

**ORAL ARGUMENT
REQUESTED**

At Individual Assignment Part 52
of the Supreme Court of the
State of New York, held in and
for the County of New York, City
and State of New York, at the
Courthouse, 80 Centre Street
Street, New York, New York, on
the 22nd day of October, 2012.

P R E S E N T:

Hon. A. Engoron

-----X
THE CITY OF NEW YORK,

Plaintiff,

-against-

SMART APARTMENTS LLC, ROBERT K.Y.
CHAN, TOSHI INC., and "JOHN DOE"
and "JANE DOE," numbers 1 through
10, fictitiously named parties,
true names unknown, the parties
intended being the managers or
operators of the business being
carried on by defendants SMART
APARTMENTS LLC, ROBERT K.Y. CHAN,
or TOSHI INC.,

Defendants.
-----X

ORDER TO SHOW CAUSE

Index No. 402255/12

SUMMONS AND COMPLAINT
ANNEXED HERETO

UPON the annexed affirmation of Richard Hartzman,
Esq., dated October 19, 2012, and the exhibits annexed thereto;
the affidavit of Kathleen McGee, Director of the Mayor's Office
of Special Enforcement, sworn to on October 4, 2012, the
affidavit of James Colgate, Assistant Commissioner of Technical
Affairs and Code Development for the New York City Department of
Buildings, sworn to on October 4, 2012, and the exhibits annexed

thereto; the affidavit of Thomas Jensen, Chief of Fire Prevention for the New York City Fire Department, sworn to on August 23, 2012, and the exhibit annexed thereto; the affidavit of New York City Fire Protection Inspector Ervin Santiago, sworn to on August 4, 2012, and the exhibits annexed thereto; the affidavit of John Bigolski, Senior Investigator for the Mayor's Office of Special Enforcement, sworn to on October 4, 2012, and the exhibits annexed thereto; the summons dated October 19, 2012; and the complaint duly verified by Gabriel Taussig on October 19, 2012, and filed with the Clerk of the Court on October 22, 2012;

LET the defendants or their attorneys and each of them *appear and* show cause at Individual Assignment Part 52, Room 328, of this Court, to be held at the Courthouse, 80 Centre St. Street, Borough of Manhattan, City and State of New York on the 7th day of ~~October~~ November, 2012, at 10 o'clock A.M. of that day, or as soon thereafter as counsel can be heard,

WHY an order should not be made and entered pursuant to Section 20-703(d) of the New York City Administrative Code (the Consumer Protection Law), and Sections 6301, and 6311 of the Civil Practice Law and Rules, enjoining the defendants and each of them, their agents, employees, representatives and all persons acting individually or in concert with them during the pendency of this action:

1. From the transient use or occupancy, or permitting the transient use or occupancy, of any apartment units which they are managing, operating, leasing or otherwise renting or licensing, in all buildings located in New York City which are Class A Multiple Dwellings or other buildings for which the legally permissible occupancy precludes transient occupancy; and
2. From booking, accepting reservations, or advertising any such units for transient occupancy, whether managed, operated, leased or otherwise rented or licensed by defendants or by any other persons or entities;
3. To remove or have removed all advertising of such apartment units from any and all internet websites and other media, whether or not directly maintained by defendants; and
4. From disposing of, modifying, or in any other manner interfering with the digital or paper documents, photographs, and records maintained and used in connection with the management, operation, use and occupancy of such units.

MEANWHILE and pending the hearing ~~and determination~~ of this motion, the defendants and each of them, their agents,

employees, representatives and all persons acting individually or in concert with them are enjoined pursuant to Section 20-703(d) of the New York City Administrative Code (the Consumer Protection Law), and Section 6313 of the Civil Practice Law and Rules:

1. From booking, accepting reservations, or advertising for transient use any and all apartment units whether managed, operated, leased or otherwise rented or licensed by defendants or by any other persons or entities, in all buildings located in New York City which are Class A Multiple Dwellings or other buildings for which the legally permissible occupancy precludes transient occupancy;
2. To remove and have removed all advertising of such apartment units managed, operated, leased or otherwise rented or licensed by defendants from any and all internet websites and other media, whether or not directly maintained by defendant; and
3. From disposing of, modifying, or in any other manner interfering with any and all digital or paper documents, photographs, media, and records maintained in connection with the renting,

signed
J.S.C.
Arthur F. Engoron
J.S.C.

signed
J.S.C.
Arthur F. Engoron
J.S.C.

Signed
J.S.C.
Arthur F. Engoron
J.S.C.

leasing, licensing, management, operation, use and occupancy of such units; and it is further

ORDERED that service of a copy of this order to show cause, together with the papers upon which it is based and the summons and verified complaint, ~~be made upon the defendants~~ *is acknowledged in open court as of today* personally; or by leaving a copy thereof with a person of *by Rod Breiman on behalf of all defendants* suitable age and discretion at the defendant's last known residence or actual place of business, on or before October ~~2012~~, and that this is deemed good and sufficient service on the defendants, provided that if service is not made personally, a copy of the papers will be mailed by overnight express mail to each defendant at his or her last known address on or before October ____, 2012.

Oral Argument
Directed
Signed
JSC
Arthur F. Engoron
J.S.C.

ENTER:
Signed 10/22/12
J.S.C.
ARTHUR F. ENGORON
J.S.C.