the \$146-a-month, five-room apartment Mr. Lorge shared with his parents.

Two months after Mr. Garrison relocated, Mr. Lorge was arrested and wound up serving two years in prison for » Page 3

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sexual assault, according to news reports.

Writing from prison, Mr. Lorge called Mr. Garrison his "soulmate" and looked forward to "the day that we are together forever."

Meanwhile, Mr. Garrison continued to live in the Bronx apartment, where he spent the bulk of his time with Ms. Lorge, whom he viewed as an adopted mother.

The two shared meals, watched "General Hospital" and "All My Children" together, and spent a couple of hours every day talking, the judge recounted. When Ms. Lorge's health took a turn for the worse, Mr. Garrison prepared meals for her and her husband.

After Mr. Lorge returned to the apartment, the two were seldom apart, relied on one another for emotional support "24-7," and jointly took care of Mr. Lorge's mother and father, the judge said.

In 2001, Mr. Lorge's father died. Shortly after, Mr. Lorge's mother suffered a series of strokes and began to mistake the apartment for her childhood home.

Mr. Garrison testified that he and Mr. Lorge ultimately could not "keep up" with Ms. Lorge's needs and placed her in a nursing home.

In the following years, Mr. Garrison and Mr. Lorge pooled their earnings in a joint savings account, according to Mr. Garrison. On Christmas Day 2006, the pair exchanged wedding rings.

But Mr. Garrison's life became a "day-to-day struggle" after Mr.

Lorge was shot fatally in the back of the head on Valentine's Day 2009.

The motive for the murder, which occurred outside the building where they lived, is not known, according to Mr. Garrison's attorney, Brian J. Sullivan of MFY Legal Services.

Just months after Mr. Lorge's death, Fleishman Realty Corp. moved to evict Mr. Garrison.

Mr. Garrison countered that he shared a family-like relationship with Ms. Lorge and should succeed her as the tenant of record.

Broad Definition of Family

The New York City Rent and Eviction Regulations bar a landlord from dispossessing the surviving spouse of a deceased tenant or "some other member of the deceased tenant's family who has been living with the tenant." 9 NYCRR §2204.6.

The term "family" is broadly defined and includes traditional and non-traditional members who live with the tenant for two years before the tenant vacates the unit or one year if the tenant is disabled, the judge noted.

Under these regulations, Judge Madhavan concluded that Mr. Lorge "clearly succeeded to his mother's tenancy."

However, this did not "divest" Mr. Garrison "of his independent right to co-succeed to that tenancy," since "traditional family members do not succeed to a tenancy to the exclusion of non-traditional family members," the judge wrote.

At trial, Mr. Garrison proved that he "simultaneously main-

tained two non-traditional family relationships enabling him to succeed to Helen Lorge's tenancy: a gay life partnership with Michael Lorge; and a mother-son relationship with Michael's mother," the judge added.

Citing the Court of Appeals' 1989 ruling in *Braschi v. Stahl Associates*, 74 NY2d 201, which provides that "the totality of the relationship as evidenced by the dedication, caring and self-sacrifice of the parties" should ultimately determine whether a familial relationship exists, Judge Madhavan concluded that "the evidence overwhelmingly established that respondent selflessly devoted his life to caring for and supporting Helen and Michael Lorge in every way."

Such "loving, committed, long-term relationships are the very types of non-traditional families that *Braschi* and the rent regulations sought to protect," the judge wrote.

She rejected the landlord's argument that Mr. Garrison failed to prove his case because he and Mr. Lorge did not hold themselves out as a couple.

To credit the landlord's claim would "be to unfairly void the existence of respondent and Michael Lorge's genuinely loving, committed and family-like relationship, simply because they chose to remain private about their personal lives. ... The regulations do not countenance such a perverse result," the judge wrote.

Mark Mariani of Gold & Rosenblatt represented the landlord.

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