STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

JEMAR IRA LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JQ210036RO

RENT ADMINISTRATOR'S DOCKET NO IO210043S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On May 28, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IO210043S, an order the Rent Administrator issued on April 26, 2021 (the 'order"), concerning the housing accommodation known as 141 Hull Street, Apartment [redacted], Brooklyn, New York, wherein the Rent Administrator granted the tenant a rent reduction and directed the restoration of services upon finding that services cited in the tenant's application were unmaintained as reported from the Agency inspection conducted on December 15, 2020

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the Petitioner-owner requests a reversal of the Rent Administrator's order, and alleges, in substance, that the order contains errors of fact and/or law The owner claims that contrary to the inspector's report of December 15, 2020 which found the apartment entry door defective, the apartment door at issue was repaired after the owner received the application notice from the Agency and was unaware of any problems with the frame Furthermore, the Petitioner asserts that the defect was possibly a result of the tenants The owner also contends that all the other service issues referenced in the order are regularly maintained, but that the tenant is uncooperative with granting of access for repairs The owner references an unrelated application filed by the subject tenant in a previous proceeding claiming that the Petitioner owner remedied all the cited issues therein when the tenant eventually provided access To substantiate the owner's contentions, the owner submitted a work order purported to be signed

by the tenant and the vendor on October 22, 2020, and email exchanges between the parties' attorneys, wherein, the Petitioner's attorney was negotiating access with the tenant's counsel

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to order a rent reduction upon application by a tenant when it is found that an owner has failed to maintain required or essential services If an owner has been unable to access an apartment for repairs, pursuant to Section 2523 4 (d) (2) of the Code, the owner must provide the Agency with copies of two letters sent to the tenant, requesting access for repairs, each mailed at least eight days prior to the proposed access date, and mailed to the tenant by certified mail, return receipt requested In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of, and, pursuant to Section 2527 5 (b) of the Code, at any stage of a DHCR proceeding, the Agency may conduct an inspection Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination and New York Courts have consistently upheld the reliability of Agency inspections

In the proceeding below, the tenant filed a complaint on March 23, 2020, alleging a decrease in services for the apartment entry door, the mailbox, the apartment painting, and within the kitchen, the bathroom, the bedroom 1, the living room, and the hall/foyer The owner was served with the notice of the tenant's complaint (the "Initial Notice") on March 26, 2020 The owner responded on May 27, 2020 claiming that they could not get a contractor due to the Covid-19 pandemic

Subsequent thereto, the Rent Administrator requested an inspection of the subject premises and an inspection was conducted on December 15, 2020 by an impartial Agency inspector While the Agency's inspector found some items maintained, the inspector observed the following defects existed the apartment entry door frame was defective, there was evidence of peeling paint/unworkmanlike plaster apartment-wide including in the hall/foyer and the living room a hole in the living room ceiling, the kitchen and bathroom floors were cracked and ripped, bathroom door was defective, bedroom 1 door was missing, living room ceiling showed evidence of wetness, and there was evidence of leaks/stains to the hall/foyer walls

Based thereon, on April 26, 2021, the Rent Administrator granted the tenant's rent reduction application under Docket No IO210043S and directed the owner to restore services

The Commissioner notes the owner's contention that the tenant refused to provide access to the owner to perform repairs However, this claim is unavailing as it is the Agency's procedure in accordance with Section 2523 4 of the RSC, that where an owner alleges that a tenant is uncooperative with granting access for repairs, the owner should advise the Agency that the tenant denied access and provide two written notices to the tenant regarding access to the apartment for repairs, giving notice at least eight days prior to each access date, sent with certified mail, return receipt requested Here, the Commissioner notes that the owner failed to

establish that it complied with this requirement and there is no evidence in the record to show otherwise

Notwithstanding the owner's no-access claim, the Commissioner having reviewed the Petitioner's appeal, the entire record and all supporting documentation including the inspection report, finds that the Administrator properly relied on the inspection report when making her decision, as the inspection revealed that the owner was not maintaining all required services at the time of the inspection on December 15, 2020 Furthermore, the owner's claim that the tenant caused the damage is unsubstantiated and merely self-serving in light of the multiple unmaintained conditions in the apartment as revealed by the Agency inspection

In light of the above, the Commissioner finds that the owner's PAR has not set forth any basis to modify or revoke the Rent Administrator's determination

The owner is advised to file an "Owner's Application to Restore Rent," if the facts so warrant

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed

ISSUED

OCT 21 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92 31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review The deadline for filing this Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order This 60 day deadline for appeal may be extended by executive orders at https //governor.ny.gov/executiveorders No additional time can or will be given In preparing your papers please cite the Administrative Review Docket Number which appears on the front page of the attached order If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR) With respect to DHCR your appeal must be served on DHCR Counsel's office at 641 Lexington Ave New York NY 10022

Note During the period of the current Covid-19 emergency, as a courtesy if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated as limited as follows by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court i e Notice of Petition, Petition and other efiled documents to DHCR egalMail@nyshcr.org-Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR) DHCR is not the agent for service for any other entity of the State of New York or any third party In addition the Attorney General must be served at 28 Liberty Street 18th Floor New York NY 10005 Since Article 78 proceedings take place in the Supreme Court it is advisable that you consult legal counsel

There is no other method of appeal

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OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO JN410004RO

145 147 W 105 STREET H D F C

RENT ADMINISTRATOR'S DOCKET NO HQ410206S

PETITIONER

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ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

On February 3, 2021, the above-named petitioner owner filed a Petition for Administrative Review ('PAR) of an order the Rent Administrator issued on December 30, 2020 (the "Order"), concerning the housing accommodation known as 145 W 105th Street, Apt [redacted] New York, NY, wherein the Rent Administrator granted the tenant's application for a rent reduction

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issue raised by the PAR

On May 28, 2019, the tenant filed an application for a rent reduction based upon various decreased services throughout the subject apartment The petitioner owner was notified of the proceeding in a correspondence from the Agency dated May 30, 2019, affording the owner sixty (60) days to respond, however, Agency records indicate the correspondence was returned to the Agency by the United States Postal Service ("USPS") as undeliverable

The Agency subsequently mailed a Notice of Inspection to the petitioner owner on November 27, 2019, informing the owner that an Agency inspection was scheduled for December 26, 2019, however, like the previous correspondence to the owner, the notice was returned to the Agency by the USPS as undeliverable The Agency inspection conducted on December 26, 2019, revealed (1) defective paint/plaster in the living room, hall/foyer, bedroom 1, and bedroom 2, (2) leak stains on the ceiling of bedroom 2, (3) there are holes in the ceiling around the heat risers in bedroom 1 and the living room, (4) the stove and oven are inoperable, (5) there is evidence of broken/damaged floor tiles throughout the apartment, (6) a missing slider mirror door in the medicine cabinet (7) the bathroom door is missing, (8) the floor in bedroom 1

is not level, creating a trip hazard, and (9) the glass in the right-side living room window is cracked The inspector noted missing escutcheon plates in the living room and bedroom 1, however, that issue was not part of the original complaint and could not be addressed The inspector also noted that the operational function for the right side living room window could not be inspected at time of inspection to prevent damage to the entire window due to cracked glass Based on the entire evidentiary record including the results of the Agency inspection, the Rent Administrator issued an order on December 30, 2020, under Docket Number HQ410206S, granting the tenant's application for a rent reduction

In the PAR, the petitioner-owner asserts that the order appealed herein should be revoked because the Rent Administrator's determination erroneously found that the subject tenant is rent-stabilized, the petitioner-owner was never served the complaint and therefore, was unable to respond, and the instant proceeding should have been consolidated with two other proceedings that the tenant initiated whereby the Agency consolidated the tenant's rent overcharge and lease renewal complaints (Docket Number HQ410106R) On May 17, 2021, the petitioner-owner submitted the consolidated Rent Administrator's decision under Docket Number HQ410106R, wherein, on May 4, 2021 the Rent Administrator determined that the subject apartment, pursuant to Section 2520 11(1) of the Rent Stabilization Code, is no longer subject to the Rent Stabilization Law and Code There is no evidence in the record to support that the tenant responded or contested the petitioner's PAR in this appeal

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be granted

A review of the Agency records reveals that the Rent Administrator subsequent to the issuance of the underlying order, determined that the subject apartment is no longer subject to the Rent Stabilization Law and Code on May 4, 2021 under Docket Number HQ410106R There is no evidence that the subject tenant appealed the order under Docket Number HQ410106R

Therefore, the Commissioner finds that the subject apartment is not subject to the Agency's jurisdiction and that the subject Rent Administrator's order, Docket Number HQ410206S is hereby revoked The tenant is advised to file any service related issues with a court of competent jurisdiction

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is granted, and the Rent Administrator's order under Docket Number HQ410206S is revoked

ISSUED

OCT 21 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site www.hcr.ny.gov

Right to Court Appeal

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Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
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JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

YORKSHIRE HOUSE ASSOCIATES LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO IV410022RO

RENT ADMINISTRATOR'S DOCKET NO HV410247S

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ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

On October 30, 2020, the above-named Petitioner-owner filed a Petition for Administrative Review ('PAR") against HV410247S, an order the Rent Administrator issued on September 28 2020 (the "order") concerning the housing accommodation known as 401 East 81st Street, Apartment [redacted] New York, New York, wherein the Rent Administrator granted the tenant a rent reduction after finding the bedroom 1 central air conditioner fan switch unmaintained

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the Petitioner-owner, through counsel, requests a reversal of the Rent Administrator's order and claims, in substance, that the tenant's apartment is wrongly identified as [redacted] instead of [redacted], and that the Agency does not have jurisdiction over the unit which was deregulated prior to the tenant's occupancy, and therefore, no longer under the Rent Stabilization Law The owner also contends that the finding of a defective air conditioner fan switch in bedroom 1 is an apartment service not alleged by the tenant, whereas the underlying complaint was a building-wide issue, alleging that the central air conditioner was completely shut down on certain days in July, August, and September of 2019 The Petitioner owner also claims that it is the first time the owner has knowledge of the apartment issue, and that if the owner was notified about the problem, the issue would have been fixed, and further, that a defective fan switch in a functioning air conditioner is *de minimus* in nature

By correspondence received January 13, 2021, the owner supplemented their PAR by providing the Agency with a letter signed and dated November 30, 2020 from the complainant in the underlying proceeding, [redacted] affirming that the they reside in apartment [redacted], and apartment [redacted] was mistakenly listed in the file, the DHCR inspection did not inspect the complainant's apartment [redacted] on August 26, 2020 or any other day, the air conditioning system was restored and the parties have settled their case amicably with a $500 00 abatement, and for DHCR to acknowledge the restored conditions The Petitioner-owner further requests a reversal of the Rent Administrator's order based on the facts herein, stating that the tenant of apartment [redacted] did not file a service application, and that the Administrator's order was predicated upon the DHCR's inspection of apartment [redacted]

Notice of the Petitioner-owner's January 13, 2021 response, including [redacted]'s statement, was mailed to the subject complainant, [redacted], on August 24, 2021 The subject complainant did not oppose the petition, and no additional response was received from [redacted]

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be granted

Pursuant to Section 2523 4 of the Rent Stabilization Code ("RSC"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services DHCR Policy Statement 90 2 provides that the Rent Administrator may rely on an Agency inspection when making a determination

In the proceeding below, [redacted] filed a complaint on October 15, 2019, alleging a decrease in the air conditioning, listing the subject apartment as [redacted] Notice of the service complaint (the "Initial Notice") was sent to the owner on November 13, 2019 The owner responded to the service complaint on August 21, 2020, objecting to the subject complainant's application

Subsequent thereto, the Rent Administrator requested an inspection of the subject condition the tenant complained of

On August 26, 2020 the Agency s inspection was conducted by the Agency s impartial inspector, finding that the bedroom 1 central air conditioner fan switch in apartment [redacted] was defective as the high and low settings were blowing air at the same speed Thus, the Rent Administrator, on September 28, 2020 under Docket No HV410247S, granted a rent reduction for the defective fan switch in apartment [redacted] and directed the restoration of services

After a review of the Rent Administrator's proceeding in its entirety, including the inspection report, and the supporting evidence provided by the Petitioner owner, the Commissioner notes that the apartment inspected by the DHCR was apartment [redacted] However, as the subject complainant, [redacted], stated in their signed letter dated November 30 2020, apartment [redacted] was mistakenly listed, that they live in apartment [redacted], and that an Agency inspector did not visit apartment [redacted]

Based on the aforementioned, the Commissioner finds that the Rent Administrator's order under Docket Number HV410247S is hereby revoked The Commissioner finds that as evinced from the inspection conducted on August 26, 2020, the defective condition which is the subject of the underlying service reduction order was found in apartment [redacted] and not the subject complainant's apartment [redacted], and there is no evidence in the record that the tenant of apartment [redacted] filed a service complaint Accordingly, the Commissioner finds that the rent reduction granted for apartment [redacted] under Docket Number HV410247S is hereby revoked Any arrears that may result from the issuance of this Commissioner's order may be paid in equal monthly installments, equal to the amount of the rent reduction herein revoked

The Commissioner notes the owner's contention regarding the status of the subject dwelling unit, however, the Commissioner finds that this issue is not the subject of this appeal and cannot be entertained herein As such, for the Agency's determination on this issue, either party may commence an Administrative Determination (AD) proceeding and follow the process by writing a request (letter) and providing the Agency with any supporting documentation The Rent Administrator and Commissioner's determinations herein pertains only when the subject apartment is found to be under the jurisdiction of the DHCR

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is granted, and that the Rent Administrator's order, Docket Number HV410247S is hereby revoked in accordance with this Order and Opinion

ISSUED

OCT 21 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site www hcr ny gov

Right to Court Appeal

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There is no other method of appeal

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IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

BN REALTY ASSOCIATES
(OWNER)

PETITIONER

ADMINISTRATIVE REVIEW
DOCKET NO JO610044RO

RENT ADMINISTRATOR'S
DOCKET NO IS610007S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 30, 2021, the above-named petitioner-owner filed a Petition for Administrative Review (' PAR") of an order the Rent Administrator issued on February 8, 2021 (the "Order"), concerning the housing accommodation known as 3611 Henry Hudson Pkwy W , Apt [redacted], Bronx, NY, wherein the Rent Administrator issued an order reducing rent, finding services not maintained in the subject apartment

The Commissioner has carefully reviewed the entire evidence of the record including that portion of the record that is relevant to the issue raised by the PAR

In the PAR, the Owner claims the screens are not the landlord's responsibility, the screens are the tenants' property and theirs to repair, replace and maintain, and that the screens were replaced

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant where it is determined that required services have not been maintained DHCR Policy Statement 90 2 provides that the Rent Administrator may rely on an Agency inspection when making the determination in a matter

In the proceeding below, the Tenant filed a complaint on July 7, 2020, alleging a decrease in services including, in relevant part, defective window screens The Owner was served with notice of the Tenant's complaint (the "Initial Notice") Agency records indicate that the Owner

responded to the Initial Notice with the claim that all repairs have been completed and the landlord is not responsible for repairing the screens in the apartment Based on the foregoing, an inspection of the subject apartment was requested On December 16, 2020, a DHCR Inspector visited the subject apartment and observed that window screens were missing/not provided in bedrooms 1 and 2 and the living room Hence, on February 8, 2021, the Rent Administrator issued an order granting the Tenant a rent reduction and directing the restoration of services

The Commissioner notes the Owner's contention herein that the Tenant is responsible for the screens on the windows in the apartment However, this unsubstantiated claim by the Owner is incorrect and, as the inspection report revealed, the Owner was providing screens in some windows, while in some windows the screens were missing

Based on the Agency inspection, the Commissioner finds that the Rent Administrator correctly granted the Tenant a rent reduction and the Owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination in the matter below. The Owner is advised that it may file an 'Owner's Application to restore Rent" with the Agency, if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed

ISSUED OCT 28 2021

Woody Pascal
Deputy Commissioner

State of New York
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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

[redacted]

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JR420009RT

RENT ADMINISTRATOR'S DOCKET NO IM420223S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On June 11, 2021, the above-named Petitioner tenant filed a Petition for Administrative Review ('PAR") against IM420223S, an order the Rent Administrator issued on May 11, 2021(the 'order"), concerning the housing accommodation known as 50 Manhattan Avenue, Apartment [redacted], New York, New York, wherein the Rent Administrator denied the tenant s application for a rent reduction and terminated the proceeding upon finding that the tenant cancelled the Agency inspection scheduled for March 2, 2021

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the tenant requests a reversal of the Rent Administrator's order and contends, in substance, that she did not cancel the Agency inspection scheduled for March 2, 2021, but rather requested for a postponement as she had not been vaccinated for the Covid 19 virus The Petitioner claims that during the call, the inspector did not advise her that the postponement was deemed a cancellation, and that she would have objected to the cancellation if there had been any such indication Lastly, the tenant claims that her failure to follow up with the inspector after the notice of cancellation from February 26, 2021 was because she "took it for granted" that she would get another chance for an inspection

The owner submitted a response to the tenant's petition, objecting to the tenant's claims on appeal

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2202 16 of the New York City Rent and Eviction Regulations ("RER"), following a complaint by a tenant, DHCR is authorized to order a rent reduction where it is found that an owner has failed to maintain required services Section 2207 5 gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding and New York Courts have held that DHCR has broad discretion to decide if an inspection is necessary DHCR Policy Statement 90-2 provides that the Rent Administrator may rely on an Agency inspection when making a determination

In the proceeding below, the tenant filed a complaint on January 23, 2020 alleging that the owner decreased services by failing to maintain essential services in the bathroom, the bedroom, and the living room Specifically, the tenant alleged that (1) the bathroom had cracks and had bulging walls caused by leaks from the roof, the bathtub had cracks, a hole, unremovable dirt and needed to be reglazed, and a cracked doorstep, (2) the bedroom electrical outlets were defective, there were leaks in the ceiling, and (3) the living room wall light dimmers were defective, the electrical wiring was exposed, and the light switch was uncovered

The owner was served with the tenant's application on February 10, 2020 By correspondence received on March 18, 2020, the owner answered the tenant's complaint, disputing the tenant's assertions that all of the alleged unmaintained conditions existed

Notice of a scheduled Agency inspection was mailed to the tenant on February 22, 2021 which advised the tenant that the failure to provide access to the inspector on the date indicated (March 2, 2021), without rescheduling may result in a determination against the tenant's interests

The record shows that the tenant called the inspector on February 25, 2021, cancelling the scheduled Agency inspection, without rescheduling as she was waiting for the vaccine On February 26, 2021 a Notice to Cancel Inspection was mailed to the tenant, advising the tenant that the inspection scheduled for March 2, 2021 was canceled

Thereafter, on May 11, 2021 upon finding that the Petitioner had canceled the Agency inspection scheduled for March 2, 2021, the Rent Administrator terminated the tenant's rent reduction application proceeding

The Commissioner notes the tenant's contention that she did not cancel the Agency's scheduled inspection, but rather requested a postponement due to Covid 19 concerns as she was not yet vaccinated However, the Commissioner finds that this tenant's affirmation is unpersuasive as a careful review of the entire record shows that the tenant cancelled the inspection by telephone on February 25, 2021 without rescheduling Further, the Commissioner notes that the Notice of Inspection advised the tenant that the failure to provide access to the inspector on the date indicated, or call to reschedule, may result in a determination against the tenant's interests DHCR is not required to suspend the processing of a case or hold it in abeyance until such time that a tenant is able to provide access for a physical inspection

Based on the foregoing, the Commissioner having reviewed the Petitioner's appeal, the entire proceeding, including all the supporting documentation, finds that the Rent Administrator properly terminated the proceeding and denied the tenant's complaint Accordingly, the tenant's PAR has not established any errors of law or fact with the Rent Administrator's decision

The Commissioner notes that the tenant may commence a new rent reduction proceeding if the facts so warrant

THEREFORE, in accordance with the applicable sections of the New York City Rent and Eviction Regulations, it is

ORDERED, that this petition be, and the same hereby is, denied, and that the Rent Administrator's order be, and the same hereby is, affirmed

ISSUED OCT 28 2021

Woody Pascal
Deputy Commissioner

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There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO JO110036RO

149 ST LLC,

RENT ADMINISTRATOR'S DOCKET NO GW110114S

TENANT(S) [redacted]

PETITIONER

---------- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 24, 2021, the above named petitioner-owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on March 18, 2021(the "Order"), concerning various apartments at the housing accommodation known as 90-10 149th Street, Apt [redacted], Jamaica, NY, wherein the Rent Administrator granted the tenant's application for a rent reduction

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by the PAR

On November 8, 2018, the tenant filed an application for a rent reduction based upon decreased services Specifically, the tenant asserted *inter alia*, that the petitioner owner only provided one key for the subject building's main entry door and will not provide another unless the tenant pays a fee

The petitioner-owner opposed the application, asserting that the tenant refuses access for repairs and provided the requisite proof thereof The petitioner-owner further asserted that the tenant received a key, however, the tenant failed to provide information and/or documentation regarding other occupants in the subject apartment The owner further asserted that it is required to provide one key free of charge to each legal tenant, that it is entitled to charge a $30 00 fee for additional keys, and that it is entitled to request valid government-issued, employment-issued, or school issued identification for the provision of additional keys

A ' No Access" Agency inspection was scheduled for October 9, 2019, whereby the tenant informed the inspector that repairs were completed in the subject apartment, but that she

only received one main entry key and there are four people who live in the subject apartment The inspector noted that the main entry door requires the use of a non-duplicable standard cut key

The Agency requested additional information from the tenant on August 13, 2019, October 17, 2019, and on January 7, 2021, pertaining to whether information for the other occupants in the subject apartment was provided to the owner in order to obtain additional keys and whether the tenant received an additional key, however, the tenant did not respond to any of the Agency's requests

Based on evidence contained in the record, the Rent Administrator issued an order on March 18, 2021, under Docket Number GW110114S, determining that the owner did not obtain Agency approval prior to changing from a traditional, keyed main entry door lock to a main entry that uses a non duplicable key to enter the building Further, the Rent Administrator noted that the owner did not refute the tenant's allegation that the tenant was not provided a duplicate main entry key as Agency policy provides that if a building's entrance door lock is changed to non duplicable entry, tenants are entitled to a duplicate set of keys free of charge

In the PAR, the petitioner-owner seeks a reversal of the Rent Administrator's order asserting that the order was arbitrary, capricious, and erroneous The petitioner owner argues that the Rent Administrator erred in stating within the same order that no determination will be made in regard to the receipt of additional keys and reducing rent based on same The petitioner acknowledges that the tenant was previously able to make copies of keys, but asserts that the transition from a traditional metal key system to a non-duplicable metal key system is *de minimis* and not a change in base date services for the tenant

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services Policy Statement 90-2 states that the Rent Administrator may rely on an agency inspection when making a determination

The Commissioner finds the owner's claims to be without merit–The Rent Administrator made a finding of a service reduction solely on the owner's failure to provide a duplicate key to the tenant The Rent Administrator made no finding concerning keys for additional tenants and/or occupants based on the tenant's failure to provide additional information as requested by the Rent Administrator Further, the record supports that the owner failed to comply with Agency policy and obtain Agency approval prior to modifying the lock from a traditional metal key entry to a non-duplicable metal key entry

The Agency's long standing policy provides that if an owner changes the building's entrance door lock to a system which requires non-duplicable keys, the owner is required to provide a duplicate set of keys at no cost to the tenant Additionally, Agency policy does not indicate that owners shall provide unlimited keys without charge, but rather states that each tenant of record, including children, be provided keys free of charge However,

the owner may not charge more than $25 00 per replacement key thereafter Tenants may also receive up to four (4) additional keys at no charge for employees, who may be contractors, professional care givers, and/or for guests, including family members and friends, who are expected to visit on a regular basis or visit as needed to care for a tenant or the apartment if the tenant is away Additionally, while Section 2523 4(e)(2) states that changes in door-locking devices, where security or access is not otherwise compromised is considered a *de minimis* condition, it is not the case when access is restricted for tenants of record who are not provided a key

Based on the foregoing, the Commissioner finds that the petitioner's PAR is denied as the owner failed to refute the tenant's allegation that the tenant was not provided a duplicate main entry door key and the owner failed to file an application to modify the service

The Commissioner notes that once the service is restored and/or the petitioner obtains permission to modify the entrance door locking system, the petitioner may file an application to restore the rent, if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed

ISSUED OCT 29 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site www hcr ny gov

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There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

525-527 RIVERDALE AVENUE LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JQ910027RO

RENT ADMINISTRATOR'S DOCKET NO IT910104S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On May 19, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IT910104S, an order the Rent Administrator issued on April 16, 2021 (the "order"), concerning the housing accommodation known as 527 Riverdale Avenue, Apartment [redacted], Yonkers, New York, wherein the Rent Administrator granted the tenant's application for a rent reduction predicated on the results of an inspection that confirmed one of the tenant's complaints of service reductions, namely painting apartment-wide

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the Petitioner, through counsel, seeks a reversal of the Rent Administrator's order, contending, inter alia, that the order contains illegality and irregularity and that by virtue of Section 2527 8 of the Rent Stabilization Code, the Agency is required to reopen the case The owner argues that the Rent Administrator's order disregarded the tenant's withdrawal letter submitted by the owner and proceeded to grant the rent reduction Furthermore, that after the tenant commenced the underlying proceeding, the owner subsequently inspected and remedied all the alleged conditions to the satisfaction of the tenant, based thereon, the tenant wrote the subject letter confirming that service issues had been repaired The owner references a previously issued DHCR case Docket No IF510265RO asserting that the Rent Administrator erred by issuing an order contrary to the Agency's practice and procedure Attached to this appeal are a letter dated November 19, 2020 which the owner claims to have been written by the tenant

wherein the tenant confirmed the owner's assertions that service issues had been repaired, thereby, requesting a dismissal of the application, and the owner's letter advising that the proceeding be dismissed pursuant to the tenant's letter

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2503 4 of the Tenant Protection Regulations ("TPR" or the 'Regulations") following a complaint by a tenant, DHCR is authorized to order a rent reduction where it is found that the owner has failed to maintain required services Pursuant to section 2507 5(b) of the TPR, the Administrator has the authority to conduct an inspection at any stage of a DHCR proceeding and Courts have consistently held that the DHCR has broad discretion to decide if an inspection is necessary Policy Statement 90 2 provides that the Rent Administrator may rely on an Agency inspection when making a determination

The tenant commenced the proceeding below on August 31, 2020 by filing a complaint, alleging a diminution in services, to wit that the apartment needed to be repainted, that the kitchen floor was mis levelled, and that the kitchen floor cracked On September 2, 2020, the owner was served with the tenant's complaint The owner responded to the service application by correspondence dated November 19, 2020 and advised the Agency that the tenant had written a letter expressing her desire to withdraw the rent reduction application and requested to have the proceeding terminated The letter the owner claimed to have been written by the tenant signed and dated November 19, 2020 was attached to support the Petitioner owner's contention

Based on the aforementioned assertion, the Agency determined that further information was warranted, and thus, a "Request for Additional Information/Evidence" was issued on December 30, 2020, and a final reminder notice on February 10, 2021

By response dated February 15, 2021, which was received by the Agency on February 23, 2021, the tenant expressed service concerns, including diminished services and damage in the apartment due to the owner's negligence

Subsequent thereto, the Rent Administrator requested an inspection, and an Agency inspection was conducted at the subject apartment on March 25, 2021 On April 16, 2021, the Rent Administrator granted the tenant a rent reduction, finding that services were not maintained based on the inspector's inspection report that indicated there was need for apartment painting as there was evidence of peeling paint and discoloration in the walls and ceilings of the bathroom at the time of inspection

The Commissioner notes that the Petitioner's claim that the tenant withdrew their service application is not supported by the Agency records as there is evidence from the tenant's response dated February 15, 2021 that the service concerns alleged in the tenant's rent reduction application had not been resolved Moreover, the physical inspection of the subject apartment by the Agency's impartial inspector on March 25, 2021 confirmed that the apartment painting was unmaintained whereas the other two flooring conditions were found maintained at the time of inspection

With respect to the Division's case referenced by the owner, the Commissioner finds that the case cited by the owner is not dispositive of the issues herein In IF510265RO, the Commissioner granted the owner's petition based upon an evidentiary proof that the tenant failed to dispute the owner's claim as no rebuttal response was received from the tenant in that case However, in the underlying proceeding, the record reveals that the tenant's response dated February 15, 2021 and received by the Agency on February 23, 2021 substantively contradicts the owner's contention

Based upon the foregoing, the Commissioner finds that the Rent Administrator correctly granted the tenant a rent reduction in accordance with Section 2503 4 of the Regulations and DHCR Policy Statement 90 2 The Rent Administrator properly relied on the Agency inspection conducted on March 25, 2021 which revealed that the services complained of were not completely remedied The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as the inspector's impartiality in conducting the inspections was reasonable Accordingly, the Rent Administrator's order is in compliance with the Agency's established policies and procedures The Petitioner-owner has not established any basis to modify or revoke the Rent Administrator's determination

The owner is advised to file an "Owner's Application to Restore Rent," if the facts so warrant

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed

ISSUED OCT 29 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92-31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

Right to Court Appeal

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

[redacted]
(TENANT)

ADMINISTRATIVE REVIEW DOCKET NO JR410038RT

RENT ADMINISTRATOR'S DOCKET NO IU410097S

PETITIONER

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On June 27, 2021, the above named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on May 4, 2021 (the "Order"), concerning the housing accommodation known as 725 W 184th Street, Apt [redacted], New York NY, wherein the Rent Administrator issued an order terminating the Tenant's service complaint after the tenant failed to provide access to the apartment for an Agency inspection

The Commissioner has reviewed the entire evidence of record including that portion of the record that is relevant to the issue raised by the PAR

In the PAR, the Tenant requests that the Order be reversed (cancelled completely) The Tenant claims that the evidence proves that she did not receive advance notification of the inspection due to the United States Postal Service (USPS) postal hold that she had placed on her mail from March 29, 2021 through April 23, 2021 The Tenant, however, has not raised any issues of law or fact that challenge the decision that the Rent Administrator made in the matter below

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained Additionally, DHCR Policy Statement 90 2 states that the Rent Administrator may rely on an Agency inspection when making the determination in a matter

In the proceeding below, the Tenant filed a service complaint with the Agency on September 15, 2020 alleging a decrease in services, specifically that there was water damage around the north facing window in the bedroom The Owner was served with the notice of the Tenant's complaint (the "Initial Notice") on October 8, 2020 The Agency records indicate that the Owner did not respond to the Initial Notice Hence, a Notice of Inspection was sent to the Tenant on April 8, 2021 The notice advised the Tenant that an Inspector from the Agency will conduct an inspection of her apartment on April 21, 2021 between 9 00 a m and 12 00 p m The notice advised the Tenant to be home at the appointed hour or arrange to have her apartment available for inspection at that time, the failure to provide access to the inspector or the owner on the date indicated, without rescheduling, may result in a determination against her interests On April 21, 2021, the Tenant failed to provide access to the DHCR Inspector for a physical inspection of her apartment Therefore, on May 4, 2021, the Rent Administrator issued an order terminating the proceeding

The Commissioner notes the Tenant's contentions herein that she had a USPS mail hold on her mail from March 29, 2021 through April 23, 2021, that she did not receive notification of the inspection until after the inspection date, and that there was no opportunity to reschedule the inspection However, these unsubstantiated claims by the Tenant do not warrant a modification or reversal of the Rent Administrator's order The Tenant has not submitted any evidence to support her claim, and further, there is no evidence in the record that the inspection notice was returned by the USPS as undeliverable Under established principles of law, an article which was mailed to the proper address, as was the case here, is presumed to have been received

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly terminated the Tenant's rent reduction claim after the DHCR Inspector was unable to gain access to the Tenant's apartment for the scheduled inspection The Tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination

The Tenant is advised that she may file a new service complaint with the Agency if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed

ISSUED **OCT 29 2021**

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92-31 Union Hall Street
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STATE OF NEW YORK
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GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO JS410004RO

Manjula Mukhopadhyay Rama
& Manjula, LLC

RENT ADMINISTRATOR'S
DOCKET NO IX410067S

PETITIONER

---------- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On July 6, 2021, the above-named petitioner owner filed a petition for administrative review (PAR) against an order issued on June 22, 2021, by the Rent Administrator concerning the housing accommodations known as 334 West 37th Street, Apartment [redacted] New York, NY, wherein the Administrator granted the tenant a rent reduction and directed the restoration of service(s)

The Commissioner has reviewed all of the evidence in the record and has carefully considered the portion of the record relevant to the issue(s) raised by the petition

The owner seeks a reversal of the Rent Administrator's order, and contends in substance, that the owner would take care of any repairs reported by the tenant, that the bathroom vanity was recently replaced, and the tenant did not advise the owner regarding any necessary repairs thereafter, that the vent issue was resolved prior to the Agency's inspection of May 27, 2021, but the order did not indicate same, and that the owner was in the process of curing the Department of Buildings (DOB) open violation, based on the vent issue, and that the tenant should contact management[1] to receive prompt attention rather than filing a complaint as the owner is ready and willing to provide prompt attention to reported issues

The tenant opposed the owner's petition, asserting that the management company had been aware of the need for repairs since April of 2020

[1] The owner provided the following email for the tenant to report any necessary repairs – [redacted] or [redacted]

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (RSC or the Code), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services

The tenant commenced the proceeding below on December 29, 2020, by filing a complaint, alleging a diminution in the bathroom cabinet and the kitchen exhaust vent services On January 4, 2021, the owner was served with the tenant's complaint By the owner's correspondence received by the Agency on April 15, 2021, the owner advised, essentially, that the tenant had been contacted to schedule a time for the necessary repairs to be performed

The records indicate that the Rent Administrator requested an Agency's inspection of the items of the tenant's complaint, and that on May 27, 2021, the Agency's inspection was conducted The inspector indicated, in the inspection report, that the inside lower left door of bathroom cabinet was bulging and separating at the time of inspection, and that kitchen stove top exhaust fan[2] was working properly then However, the Commissioner notes that at the time of the Rent Administrator's order, in the DOB database, there was an open violation, Violation Number 39038041N, regarding the vent/exhaust in the subject apartment, indicating that the kitchen exhaust duct in the subject apartment was installed contrary to the Mechanical Code 505 1 Thus, based on the inspector's finding and the DOB records, the Rent Administrator granted the tenant a rent reduction and directed the restoration of services

Based on the foregoing, the Commissioner finds that the Rent Administrator and the Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly concluded that a rent reduction order was warranted, and that the owner's PAR did not establish any error of law or fact warranting a modification or the reversal of the Administrator's order

The Commissioner notes that the owner may commence a rent restoration proceeding, if the facts warrant

THEREFORE, in accordance with the applicable sections of the Rent Stabilization Law and Code, it is

ORDERED, that this petition be, and the same hereby is, denied and that the Rent Administrator's order be, and the same hereby is, affirmed

ISSUED

NOV 05 2021

WOODY PASCAL
Deputy Commissioner

[2] The inspector noted that the tenant stated that the exhaust duct had grooves but should be smooth according to the DOB which the tenant feared may cause a fire

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OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

[redacted]
(TENANT)

ADMINISTRATIVE REVIEW DOCKET NO JR410036RT

RENT ADMINISTRATOR'S DOCKET NO IV410117S

PETITIONER

---------- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On June 30, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against IV410117S, an order the Rent Administrator issued on April 20, 2021 (the "Order"), concerning the housing accommodation known as 152 West 118th Street, Apt [redacted] New York, NY 10026, wherein the Rent Administrator terminated the Tenant's application to reduce the rent for the subject apartment

The Commissioner has carefully reviewed the entire evidence of the record including that portion of the record that is relevant to the issue raised by the PAR

In the PAR, the Tenant claims that she had submitted her complaint regarding Mr Shipkewich to DHCR one week prior to the scheduled inspection The Tenant says that she thought that she could get an extension while her claim was being investigated

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained Additionally, DHCR Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making the determination in a matter

In the proceeding below, the Tenant filed a complaint with the Agency on October 28, 2020, alleging a decrease in services in her apartment including issues with the refrigerator, low water pressure in the bathroom sink, and lighting issues in the subject apartment On November

23, 2020, the Owner was served with the notice of the Tenant's complaint (the "Initial Notice') The Agency records indicate that the Owner responded to the Initial Notice, disputing the Tenant's claims Therefore, an inspection of the Tenant's apartment was scheduled for April 8, 2021 Notice of the Agency inspection was provided to the Tenant on March 24, 2021, advising the Tenant that the failure to provide access to the inspector on the date indicated, without rescheduling, may result in a determination against the Tenant's interests On March 31, 2021, the Tenant responded to the Notice of Inspection, stating that there was no need to inspect the refrigerator, and requested a different inspector However, there is no evidence in the record that the Tenant requested to reschedule the April 8, 2021 inspection When the DHCR Inspector visited the Tenant's apartment On April 8, 2021, the Tenant failed to provide access to the subject apartment for the physical inspection The Inspector noted in his report that he called the tenant, but no one responded

Based in the foregoing details, the Rent Administrator issued an order denying the Tenant's service complaint

The Commissioner notes the Tenant's contention herein that she thought that her complaint regarding [redacted] would get her an extension of time while her claim was being investigated However, this unsubstantiated claim by the Tenant does not warrant a modification or reversal of the Rent Administrator's order The Tenant was notified during the Rent Administrator's proceeding of the scheduled Agency inspection and was advised that the failure to provide access or reschedule the inspection may result in a determination against their interests

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly terminated the Tenant's service complaint after the Tenant failed to provide access to her apartment for a physical inspection by an impartial Inspector from this Agency on April 8, 2021

The Tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination

The Tenant is advised that she may file a new service complaint with this Agency if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed

ISSUED

NOV 10 2021

Woody Pascal
Deputy Commissioner

State of New York
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Office of Rent Administration
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Web Site www.hcr.ny.gov

Right to Court Appeal

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There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO JO610037RT

[redacted]

PETITIONER

RENT ADMINISTRATOR'S DOCKET NO IP610006S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 31, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on February 24, 2021 (the 'order"), concerning the housing accommodation known as 380 East 139th Street, Apt [redacted] Bronx, New York wherein the Rent Administrator denied the tenant's rent reduction application based on a finding that the tenant failed to provide access to the subject apartment for the purpose of physical inspection and terminated the proceeding

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied

In the PAR, the tenant seeks a reversal of the Rent Administrator's order stating the inspector did not "manage to gain access due to a lack of intercom system " The Commissioner notes that the tenant has not raised any error of fact or law against the Rent Administrator's order in the instant appeal

The owner opposes the petition and asserts, in essence, that the owner has been prevented from talking directly with the tenant of record by her son, and that the owner has not been able to gain access to the apartment but will make the necessary repairs when access is provided

Pursuant to Rent Stabilization Code ("RSC" or "the Code"), Section 2523 4, the Rent Administrator is authorized to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained Furthermore, Section 2527 5(b) of the Code provides that, at any stage of a proceeding, the DHCR may conduct an inspection and New York courts have consistently held that DHCR has broad discretion to decide if an inspection is necessary Policy Statement 90 2 permits the Rent Administrator to rely on an Agency inspection when making a determination DHCR Policy, in accordance with the Code, recognizes that denial of a rent reduction is appropriate where a tenant fails to provide access at the time arranged for an inspection

In the proceeding below, the tenant filed a rent reduction application on April 4, 2020 alleging a diminution in various apartment-wide services including unmaintained services in the kitchen, living room, hall/foyer, bedroom 1, bedroom 2, bedroom 3, intercom, vermin control and painting was needed of the apartment walls The owner was served with notice of the tenant's complaint (the "Initial Notice") on April 9, 2020 The owner responded to the notice claiming it was attempting to gain access to the apartment to make repairs but that the tenant failed to follow through with access appointments, and that the owner would make repairs but needed assistance with scheduling access Thereafter, an Agency inspection was scheduled by the Rent Administrator

A review of the record below shows that the tenant was notified of the Agency inspection, scheduled for February 2, 2021 between 9 30 AM and 12 30 PM, on January 21, 2021 The inspection notice provided to the tenant warned that the failure to provide access to the inspector on the scheduled date, without rescheduling, may result in a determination against the tenant's interest On the day of the scheduled inspection, the DHCR inspector noted that the tenant failed to provide access to the subject apartment for the inspection The inspector indicated that at the time of the inspection when he was at the building, he called the tenant at the number provided and when the tenant did not answer the inspector left the tenant a message On February 24, 2021, based on the record, including the Agency inspection, the Rent Administrator issued an order denying the tenant's rent reduction application and terminated the proceeding

The Commissioner notes there is no evidence in the record that the tenant attempted to reschedule the February 2, 2021 inspection The tenant's failure to provide access to the inspector prevented the Agency from investigating the complaint properly Furthermore, the Commissioner notes that the tenant in the PAR did not offer any excuse for her failure to seek to reschedule the inspection at any time during these proceedings

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the tenant's rent reduction application as the tenant failed to provide the necessary access for the Agency inspection The tenant was notified during the Rent Administrator's proceeding that a failure to grant access to the inspector, or the failure to reschedule the inspection, would result in a determination against the tenant's interest The Commissioner finds that the tenant has not established any basis to modify or revoke the Rent Administrator's determination in this case

The tenant is advised that she may file a new services complaint with the DHCR, if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is denied, and the Rent Administrator's Order is affirmed

ISSUED

NOV 10 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site www.hcr.ny.gov

Right to Court Appeal

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

----------X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO JT410007RT

[redacted]

RENT ADMINISTRATOR'S
DOCKET NO IX410067S

PETITIONER

---------- X

ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW

On August 9, 2021, the above-named petitioner-tenant properly re filed[1] the petition for administrative review (PAR) against an order issued on June 22, 2021, by the Rent Administrator concerning the housing accommodations known as 334 West 37th Street Apartment [redacted] New York, NY, wherein the Administrator granted the tenant a rent reduction and directed the restoration of service(s)

The tenant seeks a modification of the Rent Administrator's order, and contends that while the Rent Administrator's order below directed the that the legal regulated rent was reduced to the level in effect prior to the most recent guidelines increases, the tenant recently renegotiated her rent with the owner having a preferential rent, and the tenant's rent is presently at the lowest[2] it had ever been and that the Agency should determine a reduced amount/percentage of rent decrease that will make the order effective

The Commissioner notes that the tenant's petition has not alleged any error in the Rent Administrator's order

[1] Tenant s initial PAR Docket No JS410018RT was rejected pursuant to missing document(s) on July 16 2021

[2] Tenant s legal rent reduced from $2 158 14 to preferential rent of $1 850 00

Section 2529 1 of the Rent Stabilization Code requires a PAR to allege the errors upon which the order being appealed is based Section 2529 8 authorizes dismissal of a PAR if it substantially fails to comply with the provisions of the Rent Stabilization Law or Code Based upon the petitioner's failure to allege errors in the Rent Administrator's order, the petition is dismissed

The Commissioner notes that the tenant may commence a rent overcharge proceeding, should the facts warrant

THEREFORE, in accordance with the applicable sections of the Rent Stabilization Law and Code, it is

ORDERED, that this petition is dismissed, and that the Rent Administrator's order is affirmed

ISSUED NOV 16 2021

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92 31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

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There is no other method of appeal

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GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

X

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO JR210028RO

240 CROWN LLC

RENT ADMINISTRATOR'S
DOCKET NO HR210159S

PETITIONER X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named petitioner-owner timely filed a Petition for Administrative Review ("PAR") challenging the Rent Administrator's order issued on May 13, 2021 concerning the housing accommodation known as 240 Crown St , Apt [redacted], Brooklyn, NY wherein the Rent Administrator terminated the tenant's application for a rent reduction based upon a decreased service – vermin condition

The Commissioner reviewed the entire evidence in the record and carefully considered that portion of the record relevant to the issues raised in the petition

In the PAR, the owner argues that the order should be reversed as extermination service was provided to the tenant and the tenant refused extermination services

After a careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied for the reasons set forth below

Pursuant to Sections 2520 6(r) and 2523 4 of the Rent Stabilization Code (RSC), the Rent Administrator is authorized to order a rent reduction upon application by the tenant where it is found that an owner failed to maintain required services Once an application is filed, the parties are given notice and a reasonable opportunity to be heard on the application before an order is issued RSC §2526 2(a)

On June 19, 2019, the tenant filed a complaint for the vermin condition and the owner was given an opportunity to respond on July 1, 2019 On July 12, 2019, the owner's response was received and on May 13, 2021, the Rent Administrator terminated the proceeding as an order for the vermin condition for the subject apartment was issued on July 6, 2018 under Docket No FX210164S which remains in full force and effect In the instant PAR, the owner argues that the order should

be reversed as extermination service is provided and the tenant refused the service on multiple occasions

Based on the evidence in the record, the Commissioner finds that reversal is not warranted as the owner failed to demonstrate an error in law and/or fact in the Rent Administrator's determination which terminated the proceeding based on the existence of an order issued on July 6, 2018 under Docket Number FX210164S Furthermore, the owner's attempt to challenge FX210164S must fail as the time to file a Petition for Administrative Review for Docket Number FX210164S expired and therefore, the order is final

The Commissioner advises the owner to file a rent restoration application with this Agency, if the facts warrant

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed in accordance with this Order and Opinion

ISSUED NOV 17 2021

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92 31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

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GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO JO120017RO

PARSONS 88 REALTY LLC,

RENT ADMINISTRATOR'S DOCKET NO HT120245S

TENANT(S) [redacted]

PETITIONER

---------- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 12, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on February 5, 2021(the ' Order"), concerning the housing accommodation known as 88 06 Parsons Blvd Apt [redacted] Jamaica, NY, wherein the Rent Administrator granted the tenant's application for a rent reduction

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by the PAR

On August 30, 2019, the tenant filed an application for a rent reduction based upon decreased services Specifically, the tenant alleged that in 2014, the petitioner-owner changed the building's main entry door lock from a standard lock to a lock requiring non duplicable keys The tenant further alleged that in 2017, the petitioner owner provided her with three keys, one for the tenant, the tenant's partner, and the tenant's son, however, in or around February 2019, the petitioner-owner changed the locks a second time, still utilizing a non-duplicable key lock, and failed to provide keys to all three tenants The tenant provided photocopies of various documents, including driver's licenses, showing the subject apartment as the address for all occupants/tenants described herein

The petitioner-owner opposed the application, asserting that the owner is willing to provide keys to the tenant's partner and son, provided identification for same is presented, however, the tenant received a key from the superintendent and cannot be reached by mail, telephone, or in person The petitioner further asserted that it is not required to provide an

unlimited amount of keys and the tenant's ability to make unlimited copies of a key is not a base date service and thus, not a reduction in services

In a correspondence dated February 3, 2020, the Agency requested additional information from the tenant, asking whether the tenant contacted the owner and arranged to receive the keys requested and if so, whether the owner provided the requested keys Initially, in a letter dated February 21, 2021, the tenant stated that despite contacting the owner, she received no keys, however, in a subsequent letter dated March 12, 2020, the tenant advised the Agency that the petitioner-owner provided keys for the tenant's partner and son, but still did not provide a key for the tenant

The Agency also requested additional information from the petitioner owner as to whether the owner supplied the tenant/occupants with keys as requested, and if keys were provided, to submit proof that the keys were received In a response dated March 17, 2020, the petitioner-owner reiterated that the tenant's ability to make unlimited copies of a key is not a base date service, that changes in door-locking devices are *de minimis*, and therefore, not a reduction in services The petitioner attached documentation indicating that the tenant received and signed for one key, however, the only date that appears on an attached signature page comprised of multiple tenant signatures is April 28, 2017

Based on evidence contained in the record, the Rent Administrator issued an order on February 5, 2021, under Docket Number HT120245S, granting the tenant's application for a rent reduction, determining that the owner did not obtain Agency approval prior to changing from a traditional, keyed main entry door lock to a main entry that uses a non-duplicable key to enter the building, and further, that the petitioner-owner failed to present credible evidence that a third key was given to the tenant

In the PAR, opposed by the tenant, the petitioner owner seeks a reversal of the Rent Administrator's order asserting that there was no decrease in service and further, a mere change in how the service is provided does not change the service or require a modification of service

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2202 16 of the New York City Rent and Eviction Regulations ("Regulations"), DHCR is authorized to order a rent reduction upon application by a tenant, where it is found that an owner has failed to maintain required or essential services

The Commissioner finds the owner's claims to be without merit The Agency's long standing policy provides that if an owner changes the building's entrance door lock to a system which requires non-duplicable keys, the owner is required to provide a duplicate set of keys at no cost to the tenant While Section 2202 16(g) of the Regulations states that changes in door-locking devices, where security or access is not otherwise compromised is considered a *de minimis* condition, it is not the case when access is restricted for tenants

In the instant matter, the record does not support that a key was provided to the tenant after the main entry door lock was changed in 2019, thereby preventing access to the tenant of

record Further, the record does not support that the owner obtained Agency approval prior to modifying the lock from a traditional metal key entry to a non-duplicable metal key entry in accordance with Agency policy

In addition, Agency policy does not indicate that owners shall provide unlimited keys without charge, but rather states that each tenant of record, including children, be provided keys free of charge However, the owner may not charge more than $25 00 per replacement key thereafter Tenants may also receive up to four (4) additional keys at no charge for employees, who may be contractors, professional care givers, and/or for guests, including family members and friends, who are expected to visit on a regular basis or visit as needed to care for a tenant or the apartment if the tenant is away

Based on the foregoing, the Commissioner finds that the petitioner's PAR is denied as the owner failed to provide credible evidence that a main entry door key was provided to the tenant and further, the owner failed to file an application to modify the service

The Commissioner notes that once the service is restored and/or the petitioner obtains permission to modify the entrance door locking system, the petitioner may file an application to restore the rent, if the facts so warrant

THEREFORE, in accordance with the applicable provisions of the Rent and Eviction Regulations, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed

ISSUED **NOV 18 2021**

Woody Pascal
Deputy Commissioner

State of New York
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Office of Rent Administration
Gertz Plaza 92-31 Union Hall Street
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GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

S GARSON LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JS610016RO

RENT ADMINISTRATOR'S DOCKET NO HQ610295S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On July 13, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against HQ610295S, an order the Rent Administrator issued on June 9, 2021(the "order"), concerning the housing accommodation known as 3725 Blackstone Avenue, Apartment [redacted] Bronx, New York, wherein the Rent Administrator granted the tenant a rent reduction and determined that the intercom system was modified without a prior approval from the Agency as required under Section 2522 4 (d), (e) of the Rent Stabilization Code

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the owner seeks a reversal of the Rent Administrator's order and claims that the installation of a new intercom system does not constitute a service not maintained as the upgrade to a modern intercom system is necessary considering the age of the replaced unit, and that the old system was always functional until it became defective As proof of the owner's claim, the owner annexed a letter from a vendor Iconic Infrastructures Inc which appears to be a diagnostic analysis of the old intercom system and included a recommendation to upgrade same

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code ("RSC" or the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction,

upon application by a tenant where it is determined that required services have not been maintained Section 2520 6 (r) of the Code states that the owner is required to provide those services which the owner was maintaining or was required to maintain on the applicable base dates, and any additional services provided or required to be provided thereafter by applicable law Required services also include ancillary services which are defined under Section 2520 6 (r)(3) as that space and those required services not contained within the individual housing accommodation which the owner was providing on the applicable base dates , and any additional space and services provided or required to be provided thereafter by applicable law, including recreational facilities In addition, Section 2522 4 (d), (e) states that an owner is required to file an application to modify required services, prior to doing so, provided that doing so would not be inconsistent with Rent Stabilization Code and Law Furthermore, Section 2527 5 (b) of the Code authorizes the Administrator to request an inspection at any stage during a DHCR proceeding and New York Courts have held that the Agency has broad discretion to decide when an inspection is necessary Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination

A review of the record reveals that the underlying proceeding was commenced by the tenant on May 23, 2019, wherein the tenant alleged, in pertinent part, that the owner transitioned from an audio intercom system to a telephone-based intercom system, and that the tenant lost their intercom service The tenant's complaint was served on the owner on June 20, 2019 The owner rebutted the tenant's allegations on July 5, 2019 and contended that the tenant refused to have their mobile phone programmed to the newly installed intercom system despite being informed that the system does not have facial recognition feature

Subsequent thereto, the Rent Administrator requested an inspection of the subject premises and an inspection was conducted on January 23, 2020 by an impartial Agency inspector, whereupon the inspector observed that the intercom system was new and operates with a personal telephone However, the inspector noted that the tenant's telephone is not connected to the building's intercom service as the tenant stated that she opted out of giving the owner her telephone number to connect to the intercom service

After considering all submissions and responses from the tenant and owner, the Rent Administrator, on June 9, 2021, found the intercom system, is an ancillary service which was modified without a prior approval from the Agency as required under Section 2522 4 (d), (e) of the RSC The Rent Administrator also advised that the owner may file an "Application to Modify Services '

The Commissioner finds that the owner's contentions are without merit and merely self-serving in that the rent regulation laws require owners to maintain, inter alia, the same dwelling space and required services until an application to decrease or modify same has been filed, and an order permitting such has been issued by the Rent Administrator Thus, a unilateral modification of services without the Agency's permission to so do constitutes a decrease in service under Section 2523 4 of the RSC

In this case, it is undisputed that the owner replaced the intercom system with one that now uses the tenant's telephone number to operate The record shows that the owner did not submit an application to modify such required service as required under Section 2522 4 (d), (e) of the RSC

Based upon the foregoing, the Commissioner finds that the Rent Administrator properly granted the tenant a rent reduction as the facts established that the tenant's intercom service was modified due to the owner's replacement of the intercom system with one that now uses the tenant's personal telephone, without prior Agency approval The owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination

The Commissioner notes that the owner may commence a proceeding pursuant to Section 2522 4 (d), (e) of the RSC to modify or substitute required services

The owner is advised to file an "Owner's Application to Restore Rent," if the facts so warrant

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed

ISSUED NOV 18 2021

Woody Pascal
Deputy Commissioner

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There is no other method of appeal.

STATE OF NEW YORK
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92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

[redacted]

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JS210022RT

RENT ADMINISTRATOR'S DOCKET NO IM210256S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On July 15, 2021, the-above named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against IM210256S, an order the Rent Administrator issued on June 10, 2021(the "order"), concerning the housing accommodation known as 1074 Eastern Parkway, Apartment [redacted] Brooklyn, New York, wherein the Rent Administrator denied the tenant's application for a rent reduction and terminated the proceeding because the tenant failed to provide access for the Agency inspections scheduled for October 19 and December 5, 2020

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

In the PAR, the Petitioner-tenant, through counsel, seeks a reversal of the Rent Administrator's order and claims that tenant and the tenant's counsel were not aware of the scheduled inspections as they did not receive notice of inspection, and as a result, could not have called to reschedule The Petitioner contends that she received a knock on her door at the time of the scheduled inspections, however, for fear of the Covid-19 pandemic, she did not open her door and did not know it was a DHCR inspector due to the lack of inspection notice The tenant requests that a new date for inspection be granted

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to New York City Rent Stabilization Code Section 2523 4 ("the Code"), following a complaint by a tenant, DHCR is authorized to order a rent reduction where it is found that an owner has failed to maintain required services In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of Section 2527 5 (b) gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding and New York Courts have held that DHCR has broad discretion to decide if an inspection is necessary Additionally, Policy Statement 90-2 allows the Rent Administrator to rely on an Agency's inspection in determining if services at issue are maintained DHCR Policy, in accordance with the Code, recognizes that denial of a rent reduction is appropriate where a tenant fails to provide access at the time arranged for an inspection

The tenant commenced the proceeding below on January 10, 2020, by filing a complaint, alleging the following unmaintained services plumbing kitchen pipes, wiring kitchen, paint/plaster bathroom, toilet base, steam pipe bedroom 1, paint/plaster bedroom 3, floor/covering bedroom 3, floor/covering living room, and a step in the apartment The owner was served with the tenant's application on February 21, 2020 The Agency records indicate that the owner did not respond to the tenant's allegations Subsequent thereto, the Rent Administrator requested an Agency inspection of the subject apartment to ascertain the condition of the issues the tenant complained of

The Commissioner notes that a review of the proceeding below discloses that on October 2, 2020, a Notice of Inspection ("Notice"), which scheduled an inspection for October 19, 2020 between the hours of 10 00 AM and 3 00 PM was mailed to the tenant and her counsel advising the owner and tenant to be present during inspection The Notice contained cautionary language advising the tenant that a failure to provide access (or the failure to call to reschedule the appointment) could result in a determination against the tenant's interests The record shows that the tenant did not grant the inspector access to inspect on October 19, 2020 as scheduled

The record further reveals that on December 1, 2020, a second Notice of Inspection ("Notice"), which scheduled an inspection for December 15 2020 between the hours of 10 00 AM and 3 00 PM was mailed to the tenant and her counsel, advising the owner and tenant to be present during the scheduled inspection The Notice also contained cautionary language advising the tenant that a failure to provide access (or the failure to call to reschedule the appointment) could result in a determination against the tenant's interests The record shows that the tenant again failed to provide access to the subject apartment for a scheduled physical inspection by the Agency s impartial inspector on December 15, 2020

Thereafter, on June 10, 2021, upon finding that the Petitioner failed to provide access for the two Agency inspections scheduled for October 19, 2020 and December 15, 2020, the Rent Administrator denied the tenant the relief requested and terminated the proceeding

The Commissioner notes the tenant and her counsel's claim that they did not receive notice of the Agency inspections is insufficient to warrant a revocation or modification of the Rent Administrator's order The Rent Administrator's record reflects that the inspection notices were properly mailed to the tenant and the tenant's counsel on October 2, 2020 and December 1, 2020 at their respective addresses noted in the record There is no evidence in the record indicating

that the mail to the tenant or the tenant's counsel was returned to the Agency as undeliverable Under established principles of law, an article which was mailed to the proper address is presumed to have been received Therefore, the Petitioner's claim that the tenant and her counsel did not have notice of the scheduled Agency inspections is self-serving and meritless

Based on the foregoing, the Commissioner having reviewed the Petitioner's appeal, the entire proceeding, including all the supporting documentation, finds that the Rent Administrator properly terminated the proceeding and denied the tenant's complaint as the Petitioner-tenant failed to provide access to the subject apartment on two separate occasions Accordingly, the tenant's PAR has not established any errors of law or fact with the Rent Administrator's decision

The Commissioner notes that the tenant may commence a new rent reduction proceeding if the facts so warrant

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed

ISSUED NOV 18 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92-31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review The deadline for filing this Article 78 proceeding with the courts is within 60 days of the issuance date of the Deputy Commissioner's order This 60 day deadline for appeal may be extended by executive orders at https //governor.ny.gov/executiveorders No additional time can or will be given In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order If you file an Article 78 appeal the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR) With respect to DHCR your appeal must be served on DHCR Counsel's office at 641 Lexington Ave New York NY 10022

Note During the period of the current Covid 19 emergency as a courtesy if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated is limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court i e Notice of Petition, Petition and other efiled documents to DHCRLegalMail@nysher.org Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR) DHCR is not the agent for service for any other entity of the State of New York or any third party In addition, the Attorney General must be served at 28 Liberty Street 18th Floor New York NY 10005 Since Article 78 proceedings take place in the Supreme Court it is advisable that you consult legal counsel

There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

[redacted]

PETITIONER

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ADMINISTRATIVE REVIEW DOCKET NO.: JT410006RT

RENT ADMINISTRATOR'S DOCKET NO.: HX410181S

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 6, 2021, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against HX410181S, an order the Rent Administrator issued on July 2, 2021 (the "order"), concerning the housing accommodation known as 236 West 122nd Street, Apartment [redacted], New York, New York, wherein the Rent Administrator denied the tenant's application for a rent reduction and terminated the proceeding because the tenant failed to provide access for the Agency inspection scheduled for February 17, 2021.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the tenant requests a reversal of the Rent Administrator's order as she disputes the finding that she failed to provide access for the physical inspection of the subject premises scheduled for February 17, 2021. The Petitioner objects to the scheduling of an inspection during the Covid-19 pandemic and claims that she did not receive the Notice of Inspection.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to New York City Rent Stabilization Code Section 2523.4 ("the Code"), following a complaint by a tenant, DHCR is authorized to order a rent reduction where it is found that an owner has failed to maintain required services. In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of. Section 2527.5 (b)

gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding and New York Courts have held that DHCR has broad discretion to decide if an inspection is necessary. Additionally, Policy Statement 90-2 allows the Rent Administrator to rely on an Agency's inspection in determining if services at issue are maintained. DHCR Policy, in accordance with the Code, recognizes that denial of a rent reduction is appropriate where a tenant fails to provide access at the time arranged for an inspection.

A review of the record reveals that the tenant initiated the underlying service proceeding on December 27, 2019, alleging a decrease in services, including the issues of defective window, pipes under the sink, toilet handle, bathroom walls and closet painting, electric covers, wall plastering, and heating. The owner was served with the notice of the tenant's complaint (the "Initial Notice") on January 14, 2020. By correspondence dated March 13, 2020, received by the DHCR on March 17, 2020, the owner, through counsel, responded to the tenant's complaint and affirmed that most of the repairs had been completed while the outstanding issues were delayed due to the Covid-19 pandemic. Subsequent thereto, the Rent Administrator requested an Agency inspection of the subject apartment to ascertain the condition of the issues the tenant complained of.

The Commissioner notes that a review of the Administrative file in this matter discloses that on February 8, 2021, a Notice of Inspection ("Notice"), which scheduled an inspection for February 17, 2021 between the hours of 10:00 AM and 2:00 PM was mailed to the owner and tenant advising both parties to be present during the inspection. The Notice contained cautionary language advising the tenant that a failure to provide access (or failure to call to reschedule the appointment) could result in a determination against the tenant's interests. The record shows that the tenant failed to keep the appointment to inspect the subject apartment on February 17, 2021 as scheduled, and that the inspector called the tenant's telephone number while at the premises, but the tenant did not answer.

Thereafter, on July 2, 2021, upon finding that the Petitioner failed to provide access for the Agency inspection, the Rent Administrator denied the tenant the relief requested and terminated the proceeding.

The Commissioner notes the tenant's claim that they did not receive notice of the Agency inspection is insufficient to warrant a revocation or modification of the Rent Administrator's order. The Rent Administrator's record reflects that the inspection notice was properly mailed to the tenant on February 8, 2021 at the address noted in the record. There is no evidence in the record indicating that the mail to the tenant was returned to the Agency as undeliverable. Under established principles of law, an article which was mailed to the proper address is presumed to have been received. Therefore, the Petitioner's unsubstantiated claim that the tenant did not have notice of the scheduled Agency inspection is meritless in this case.

Based on the foregoing, the Commissioner having reviewed the Petitioner's appeal, the entire proceeding, including all the supporting documentation, finds that the Rent Administrator properly terminated the proceeding and denied the tenant's complaint as the Petitioner-tenant failed to provide access to the subject apartment. Accordingly, the tenant's PAR has not established any errors of law or fact with the Rent Administrator's decision.

The Commissioner notes that the tenant may commence a new rent reduction proceeding if the facts so warrant.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED:

NOV 24 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO.: JS210017RO

321 4TH AVENUE LLC

PETITIONER

RENT ADMINISTRATOR'S DOCKET NO.: JQ210049S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On July 21, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on June 22, 2021 (the "order"), concerning the housing accommodation known as 301 3rd Street, Apt [redacted], Brooklyn, New York wherein the Rent Administrator directed the rent for the subject apartment be reduced to $1.00 per month effective April 6, 2021, the date an automobile crashed into the building causing structural damage and the tenant to vacate involuntarily.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied.

In the PAR, the owner, through its counsel, seeks a reversal of the Rent Administrator's order contending the ordered rent reduction is arbitrary, capricious, illegal, and irrational. The owner claims, in substance, that notwithstanding the owner's offer to provide the tenant with extra precautions and safety checks, and to pay for the tenant's stay in a hotel until the end of June 2021, the apartment became habitable when New York City Department of Buildings ("DOB") partially rescinded the vacate order on April 27, 2021 for the tenant's apartment, and the tenant was notified of her ability to resume occupancy which was acknowledged in the Rent Administrator's order. Moreover, the owner stated that on June 17, 2021, prior to the issuance of the rent reduction order, the tenant voluntarily resumed occupancy of her apartment.

Pursuant to New York City Rent Stabilization Code ("RSC" or "the Code") Section 2523.4, following a complaint by a tenant, DHCR is authorized to order a rent reduction where it is found that the owner has failed to maintain required services. Where a hazardous condition causes a tenant to vacate their apartment, following a complaint of decreased services, the DHCR is empowered, pursuant to Section 2522.6 of the Code, to issue an order reducing a tenant's rent to a nominal amount until the landlord restores the premises to a habitable condition. When a tenant is forced to vacate an apartment because it is inhabitable, the rent is established at $1.00 per month to maintain the landlord/tenant relationship between the parties until the apartment is restored to habitability and the subject tenant has resumed possession of the apartment or refused an offer to reoccupy the subject apartment.

The record below reveals that on May 14, 2021 the tenant filed a rent reduction application claiming a vacate order was issued for the premises. The owner was served with notice of the application ("Initial Notice") on May 17, 2021.

On May 26, 2021, the Rent Administrator requested additional information from the tenant and the owner, noting that DOB records revealed that the vacate order was rescinded on April 27, 2021, and to advise the Rent Administrator whether the tenant has been notified that she could return to the subject apartment, and if so, the exact day the tenant resumed occupancy.

Following the request for additional information, on June 14, 2021, the tenant responded claiming that while the vacate order was partially rescinded, the tenant has not re-occupied the subject apartment as the owner had her leave the apartment due to serious building structural and stability concerns. The tenant's counsel submitted emails with the owner to substantiate their response.

On June 14, 2021, the owner responded to the initial notice and the Rent Administrator's request for additional information and claimed that a vehicle crashed into the building causing DOB to issue a vacate order for the entire premises and that the owner relocated the tenant to a hotel. The owner also claimed that on April 27, 2021, DOB determined that the building was safe for some of the tenants, including the complainant tenant, to resume occupancy, issuing a partial rescission of the vacate order, however, the owner's engineer inspected the building as well, and the engineer's monitoring equipment detected movement of the exterior walls. Based on the engineer's findings, the owner determined the building to be unsafe and again relocated the tenant to a hotel until DOB could re-inspect the premises. The owner submitted a May 25, 2021 letter that was addressed to the tenant's counsel, explaining that while the tenant could "technically" resume occupancy, they did not "believe the Building to be safe for residential occupancy" and offered to pay for the tenant to stay in the hotel until the end of June 2021.

Based on the evidence presented, the Rent Administrator issued an order on June 22, 2021 determining the legal regulated rent to be $1.00 per month to be effective April 6, 2021 pursuant to Section 2522.6 of the Rent Stabilization Code. The Rent Administrator noted that the owner acknowledged the building sustained structural damage and while the vacate order was partially rescinded the owner's engineer found the building was still unsafe to be re-occupied as movement of the exterior walls were detected raising structural stability concerns, and that the owner agreed to pay for the tenant's hotel expenses until June 30, 2021.

Foremost, the Commissioner rejects the owner's argument that the Rent Administrator's order is contrary to law, facts, and evidence in this case. The Commissioner notes that it is undisputed that an automobile crashed into the building on April 6, 2021 causing the subject apartment to be unhabitable and a full vacate order to be issued by DOB. The rent was established at $1.00 in order to maintain the landlord/tenant relationship between the parties while the apartment remained uninhabitable. In the event the apartment is restored to a habitable condition, the tenant retains the right to possession unless the landlord/tenant relationship has been terminated voluntarily or by a court of competent jurisdiction.

Although the owner asserted that the tenant resumed occupancy prior to the issuance of the rent reduction order, the Commissioner finds this unsubstantiated allegation to be insufficient to disturb the Rent Administrator's order. The record below is devoid of any evidence to support the owner's claims that the tenant resumed occupancy on June 17, 2021 or that the owner notified the Rent Administrator prior to the issuance of the rent reduction order of the tenant's resumption of occupancy of her apartment. Having not alleged these claims in the proceeding before the Rent Administrator, these claims are therefore outside the Commissioner's scope of review which is limited to the evidence and issues raised before the Rent Administrator.

Based on the above, the Commissioner finds that the Rent Administrator reasonably and properly determined the legal maximum rent to be $1.00 per month effective April 6, 2021 based on the fact the tenant vacated the subject apartment following a motor vehicle collision involving the ground level of the building which rendered the tenant's apartment uninhabitable. Thereafter, the owner and the owner's engineer determined that the building remained at risk and was unsafe for all residential occupancy, even after the full vacate order was partially rescinded. Accordingly, the owner fails to provide any basis to modify or revoke the Rent Administrator's determination.

The owner has filed an application to restore the rent currently being processed under Docket No. JS210053OR.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is denied, and the Rent Administrator's Order is affirmed.

ISSUED:

NOV 24 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

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Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF:	:	
[redacted]	:	ADMINISTRATIVE REVIEW DOCKET NO.: JT610032RT
(TENANTS)	:	
	:	RENT ADMINISTRATOR'S DOCKET NO.: JP610241S
PETITIONERS	:	

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 19, 2021, the above-named petitioner-tenants filed a Petition for Administrative Review ("PAR") against JP610241S, an order the Rent Administrator issued on July 20, 2021 (the "Order"), concerning the housing accommodation known as 251 East 169th Street, Apt. [redacted] Bronx, NY, wherein the Rent Administrator issued an order terminating the tenants' service complaint.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issue raised by the PAR.

In the PAR, the Tenants object to the Order and request that the order be reversed. The Tenants claim the error in fact being appealed is that the Tenants failed to provide access to the DHCR inspector and the owner/repair person pursuant to a "no access" inspection that was scheduled on July 13, 2021.

The Tenants, however, have not raised any issues of law or fact that challenge the decision that the Rent Administrator made in the matter below.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained. Section 2523.4 states that the service complaint of a tenant who fails to provide access at the time arranged by the DHCR for the inspection will be denied.

In the proceeding below, the Tenants filed a complaint with this Agency on April 13, 2021, alleging, in pertinent part, that there was poor lighting in the apartment, a rusted medicine cabinet with missing shelves in the bathroom, paint cracking on the walls in the bathroom, the

ceiling leaks in bedroom #1 with mold and cracked paint and a leak in bedroom #2, and there was a defective interior door lock, knob and bell in the apartment. The Owner was served with notice of the Tenants' complaint (the "Initial Notice") on May 20, 2021 and the Owner responded with the claim that they have made numerous attempts to gain access to the Tenants' apartment, but the Tenants failed to grant access.

Based on the foregoing, DHCR scheduled a no-access inspection for the subject premises for July 13, 2021. The Notice of Inspection – for access was provided to the Tenants on June 23, 2021, advising the Tenants that both the Tenants and the Owner and/or Owner's repair person should be present at the apartment for the scheduled inspection to provide the Owner access for the purposes of attending to repairs and/or restoration of services, and that an inspector from DHCR would be present. The Notice also advised the Tenants that the failure of the Tenants in keeping the appointment will result in a determination based solely on the evidence in the record.

The record shows that on the day of the inspection, the impartial DHCR inspector and the building superintendent and his workers showed up at the Tenants' apartment ready to work. However, the inspection report reveals that the Tenants did not provide access for the Inspector, the Owner or the Owner's repair person(s). As the inspection report notes, the Tenants opened the apartment door but did not grant anyone access to the apartment.

Based on the foregoing details, the Rent Administrator issued an order terminating the Tenants' service complaint on July 20, 2021.

The Commissioner notes the Tenant's objection to the Order and request that the Order be reversed. However, this unsubstantiated claim by the Tenants does not warrant a modification or reversal of the Rent Administrator's order.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly terminated the Tenants' rent reduction complaint which was based on the Tenants' refusal to grant the Agency's impartial Inspector access to their apartment to do the inspection that the Agency needed to process their complaint. The Tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The Tenants are advised that they may file a new service complaint with the Agency if the facts so warrant.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, the petition is denied, and the Rent Administrator's order is affirmed.

ISSUED:

DEC 03 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ELI NAHMIAS

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO.: JS110022RO

RENT ADMINISTRATOR'S DOCKET NO.: IT110082S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On July 23, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IT110082S, an order the Rent Administrator issued on July 2, 2021 (the "order"), concerning the housing accommodation known as 32-68 41st Street, Apartment [redacted] Long Island City, New York, wherein the Rent Administrator granted the tenant's application for a rent reduction predicated on the results of an inspection conducted on February 5, 2021 that confirmed the kitchen sink had evidence of chipped enamel and rust.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner requests a reversal of the Rent Administrator's order, contending, inter alia, that the kitchen sink is in good working condition with no leaks, and that the tenant refused the owner's offer to repair the enamel chip and rust stains. The Petitioner asserts that it lacks funds to replace a functional unit, and that if the owner is required to replace the sink, the Petitioner-owner would like to add an Individual Apartment Improvement to offset the cost.

The tenant submitted a response and opposed the owner's appeal.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to order a rent reduction upon application by a tenant when it is found that

an owner has failed to maintain required or essential services. In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of and Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. New York Courts have consistently upheld the reliability of Agency inspections.

In this case, the tenant commenced the proceeding below on August 3, 2020, by filing a complaint, alleging defects to the kitchen sink. The tenant specifically complained that the sink in her kitchen was rusted, chipped, and had stains with a leaky faucet. The owner was served with the notice of the tenant's complaint (the "Initial Notice") on September 9, 2020. The Agency records indicate that the owner responded to the tenant's complaint on September 17, 2020 and acknowledged the chipped enamel on the sink. However, the Petitioner-owner asserted that the owner could not repair the condition without city or state supervision due to the tenant's antagonistic disposition during the owner's inspection of the apartment whereupon the tenant was informed that the defects would be remedied and not replaced as requested by the tenant.

Thereafter, the Rent Administrator requested an inspection, and an Agency inspection was conducted at the subject apartment on February 5, 2021. The inspector's inspection report indicated that there was evidence of chipped enamel and rust on the basin, side, and underside of the kitchen sink at the time of inspection. On July 2, 2021, the Rent Administrator granted the tenant a rent reduction, finding that the kitchen sink was not maintained based on the Agency inspection.

The Commissioner notes the Petitioner's claim that the kitchen sink is in working order with no leaks. However, based upon the foregoing, the Commissioner finds that the Rent Administrator correctly granted the tenant a rent reduction in accordance with Section 2523.4 of the RSC and DHCR Policy Statement 90-2. The Rent Administrator properly relied on the Agency inspection conducted on February 5, 2021 which revealed that the services complained of were not maintained as alleged by the tenant and acknowledged by the Petitioner. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as the inspector's impartiality in conducting the inspection was reasonable. Accordingly, the Rent Administrator's order is in compliance with the Agency's established policies and procedures. The Petitioner-owner has not established any basis to modify or revoke the Rent Administrator's determination.

The owner is advised to file an "Owner's Application to Restore Rent," if the facts so warrant.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED: DEC 03 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review. The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

Note: During the period of the current Covid-19 emergency, as a courtesy, if the Article 78 proceeding is commenced by efiling pursuant to the Court Rules service may be effectuated, as limited as follows, by forwarding the court's email indicating the assignment of the Index Number and the documents received by the court, i.e., Notice of Petition, Petition, and other efiled documents to DHCRLegalMail@nyshcr.org. Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO.: IX410018RT

[redacted]

PETITIONER

RENT ADMINISTRATOR'S DOCKET NO.: IN410027S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 18, 2020, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on December 10, 2020 (the "order"), concerning the housing accommodation known as 225 East 26th Street, Apt [redacted] New York, New York wherein the Rent Administrator determined appropriate action would be taken under a duplicate rent reduction application previously filed by the tenant and terminated the proceeding.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied.

In the PAR, the tenant seeks a reversal of the Rent Administrator's order asserting the Administrator incorrectly claimed it took action under previous docket numbers. The tenant further claims that DHCR is speculating that "DHCR might take action under other docket numbers" and that the Rent Administrator's order is an excuse to avoid making a determination on his service reduction complaints.

The owner opposes the petition and asserts, in essence, that the proceeding below was properly closed as a duplicate and consolidated with other pending and open service complaints brought by the tenant which contain the same issues and allegations, that the Rent Administrator's termination of the proceeding does not deprive the tenant of any of his rights

regarding the service complaints he alleged in the proceeding below, and moreover, any new issued raised in the tenant's PAR is improper.

In the proceeding below, the tenant filed a rent reduction application on February 11, 2020 alleging a lack of cooking gas. The owner was served with notice of the tenant's complaint (the "Initial Notice") on February 13, 2020. No response was received from the owner. According to DHCR records, the tenant had filed a duplicate rent reduction application assigned Docket No.: IN410028S pertaining to the tenant's complaint of a lack of cooking gas. Based on the record, on December 10, 2020 the Rent Administrator issued an order terminating the proceeding finding that appropriate action would be taken under the previously filed application assigned Docket No. IN410028S regarding the tenant's complaint of no cooking gas.

The Commissioner, having reviewed the record herein, finds that the tenant's PAR is without merit and the tenant has not presented any allegations of error of fact or law to warrant a reversal of the Rent Administrator's order. The Rent Administrator properly terminated the subject service complaint based on DHCR records showing the tenant filed a duplicate service complaint which was pending with the Agency at the time of the subject decision and assigned Docket No.: IN410028S. The Commissioner notes that the Rent Administrator, subsequently on March 5, 2021, issued a separate decision for Docket No. IN410028S. Accordingly, the tenant's PAR is denied as the tenant does not establish any basis to modify or revoke the Administrator's determination.

The tenant is advised that he may file a new services complaint with the DHCR, if the facts so warrant.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is denied, and the Rent Administrator's Order is affirmed.

ISSUED:

DEC 03 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF	ADMINISTRATIVE REVIEW DOCKET NO.: IX410017RT
[redacted]	
PETITIONER	RENT ADMINISTRATOR'S DOCKET NO.: IN410097S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 21, 2020, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on December 11, 2020 (the "order"), concerning the housing accommodation known as 225 East 26th Street, Apt [redacted] New York, New York wherein the Rent Administrator determined appropriate action would be taken under duplicate rent reduction applications filed previously by the tenant and terminated the proceeding.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be denied.

In the PAR, the tenant seeks a reversal of the Rent Administrator's order asserting the Administrator incorrectly claimed it took action under previous docket numbers. The tenant further claims that DHCR is speculating that "DHCR might take action under other docket numbers" and that the Rent Administrator's decision is an excuse to avoid making a decision on his service reduction complaints.

The owner opposes the petition and asserts, in essence, that the proceeding below was properly closed as a duplicate and consolidated with other pending and open service complaints brought by the tenant which contain the same issues and allegations, that the Rent Administrator's termination of the proceeding does not deprive the tenant of any of his rights regarding the service complaints he alleged in the proceeding below, and moreover, any new issues raised in the tenant's PAR is improper.

In the proceeding below, the tenant filed a rent reduction application on February 24, 2020 alleging a diminution in various services in his apartment including an improperly operating refrigerator and stove/oven, a lack of cooking gas, and an unmaintained bathtub drain. The owner was served with notice of the tenant's complaint (the "Initial Notice") on February 26, 2020. The owner responded claiming the tenant had filed four separate service complaints, including the instant proceeding and all within a few days of each other containing similar allegations, facts and involve the same parties, and moreover, the owner was working to resolve the tenant's service complaints, including the refrigerator; and that the owner has restored the gas service.

According to DHCR records, the tenant filed additional rent reduction applications assigned Docket Nos.: IN410028S, IN410035S, and IN410045S covering the same services claimed unmaintained herein, to wit: cooking gas, stove/oven condition, refrigerator condition, and bathtub overflow pipe. Based on DHCR records, on December 11, 2020 the Rent Administrator issued an order terminating the subject services complaint, finding that appropriate action will be taken under Docket No. IN410045S regarding the refrigerator and bathtub overflow pipe conditions, appropriate action will be taken under Docket No. IN410028S pertaining to the cooking gas service complaint, and appropriate action will be taken under Docket No. IN410035S concerning the stove/oven condition.

The Commissioner, having reviewed the record herein, finds that the tenant's PAR is without merit and the tenant has not presented any allegations of error of fact or law to warrant a reversal of the Rent Administrator's order. The Rent Administrator properly terminated the subject services complaint proceeding based on DHCR records showing the tenant filed duplicate service complaints which were pending with the Agency at the time of the subject decision and assigned Docket Nos.: IN410028S, IN410035S, and IN410045S. The Commissioner notes that the Rent Administrator, subsequently on March 5, 2021, issued separate decisions for Docket Nos. IN410045S, IN410035S, and IN410028S. Accordingly, the tenant's PAR is denied as the tenant does not establish any basis to modify or revoke the Administrator's determination.

The tenant is advised that he may file a new services complaint with the DHCR, if the facts so warrant.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is denied, and the Rent Administrator's Order is affirmed.

ISSUED:

DEC 03 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW DOCKET NO HW210012RT

[redacted]

PETITIONERS

RENT ADMINISTRATOR'S DOCKET NO HQ210224S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 22, 2019, the above-named petitioner-tenants filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on November 6, 2019 (the "Order"), concerning the housing accommodation known as 101 Lincoln Road, Apartment [redacted] Brooklyn, New York, wherein the Rent Administrator terminated the service complaint after the tenants failed to provide access to the subject apartment for the Agency inspection

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2523 4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained Section 2523 4 states that the service complaint of a tenant who fails to provide access at the time arranged by the DHCR for the inspection will be denied

In the proceeding below, the tenants filed a complaint on May 13 2019, alleging a decrease in services, including issues with the dishwasher, kitchen cabinets, bathroom, bedroom #1 window,

and vermin control The owner was served with the notice of the tenants' complaint (the "Initial Notice") on June 3, 2019

On September 30, 2019, the Rent Administrator served the tenants with a "Notice of Inspection" which advised the tenants that an inspection was scheduled for the subject apartment on October 28, 2019 between 11 00AM and 3 00PM, cautioning the tenants that the failure to provide access on the date of the inspection, without rescheduling, may result in a determination against the tenants' interests

At the time of the scheduled Agency inspection on October 28, 2019, the tenants failed to provide access to the Agency inspector The Rent Administrator terminated the tenants' service complaint on November 6, 2019 as the tenants failed to provide access for the Agency inspection

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly terminated the tenants' rent reduction complaint The tenants were provided with notice of the inspection, and as evidenced by the inspection report, the tenants failed to keep such appointment Accordingly, the Rent Administrator's order is in accordance with the Code and Agency policy and procedure

The tenants are advised to file a fresh service complaint, if the facts so warrant

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed

ISSUED

DEC 0 8 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site www hcr ny gov

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There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

MKBH MANAGEMENT LLC,

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO JQ910032RO

RENT ADMINISTRATOR'S DOCKET NO IO910034S

TENANT(S) [redacted]

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On May 17, 2021, the above-named petitioner owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on April 12, 2021 (the "Order"), concerning the housing accommodation known as 47 N Bleeker St, Apt [redacted], Mount Vernon, New York wherein the Rent Administrator granted the tenant's application for rent reduction

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by the PAR

On March 15, 2020, the tenant filed an application for a rent reduction based upon various decreased services, alleging that the smoke detector is defective, there is a presence of vermin, there are defects to the kitchen refrigerator, stove/oven, and drain, the kitchen ceiling and ceilings in bedrooms 1 and 2 are sagging and have leaks and/or stains, the kitchen walls and walls in bedrooms 1 and 2 have leaks and/or stains, the doors and window screens in the kitchen and bedroom 3 are defective, the kitchen and bedrooms 1, 2, and 3 require paint and/or plaster, the lights in bedrooms 1, 2, and 3 are defective, and the cabinet hinges in the hall/foyer are broken

In response, the owner asserted that the unit is permanently exempt, attaching the Registered Rent Roll for the years 1984 through 2020, whereby the last legal regulated rent registered for the subject apartment was $1899 40 in 2009

An Agency inspection on October 26, 2020 revealed evidence of roaches in the kitchen, the smoke detectors are missing in the living room and bedrooms 1 and 2, and the smoke detector in bedroom 3 is not operational, the refrigerator is missing parts and is defective, the oven does not turn on, the ceiling in bedroom 1 is sagging and has evidence of leaks, the ceiling and wall in bedroom 2 is leak damaged and has peeling paint and/or plaster, the ceiling and wall

in bedroom 1 has evidence of leaks, the left window screen in the kitchen is broken and the right window screen is missing, the window screens in bedroom 3 are broken and/or missing, the kitchen ceiling and walls are cracking and have different shades of paint, the emergency exit doorknob/lock in bedroom 3 is defective, and the two upper cabinet doors in the hall are off the hinges All other services were found maintained As a result, the Rent Administrator issued an order on April 12, 2021, under Docket Number IO910034S, granting the tenant's application for rent reduction

In the PAR, the petitioner-owner asserts that the Rent Administrator's order should be reversed as all repairs have been completed and further, the subject apartment has not been subject to rent stabilization since 2009

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied

Pursuant to Section 2503 4 of the Tenant Protection Regulations ("Regulations"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination

Here, the record includes photographic evidence which revealed that at the time of inspection on October 26 2020, repairs were required in accordance with the Rent Administrator's underlying order

Further, there is no supporting evidence to corroborate that the subject apartment was permanently deregulated based on high rent or any other reason The petitioner owner may file an application to determine whether the subject apartment is exempt from rent regulation if the facts so warrant However, the Commissioner notes that the rent reduction ordered by the Rent Administrator only applies if the subject apartment is under the jurisdiction of the Agency

As such, the Commissioner finds that the Rent Administrator properly relied on the evidence contained in the record, including the results of the Agency inspection, and the petitioner owner has not set forth any basis to revoke the Rent Administrator's order The owner is advised to file a rent restoration application, if the facts so warrant

THEREFORE, in accordance with the applicable sections of the Emergency Tenant Protection Act and the Tenant Protection Regulations, it is

ORDERED, the petition is denied, and the Rent Administrator s order is affirmed

ISSUED **DEC 9 2021**

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza 92 31 Union Hall Street
Jamaica NY 11433
Web Site www.hcr.ny.gov

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There is no other method of appeal

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK, 11433

IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF:	:	
[redacted] (TENANT)	:	**ADMINISTRATIVE REVIEW DOCKET NO.: JT410018RT**
	:	**RENT ADMINISTRATOR'S DOCKET NO.: IP410039S**
PETITIONER		

ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW

On August 16th, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against IP410039S, an order the Rent Administrator issued on July 14, 2021 (the "Order"), concerning the housing accommodation known as 90 Washington Street, Apt. [redacted] New York, NY, wherein the Rent Administrator issued an order reducing the rent for the subject accommodations.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issue raised by the PAR.

In the PAR, the Tenant requests that the Order be modified to include the following details that were observed and noted by the DHCR Inspector who visited his apartment on December 30, 2020: "Scratched and spongy surfaces were found throughout various areas of the apartment's wood floor."

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be granted.

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained. Additionally; DHCR Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making the determination in a matter.

In the proceeding below, the Tenant filed a service complaint with this Agency on April 21, 2020, alleging decreases in services in the kitchen, bathroom, and studio area and hallway. The Owner was served with notice of the Tenant's complaint (the "Initial Notice") on August 10, 2020. The Owner responded with requests for additional time to submit a response to the Tenant's complaint dated October 6, 2020, November 4, 2020, and December 3, 2020.

Thereafter on February 3, 2021, the Owner responded and claimed that all services were maintained.

An inspection of the subject premises was conducted on December 30, 2020. During the inspection, the impartial DHCR inspector observed:

a. Evidence of broken/deteriorated thermal seals on various windows throughout the apartment.
b. Evidence of unworkmanlike repairs/painting throughout the apartment drywall. The living room windowsills have peeling paint and water damages/stains.
c. Scratched and spongy surfaces were found throughout various areas of the apartment wood floor.
d. Intercom is not being provided at the time of the inspection.

Based on the foregoing details, the Rent Administrator issued an order reducing the Tenant's rent finding that the windows apartment-wide, windowsills in the living room, paint/plaster apartment-wide and the intercom were services not maintained. The Rent Administrator found no visual evidence of mold and the floors apartment-wide were found maintained.

The Commissioner notes the Tenant's contention herein that scratched and spongy surfaces were found throughout various areas of the apartment's wood floor is not listed as an unmaintained condition in the Order Reducing Rent, however such condition was noted on page 2 of the Order and included in the Agency inspection report.

In light of the above, the Commissioner finds the Tenant's claim to have merit warranting a modification of the Rent Administrator's Order. As the record reveals, the Tenant claimed below that the apartment's flooring was defective. An Agency inspection of the apartment's flooring on December 30, 2020 revealed that various areas of the apartment's wood floor were scratched and spongy. The Rent Administrator in the subject Order noted that the inspection from December 30, 2020 found the apartment's floor unmaintained. However, the Order inadvertently omitted the spongy wood floors from the list of "Services of Services Not Maintained" on page 1 of the Order. Therefore, the Commissioner finds that the Rent Administrator's Order, Docket No. JP410039S, is herein modified to include "Flooring – Apartment-Wide" as a service found not maintained.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code, it is

ORDERED, that the petition is granted, and the Rent Administrator's Order is modified in accordance with this Order and Opinion, and that the Rent Administrator's Order is so otherwise herein affirmed.

ISSUED: DEC 17 2021

Woody Pascal
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

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There is no other method of appeal.

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :

ADMINISTRATIVE REVIEW
DOCKET NO.: JT420042RT

[redacted] :

RENT ADMINISTRATOR'S
: DOCKET NO.: IU420127S

PETITIONER

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ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW

On August 30, 2021, the above-named petitioner-tenant filed a petition for administrative review (PAR) against an order issued on August 20, 2021, by the Rent Administrator concerning the housing accommodations known as 234 Mott Street , Apartment [redacted], New York, NY, wherein the Administrator granted the tenant a rent reduction and directed the restoration of services.

The tenant commenced the proceeding below on September 28, 2020, by filing an individual apartment complaint, alleging a diminution in gas services since July 13, 2020 in the subject premises. On August 20, 2021, the Rent Administrator, pursuant to the Agency's inspection of the tenant's apartment on April 7, 2021, granted the tenant a rent reduction for the cooking gas service and ordered that the necessary repairs should be made.

Section 2208.1 (a) of the Rent and Eviction Regulations indicates that any person aggrieved by an order issued by a rent administrator may file a protest thereto.

Section 2208.8 (a) authorizes the dismissal of a PAR if it fails to substantially comply with the provisions of the Act or the Rent and Eviction Regulations.

The Commissioner notes that the tenant herein is not protesting or alleging any error in the Rent Administrator's order, but merely indicated that the tenant had question(s) requiring clarification. In the absence of any alleged error in, or a protest to, the Rent Administrator's order, the Commissioner finds that the tenant's petition must be dismissed.

The Commissioner notes that the tenant may visit the Agency's website @ https://hcr.ny.gov and/or contact the Public Information Unit of the Agency at 1 (833) 499-0343 [or the Queens Borough Rent Office at (718) 482-4041], for further help.

The Commissioner also advises the tenant to file an overcharge claim and/or a non-compliance claim with this Agency, if the facts so warrant.

THEREFORE, it is

ORDERED, that this Petition for Administrative Review is hereby dismissed.

ISSUED: DEC 17 2021

WOODY PASCAL
Deputy Commissioner

State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.hcr.ny.gov

Right to Court Appeal

This Deputy Commissioner's order can be further appealed by either party, only by filing a proceeding in court under Article 78 of the Civil Practice Law and Rules seeking judicial review." The deadline for filing this "Article 78 proceeding" with the courts is within 60 days of the issuance date of the Deputy Commissioner's order. This 60-day deadline for appeal may be extended by executive orders at https://governor.ny.gov/executiveorders. No additional time can or will be given. In preparing your papers, please cite the Administrative Review Docket Number which appears on the front page of the attached order. If you file an Article 78 appeal, the law requires that a full copy of your appeal papers be served on each party including the Division of Housing and Community Renewal (DHCR). With respect to DHCR, your appeal must be served on DHCR Counsel's office at 641 Lexington Ave, New York, NY 10022.

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There is no other method of appeal.

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OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ROYAL QUENTIN ASSETS LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO.: JU210001RO (REFILING JS210010RO)

RENT ADMINISTRATOR'S DOCKET NO.: IS210058S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On September 1, 2021, the above-named Petitioner-owner refiled a Petition for Administrative Review ("PAR") against IS210058S, an order the Rent Administrator issued on June 9, 2021 (the "order"), concerning the housing accommodation known as 1702 West 3rd Street, Apartment [redacted], Brooklyn, New York, wherein the Rent Administrator granted the tenant a rent reduction predicated upon an Agency inspection which confirmed that the hall/foyer floor covering was not maintained at the time of the Agency inspections on December 9, 2020 and December 16, 2020.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner, through counsel, requests a reversal of the Rent Administrator's order, contending, inter alia, that the DHCR should not have granted the tenant's rent reduction application given that on the date of the "No Access Inspection" the owner and their repair team were present and prepared to repair the conditions, whereas the tenant was confrontational, and that the owner submitted proof to establish that the subject tenant persistently denied the owner access to perform the necessary repairs. Moreover, the owner claims that the alleged condition found unmaintained in the order was in fact corrected on the date of the no access inspection, and that the reported defect was perhaps caused by the tenant. To substantiate their claims, the owner cites the Division's cases, Docket Nos. XC410070RT, YG110045RT, and AT610016RT.

The tenant opposes the owner's petition, averring in essence that the owner did not properly correct the conditions as claimed and that the owner only performs temporary remedial fix which does not resolve the issues.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to order a rent reduction upon application by a tenant when it is found that an owner has failed to maintain required or essential services. In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of and Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. New York Courts have consistently upheld the reliability of Agency inspections.

In this case, the tenant commenced the proceeding below on July 28, 2020, by filing a complaint, alleging defects to the stove/oven, kitchen floor, bathroom drain, bathroom tub/shower, bathroom walls, bedroom wall, bedroom 1 door, bedroom 1 floor, living room wall, living room heating unit, hall/foyer floor and wiring fixtures, and vermin/roach infestation.

The owner was served with the notice of the tenant's complaint (the "Initial Notice") on July 30, 2020. The Agency records indicate that the owner responded to the tenant's complaint and asserted that the owner's continuous attempt to negotiate access with the tenant had not worked and submitted access letters to the tenant as evidence.

Prompted by the aforementioned, the Rent Administrator determined that an Agency inspection was warranted, and thereafter, the Administrator requested an Agency inspection to facilitate the resolution of the complaint. According to the Agency record, a "no access inspection" was conducted at the subject premises on December 9, 2020 during which the owner gained access to the subject apartment to cure the defective conditions. The inspector reported that at the time of the no access inspection, there was evidence of cracked plaster on the living room wall near the window, as well as gaps between the floorboards and wall in the hall/foyer, a trip hazard. The record further reveals that a follow-up inspection was conducted on December 16, 2020, wherein, the inspector found only one item unmaintained at the time of inspection, specifically, the gaps between the floorboards and wall in the hall/foyer (a trip hazard), were still outstanding whereas the cracked plaster on the living room wall near the window was repaired. The impartial inspector supported their findings with date stamped photographs of the conditions observed during the inspections.

Based on the record including the two Agency inspections, on June 9, 2021, the Rent Administrator granted the tenant's service application solely for the defective hall/foyer floor covering that was found not maintained and directed the Petitioner-owner to restore the said foyer/hall condition.

The Commissioner finds the owner's PAR does not establish any basis to revoke or modify the Rent Administrator's determination which was based on the Agency inspector's findings that the

hall/foyer floor covering was not being maintained as there were gaps between the floorboards and wall, constituting a trip hazard. The owner's claim that the tenant might have caused the problem is insufficient to disturb the Rent Administrator's decision as this assertion was not raised during the underlying proceeding, and thus, the Petitioner is precluded from raising same the first time on appeal, and as such, this claim cannot be entertained pursuant to fundamental principles of administrative appeal process and Section 2529.6 of the RSC.

Moreover, in accordance with Section 2523.4 of the RSC and DHCR Policy Statement 90-2, the Rent Administrator properly relied on the Agency inspections conducted on December 9 and 16, 2020 which revealed that the defective hall/foyer floor condition complained of was not maintained as alleged by the tenant. Further, the Commissioner notes that the owner was provided with time to cure the defect before the second follow-up inspection on December 16, 2020. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as the inspector's impartiality in conducting the inspection was reasonable. Accordingly, the Rent Administrator's order is in compliance with the Agency's established policies and procedures.

The Commissioner further finds that the previously determined cases referenced by the owner have distinctive issues not correlated with the facts herein. In those cases, the tenant during the no access inspection failed to provide access for repairs, whereupon the proceeding was terminated. In the instant case, there is no evidence showing that the tenant refused the owner access to perform the necessary repairs at the time of the no access inspection. Here, the owner merely claimed that the tenant was confrontational, but acknowledged that the owner was able to correct the defects when the tenant eventually granted access. Further, the owner affirmed in their appeal that "the alleged condition found unmaintained in the order was in fact corrected on the date of the no access inspection." As such, the Commissioner finds the owner's unsubstantiated claim unavailing as the December 16, 2020 inspection report revealed otherwise.

The Commissioner notes that the owner has filed an application to restore rent which is currently pending under Docket No. JS210073OR.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED: DEC 23 2021

Woody Pascal
Deputy Commissioner

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IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :

ADMINISTRATIVE REVIEW
DOCKET NO.: JU610020RO

25 Realty Associates, LLC :

RENT ADMINISTRATOR'S
: DOCKET NO.: JO610049S

PETITIONER

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ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW

On September 13, 2021, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued on August 31, 2021, by the Rent Administrator concerning the housing accommodations known as 2501 Morris Avenue, Apartment [redacted], Bronx, NY, wherein the Administrator granted the tenant a rent reduction and directed the restoration of services.

The Commissioner has reviewed all of the evidence in the record and has carefully considered that portion of the record relevant to the issues raised by the petition.

The owner requests a reversal of the Rent Administrator's order and contends that the stove burners were not clean of cooking waste, which was causing uneven flames; and that there was a shortage of the cooktops due to the COVID pandemic.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be dismissed.

Pursuant to Section 2523.4 of the Rent Stabilization Code (RSC or the Code), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services.

The tenant commenced the proceeding below on March 21, 2021, by filing a complaint, alleging a diminution in various services in the subject apartment. On March 23, 2021, the owner was served with the tenant's complaint.

By response dated April 30, 2021, the owner answered, in substance, that the owner was not aware of the need for any repairs in the subject apartment, and that all the necessary repairs had been performed at the time of the owner's submission.

The record indicates that the Rent Administrator requested an Agency inspection of the subject apartment. On August 9, 2021, the Agency's inspection was performed. The Commissioner notes that all but one of the items complained about by the tenant were found maintained, to wit, the stove burners, pursuant to which the Rent Administrator granted the tenant a rent reduction and ordered that the necessary repairs should be made.

Section 2529.1 of the Rent Stabilization Code (the Code) requires a PAR to allege the errors upon which the order being appealed is based.

Section 2529.8 of the Code authorizes the dismissal of a PAR if it fails to substantially comply with the provisions of the Rent Stabilization Law or Code.

The Commissioner notes that in the instant PAR, the owner has not alleged any error in the Rent Administrator's order, but merely explaining why the stove burner issue had not been resolved. In the absence of any alleged error in the Rent Administrator's order, the Commissioner finds that the owner's petition must be dismissed.

The Commissioner notes that the owner may commence a rent restoration proceeding, when the stove burner has been repaired.

THEREFORE, in accordance with the applicable sections of the Rent Stabilization Law and Code, it is

ORDERED, that this Petition for Administrative Review is hereby dismissed.

ISSUED: DEC 27 2021

WOODY PASCAL
Deputy Commissioner

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

NORTHERN UNITED LLC

PETITIONER

ADMINISTRATIVE REVIEW DOCKET NO.: JT210027RO

RENT ADMINISTRATOR'S DOCKET NO.: IN210058S

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 24, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IN210058S, an order the Rent Administrator issued on July 29, 2021(the "order"), concerning the housing accommodation known as 62 Lewis Avenue, Apartment [redacted], Brooklyn, New York, wherein the Rent Administrator granted the tenant a rent reduction and directed the restoration of services upon finding that services cited in the tenant's application were unmaintained as reported from the Agency inspection conducted on March 29, 2021.

The Commissioner has reviewed the entire evidence of the record including that portion of the record that is relevant to the issues raised by the PAR.

In the PAR, the owner, through counsel, and upon receipt of the FOIL as requested, supplemented their PAR and claims that: (1) the owner in their answer to the tenant's application affirmed that the alleged defects were cured; (2) the DHCR expanded the scope of the complaint in spite of the fact that it took the Agency one year to process and inspect the conditions, and that during the period, there has been access issues which the owner reported to the inspector who advised that he does not handle access issues; (3) the Rent Administrator erred in reducing rent for issues that are not specific, including (a) the bathroom floor issue: the complaint mentions wood floor and not bathroom floor tiles, and that the only complaint about the bathroom is the bathtub, (b) hallway ceiling: lack of specificity with respect to the one at issue, (c) wood floors: the tenant's complaint is that the wood floors need sanding and refinishing whereas the order

states that there is evidence of "worn finish" in the hallway, the living room, and the dining room floors, (d) "refinishing" is considered a *de minimis* condition that does not warrant a rent reduction per Fact Sheet #37, including the hallway ceiling and the wood floors; (4) it is unfair to grant a rent reduction where the conditions were not investigated after one year of filing considering that new conditions could have arisen which the owner had no knowledge of, and as such, the Agency should have conducted a "No Access" inspection, especially given that the tenant was uncooperative with providing access; and (5) there are serious irregularities and questions of prejudice by the inspector and the Rent Administrator.

The tenant submitted a response and opposed the owner's appeal.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petition should be denied.

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to order a rent reduction upon application by a tenant when it is found that an owner has failed to maintain required or essential services. If an owner has been unable to access an apartment for repairs, pursuant to Section 2523.4 (d) (2) of the Code, the owner must provide the Agency with copies of two letters sent to the tenant, requesting access for repairs, each mailed at least eight days prior to the proposed access date, and mailed to the tenant by certified mail, return receipt requested. In facilitating the resolution of the complaint, the Agency may request an inspection of the conditions the tenant complained of, and, pursuant to Section 2527.5 (b) authorizes the Administrator to request an Agency inspection at any stage during the DHCR proceeding and New York Courts have determined that the RA has broad discretion to decide when inspection is necessary. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination and New York Courts have consistently upheld the reliability of Agency inspections.

In the proceeding below, the tenant filed a complaint on February 3, 2020, alleging a diminution in various apartment- wide services including unmaintained services. The tenant specifically complained that the kitchen tiles mismatched, the refrigerator was substandard, the bathroom tub needed reglazing, the master bedroom window was defective at the fire escape gate, there was a cracked ceiling in the hallway, and the wooden floors throughout the entire apartment needed sanding and refinishing. On February 24, 2020, the owner was served with the tenant's complaint. On March 13, 2020, the owner responded, arguing, in substance, that the tenant files excessive applications and is also uncooperative with granting access, and that the owner had to obtain stipulation for access from court which granted the owner access for February 13, 19, and 20, 2020, and that the owner remedied conditions when the tenant allowed access on February 13 and 19, 2020.

According to the Agency record, upon notice to both parties, an inspection was conducted at the subject premises on March 29, 2021, whereupon the inspector reported that at the time of inspection, there was evidence that the floors of the hallway, dining room, and the living room were worn; there were defects to the bathroom floors including cracked/broken/missing tiles constituting a trip hazard; and the hallway ceiling, although repaired, was not properly done as same was done in an unworkmanlike manner needing proper sanding and painting. However, the

report also found no defects to the refrigerator, the enamel bathtub, and floor coving in the kitchen. The inspector substantiated their findings with photographic evidence.

The Rent Administrator based upon the March 29, 2021 Agency inspection's findings that the apartment floors, including the hallway, the dining room, the living room, the bathroom, as well as the hallway ceiling were unmaintained, granted the tenant's rent reduction application on July 29, 2021 under Docket No. IN210058S.

The Commissioner notes the Petitioner's claims that the tenant was uncooperative with granting access. However, the Commissioner finds this claim to be purely self-serving and without merit as a careful review of the Rent Administrator's proceeding, as well as the Petitioner-owner's assertion indicates that on February 13 and 19, 2020 based on a court stipulation order, the owner gained access to the subject apartment with the opportunity to correct the defects, and still failed to complete the repairs. Moreover, there is no evidence in the record showing that the Petitioner-owner complied with the requirements under Section 2523.4 of the RSC, which states that if an owner alleges that a tenant is uncooperative with granting access for repairs, the owner should advise the Agency that the tenant denied access and provide two written notices to the tenant regarding access to the apartment for repairs, giving notice at least eight days prior to each access date, sent with certified mail, return receipt requested. Here, the Commissioner notes that the owner failed to establish that it complied with this requirement and there is no evidence in the record to show otherwise.

Notwithstanding the owner's no-access claim, the Commissioner having reviewed the Petitioner's appeal, the entire record and all supporting documentation including the inspection report, finds that the Administrator properly relied on the inspection report when making her decision, as the inspection revealed that the owner was not maintaining all required services at the time of the inspection on March 29, 2021. Furthermore, the owner's claim that the tenant did not allege damage to the bathroom floor is not supported by the record. The record reveals that the tenant specifically complained that the "entire apartment floors" were defective which essentially encompasses all the floors in the apartment, notwithstanding that the bathroom floor has tiles and not wood as referenced in the order.

Regarding the Petitioner's contention that the "worn finish" condition is *de minimis*. The Commissioner also finds this averment as meritless. A "worn finish" found in the hallway, the dining room, and the living room is not considered *de minimis*.

Based upon the foregoing, the Commissioner finds that the Rent Administrator correctly granted the tenant a rent reduction in accordance with Section 2523.4 of the RSC and DHCR Policy Statement 90-2. The Rent Administrator properly relied on the Agency inspection conducted on March 29, 2021 which revealed that the services complained of were not maintained as alleged by the tenant. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as the inspector's impartiality in conducting the inspection was reasonable. Accordingly, the Rent Administrator's order is in compliance with the Agency's established policies and procedures. The Petitioner-owner has not established any basis to modify or revoke the Rent Administrator's determination.

The Commissioner notes that the owner has filed an application to restore rent which is currently pending under Docket No. JV210092OR.

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED: DEC 30 2021

Woody Pascal
Deputy Commissioner

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