



Surviving Gay Partner Tenancy Win

In wake of lover's murder, Bronx man beats back landlord eviction effort

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A gay man whose partner was murdered execution-style on the street just over a year ago won a ruling on March 25 from Bronx Civil Court Judge Jaya K. Madhavan that he has the right to assume the rent-controlled status previously held by his late partner's mother, who is now in a nursing home.

The judge acknowledged that all the elements spelled out in regulations for establishing that the man is a "member of the family" for rent control tenancy purposes might not be there, but found that the survivor's credible testimony provided the basis for that conclusion.

According to Madhavan's opinion, published April 7 in the New York Law Journal, Michael Lorge and Paul Garrison first met in 1995 on a gay chat line, developing a relationship that prompted Garrison to move from Pennsylvania to be near Lorge. Three years later, he moved into the apartment where Lorge lived with his elderly parents. Later in 1998, Lorge was sentenced to two years in prison on a sexual assault conviction, but Garrison continued to live in the apartment, becoming a very close companion and helper to Helen Lorge, Michael's mother.

The judge quoted extensively from letters Lorge wrote to Garrison from prison, in which he referred to Garrison as his "soul mate." The men resumed their intimate relationship when Lorge left prison, and after Lorge's father died, they cared for his mother, who suffered a series of strokes, until she moved to a nursing home in 2003. The men visited her there regularly, and at Christmas 2006 the two exchanged rings in a private ceremony in their apartment.

On Valentine's Day 2009, Lorge was murdered, with several gunshots to the back of his head, as he left the apartment house, the unsolved crime remaining a mystery. Soon after the killing, Fleishman Realty Corp. began efforts to evict Garrison, claiming it had no knowledge he had been living there. The landlord even questioned whether Lorge had been living there long enough before his mother moved to the nursing home to take over the apartment, in light of his two years in prison.

Garrison argued that he was protected by the 1989 state high court ruling in *Braschi v. Stahl Associates Company*, which found that the definition of "family member" under rent control regulations must be based on "the totality of the relationship," opening the way for gay surviving partners to qualify.

Madhavan ruled that Garrison qualified as a family member based on several alternative grounds. First, Helen Lorge had become a maternal figure to Garrison, who had cared for her as a son would. The judge found as well that when Helen moved to the nursing home, Michael Lorge had a right to succeed to the rent-controlled tenancy, since even while in prison his legal residency remained the Bronx apartment. The relationship between Michael Lorge and Garrison also qualified the surviving partner to inherit rent-controlled status in the apartment.

Fleishman Realty argued that key pieces of tangible evidence regarding the men's relationship were missing. Lorge and Garrison did not hold down full-time jobs nor did they have a joint checking account, so they lacked evidence of an interdependent financial relationship and they never established wills, powers of attorney, or a written partnership agreement. Garrison did have the letters Lorge had written him from prison and he was able to show that his saving account had been used to cover their household expenses.

The landlord went to the lengths of putting two of Lorge's cousins on the stand to testify they didn't know he was gay until they read it in the newspapers at the time he was murdered. They also said they did not know Garrison. But Garrison, in detailed testimony convincing to Madhavan, explained that the couple was not even out explicitly to Lorge's parents, even though they shared a bedroom. Garrison's parents knew about his relationship with Lorge, but they were not particularly accepting of it and have little contact with their son.

The judge ruled that the couple's failure to "hold themselves out" publicly as a couple, typically one basis for a "family member" finding, did not disqualify Garrison; if it did, that would "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." Madhavan found the strong bond between Garrison and Lorge's mother one of the most salient indications of the family relationship between the two men.

Garrison, the judge found, "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."

Brian J. Sullivan, a Legal Services attorney, represents Paul Garrison in his battle to keep his home.