

Who's Pocketing the Rental Fees?

(Third of a series)

By ROBERTA B. GRATZ

An apartment hunter determined to find an apartment without paying a broker's fee walked into the imposing building at 309 W. 57th St. and inquired of the superintendent if anything was available. He showed her a one-bedroom apartment that had been used by the former tenant as an office and needed considerable work to be put in shape.

She looked it over carefully and told the super she was interested. "How much?" she asked.

"The rent is \$225," the super replied, "and it will be a month's rent, a month's

security and a month's rental fee if you take it."

"Why is there a rental fee," she asked, "if I came here myself and was shown the apartment by you?"

"Because the managing agent takes care of the paper work and draws up the lease," the super explained.

Still Interested

Bewildered but interested in the apartment anyway—she liked the spacious rooms and the building's lobby, solid construction and location—she asked where she should go to make formal application.

She was referred to Two Trees Inc. at 680 Fifth Av.,

which as far as can be determined is the office of the landlord, managing agent, rental agent for 309 W. 57th St. and other properties. The Two Trees real estate license is in the name of David C. Walentas, who is also a partner in the ownership of the property.

A Two Trees employee gave her a lease application to fill out and explained that "in this case 309 W. 57th St. Associates is the landlord and Two Trees is the rental agent" and that Two Trees was entitled to a rental fee for handling the paperwork and processing the lease.

According to a spokesman for Secretary of State Lo-

menzo, all this is legal. A question can be raised, the spokesman said, as to what services are being provided to warrant the rental fee. In this case, the broker had asked for an application from the prospective tenant for the purposes of making a credit search. This is considered sufficient service rendered even though the apartment hunter had found the apartment on her own.

"It is not a question at all of finding the apartment yourself," says Two Trees partner David C. Walentas. "Some landlords list their apartments with agents and some agents do or don't

Continued on Page 40

Who Pockets Rental Fees?

Continued from Page 3
 give back part of the fee to the landlord. We do it all ourselves."

Offering further justification, Walentas said:

"The rental fee gets divided up with the super who cleans up the apartment and shows it and helps the tenant to move in. Showing apartments, renting apartments, these are extra things super's make money on. It's one of the reasons they're in business."

The fee, he added, is divided among several people and covers various expenses.

When it was pointed out to Walentas that according to the licensing office of the Secretary of State it is illegal for any unlicensed agent, i.e. a superintendent, to receive a rental fee, Walentas explained: "Call it what you want. They get additional money for extra work. They don't get paid in their salary for redecorating apartments. They have a union."

'Check Every Tenant'

Walentas was questioned about the credit check that his office makes. "We check on every tenant who comes in," he said flatly.

Our apartment hunter, who did not cancel out on the apartment until the appointment day of lease signing, called both her husband's place of employment and her bank—both references included on the application form. At neither place had inquiries been received from Two Trees.

These experience, as well as well as others recounted in the first two articles of this series, pinpoint a growing gray area in real estate practice that, with the advent of vacancy decontrol, is without the clearly defined limitations that rent control imposed.

Current regulations on decontrolled apartments fall within the responsibility of the New York State Dept. of State, which licenses real estate brokers and the Internal Revenue Service which oversees the federal rent guidelines established last winter. Nowhere does responsibility seem to rest with city housing agencies that still have authority over old rent-controlled and rent-established apartments.

The increasing difficulty prospective tenants are finding all over the city in renting apartments without paying someone—a broker, a managing agent or the landlord is evident. But these commissions—variously called broker's fees, rental fees



The building at 307 W. 57th St.

Post Photo by Richard Gummera

or even just plain commissions—are not the only issues. The amount of the commissions is also being called into question.

It used to be that one month's rent—which is just under 8 per cent—was the norm. Today the figure may be as high as 12 per cent, sometimes even more.

The difference can mean a lot to a tenant. If he's negotiating for a \$400-a-month apartment, chances are he expects to pay a \$400 fee. But if the fee is 10 per cent of the yearly rent of \$4800, the fee is \$480, and if he's made to pay 12 per cent, it's \$576.

Arthur Goldberg of the DES office here points out that in the new federal rent guidelines there are "no specific rulings regarding brokerage fees other than that fees cannot be increased above what the old fee was unless tied to the old rate that was being charged, such as one month's rent." In other words, the rate should remain the same and the amount should increase only as the rent rises.

A spokesman for Secretary of State Lomenzo says: "The law doesn't fix a fee but courts have held that the absence of legislation doesn't mean a broker can charge unconscionable amounts. Some brokers charge irregularly."

"Each borough has a real estate board-recommended

rate of commission," he added. "Legislation to fix a fee has died in committee. Courts seem to feel charges should be negotiated."

The rule of thumb the spokesman added, seems to be one month's rent for Manhattan but higher for other areas where rentals are lower. In those areas, he says, the figure is somewhere around a month and a half.

However, when asked exactly what the recommended fee was for Manhattan, Real Estate Board president Edmund T. Hume pointed out: "It's only a recommended, not binding, kind of thing. It's actually a suggested guideline."

'It Varies'

What is that guideline for Manhattan?

"Well, it varies, depending on footage, the difficulty in leasing, the rent, the floor," Hume replied. When pressed for a more specific reply, he said that the question was really too complicated for an easy answer.

So there really is no actual guideline? "The Federal Trade Commission and other federal agencies," he said, "have been reluctant to establish rates on a fixed basis. There's a broad area of structuring. We're prohibited by law from taking any positions. Something more specific would be contrary to judicial opinions."

Continued Tomorrow