


**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.: JX430007RT**
:


:
: **RENT ADMINISTRATOR'S**
: **DOCKET NO.: IX430015OR**
:

PETITIONER
----- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 1, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on November 4, 2021 (the "Order"), concerning the housing accommodation known as 111 to 117 W. 104th Street, New York, NY, wherein the Rent Administrator granted the owner's application to restore the rent.

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

On May 1, 2015, various tenants filed an application for a building-wide rent reduction based on various decreased services. An Agency inspection conducted on August 13, 2015, revealed that: (1) there were cracks, water stains, peeling paint and plaster on the walls and ceiling of the bulkhead; (2) there was a missing part of plaster above the door frame of Apt.  (3) the exterior doors on the front right and left sides of the basement are not self-locking or self-closing; and (4) the exterior door of the left side of the basement is misaligned. As a result, the Rent Administrator granted the petitioners' application for a rent reduction on September 30, 2015, under Docket Number DQ430005B.

The owner then filed an application to restore the rent, which was denied on July 22, 2019, under Docket Number HQ430135OR, after Agency inspections conducted on June 28, and July 12, 2019, found that services with respect to the basement doors were not restored. The owner subsequently filed another application to restore the rent, which was granted on November 4, 2021, under Docket Number IX430015OR, following an Agency inspection conducted on August 3, 2021, which found that the left side exterior basement door was no longer misaligned, locks, and is self-closing and the right side exterior door is not defective and locks.

ADMINISTRATIVE REVIEW DOCKET NO.: JX430007RT

In the PAR, the petitioner-tenant asserts that the Rent Administrator's order should be reversed as the right side basement door has a deadbolt lock and requires a key to exit during an emergency, and further, neither the left or right side basement doors are self-locking and/or self-closing.

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") and 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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Additionally, Policy Statement 90-2 states that the Rent Administrator may rely on an agency inspection when making a determination.

Here, the record supports that services with respect to the basement doors were restored. Specifically, the Agency inspector noted that at the time of the August 3, 2021 Agency inspection, the basement exterior doors on the front right and left side were self-closing and locking.

As such, the Commissioner finds that the Administrator properly relied on the observations of the Agency inspector and the petitioner has not set forth any basis to revoke the rent administrator's order.

The petitioner-tenant is advised to file a fresh complaint if the facts so warrant.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code and the New York City Rent and Eviction Regulations, it is

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

ISSUED: **APR 6 2022**



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 efilng 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

----- X
IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF:

:
:
: ADMINISTRATIVE REVIEW
: DOCKET NO.: JW130047RT
:

:
: RENT ADMINISTRATOR'S
: DOCKET NO.: IU130007OR
:

PETITIONER
----- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 30, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on November 19, 2021 (the "Order"), concerning the housing accommodation known as 39-30 59th Street, Woodside, NY, wherein the Rent Administrator granted the owner's application to restore the rent.

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

On May 16, 2005, various tenants filed an application for a building-wide rent reduction based on various decreased services. An Agency inspection conducted on August 9, 2005, revealed that the hallway floors and stairs from the lobby to the 6th floor required mopping and sweeping. As a result, the Rent Administrator granted the petitioners' application for a rent reduction on August 18, 2005, under Docket Number TE130011B.

The owner subsequently filed an application to restore the rent, which was granted on November 19, 2021, under Docket Number IU130007OR, after an Agency inspection conducted on July 8, 2021, found that the janitorial service throughout the lobby and stairs was adequate and therefore, maintained.

In the PAR, the petitioner-tenant asserts that the owner increased the tenant's rent without adhering to the applicable regulatory rent guidelines, using the restoration of services in the underlying Docket Number, and further, requests that the Agency calculate her legal regulated rent based on other unrelated Docket Numbers (VH110019R and HK110023TC).

ADMINISTRATIVE REVIEW DOCKET NO.: JW130047RT

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"), 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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Additionally, Policy Statement 90-2 states that the Rent Administrator may rely on an agency inspection when making a determination.

Here, the record supports that the remaining service found decreased under Docket Number TE130011B was restored. Further, the Commissioner notes that the scope of review of an administrative appeal is limited to a review of the facts or evidence before the Rent Administrator as raised in the petition. As the petitioner-tenant complains of a matter that seemingly occurred after the underlying orders were issued, the issue presented by the petitioner-tenant cannot be entertained herein.

As such, the Commissioner finds that the Administrator properly relied on the record and the petitioner has not set forth any basis to revoke the rent administrator's order.

The petitioner-tenant is advised to file a fresh complaint if the facts so warrant. Additionally, the tenant may file an overcharge complaint if the tenant believes the tenant has paid a sum in excess of the amount the tenant is legally responsible for.

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: **APR 6 2022**



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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JW110001RO**

SILVERLINE HOMES INC

PETITIONER
-----X

**RENT ADMINISTRATOR'S
DOCKET NO.: IS110004OR**

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 1, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IS110004OR, an order the Rent Administrator issued on October 22, 2021 (the "order"), concerning the housing accommodation known as 140-27 183rd Street, Apartment [REDACTED] Springfield Gardens, New York, wherein the Rent Administrator denied the owner's rent restoration application upon finding that the owner failed to submit proof that they assumed the costs of heating and hot water services as requested by the Agency.

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 asserts, in substance, that the heat and hot water bills are in the owner's name and being paid by the Petitioner-owner and not the tenant. The owner submits a summary letter from National Grid indicating that the owner made a payment on October 27, 2021, as well as a National Grid bill dated May 8, 2019 addressed to the subject tenant, and National Grid bills dated December 9, 2019, February 7, 2020, and May 8, 2020 addressed to the subject owner.

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

ADMINISTRATIVE REVIEW DOCKET NO. JW110001RO

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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. 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. 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.

In the initial proceeding, the tenant filed their service application on May 26, 2017, alleging that the building owner had converted the central boiler/hot water system to individual apartment based heating/hot water system on or about February 2016. The tenant stated that upon completion of the modification, the owner unilaterally transferred the costs of providing heat and hot water to the tenant.

The Agency record indicated that the owner previously applied for modification of the subject heat and hot water services which was denied on March 28, 2002 under Docket No. QA110007OD (and was affirmed on PAR under the Commissioner's order, Docket No. QD110086RO). The Rent Administrator's order under Docket No. QA110007OD directed the owner to continue to assume the costs of providing heat and hot water to the tenants.

Based on the Agency records, on February 8, 2018 under Docket No. FQ110360S, the Rent Administrator determined that the owner unilaterally removed the service of providing heat and hot water from a central heating system, at the owner's sole cost, warranting a rent reduction. The owner was directed to assume the costs of providing heat and hot water to the tenant.

In the Rent Administrator's proceeding below, Docket No. IS110004OR, on July 2, 2020, the owner applied to restore rent based on restoration of services, claiming that the owner was paying for the heating service. The tenant was served with a copy of the owner's application to restore rent on July 6, 2020.

Thereafter, by correspondence dated June 16, 2021, the Rent Administrator provided the owner with an opportunity to establish that they assumed the responsibility of paying for heat and hot water, and requested that the owner submit substantiating evidence for proof of payment or a notarized letter from the tenant to establish who pays for heat and hot water.

The Commissioner notes that a diligent review of the underlying record of proceeding reveals that the Petitioner-owner failed to provide the Rent Administrator with proof of payment or a notarized letter from the tenant as requested.

On October 22, 2021, after considering all submissions and evidence in the record, the Rent Administrator determined that the owner had not substantiated their claim that they resumed the cost of providing heat to the apartment. The Rent Administrator noted that the bill for the

ADMINISTRATIVE REVIEW DOCKET NO. JW110001RO

provision of heat submitted by the owner in their restoration application was insufficient and did not indicate that the owner is paying for the provision of heat for the subject apartment. Due to the owner's failure to provide the requested documents to prove that the owner had assumed the costs of providing heat and hot water to the subject apartment as directed by the Agency, the owner's rent restoration application was denied by the Rent Administrator.

After a review of the record, the Commissioner finds that the Rent Administrator properly denied the owner's rent restoration application. The record shows that the Petitioner-owner did not offer any sufficient evidence to substantiate their claim that they were paying the costs for the heat in the subject apartment during the Rent Administrator's proceeding. The Commissioner also notes that the owner's rent restoration application did not indicate that the owner resumed paying for the costs of hot water, and again, did not respond to the Rent Administrator's request for information below concerning the hot water services. The record supports that the owner was afforded an opportunity to prove that they were paying for heat and hot water for the subject apartment, but the owner failed to submit any documents as requested. Accordingly, the Rent Administrator correctly denied the owner's rent restoration application in this case.

The Commissioner notes that the evidence submitted on appeal was not part of the Rent Administrator's record below. Fundamental principles of the administrative appeal process and Section 2529.6 of the RSC limits an administrative review to the facts and/or evidence submitted before the Rent Administrator, except when a petitioner establishes that such facts or evidence could not have been reasonably offered or included in the proceeding below. The Commissioner finds that the petitioner-owner in this case does not provide a reason why such claims and documents submitted on PAR could not have been included or offered in the Rent Administrator's proceeding. Accordingly, the Commissioner finds that the evidence as submitted in this appeal for the first time is outside the scope of the Commissioner's review

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the owner's application, and the owner's PAR 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: **APR 15 2022**



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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JV210011RT**

**RENT ADMINISTRATOR'S
DOCKET NO.: IW210070OR
(FT210034B)**

PETITIONER

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On October 8, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on September 16, 2021, concerning the housing accommodations located at 904 Winthrop Street, Apartment [REDACTED] Brooklyn, NY, wherein the Administrator denied the owner's rent restoration application.

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 tenant requests a modification of the Rent Administrator's order and alleges that all the conditions stated were not restored in a professional manner, allegedly in direct violation of established DHCR practices and decisions; that the marble treads were not corrected in a uniform manner or professionally, and thus defective per prior DHCR rulings on uniformity, as the marble treads were replaced with treads that are not matching the unbroken slabs; and that the tenant's arguments were probably not read in the proceeding below. The tenant submitted photographs in support.

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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

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

The Commissioner notes that in the initial proceeding, Docket No. **FT210034B**, the Rent Administrator, on June 15, 2018, granted the tenant a rent reduction based on a finding of a decrease in various services, including the issue of stair/rail building-wide wherein the issue of broken marble treads was part of the items found not maintained. Concerning the stair/rail building wide condition found not maintained, the Rent Administrator specifically granted a rent reduction based on evidence of multiple cracked marble treads found throughout the staircases, including specifically one broken marble tread on the landing between the 2nd and the 3rd floor, which posed a trip hazard.

The records indicate that prior to the instant rent restoration application ("OR"), the owner had filed two OR applications¹ wherein the Rent Administrator found that there were still outstanding reduced services from the initial (rent reduction) order, Docket No. **FT210034B**, including, in pertinent part, the stair/rail condition. Under Docket No. **GS210164OR**, the marble treads throughout the staircases were cracked and filthy, and under Docket No. **HM210148OR**, the top steps leading down from the bulkhead were cracked and the 5th step down from the 4th floor and 5th and 6th steps leading to the second floor were cracked.

Thereafter, on November 24, 2020, the owner commenced the rent restoration proceeding herein below, wherein the owner indicated that the services found not maintained below had been restored. Said application was served on the tenants on November 27, 2020. On September 16, 2021, based on an Agency inspection which was conducted on July 20, 2021, the Rent Administrator denied the owner's rent restoration application under Docket No. **IW210070OR**, finding that the window and door to the roof were not restored, but finding that the stair/rail building wide condition was found restored.

Pursuant to Policy Statement 90-2, where there is a dispute as to whether required services have been provided or are properly being maintained, the Rent Administrator may rely on the results of an agency inspection by the Agency's impartial inspector who is not a party to the proceeding.

The record indicates that the Rent Administrator requested an Agency inspection of the owner-alleged repairs, which was prompted in part by the various tenant responses, including the subject tenant's response, which claimed that the owner failed to repair the required services. The Rent Administrator therefore requested that the inspector inspect the owner's alleged repairs, including the stair/rail condition, and the Agency's inspection was conducted on July 20, 2021.

¹ Rent restoration Docket Nos. **GS210164OR** & **HM210148OR**.

The inspector, who is not a party to the proceeding, found that there were no defects to the stair/rails building wide.

Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly found the stair/rail condition maintained. The Rent Administrator's determination was neither arbitrary nor capricious and was supported by a rational basis contained in the record, namely the July 20, 2021 inspection report. 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 Commissioner finds that the Rent Administrator properly found the stair/rail condition maintained.

The Commissioner notes that the tenant may file a fresh complaint, if the facts warrant.

THEREFORE, in accordance with the applicable provisions 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: **APR 19 2022**



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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JX610039RT**

**VARIOUS TENANTS OF
1111 GERARD AVENUE**

PETITIONER
-----X

**RENT ADMINISTRATOR'S
DOCKET NO.: IV610046OR**

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 23, 2021, the above-named Petitioner-tenants filed a Petition for Administrative Review ("PAR") against IV610046OR, an order the Rent Administrator issued on November 18, 2021 (the "order"), concerning the housing accommodations known as 1111 Gerard Avenue, Various Apartments, Bronx, New York, wherein the Rent Administrator issued an order granting the owner's application to restore rent, finding that the janitorial services in the playground and courtyard cited in the order reducing rent under Docket No. EO610003B were restored at the time of the Agency inspection on July 14, 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 Petitioner-tenants' counsel asserts that contrary to the inspector's finding that the owner restored janitorial services in the playground and the courtyard at the time of inspection, there are open violations issued by the New York City Department of Housing Preservation and Development ("HPD") for the failure to maintain janitorial services in the building interior common areas, citing to Violation Numbers 13275143 and 13275147, and such violations remained open through the pendency of the underlying proceeding. The tenants also claim that although the Agency may rely on a single inspection to support a determination of "regular" janitorial services, it may also conduct multiple full inspections of the subject premises and the adjoining areas to sufficiently collect evidence to deduce if specific or essential services are decreased; that the Agency's inspection was not properly conducted as the inspection

erroneously failed to include the interior of the premises which is within the scope of the diminished janitorial services at issue pertaining to the handling, storing, and curbing of garbage for collection; that it is an abuse of discretion for the Division to erroneously rely on a single inspection of the grounds where the interior hallway was not inspected as "ground" encompasses the entire premises and not limited to the playground and/or courtyard; that while HPD violations for interior refuse and garbage accumulations are not dispositive for the DHCR's administrative and regulatory functions, such violations corroborate the Petitioners' claim of inadequate janitorial services in the building; that the restoration of rent and denial of the Petitioners' PAR would prompt the owner to continue to shuffle the placement of trash from one squalid area to another; and that since an entire building inspection of the garbage collection, storage, and disposal was not conducted, the Rent Administrator's order lacks a rational basis, is an abuse of discretion, and is arbitrary and capricious.

The owner, through counsel, in response to the Petitioners' appeal refutes the tenants' claim and requests that the Rent Administrator's order be affirmed, stating that janitorial services in the playground and the courtyard were restored as confirmed by the Agency's impartial inspector, and that the premises is provided with a full-time porter who cleans the premises twice daily. The owner further disputes the Petitioners' claim that the owner's maintenance personnel store trash inside the building.

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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. 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. Furthermore, Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination and New York Courts have consistently upheld the reliability of the DHCR inspections. See *Matter of 113-117 Realty, LLC v. DHCR*, 2021 N.Y. Slip. Op. 06432 [1st Dept. 2021] citing to *Matter of Sherman v. DHCR*, 210 AD2d 486 [2nd Dept. 1994].

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on January 25, 2017 under Docket EO610003B based on lack of janitorial services in the playground/courtyard area. Thereafter, the owner applied for rent restorations which were denied under Docket Nos. GP610056OR and HN610141OR on January 10, 2019 and June 22, 2020, respectively, finding inadequate janitorial services in the playground/courtyard area. In the subject Rent Administrator's proceeding, on October 16, 2020, the owner applied to restore rent affirming that it had restored the defective courtyard/playground service cited in the order reducing rent. The tenants were afforded an opportunity to respond to the owner's application by service of the owner's rent restoration application on October 22, 2020. The record shows that during the subject Rent Administrator's proceeding, various tenants submitted their answers to the owner's rent restoration application

ADMINISTRATIVE REVIEW DOCKET NO. JX610039RT

and refuted the owner's claim that it restored the janitorial services in the playground/courtyard. The record further shows that one tenant acknowledged that the playground/courtyard had been restored.

The Rent Administrator requested an Agency inspection to confirm if service was restored as claimed by the owner. On July 14, 2021, DHCR conducted an inspection at the subject premises to confirm the condition of the alleged playground/courtyard. The Agency's impartial inspector reported that the playground and the courtyard had adequate janitorial services and the trash area was found swept at the time of inspection. Subsequent thereto, based upon a complete review of the record including the inspection report from July 14, 2021, the Rent Administrator determined that the playground/courtyard conditions cited in the order reducing rent had been restored, and granted the owner's application to restore rent under Docket No. IV610046OR, the subject of this appeal.

The Commissioner notes the Petitioners' dispute with the inspector's findings in this case. However, the Commissioner finds that the Rent Administrator's determination was appropriate and was supported by a rational basis, namely the inspector's report that revealed the playground/courtyard had adequate janitorial services at the time of the Agency inspection. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as his impartiality in conducting the inspection and noting observations depicting the restored playground/courtyard was reasonable and in compliance with Section 2523.4 of the RSC and Policy Statement 90-2. As noted above, the July 14, 2021 inspection report revealed that janitorial services in the playground/courtyard were not lacking.

As for the Petitioners' assertion that the Rent Administrator's order is arbitrary, capricious and an abuse of discretion because the inspector failed to inspect the interior and or the entire premises, the Commissioner finds that this unsubstantiated claim is without merit. The Rent Administrator in the underlying rent reduction order, Docket No. EO610003B specifically found that janitorial services in the playground/courtyard area were not adequate, citing the inspection report from July 21, 2016 which revealed a large pile of garbage/debris on the side of the playground/courtyard. The underlying rent reduction order, Docket No. EO610003B was affirmed on appeal under Docket No. FO610005RO, which explained that the tenants in their rent reduction complaint alleged that the owner was using the playground/courtyard area as a "trash depot". A rent restoration proceeding is limited to those services found not maintained in the underlying rent reduction order. In this case, in accordance with Agency policy and the RSC, the DHCR's inspection was limited to the scope of the underlying services found not maintained in the original rent reduction order, Docket No. EO610003B; specifically the janitorial services of the playground/courtyard. As a result, the Rent Administrator correctly granted the owner a rent restoration as the Rent Administrator properly predicated her decision on the report of the inspection from July 14, 2021, which was an inspection of the underlying service issue, the janitorial services of the playground/courtyard, which revealed that the services were maintained.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration and the tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

ADMINISTRATIVE REVIEW DOCKET NO. JX610039RT

The tenants are advised that they may file a fresh service application 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:

APR 20 2022



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 e-filing 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 e-filed 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**

-----	X	
IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
	:	ADMINISTRATIVE REVIEW
	:	DOCKET NO.:JV210004RT
	:	
PETITIONER	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.:IV210003OR
	:	
-----	X	

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On October 1, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on September 3, 2021 (the "order"), concerning the housing accommodation known as 189 Sterling Place, Apt.  Brooklyn, New York; wherein the Rent Administrator granted the owner a rent restoration after an Agency inspection found the janitorial services in the halls and stairs had been corrected by the owner.

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, by counsel, seeks a reversal of the order asserting the order was issued in error as it does not address the tenant's claim of a lack of a superintendent in the premises.

In response to the tenant's appeal, the owner asserts that the Rent Administrator's order herein is correct and that it relates to the finding that the owner restored the janitorial services in the hall and stairs which were the two services found unmaintained in the underlying rent reduction order.

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

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. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when

making a determination. If there is a finding that services are not maintained and an order reducing rent is issued, DHCR will subsequently issue an order restoring the rent after the required services specified in the rent reduction order have been restored.

A review of the record shows that on May 28, 2019, the rent at the subject premises was reduced by order under Docket No. HM210008B. The Rent Administrator's order was based upon an inspection which found the janitorial service in the halls and stairs not maintained. In the underlying rent reduction order, the Rent Administrator noted with respect to the tenant's complaint regarding the superintendent, that the owner is obligated to comply with Sections 27-2053 and 27-2054 of the Housing Maintenance Code (New York City Administrative Code, Article 13) and that any failure on the part of the owner to comply with requirements of the Housing Maintenance Code should be referred to the New York City Department of Housing Preservation and Development.

Thereafter on October 1, 2020, the owner filed an application to restore the rent based on its restoration of the janitorial service in the hall and stairs which had been found not maintained in Docket No. HM210008B. This application resulted in the order which is the subject of the tenant's appeal herein.

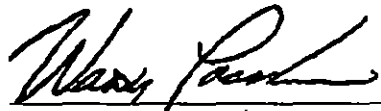
The Commissioner notes that the tenant has not presented any allegations of errors of fact or law on appeal against the subject Rent Administrator's determination under Docket No. IV210003OR. The tenant's sole complaint on appeal is regarding a service issue that the Administrator did not find unmaintained under Docket No. HM210008B. Furthermore, the Agency records show that the tenant did not appeal the Rent Administrator's decision under Docket No. HM210008B.

The Commissioner finds that the tenant cannot attack the Rent Administrator's decision in Docket No. HM210008B in the appeal herein. Furthermore, Section 2529.1 of the Code requires a PAR to allege the errors upon which the order being appealed is based. Based upon the tenant's failure to allege errors in the subject Rent Administrator's order, the petition is denied.

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: **APR 20 2022**



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 e-filing 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 e-filed 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

-----X
IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: GV110034RO

FONTANA, LLC

RENT ADMINISTRATOR'S
DOCKET NO.: GQ110134OR
(ZL110078S)

PETITIONER
-----X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On October 29, 2018, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued on September 21, 2018, by the Rent Administrator concerning the housing accommodations known as 28-18 38th Avenue, Apartment ■ Long Island City, NY, wherein the Administrator denied the owner's rent restoration application.

The Commissioner has reviewed all of the evidence in the record and has carefully considered the 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 Administrator's order violates due process; and violates, *inter alia*, Sections 306(1) and 307 of the State Administrative Procedure Act (SAPA) requiring that the burden of proof shall be on the party who initiated the proceeding as supported by and in accordance with substantial evidence, and that decision, determination or order shall include findings of fact and conclusions of law or reasons for the decision. In substance, the owner alleges that the Administrator did not refer to or identify any evidence other than an inspection, and no mention of the actual inspection report was made by the Administrator; that the order shows that no fact finding was conducted by the Administrator; and that the Administrator's order thus failed to satisfy the minimum requirements of SAPA.

The Commissioner notes that the owner's contentions herein concern vermin condition which the Administrator found not maintained in the subject apartment. Thus, the owner argues that the tenant failed to sign up for regular pest services while the owner provided proof to the Agency that it does provide regular pest services; and that the inspection of other apartments where the tenants therein were providing access to the exterminator shows that there was no

finding of vermin condition anymore in those apartments; that as the instant tenant does not sign up for pest control services, failed to allow complete access and does not maintain the premises in a sanitary condition, the continuation of a rent reduction was not proper; and that the tenant withdrew the complaint prior to the issuance of the Rent Administrator's order in exchange for a rent abatement, thereby having the benefit of a 6 year rent reduction, and the [negotiated] rent abatement pursuant to the Stipulation of Settlement between the owner and the tenant, *inter alia*.

The tenant, represented by the Catholic Migration Services, opposed the owner's petition by submission date-stamped January 22, 2019 by the Agency, responding essentially, that the owner's reference to the State Administrative Procedure Act (SAPA) was inapplicable to the instant case as the Rent Administrator had a rational basis for the decision; that an inspection was conducted on September 6, 2018 by the Agency's inspector, which found vermin in the subject apartment, prior to the issuance of the Administrator's order; that subsequent to said inspection, the Agency had conducted another inspection under Docket No. **GQ110282S**, wherein vermin presence was still confirmed in the subject apartment; that even if the tenant's rent reduction application was withdrawn in 2012, the tenant's subsequent complaint of vermin in the proceeding under Docket No. **GQ110282S** confirmed that the problem was not resolved and that the rent reduction was proper.

The tenant argues further that although the owner claims to provide consistent extermination service and alleges that the tenant was not allowing access, the record of extermination shows that the tenant provided access 8 times between November of 2017 and June of 2018, but that the owner was not providing effective extermination service.

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

Concerning the owner's contention that the Administrator did not refer to or identify any evidence other than an inspection, the Commissioner notes that the sufficiency of the DHCR's inspection, by the Agency's impartial inspector, who is not a party to the proceeding, is not in question as a basis for the Rent Administrator's determination; that pursuant to Policy Statement 90-2, where there is a dispute as to whether required services have been provided or are properly being maintained, the Rent Administrator may rely on the results of an agency inspection. notably, the record before the Agency herein indicates that, in the instant case, the Agency's inspection of September 6, 2018 confirmed the existence of vermin in the subject apartment at the time of inspection.

The Commissioner notes that with respect to the owner claims that there was a Stipulation between the parties wherein the tenant agreed to withdraw the initial complaint, that said Stipulation was not before the Rent Administrator at the time of the issuance of the Rent Administrator's order. Additionally, when the tenant was granted a rent reduction in the initial proceeding, Docket No. **ZL110078S**, the owner failed to request a reconsideration of the Rent Administrator's order or file a petition against the Administrator's order, the Agency's records indicate that the owner's first filing occurred four years after, on August 17, 2016, under Docket No. **ET110081OR**.

While an owner may be entitled to a rent restoration where it is proven that the tenant was denying access for the necessary repairs to be performed, or where the condition in question was tenant-caused, the Commissioner notes that the owner's contentions in the instant

case that the tenant was denying access into the subject apartment for extermination services and/or contributing to the existence of vermin in the subject apartment were not substantiated.

Based on the foregoing, the Commissioner finds that the owner has not established a basis to reverse the Rent Administrator's order.

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: **APR 21 2022**



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 e-filing 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 e-filed 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**

-----	X	
IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
<div style="background-color: black; width: 150px; height: 1.2em; display: inline-block;"></div>	:	ADMINISTRATIVE REVIEW
(TENANT)	:	DOCKET NO.: JW210015RT
	:	
	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.: JQ210055OR
PETITIONER	:	
	:	
	:	
-----	X	

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 15, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against Docket No. JQ210055OR, an order the Rent Administrator issued on October 28, 2021 (the "Order"), concerning the housing accommodation known as 1581 President Street, Apt. [REDACTED] Brooklyn, NY 11213, wherein the Rent Administrator granted the owner's rent restoration application after the Agency established that the floor leveling in the kitchen of the subject apartment was restored.

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 a modification of the rent restoration Order, claiming that the order granting a Major Capital Improvement rent increase, Docket No. ET230054OM dated January 30, 2017 states that service reduction orders bar collectability of the rent increase. The tenant submitted exhibits that showed her rent payment amount before and after her rent reduction order went into effect; the tenant also enclosed a copy of the lease renewal agreement that she and her landlord signed on September 30, 2020, and October 1, 2020, respectively.

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

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

ADMINISTRATIVE REVIEW DOCKET NO.: JW210015RT

Administrator may grant a restoration of rent where it is determined that the required services cited in the rent reduction order have been restored.

In the proceeding below, the owner filed a rent restoration application with the Agency on May 20, 2021, alleging the restoration of the kitchen floor leveling found not maintained under Docket No. EU210137S. The tenant was served with the notice of the owner's application (the "Initial Notice") on June 14, 2021. The Agency records indicate that the tenant responded to the Initial Notice on June 22, 2021, when the tenant acknowledged that all conditions cited in the application to restore rent were restored. Agency records also reveal that an inspection was conducted at the subject premises on August 3, 2021 under Docket No. JP210013NC. During the inspection, the impartial DHCR inspector observed that there was no evidence that the kitchen floor was approximately six inches higher than the hallway floor; there was no trip hazard. In light of the tenant's written statement dated June 18, 2021 and received by the Agency on June 22, 2021, on October 28, 2021, the Rent Administrator granted the owner's rent restoration application and issued an order restoring the rent for the subject apartment.

The Commissioner notes the tenant's contention herein that the owner is charging a higher monthly rent payment than the Agency has ordered. However, this claim by the tenant is beyond the scope of review for this PAR which is limited to the rent restoration application and does not warrant a modification or reversal of the Rent Administrator's order No. JQ210055OR. The tenant fails to claim any errors on which the Rent Administrator's order No. JQ210055OR is based, and therefore, the tenant's PAR is hereby denied.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration, and 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 rent overcharge 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 Rent Administrator's order is affirmed on appeal and the petition is denied.

ISSUED: **APR 21 2022**



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 e-filing 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 e-filed 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

-----X
IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :

ADMINISTRATIVE REVIEW
DOCKET NO.: JU410021RT

[REDACTED] :

RENT ADMINISTRATOR'S
DOCKET NO.: HX410043OR
(HT410070S)

PETITIONER
-----X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On September 8, 2021, the above-named petitioner-tenants properly re-filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on June 16, 2021, concerning the housing accommodations located at 71 Vermilyea Avenue, Apartment [REDACTED] New York, NY, wherein the Administrator granted the owner's application to restore rent.

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 tenants request a reversal of the Rent Administrator's order and allege that the Vacate Order was not rescinded by the Department of Buildings (DOB) as per the New York City Department of Housing Preservation and Development (HPD) letter dated November 27, 2019; that the lease renewal from the owner dated February 22, 2021 illustrates that the monthly rent for one year was \$1.00; and that the management company never gave the tenants a statement that reflected the rent going back to the monthly rate, but continued to charge \$1.00 until the tenants received an updated lease renewal form.

The owner objects to the tenants' appeal, claiming that the vacate orders were rescinded and that the renewal lease the tenants submitted with their appeal was an error, and attached a

renewal lease that was executed by the owner and tenants that the owner claims has the correct rental amount.

Section 2522.6 of the Code authorizes the Rent Administrator to order a rent reduction upon application of a tenant where such tenant was forced to vacate his/her apartment because it is legally uninhabitable. In such cases, it is the Division's policy to establish the rent at \$1.00 per month to maintain the landlord/tenant relationship between the parties until such time as 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.

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

The Commissioner notes that in the initial proceeding, Docket No. HT410070S, on September 25, 2019, the Rent Administrator established the tenant's rent at \$1.00 per month, as of August 19, 2019, due to a fire incident which occurred in the subject premises on August 19, 2019, causing the tenant to vacate the subject premises involuntarily.

On December 9, 2019, the owner commenced the rent restoration ("OR") proceeding herein below, wherein the owner indicated that the subject apartment was back to a habitable condition. On Part B – Tenant's Statement of Consent of the owner's OR application, one of the two subject tenants agreed that the services were restored and signed and dated Part B on December 2, 2019. The owner submitted an HPD rescission letter of November 27, 2019 that stated that the Vacate Order #149858 issued for the subject premises was rescinded due to an inspection conducted on November 27, 2019 as well as a letter addressed to the subject tenants dated November 27, 2019 advising the tenants that HPD inspected the subject apartment and the apartment passed the inspection and that the tenants may resume occupancy as of November 27, 2019 as the HPD removed Vacate Order #149858 to support its claim. The tenants were served with a copy of the owner's rent restoration application on December 30, 2019 (there is no evidence in the record that the tenants responded to the owner's OR application).

Thereafter on May 13, 2019, an Agency inspection was conducted, and the inspector found the subject apartment restored to habitability at the time of the inspection.

The Commissioner notes that while the HPD issued a rescission letter, said letter contained a caveat that a DOB Vacate Order for all or part of the premises remained in effect at the time of the HPD rescission; that the affected apartments may not be re-occupied until this Vacate Order is rescinded by DOB; and that the rescission of the vacate order should not be construed as compliance or cancellation of any violations pending against the premises.

The Commissioner notes that the owner, by submission dated February 14, 2020, addressed the matter in the HPD rescission letter by submitting a DOB database printout indicating that there was no Vacate Order for the subject premises as of that date, and that the "Actions" page on the DOB website showed all violations, except for a 2002 plumbing repair violation, as "DISMISSED".

On June 16, 2021, the Rent Administrator granted the owner's rent restoration application, based on the evidence in the record including the tenants resuming occupancy of the apartment and the apartment was restored to habitability. The Rent Administrator noted service defects were found in the apartment at the time of the Agency inspection and advised the owner to correct the conditions within thirty days, and that if the owner fails to correct the conditions as directed, the tenants were advised to file Form RA 81, a service reduction complaint, if the facts warranted.

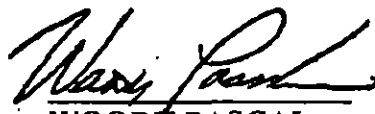
Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly granted the owner's rent restoration application. The Rent Administrator's record shows that the tenant agreed that the services were restored as evidenced by their Statement of Consent signed and dated December 2, 2019, the HPD Vacate Order # 149858 was rescinded on November 27, 2019, and an Agency inspection revealed that the apartment was restored to habitability and the tenants resumed occupancy of the subject apartment. Accordingly, the Rent Administrator properly granted the owner's rent restoration application in this case.

The Commissioner notes that the tenants may file a fresh services complaint, and/or a complaint of overcharge, if the facts so warrant.

THEREFORE, in accordance with the applicable provisions 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: **APR 29 2022**


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 e-filing 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 e-filed 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

-----X
IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :

ADMINISTRATIVE REVIEW
DOCKET NO.: KM410020RO

306 West 112th Owner, LLC/
Tri-Hill Management, LLC :

RENT ADMINISTRATOR'S
DOCKET NO.: JQ410043OR
(IM410049B)

PETITIONER
-----X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On January 12, 2022, the above-named petitioner-owner filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on December 8, 2021, concerning the housing accommodations located at 306 West 112th Street, Various Apartments, New York, NY, wherein the Administrator denied the owner's application to restore rent.

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 modification of the Rent Administrator's order, contending that the sole condition for which the Rent Administrator denied the rent restoration was "cracked tread area to the building front steps"; that said condition is de *minimis* in nature pursuant to the inspection report; and that *it is* arbitrary, capricious and irrational for such condition to be a basis for denial of the owner's rent restoration application.

The tenant of apartment [REDACTED] responded to the owner's petition, making essentially new individual apartment service complaints.

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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

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

The Commissioner notes that in the initial proceeding, Docket No. **IM410049B**, on March 16, 2021, the Rent Administrator granted the tenants a rent reduction based on the following conditions in the subject premises: sidewalks, stairs – building entrance, janitorial services hall, janitorial services lobby, pub areas molding/baseboards, and the elevator "open" button.

On May 21, 2021, the owner commenced the rent restoration proceeding herein below, wherein the owner indicated that the outstanding necessary repair(s) had been completed.

The tenants were served with a copy of the owner's rent restoration application on May 24, 2021. Three tenants responded, contending the accuracy of the owner's claim.

Pursuant to Policy Statement 90-2, where there is a dispute as to whether required services have been provided or are properly being maintained, the Rent Administrator may rely on the results of an agency inspection by the Agency's impartial inspector who is not a party to the proceeding.

The Commissioner notes that the Rent Administrator requested an Agency inspection of the conditions for which the rent reduction was granted in the initial proceeding. The inspection was conducted on October 26, 2021. The inspection report indicates that regarding the building entrance where the inspection of September 3, 2020 had indicated that the first step was cracked, the inspector, on October 26, 2021, found cracked tread area of the front steps to the building at the time of inspection. Based thereon, the Rent Administrator denied the owner's rent restoration application as not all items for which the rent was initially reduced had been restored.

Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly denied the owner's rent restoration application. The inspection report revealed that at the time of the inspection on October 26, 2021, the first step of the building entrance was not repaired in a workmanlike manner, and such condition was substantiated by the inspector's time and date-stamped photographs. The Rent Administrator's determination was neither arbitrary nor capricious and was supported by a rational basis, the inspection report dated October 26, 2021. The owner's claim that the condition of a cracked front step is *de minimis* is merely self-serving, and further, the Commissioner notes that the owner cannot collaterally attack in this appeal the condition found not maintained in the underlying order, Docket No. **IM410049B**.

ADMINISTRATIVE REVIEW DOCKET NO.: KM410020RO


The Commissioner notes that the owner has filed a fresh rent restoration application, under Docket No. **KN410012OR**, which is pending before the Agency.

The Commissioner notes, concerning the complaint by the tenant of apartment [REDACTED] that said tenant may file individual apartment service complaint, if the facts warrant.

THEREFORE, in accordance with the applicable provisions 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: APR 29 2022


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 e-filing 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

-----	X
IN THE MATTER OF THE	:
ADMINISTRATIVE APPEAL OF:	:
	:
████████████████████	:
(TENANT)	:
	:
	:
PETITIONER	:
-----	:
	X

ADMINISTRATIVE REVIEW
DOCKET NO.: KO410042RT

RENT ADMINISTRATOR'S
DOCKET NO.: JM410019OR

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 28, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on March 1, 2022 (the "Order"), concerning the housing accommodation known as 452 West 149th Street, ██████ New York, NY 10031, wherein the Rent Administrator granted the owner a rent restoration effective February 1, 2021.

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, opposed by the owner, the tenant claims that the landlord's repair person showed up one day with no prior notice while she was on her way out. The tenant asks for an inspection with a prior written notice of the date. The tenant also claims that repairs were never done, and violations still exist in her apartment.

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"), 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 states that the Rent Administrator may rely on an Agency inspection when making the determination in a matter.

In the proceeding below, the owner filed an application to restore rent for the subject apartment on January 6, 2021, alleging that the tenant unreasonably refused to permit the owner/agent to restore those services underlying the rent reduction order, Docket No.

EM410101S, which found services with respect to the stove, paint/plaster in the kitchen, refrigerator, shower/tub stopper, bathtub enamel, floor/covering bathroom, paint/plaster in the bathroom, and outlets not maintained at the time of an Agency inspection on August 11, 2016. With the rent restoration application, the owner submitted two letters sent to the tenant requesting access to the subject apartment, mailed to the tenant at least eight days prior to the proposed access dates, mailed certified mail, return receipt requested. The tenant was served with the notice of the owner's application (the "Initial Notice") on January 25, 2021.

Thereafter, on July 28, 2021, a Notice of Inspection – For Access was sent to the owner and tenant with the details about the Agency inspection that was set for August 18, 2021 between 10:30 and 11:00 a.m. The Notice advised the tenant that the failure to keep the appointment may result in a determination based solely on the evidence in the record. On the day of the inspection, the tenant failed to provide access to the DHCR inspector and the owner/repair person who was prepared to work. Based on the foregoing, the Rent Administrator issued an order granting the owner the rent restoration on March 1, 2022.

The Commissioner notes the tenant's contention herein that the landlord's repair person showed up one day, with no prior notice, while she was on her way out; she is asking for an inspection with prior written notice of the date. However, this unsubstantiated claim by the tenant does not warrant a modification or reversal of the Rent Administrator's order. As noted above, the tenant had prior notice of the scheduled Agency inspection, advising the tenant that the failure to provide access for the inspection may result in a determination based on the record. Furthermore, Section 2523.4 of the Code and Policy Statement 90-2 provides that if the tenant denies access for the DHCR inspection, the rent will be restored.

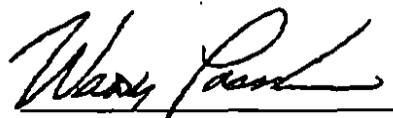
The Commissioner finds that the Rent Administrator correctly granted the owner's rent restoration request, and the tenant's PAR has failed to allege any errors in the Rent Administrator's order.

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 Rent Stabilization Code it is

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

ISSUED: **MAY 5 2022**



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 e-filing 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 e-filed 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

-----	X	
IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
<div style="background-color: black; width: 200px; height: 20px; display: inline-block;"></div>	:	ADMINISTRATIVE REVIEW
(TENANT)	:	DOCKET NO.: KO410037RT
	:	
	:	RENT ADMINISTRATOR'S
PETITIONER	:	DOCKET NO.: JM410018OR
	:	
-----	X	

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 28, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on March 1, 2022 (the "Order"), concerning the housing accommodation known as 452 West 149th Street, New York, NY 10031, wherein the Rent Administrator granted the owner a rent restoration.

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 another inspection of the subject apartment because the repairs were not done, and violations still exist.

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"), 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 states that the Rent Administrator may rely on an Agency inspection when making the determination in a matter.

In the proceeding below, the owner filed an application to restore rent for the subject apartment on January 6, 2021, alleging the tenant unreasonably refused to permit the owner/agent to restore those services underlying the rent reduction order, Docket No. HN410195S, which found the apartment entry door and the radiator not maintained. With their application, the owner submitted two letters sent to the tenant requesting access to the subject apartment, mailed to the tenant at least eight days prior to the proposed access dates, mailed

certified mail return receipt requested. The tenant was served with notice of the owner's application (the "Initial Notice") on January 25, 2021.

Thereafter, on July 28, 2021, a Notice of Inspection – for access was sent to the owner and tenant with the details about the Agency inspection that was set for August 18, 2021 between 10:00 and 10:30 a.m. The Notice advised the tenant that the failure to keep the appointment may result in a determination based solely on the evidence in the record. On the day of the inspection, the tenant failed to provide access to the DHCR inspector and the owner/repair person who was prepared to work. Based on the foregoing, the Rent Administrator issued an order granting the owner the rent restoration on March 1, 2022.

The Commissioner notes the tenant's contention herein that the landlord's repair person showed up one day, with no prior notice, while she was on her way out; she is asking for an inspection with prior written notice of the date and time. However, this unsubstantiated claim by the tenant does not warrant a modification or reversal of the Rent Administrator's order. As noted above, the tenant had prior notice of the scheduled Agency inspection; advising the tenant that the failure to provide access for the inspection may result in a determination based on the record. Furthermore, Section 2523.4 of the Code and Policy Statement 90-2 provides that if the tenant denies access for the DHCR inspection, the rent will be restored.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration request, and the tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

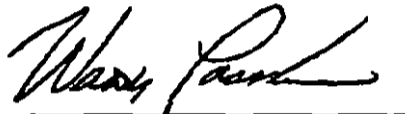
The tenant is advised that she may file a new service complaint with the Agency if the facts so warrant.

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

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

ISSUED:

MAY 5 2022



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 e-filing 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 e-filed documents to DHCRLegalMail@nysdcr.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

-----X
IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :

ADMINISTRATIVE REVIEW
DOCKET NO.: KO910006RT

[REDACTED] :

RENT ADMINISTRATOR'S
DOCKET NO.: JU910041OR
(HO910201S)

PETITIONER

-----X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 2, 2022, the above-named petitioner-tenant properly re-filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on January 28, 2022, concerning the housing accommodations located at 1 Larchmont Acres E, Apartment [REDACTED] Larchmont, NY, wherein the Administrator granted the owner's application to restore rent.

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 tenant alleges that the Rent Administrator's order was erroneous as the inspector found the subject apartment in good condition only because the tenant already paid for the necessary repairs; that the tenant paid the sum of \$18,092.60 for repairs, which included the apartment-wide floor/covering; and that there was an unsafe level of mold in her apartment.

The owner opposed the petition.

Sections 2500.3 and 2503.4 of the Emergency Tenant Protection Regulations (TPR) provide in pertinent part that a tenant may apply to the Division of Housing and Community Renewal (DHCR) for a reduction of the legal rent to the level in effect prior to the most recent guideline adjustment and the DHCR may so reduce the rent where it is found that the owner has failed to provide and maintain services. DHCR Policy Statement 90-2 provides that the Rent Administrator may rely on an Agency inspection when making a determination.

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

The Commissioner notes that in the initial proceeding, Docket No. **HO910201S**, on August 16, 2019, the Rent Administrator granted the tenant a rent reduction based on a decrease in apartment-wide floor/covering service.

On September 21, 2021, the owner commenced the rent restoration (OR) proceeding herein below, based on the restoration of services, claiming that the bedroom floor and gaps in the living room floor were corrected. The tenant was served with a copy of the owner's rent restoration application on October 13, 2021. The tenant responded on November 4, 2021, claiming that the owner did not repair the floors and that she hired a contractor to make the repairs.

The Agency's records indicate that the Rent Administrator requested an Agency inspection of the conditions which the owner claimed to have restored, and on November 24, 2021, an Agency inspection was conducted at the subject premises. The inspection report indicated that the condition(s) complained of by the tenant, underlying the rent reduction order, had been restored. Thus, the Rent Administrator granted the owner's rent restoration.

The Commissioner notes that where the condition(s) underlying a rent reduction has been repaired, the owner is entitled to a rent restoration. It is undisputed that the flooring found not maintained under Docket No. **HO910201S** was restored prior to the issuance of the Administrator's order in the instant case and is evidenced by the Agency inspection conducted on November 24, 2021 under Docket No. **JU910041OR**.

The Commissioner notes, concerning tenant's claim of personally financing the repairs, that the tenant is not precluded from seeking a remedy before a court of competent jurisdiction.

Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly granted the owner's rent restoration application.

The tenant is advised to file a fresh services complaint, 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, 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: **MAY 5 2022**



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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: KO110005RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: JP110017OR**

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 2, 2022, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against JP110017OR, an order the Rent Administrator issued on January 27, 2022 (the "order"), concerning the housing accommodation known as 104-40 Queens Boulevard, Apartment [REDACTED] Forest Hills, New York, wherein the Rent Administrator granted the owner's application to restore rent after the tenant failed to provide access to the apartment for the Agency inspection scheduled for September 23, 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 Petitioner requests a reversal of the Rent Administrator's order, averring that the Petitioner-tenant did not deny access for a physical inspection of the subject apartment as the tenant followed the proper procedure by calling to reschedule on September 20, 2021, and again on September 21, 2021, and that the Petitioner left a voice message for the inspector but the inspector did not return the call; the tenant raises concern as to why the Agency granted the owner's rent restoration application whereas two complaints against the owner the Petitioner filed before the underlying case are still pending; that the conditions the tenant complained about in the proceedings mirror each other, including the sink faucets and the light fixture in the master bedroom mentioned in the tenant's response to the owner's rent restoration application dated April 28, 2021; that the effective date for the rent restoration should be January 27, 2022, the date the order was issued as opposed to a retroactive date of May 1, 2021; and that a new inspection date is necessary to determine if all repairs were performed.

ADMINISTRATIVE REVIEW DOCKET NO. KO110005RT

In the owner's April 12, 2022 response, the owner, through counsel, opposes the tenant's PAR and asserts that the DHCR correctly found that the tenant failed to provide access to conduct a physical inspection of the subject unit; that the tenant does not dispute that the services have been restored; that the tenant claims that the plethora of conditions alleged are "part and parcel of the conditions the owner was required to correct", notwithstanding that the purported conditions that the tenant listed are new conditions that were not listed for the rent reduction order; and that the Rent Administrator's order should be affirmed based on the aforementioned.

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 rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored. Section 2523.4 provides that an objection to a rent restoration application by a tenant who fails to provide access at the time arranged by the DHCR for the inspection will be denied, and furthermore, DHCR Policy Statement 90-2 provides that "[i]f the tenant denies access for the DHCR inspection, then the rent will be restored."

A review of the record indicates that rent was previously reduced on March 28, 2013 under Docket No. AV110094S for the owner's failure to maintain the kitchen faucet, paint/plaster bathroom, the toilet flushing handle, the master bedroom bathroom sink faucet, the master bedroom bathroom toilet handle, the light fixture master bedroom, the master bedroom door handle, the second bedroom door handle, the paint/plaster dining room, and the paint/plaster hallway.

Subsequently, on April 9, 2021, the owner filed the underlying rent restoration application herein, Docket No. JP110017OR, asserting that all conditions found unmaintained under Docket No. AV110094S were corrected. The tenant was afforded an opportunity to respond by service of the owner's application on the tenant on April 12, 2021. In the tenant's response to the owner's application dated April 28, 2021, which was received by the DHCR on April 29, 2021, the tenant refuted the owner's claims that it had restored services.

The Rent Administrator requested an Agency inspection to ascertain if the defective kitchen faucet, the paint/plaster bathroom, the toilet flushing handle, the master bedroom bathroom sink faucet, the master bedroom bathroom toilet handle, the light fixture master bedroom, the master bedroom door handle, the second bedroom door handle, the paint/plaster dining room, and the paint/plaster hallway, the service conditions based upon which rent was reduced under Docket No. AV110094S, had been repaired.

On September 10, 2021, a Notice of Inspection ("Notice"), which scheduled an inspection for September 23, 2021, between the hours of 11:00 AM and 3:00 PM was mailed to the parties advising both parties to be present during the scheduled inspection. The Notice contained cautionary language advising the tenant that a failure to provide access (or call to reschedule the inspection) may result in a determination against the tenant's interests. The Notice also advised

ADMINISTRATIVE REVIEW DOCKET NO. KO110005RT

the tenant to notify the inspector no later than two business days in advance by calling the inspector at the number provided, and that inspections may only be rescheduled for good cause. The record shows that the tenant failed to keep the September 23, 2021 inspection.

As such, on January 27, 2022, the Rent Administrator granted the owner's rent restoration application under Docket No. JP110017OR.

The Commissioner finds that based on the evidence in the record, the Rent Administrator correctly granted the owner's rent restoration application pursuant to Section 2523.4 of the RSC and DHCR Policy Statement 90-2. In this case, 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 may result in a determination against the tenant's interest. As the inspection report reveals, the tenant failed to grant access to the inspector on the date of the scheduled inspection. The record is devoid of any evidence that the tenant requested to reschedule the inspection prior to the date of inspection as claimed by the Petitioner-tenant. In light of the above, the Commissioner finds that the tenant's claims are without merit in this case, and the tenant has not established any basis to revoke or modify the Rent Administrator's order.

The Commissioner further notes the Petitioner-tenant's contention that the Rent Administrator's order is incorrect in determining the effective date of restoration as May 1, 2021 as opposed to January 27, 2022. However, the Commissioner finds that the Rent Administrator's order is in accordance with the Agency's Policy Statement 90-2 that states that when DHCR issues an order restoring rent, the retroactive date will be the first of the month following the date of service on the tenant of the owner's application to restore rent. Here, the record shows that the owner applied for a rent restoration on April 9, 2021, affirming that services had been restored. The notice of the owner's rent restoration application and the application itself was served on the tenant on April 12, 2021. Therefore, the Commissioner finds that the effective date of the restoration order is correct as the effective date of May 1, 2021 is the first of the month following the date of service on the tenant of the owner's application to restore rent.

Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Rent Administrator properly granted the owner's rent restoration application. The Commissioner therefore finds that the tenant's PAR is denied, and the Rent Administrator's order is affirmed.

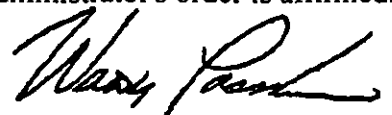
The tenant is advised that they may file a fresh service complaint if the facts so warrant.

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:

MAY 12 2022



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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: KM410026RT**

**RENT ADMINISTRATOR'S
DOCKET NO.: JM410079OR
(GQ410024S)**

PETITIONER
-----X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On January 18, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on December 24, 2021, concerning the housing accommodations located at 206 E 87th Street, Apartment [REDACTED] New York, NY, wherein the Administrator granted the owner's application to restore rent as the tenant advised, by correspondence dated September 7, 2021, that the services found not maintained in the subject apartment, during the initial proceeding under Docket No. GQ410024S, had been restored.

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.

In the tenant's PAR, the tenant stated that she had made a Freedom of Information Law (FOIL) request for the Rent Administrator's file, and that her substantive answer would be submitted on receipt of the FOIL request.

By submission dated February 10, 2022, the owner's attorneys submitted a response, indicating that the tenant's PAR must be dismissed as no basis had been stated for the PAR; that there was no specific allegation pointing to the Rent Administrator's error; that the tenant did not dispute the September 7, 2021 correspondence¹ referenced by the Rent Administrator or contest

¹ Wherein the tenant stated that the services cited in the rent reduction order below had been restored.

ADMINISTRATIVE REVIEW DOCKET NO.: KM410026RT

that the services at issue had not been restored; and that any further submission made by the tenant, pursuant to the noted FOIL, should be forwarded to the owner's attorneys.

Prior to the tenant's submission of a supplement to her petition, by a letter dated February 22, 2022, the tenant indicated that the subject apartment would be a "place to quarantine and isolate" and all inspections should be rescheduled for the week of March 28, 2022 to April 1, 2022.

In the tenant's supplemental submission dated February 22, 2022, opposed by the owner, the tenant requests a reversal of the Rent Administrator's order, contending that while the owner filed to restore the rent, alleging that the tenant was unreasonably denying access, the Rent Administrator's order stated that the owner applied to restore rent based on the restoration of services; that even though the order indicated that all parties were afforded an opportunity to respond by the service of the owner's application on January 28, 2021, the tenant's page 6 in her answer (filed February 5, 2021) was not on file when she reviewed the FOIL information; that the DHCR did not consider all the facts; and that the Agency did not provide the tenant's attorneys with copies of all correspondences below. The tenant further states, in pertinent part, that on September 3, 2021, the tenant provided additional access to the Superintendent to complete the tub stopper repair, and that on September 7, 2021, the tenant informed DHCR that the Superintendent completed the sole repair that remained, the tub stopper, and to canceled the follow up inspection on September 16, 2021, and that after the part was installed, on October 1, 2021, the tenant notified the Superintendent that the tub stopper was defective.

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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

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

The Commissioner notes that in the initial proceeding, Docket No. **GQ410024S**, the Rent Administrator granted the tenant a rent reduction based on the following conditions in the subject apartment: apartment-wide peeling paint and plaster, shower/tub stopper, apartment entry door and Bedroom 1 window.

On January 5, 2021, the owner commenced the rent restoration proceeding herein below, wherein the owner alleged that the tenant was refusing access, supporting the allegation with evidence of the owner's October 5, and October 15, 2020 letters sent to the tenant for access, in compliance with Section 2523.4(d)(2) which states that the owner should advise the Agency that the tenant has denied access and submit copies of two letters sent to the tenant trying to arrange access, each of which must have been sent certified mail, return receipt requested at least eight days before the proposed access date.

The record shows that the tenant was served with a copy of the owner's rent restoration application on January 28, 2021; and by submission dated February 5, 2021, the tenant opposed

ADMINISTRATIVE REVIEW DOCKET NO.: KM410026RT

the owner's rent restoration application, stating that she did not refuse access on October 15 & 28, 2020; that she came in contact with someone diagnosed with COVID, and advised the property manager to reschedule for a safer time; and that there were mail delivery delays due to the pandemic as a result of which she did not receive the owner's October 5, 2020 letter before October 15, 2020. Attached to the tenant's response was the tenant's attorneys' two-paged letter of October 28, 2020 requesting repairs, the Agency's Notice of Commencement of Proceeding to Restore Rent, and the envelope addressed to the tenant for the underlying rent restoration proceeding mailed by this Agency.

The records indicate that the Rent Administrator requested a No-Access inspection, based on the owner's substantiation of its efforts to gain access, which was not productive. The inspection records indicates that a No-Access inspection was performed on August 31, 2021, and that a follow-up inspection was slated for September 16, 2021, for the sole purpose of effecting repairs on the shower/tub stopper. The Agency inspector reported that the tenant canceled the follow-up inspection as all defects were repaired/reinstalled/restored recently by the management. The inspector confirmed the cancellation with the tenant.

The Commissioner notes that regarding the outstanding item in the proceeding below, shower/tub stopper, a review of the records indicate that in the tenant's September 7, 2021 correspondence to the Agency, the tenant requested the cancellation of the scheduled follow-up inspection, indicating the item had been repaired on September 3, 2021.

The Commissioner notes, that based on the totality of the record before the Agency; all items for which a rent reduction was granted in the initial proceeding under Docket No. GQ410024S, were deemed repaired pursuant to the tenant's correspondence, and therefore the Rent Administrator issued the owner a rent restoration under Docket No. JM410079OR on December 24, 2021.

Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly granted the owner's rent restoration application. As noted above, the tenant in a letter dated September 7, 2021 canceled the follow-up inspection scheduled for September 16, 2021 as the sole item that was not corrected, the shower/tub stopper, was recently repaired. Thus, any subsequent condition regarding the tub stopper claimed on appeal is deemed a new issue and cannot be entertained in this appeal.

Concerning the tenant's contention that her attorneys were not served with correspondence below, the Commissioner notes that while the attorneys may have represented the tenant in a different proceeding, there was no such indication that the attorneys represented the tenant during the instant rent restoration proceeding. Apart from the tenant's attaching of the attorneys' statement of complaint addressed to the owners to her answer to the owner's rent restoration application, there was no communication from the attorneys to the Administrator in said proceeding nor any evidence of authorization of tenant representation. Furthermore, the Commissioner notes that there has been no submission from the tenant's attorneys in the instant proceeding indicating that they are still representing the tenant. Although the attorneys' names and phone number were indicated on the PAR form, there was no submission made by, or from, the

ADMINISTRATIVE REVIEW DOCKET NO.: KM410026RT

attorneys' office and no authorization of such representation. Thus, all tenant's correspondence in this proceeding have originated from the tenant, and the instant order of the Commissioner is being mailed to the tenant.

The Commissioner notes that the Rent Administrator reviewed all evidence submitted by the tenant below, including "page 6 of 6" of the tenant's submission received by the Agency on February 5, 2021, which was a copy of the envelope the Agency mailed to the tenant for the underlying rent restoration proceeding.

In light of the above, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration after the tenant confirmed that all services were restored, and that the tenant has not set forth any basis to revoke the Rent Administrator's order.

The Commissioner notes that the tenant may file a fresh complaint, if the facts warrant.

THEREFORE, in accordance with the applicable provisions 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: MAY 12 2022



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 e-filing 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 e-filed 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.

The owner filed applications to restore the rent which were denied on November 5, 2018, under Docket Number GO210073OR and on October 9, 2020, under Docket Number HN210110OR, after Agency inspections conducted respectively on October 31, 2018, and on September 8, 2020, revealed that services with respect to the presence of vermin and the condition of the kitchen wall paint were not restored (the living room closet door, apartment

ADMINISTRATIVE REVIEW DOCKET NO.: JX210031RT

entry door, and bathroom window condition were found restored under Docket Number GO210073OR).

The owner subsequently filed another application to restore the rent, the subject of the instant appeal, Docket Number IX210064OR, asserting that the tenants refused to provide access for repairs. Based on information contained in the record, the Agency mailed a Notice of Inspection to the tenants, advising the tenants that an Agency inspection was scheduled for October 4, 2021; however, the tenants requested that the inspection be rescheduled and on September 28, 2021, the Agency notified the tenants in a Notice to Reschedule Inspection that an Agency inspection was rescheduled for October 13, 2021, between 9:00 am and 12:00 pm. The notice indicated that "Failure to provide access to the inspector or the owner on the date indicated may result in a determination against your interests." Nevertheless, the record indicates that on October 13, 2021, the tenants failed to provide access for the Agency inspection. As a result, the Rent Administrator granted the owner's application to restore the rent on November 24, 2021, under Docket Number IX210064OR.

In the PAR, the petitioner-tenant asserts that various services have yet to be restored and further complains of other services that were not part of the initial underlying complaint, which therefore, cannot be entertained herein.

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"), 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. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored or that the tenant failed to provide access for repairs. Additionally, Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination.

Here, the record supports that the petitioner-tenant failed to provide access to the Agency inspector on the date of the scheduled inspection, despite notice to the tenants that failure to provide access to the Agency inspector may result in a determination against the tenants' interests. Further, there is nothing in the record to indicate that the tenant refuted the Rent Administrator's determination under Docket Number IX210064OR or provided any reason for the tenants' failure to provide access to the Agency inspector.

Based on the foregoing, the Commissioner finds that the Rent Administrator properly relied on the Agency inspector's report and further, the petitioner-tenant has not set forth any basis to revoke the Rent Administrator's order.

The Commissioner notes that the tenants may file a fresh complaint if the facts so warrant.

ADMINISTRATIVE REVIEW DOCKET NO.: JX210031RT

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:

MAY 18 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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**

-----	X	
IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
	:	ADMINISTRATIVE REVIEW
<u>B. CLARK ASSOCIATES, INC.</u>	:	DOCKET NO.: KN210004RO
(OWNER)	:	
	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.: JR210009OR
PETITIONER	:	
	:	
	:	
-----	X	

ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW

On February 8, 2022, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") against JR210009OR an order the Rent Administrator issued on February 1, 2022 (the "Order"), concerning the housing accommodation known as 250 Clarkson Avenue, Apt. [REDACTED] Brooklyn, NY 11226, wherein the Rent Administrator issued an order denying the owner's application to restore rent for the subject apartment after a DHCR inspector observed evidence of leak stains/bubbling paint/cracks on the north walls near the side windows in the subject apartment.

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 owner claims the entire apartment has been plastered and painted.

Section 2529.1 of the Rent Stabilization Code ("RSC") requires a PAR to allege the errors upon which the order being appealed is based. Additionally, RSC, section 2529.8 authorizes dismissal of a PAR if it substantially fails to comply with the provisions of the Rent Stabilization Law or Code.

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition should be dismissed because the owner has not presented any allegations of errors of fact or law that challenge the Rent Administrator's determination.

ADMINISTRATIVE REVIEW DOCKET NO.: KN210004RO

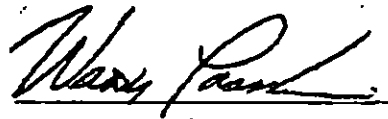
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the owner's application to restore the rent for the subject apartment after an Agency inspection revealed that the paint/plaster in the living room were not restored. Additionally, the owner's PAR fails to allege any errors upon which the order being appealed is based.

The owner is advised that it may file a new "Owner's Application to Restore Rent" with this Agency if the facts so warrant.

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

ORDERED, the petition is dismissed.

ISSUED: **MAY 18 2022**

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JX210041RT**

[REDACTED]

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: IW210076OR**

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 30, 2021, the above-named petitioner-tenant refiled a timely Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on November 16, 2021 (the "order"), concerning the housing accommodation known as 62 Lewis Avenue, Apartment [REDACTED] Brooklyn, New York wherein the Rent Administrator granted the owner's rent restoration application finding the owner corrected and restored the kitchen utility door, living room window and flooring in the kitchen, bedroom 1, bedroom 2 and bedroom 3.

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.

In the PAR, the tenant seeks a reversal of the Rent Administrator's order, denying both that the owner restored the service conditions and that she has not provided the owner with access to the apartment. The tenant claims the refrigerator is too small, the hallway ceiling needs to be repaired properly, and the kitchen tiles are still cracking even though they have been replaced several times which is a trip hazard. The tenant also disagrees with the rent being restored from January 1, 2021.

The owner, through counsel, submits a response and opposes the petition, claiming that the hallway ceiling and refrigerator issues did not form the basis of the rent reduction, and that the decision was based on the Agency inspection and should be upheld.

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

Pursuant to Rent Stabilization Code ("RSC") 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. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

The Agency records show that the tenant filed a complaint on December 20, 2019 alleging a diminution of services in the apartment assigned Docket No. HX210165S. The tenant's rent reduction application was granted by the Rent Administrator on September 23, 2020 based on an Agency inspection which found a defective kitchen utility door, a cracked living room window, mismatched kitchen floor tiles, and worn and warped flooring in bedroom 1, bedroom 2 and bedroom 3.

In the proceeding below, the owner commenced a rent restoration proceeding on November 18, 2020 wherein the owner claimed the tenant had unreasonably refused to permit the owner to restore services which was the basis for a rent reduction order. The owner submitted copies of two letters addressed and mailed to the tenant sent via United States Postal Service Certified Return Receipt Requested seeking access to the apartment, dated September 30, 2020 and October 20, 2020, for the purposes of addressing the service conditions in the rent reduction application, requesting access on October 12, 2020 and November 2, 2020 respectfully.

On December 23, 2020, the tenant was served with the owner's application. The tenant submitted an answer denying the conditions were restored and that she refused to provide access to the apartment claiming her spouse was home on October 12, 2020 and that the tenant was in the apartment on November 2, 2020, but that no one came to the apartment on either day. The tenant submitted a cell phone call log and the tenant's time and attendance record to support her claims.

Thereafter, according to the Agency record, inspections were conducted at the subject premises on July 20, 2021, October 1, 2021, and October 21, 2021, whereupon the inspectors reported that at the time of inspections, that there was no evidence of a cracked living room window and no defects to the kitchen utility door, bedroom 1 floor, bedroom 2 floor and bedroom 3 floor. The inspector found there was no evidence of mismatching flooring in the kitchen but noted two of the floor tiles were beginning to crack.

Based on the findings of the independent Agency inspectors, the Rent Administrator determined the unmaintained services condition in the kitchen, living room, bedroom 1, bedroom 2 and bedroom 3 cited in the order reducing the rent had been corrected and granted the owner's application on November 16, 2021, effective January 1, 2021. The Rent Administrator noted on Page 2 of the order that the Agency inspector reported that the replaced floor tiles were beginning to crack and directed the owner to correct the condition within thirty (30) days from the issuance of this Order.

ADMINISTRATIVE REVIEW DOCKET NO. JX210041RT

Based on the foregoing, the Commissioner finds that the Rent Administrator's determination was neither arbitrary nor capricious and was supported by a rational basis, namely the inspectors' reports and time/date stamped photographs dated July 20, 2021, October 1, 2021, and October 21, 2021, and in accordance with Agency policy and the RSC. The Administrator correctly deemed the services restored and granted the owner's application to restore the rent as the inspections revealed that the services underlying the rent reduction order were restored, which included the mismatched floor tiles, the kitchen utility door, the living room window, and the bedroom 1, bedroom 2, and bedroom 3 floor. 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. The tenant provided no evidence to rebut the clear findings of the Agency inspections.

The Commissioner finds the tenant's PAR does not establish any basis to modify or revoke the Administrator's determination, which was based on the inspectors' findings that the services were restored. The tenant's unsubstantiated claims that the services were not corrected and restored by the owner, and that other service conditions unrelated to the September 23, 2020 rent reduction under Docket No. HX210165S exist in the subject apartment are insufficient to disturb the Rent Administrator's determination. The Commissioner finds that for those services not underlying the rent reduction order that the tenant claims on appeal are outside the scope of the Commissioner's review and will not be considered in determining the propriety of the Administrator's order. The tenant is advised to file an "Application to Reduce Rent based on Decreased Services," if the facts so warrant.

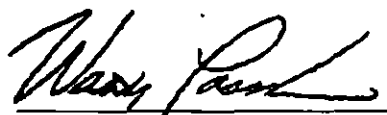
The Commissioner also notes that pursuant to DHCR Policy Statement 90-2, when DHCR issues an order restoring rent, the retroactive date will be the first of the month following the date of service on the tenant of the owner's application to restore rent. Therefore, the Commissioner finds that the effective date of January 1, 2021 is proper as the tenant was served with notice of the owner's rent restoration application on December 23, 2020.

Accordingly, the Commissioner finds that the Rent Administrator properly granted the owner a rent restoration and that the tenant has not presented any allegations of errors of law or fact to warrant reversal of the Rent Administrator's order.

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: **MAY 19 2022**


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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JV430036RO**

217 HAVEN AVENUE, LLC

PETITIONER
-----X

**RENT ADMINISTRATOR'S
DOCKET NO.: JO430092OR**

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On October 25, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on September 22, 2021 (the "order"), concerning the housing accommodation known as 227 Haven Avenue, various apartments, New York, New York, wherein the Rent Administrator denied the owner's rent restoration application based on an Agency inspection which found that not all the conditions cited in the rent reduction order had been corrected.

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 its attorney, seeks a reversal of the Rent Administrator's order based on the assertion that the Administrator's finding that the tenants are not able to view footage from the front entrance security cameras is incorrect. The owner claims all tenants can view the security camera footage with or without a mobile telephone.

The tenant of apartment [REDACTED] opposes the petition asserting the security camera service has not been restored and resubmits a copy of his April 16, 2021 answer submitted below in opposition to the owner's rent restoration application. The tenant claims, *inter alia*, that the owner changed the old security camera system which had utilized a monitor or television to the current security system which utilizes mobile telephones, which puts the responsibility on the tenants.

ADMINISTRATIVE REVIEW DOCKET NO. JV430036RO

The owner submits a follow up response to the tenant's objections and asserts the owner did not receive a copy of the referenced tenants' April 16, 2021 response. The owner requests the proceeding be remanded to allow the owner the opportunity to respond to the tenants' claims made in their April 16, 2021 submission. The owner cites to Docket numbers JV410001RK, GM810007RT, FO410072RT, and WK410031RT to support the owner's remand request.

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 ("RSC"), 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 or essential services. Section 2202.16 of the Rent and Eviction Regulations for New York City grants the District Rent Administrator power to order a decrease of the maximum rent otherwise allowable for rent controlled apartments, where there has been a decrease in maintenance of essential services. Moreover, if there is a finding that services are not maintained and an order reducing rent is issued, DHCR will subsequently issue an order restoring the rent after the required services specified in the rent reduction order have been restored. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a decision. Section 2527.5(b) of the RSC gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding.

The Agency records show the tenants filed a complaint alleging a diminution in various building-wide services, assigned under Docket No: AS430026B. The tenants' application was granted by the Rent Administrator on December 31, 2013 based on the Agency inspection which revealed the front door camera security system inoperable and the intercom was defective.

Subsequently, on January 14, 2016 the owner filed its first rent restoration application assigned Docket No: EM430068OR. On November 18, 2016, the Rent Administrator granted the owner's application finding both the intercom and security camera services restored.

Thereafter, various tenants filed timely PARs assigned Docket Nos: EX430013RT and EX430015RT against the Rent Administrator's order Docket No: EM430068OR. On December 14, 2017, the Commissioner granted the tenants' PARs and reversed the Rent Administrator's order as the record indicated that the security camera which provided the tenants with a view of the entrance's footage was abandoned and the new camera did not serve the same purpose as the previous camera. The Commissioner noted that the owner may file a rent restoration application after the necessary restoration was performed or alternatively, the owner may file an Application for Modification of Services.

On May 28, 2019, the owner filed a second rent restoration application assigned Docket No: HQ430179OR. Thereafter, on January 14, 2021, the Rent Administrator denied the owner's application based on an Agency inspection which found the security camera footage was no longer available to the tenants to view in their apartments.

In the proceeding below, the owner filed its third application to restore the rent on March 25, 2021, claiming it restored the security camera service found unmaintained in the underlying

rent reduction order. The tenants were served with the owner's rent restoration application ("Initial Notice") on April 7, 2021. Subsequently the tenant of apartment [REDACTED] submitted a letter which claimed the owner had not restored the service. Tenant's [REDACTED] letter was signed by the tenants residing in apartment [REDACTED] [REDACTED] [REDACTED] and [REDACTED]. Additionally, the tenant of apartment [REDACTED] submitted a response which asserted the condition forming the basis for the rent reduction had not been corrected.

Prompted by the owner's claim that it restored the security camera service, the Rent Administrator determined that an Agency inspection was warranted, and thereafter, the Administrator requested an Agency inspection to facilitate the resolution of the application on notice to both the owner and tenants. According to the Agency record, an inspection was conducted on August 27, 2021 by an impartial Agency inspector. The inspector observed that the tenants did not have access to view the front entrance security cameras located at 217 and 227 Haven Avenue from inside their apartments. The inspector noted that the tenants informed the inspector that the owner had changed the security camera service from a television-based system to a mobile telephone-based system which were both inoperable.

Based on the Agency inspection, the Rent Administrator on September 22, 2021, denied the owner's application to restore the rent as the tenants were found not to have access to view the security camera footage from inside their apartment either by the old system via a television or the new system via mobile telephone and were inoperable. The Administrator noted that a review of the Agency records revealed the owner had not filed an application with the Agency to modify the security camera service.

The Commissioner finds the owner's PAR does not establish any basis to modify or revoke the Rent Administrator's determination which was based on the August 27, 2021 Agency inspection which found the security camera system not restored. Contrary to the owner's unsubstantiated assertion that all the tenants could view security camera footage, the defective security camera conditions had not been restored as the Agency inspector reported the tenants were unable to view the security camera footage from their apartments. As reported herein and in the underlying rent reduction order, the security camera service was found to be inoperable.

The Commissioner further finds that the owner's claim that it did not receive a copy of tenant [REDACTED]'s answer below is insufficient to disturb the Rent Administrator's order as there is no requirement that the Agency serve a party with all submissions made by the opposing party, except in certain circumstances where such submission(s) would be relied upon by the Agency, and/or a verification or clarification of the content is required from the other party. With respect to the cases cited by the owner, the Commissioner finds that the issues therein are distinguishable from the instant matter and are therefore not dispositive of the facts herein. In the Matter of Tarkington¹, the Rent Administrator relied on the owner's submission leading to the termination of the tenant's application which was not the case herein. Here, there is no showing that the tenant's submission was relied upon by the Rent Administrator to deny the owner's rent restoration application. The Rent Administrator's determination was based on the impartial Agency inspection which found the security camera service not restored. Moreover, the owner's

¹ Adm. Rev. Docket No: JV410001RK.

reliance on the cases of Matter of Aurelien², Matter of Wise³, and Matter of Savage⁴ is also misplaced as each of these proceedings were remanded by the Commissioner for further consideration as mailed correspondence intended for the tenants therein was unintentionally not received which is not the case in the instant matter. Thus, the Commissioner finds that the owner's due process claim is without merit in this case.


Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Rent Administrator justly relied on the inspector's training and experience in the area of building inspections, as well as relied on the inspector's impartiality in conducting the inspection. The Commissioner further finds that the Administrator's determination was proper and that the owner's PAR does not establish any error of law or fact warranting a modification or the revocation of the Administrator's order.

The owner has filed an application to restore the rent currently being processed and is pending under Docket No: JX430043OR.

THEREFORE, in accordance with the applicable provisions of the Rent Stabilization Law and Code and the Rent and Eviction Regulations for the City of New York, it is

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

MAY 26 2022


Woody Pascal
Deputy Commissioner

² Adm. Rev. Docket No: GM810007RT.

³ Adm. Rev. Docket No: FO410072RT.

⁴ Adm. Rev. Docket No: WK410031RT.



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 e-filing 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 e-filed 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**

-----	X
IN THE MATTER OF THE	:
ADMINISTRATIVE APPEAL OF:	:
	:
	: ADMINISTRATIVE REVIEW
	: DOCKET NO.: JX610022RO
HGW REALTIES LLC,	:
	:
	: RENT ADMINISTRATOR'S
	: DOCKET NO.: JO610079OR
PETITIONER	:
-----	X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 16, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on November 22, 2021 (the "Order"), concerning the housing accommodation known as 133-135 Elliot Place, Bronx, NY, wherein the Rent Administrator denied the owner's application for a rent restoration.

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 November 9, 2017, various tenants filed an application for a rent reduction based upon decreased building-wide services which the Rent Administrator granted on September 14, 2018, under Docket No. FW610008B, after the record revealed that: (1) janitorial services in the bulkhead landing of building 133 were inadequate; (2) there were mismatched floor tiles throughout building 133; (3) the floor was cracking and uneven in the lobby in front of the stairway causing a possible trip hazard; (4) the floor was raised in front of apartment [REDACTED]; (5) there were mismatched tiles in front of apartment [REDACTED]; (6) there was a hole in the landing between the 1st and 2nd floor, causing a possible trip hazard; (7) there were mismatched tiles on the second floor hallway top stairs; (8) there were several cracked/loose steps in building 133 leading to the bulkhead; (9) the landing in the bulkhead was defective and raised, causing possible a trip hazard; (10) there were mismatched tiles on the landing between the 1st and 2nd floor of building 135; (11) there were mismatched broken tiles between the 2nd and 3rd floor, causing possible a trip hazard; (12) the bulkhead landing was cracked/hazardous; (13) the floor near apartment [REDACTED] was raised causing possible a trip hazard; (14) the 5th floor hallway ceiling in building 133 is water damaged with bubbling, peeling paint; (15) the entire first floor hallway/A floor/lobby in building 135 was uneven/cracking causing a possible trip hazard; (16) the floor was uneven/raised near apt. [REDACTED] in building 135, causing a possible trip hazard; (17) the bulkhead

door in building 133 was unlocked at the time of inspection and while there was no evidence of defects to the bottom panic bar latch, the top/alarm push bar and the alarm were not working at the time of inspection; (18) security is compromised in both buildings 133 and 135, as someone can open the door from outside even while the door is closed; (19) the bulkhead door in building 135 was open at the time of inspection; and (20) the bulkhead door was defective, does not self-close, hits the frame, has to be slammed in order to close, and the alarm was not working at the time of inspection. All other services complained of were found maintained.

On November 26, 2018, the petitioner-owner filed a PAR, which was granted in part, after the Commissioner determined that the 5th floor water leak should be excluded from the list of items found not maintained. On February 26, 2019, the petitioner-owner filed an application to restore the rent, which was denied on November 9, 2020, under Docket No. HN610140OR, after an Agency inspection conducted on December 28, 2019, found that: (1) the lobby floor is missing tile in building 133; (2) the hallway floor tiles near apartment [REDACTED] have a different pattern and/or color than the original tiles in building 133; (3) the repairs in the stairway floor landings in building 135 have been made with mismatched tiles as the tiles are a different color and pattern than the original tiles; (4) the roof bulkhead door at 133 Elliot Place does not lock properly, the push bar/alarm is not operational, and the door can be opened from the outside, causing a security hazard. All other services were found restored.

The petitioner-owner then filed another application to restore the rent (the subject of the instant PAR), which was denied on November 22, 2021, under Docket No. JO610079OR, pursuant to an Agency inspection conducted on August 11, 2021, which found that while services with respect to the floor coverings were restored, the push/panic bar alarm was removed from the bulkhead door in building 133. The petitioner-owner then filed the instant PAR.

In the PAR, the petitioner-owner seeks a reversal of the Rent Administrator's order asserting that the push/panic bar alarm on the bulkhead door is not required and the lack of same is a *de minimis* condition. The owner further asserts that the door has been repeatedly vandalized and the owner removed the alarm on the roof door because tenants were continually setting off the alarm to go to the roof causing the battery to die or would break the alarm off the door.

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"), 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 supports that at the time of inspection on August 11, 2021, the push/panic bar alarm on the bulkhead door was found removed. The petitioner-owner's allegation that the push/panic bar alarm is not required has no merit as the owner admitted that it provided this service prior to removing it. The Commissioner is of the opinion that ancillary services, especially of this nature which promote the security and well-being of the tenants, must

be maintained once provided. As such, the removal of the push/panic bar alarm cannot be considered *de minimis*.

In addition, the owner cites *The Matter of the Administrative Appeal of Sherwood Village Owners Corp.*, under Docket No. IK130144RO in an effort to bolster its argument that locks are not required for roof doors; however, that argument is undercut by the tenant's request in that case for "self-locking" roof doors, which is not the case herein, and further, by Section 104 of the New York State Multiple Dwelling Law, also cited by the owner, which states that a door which provides access to the roof "shall be fastened on the inside by movable bolts, hooks, or a lock which does not require a key to open from the inside of the dwelling."

Based on the foregoing, the Commissioner finds that the Rent Administrator's order under Docket No. JO610079OR was correctly issued in accordance with evidence contained in the record, and the petitioner-owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The Commissioner notes that the petitioner-owner 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: **JUN 2 2022**

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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

-----	X
IN THE MATTER OF THE	:
ADMINISTRATIVE APPEAL OF:	:
	:
	: ADMINISTRATIVE REVIEW
	: DOCKET NO.: KO210043RT
	:
	: RENT ADMINISTRATOR'S
	: DOCKET NO.: JX210105OR
	:
PETITIONER	:
	:
	:
	:
-----	X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 24, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against JX210105OR (the Order) the Rent Administrator issued on February 17, 2022, concerning the housing accommodation known as 114 Fenimore Street, Apt. [REDACTED] Brooklyn, NY 11225, and closed the matter without action.

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 the paint/plaster apartment-wide has not been restored.

On April 18, 2022, the owner's counsel opposed the tenant's claim.

After careful consideration of the entire evidence of the record, the Commissioner is of the opinion 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 in the subject premises. Similarly, when an owner restores the required or essential services in the subject premises after a service reduction order has been issued, the owner is entitled to a rent restoration.

In the proceeding below, the owner filed an application to restore the rent for the subject apartment with the Agency on December 31, 2021, alleging the restoration of services. The tenant was served with the notice of the owners application (the "Initial Notice") on January 27,

ADMINISTRATIVE REVIEW DOCKET NO.: KO210043RT

2022. The Agency records indicate that the tenant responded to the Initial Notice on February 18, 2022 with the claim that the paint/plaster problem was not corrected. While reviewing the matter below, the Rent Administrator found that the owner's application to restore rent for the subject apartment was duplicating a prior rent restoration request that was granted under Docket No. JR210068OR issued on November 23, 2021 (the Commissioner notes that such order under Docket No. JR210068OR was appealed by the subject tenant and was denied on January 28, 2022 under Docket No. JX210005RT). Based on the foregoing, on February 17, 2022, the Rent Administrator issued an order that rendered the matter closed without action ("CWA").

The Commissioner notes the tenant's contention herein that the paint condition has not been restored. However, this claim by the tenant does not challenge the decision that the Rent Administrator rendered in the matter below.

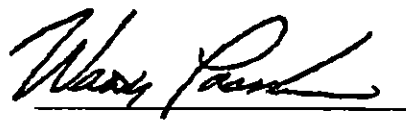
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly closed the matter below without action, and the tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The tenant is advised that she should file a new service complaint with the Agency if the facts so warrant.

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

ORDERED, the petition is denied and the rent administrator's order is affirmed.

ISSUED: **JUN 2 2022**

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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

-----	X
IN THE MATTER OF THE	:
ADMINISTRATIVE APPEAL OF:	:
	:
	: ADMINISTRATIVE REVIEW
	: DOCKET NO.: KP410012RT
	:
	: RENT ADMINISTRATOR'S
	: DOCKET NO.: JO410114OR
	:
PETITIONER	:
	:
-----	X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On April 13, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") with a claim against JO410114OR, an order the Rent Administrator issued on March 15, 2022 (the "Order"), concerning the housing accommodation known as 779 Riverside Drive, Apt. [REDACTED] New York, NY 10032, wherein the Rent Administrator issued an order restoring the rent for the subject apartment based on a finding that the owner obtained Agency approval to modify/change the trash disposal/removal service under Docket No. FT430004OD, issued on February 24, 2021.

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 argues:

- (i) the Order CN410005B ordered the rent reduction based on the owner failing to apply for a change/decrease of essential services;
- (ii) the "long standing service" of refuse removal from the tenant's door was unilaterally terminated by the owner and not restored in disregard of the tenant's right to this service under the original lease, continued under the renewal leases, and "protected by law including NYS law, code, rules and regulations (NYCRR)"; and
- (iii) the Order restoring rent transfers the "real-work obligation, duty of repair, of refuse removal from owner to tenant without compensating tenant for loss of a lawful service, and in effect deprives tenant of rights, protections and remediations under applicable law", and should be reversed.

ADMINISTRATIVE REVIEW DOCKET NO.: KP410012RT

After careful consideration of the entire evidence of record, the Commissioner is of the opinion the petition is 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. An owner is entitled to the restoration of rent when this Agency establishes that the required services that were cited in the rent reduction order have been restored or the Agency has issued an order granting the owner permission to change or decrease such required services. See Sections 2523.4, 2522.4 (d) and (e) of the Code.

In the proceeding below, the owner filed an application to restore rent for the subject apartment on March 31, 2021. The tenant was served with notice of the owner's application (the "Initial Notice") on April 15, 2021. The Agency records show that the tenant disagreed with the owner's rent restoration application on April 26, 2021. The tenant claimed that the owner's modification of garbage removal does not restore a "long-standing essential service" for which his complaint was made, and for which DHCR ordered a rent reduction.

A review of the Agency's records for the subject premises showed that on February 24, 2021, the Agency issued an order granting permission to change or decrease dwelling space, essential services, etc., in occupied apartment(s) under Docket No. FT430004OD. The order found that the owner had filed for modification of services by changing the small garbage disposal procedure from hallway garbage pick-up outside each unit's entrance door, to the tenants using the elevators to transport small garbage to the receptacles located in the basement. Based on the owner obtaining Agency approval to modify/change the trash removal service, the Rent Administrator on March 15, 2021 under the subject proceeding, Docket No. JO410114OR, granted the owner a rent restoration.

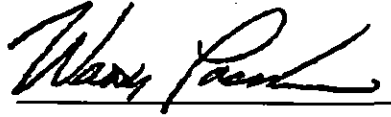
In light of the above, the Commissioner notes that the Agency, under Docket No. FT430004OD, effectively granted the owner permission to modify the trash removal service and that no appeal was filed against Docket No. FT430004OD, and therefore the tenant's failure to appeal that order in a timely manner rendered final and binding its determination on the merits. The tenant is precluded from collaterally attacking the decision under Docket No. FT430004OD in this rent restoration case.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration as the record shows that the owner was granted permission to modify the method of garbage disposal. The tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

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: **JUN 2 2022**

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 e-filing 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 e-filed 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: KO410014RT**

[REDACTED]

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: JO410028OR**

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 14, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on February 17, 2022 (the "order"), concerning the housing accommodation known as 64 East 131st Street, Apt [REDACTED], New York, New York wherein the Rent Administrator granted the owner's rent restoration application after an Agency inspection found the vermin control service restored.

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.

In the PAR, the tenant seeks a reversal of the Rent Administrator's order and asserts that the New York City Department of Housing Preservation and Development ("HPD") has documented violations for mice and roach infestations in the subject apartment both from before and through October 5, 2021; that on August 30, 2021 "Section 8" conducted an inspection of the apartment and at that time it was reported there was an infestation of mice and roaches; that throughout the tenant's 15 year tenancy the apartment has been infested with mice and roaches; that the owner is refusing to exterminate during the hours tenants are home; and the owner is refusing to take out the garbage on the days designated by "Sanitation". The tenant submits a seven paged HPD Open Violation Summary Report dated March 2, 2022 for the subject apartment which list reports dated from June 13, 2013 through February 23, 2022 along with a.

Liberty Pest Control service receipt dated February 24, 2022 for service to the baseboards of the common areas of the building.

The owner did not file an answer to the tenant's PAR.

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 ("RSC"), 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 or essential services. Moreover, if there is a finding that services are not maintained and an order reducing rent is issued, DHCR will subsequently issue an order restoring the rent after the required services specified in the rent reduction order have been restored. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a decision. Section 2527.5(b) of the RSC gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding.

The Agency records show that the tenant filed a complaint alleging issues with the stove/oven and window in the first room and rear room along with a diminution of vermin control services, assigned under Docket No. EO410138S. The tenant's application was granted by the Rent Administrator on September 16, 2016 based on an Agency inspection which revealed mice droppings in the kitchen and in the living room sofa bed¹.

In the proceeding below, the owner filed its application to restore the rent on March 4, 2021, claiming the mice had been exterminated. The tenant was afforded an opportunity to respond by service of the rent restoration application on April 8, 2021. The tenant responded asserting she disagreed with the owner's application and in substance alleged that mice were still active in the apartment. In a follow up response dated May 5, 2021, the tenant, *inter alia*, raised additional apartment conditions including ceiling leaks and a lack of a superintendent.

Subsequently, the Rent Administrator requested an Agency inspection, and it was conducted on October 5, 2021. The inspector found no evidence of vermin (mice or mice droppings) in the kitchen or living room area; and while the tenant reported to the inspector that she occasionally sees water bugs, the inspector did not observe evidence of water bugs. Based on the Agency inspection, on February 17, 2022, the Rent Administrator granted the owner's rent restoration application, finding the owner had restored the vermin control service.

The Commissioner finds the tenant has not provided a basis to revoke or modify the Rent Administrator's order. The tenant's claims that HPD had documented a mice and roach infestation before and through October 5, 2021 as well as a similar mice and roach infestation finding by "Section 8" on August 30, 2021 are not a basis in this case to disturb the Rent Administrator's determination. As noted above, the Agency inspector on October 5, 2021 reported no evidence of mice in the kitchen or living room area at the time of the inspection, indicating that the vermin control condition at issue was remedied by the owner. The

¹ The Agency inspection also revealed that the stove/oven and window in the first and rear rooms were not defective and were maintained.

Administrator properly concluded that the DHCR inspector, as a disinterested party, accurately reported the conditions in the tenant's apartment and that the Rent Administrator properly concluded the vermin control service had been restored.

Based on the foregoing, the Commissioner finds that the Rent Administrator's determination was supported by a rational basis, namely the Agency's inspector's report dated October 5, 2021. 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. The tenant has not presented any allegations of errors of law or fact to warrant reversal of the Rent Administrator's order.

The tenant is advised to file an "Application to Reduce Rent based on Decreased Services," 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:

JUN 10 2022



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 e-filing 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 e-filed documents to DHCRLegalMail@nysdhcr.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**

-----	X	
IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
 <u>PALMER AVE. ESTATES, LLC</u>	:	ADMINISTRATIVE REVIEW
(OWNER)	:	DOCKET NO.: KP610009RO
	:	
	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.: JP610031OR
PETITIONER	:	
	:	
-----	X	

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On April 11, 2022, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") with a claim against JP610031OR, an order the Rent Administrator issued on March 18, 2022 (the "Order"), concerning the housing accommodation known as 3300 Palmer Avenue, [REDACTED], Bronx, NY 10475, wherein the Rent Administrator issued an order denying the owner's application to restore rent for the subject apartment based on the fact that during a DHCR inspection, the inspector observed evidence of vermin in the apartment.

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 Owner's attorney avers, "The Order ... shows the sole condition at issue as vermin control. The vague explanation of this finding in the Order was 'There is evidence of vermin in the apartment'", and that the evidence was a single photograph of an "alleged dropping". The Owner's attorney further claims that the tenant agrees the conditions have improved, and that the observation of "roaches on a glue trap clearly indicate that extermination services are being provided."

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

ADMINISTRATIVE REVIEW DOCKET NO.: KP610009RO

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 owner filed an application to restore rent with this Agency on April 14, 2021, alleging the restoration of services (vermin control) in the subject apartment that were originally found not maintained under the rent reduction proceeding, Docket No. IR610005S. The tenant was served with notice of the owner's application (the "Initial Notice") on May 6, 2021. The Agency records indicate that the tenant did not respond to the Initial Notice. Hence, on September 8, 2021 an Agency inspection was conducted in the subject apartment. During the inspection, the inspector observed evidence of mice droppings in the apartment (in the kitchen and living room) and observed roaches on a glue trap.

Based on the foregoing details the Rent Administrator denied the owner's application to restore rent for the subject apartment on March 18, 2022.

The Commissioner notes the attorney's contention herein that there was a vague explanation for the Rent Administrator's finding, that the tenant stated the conditions have improved, and that the observation of roaches on a glue trap indicate that extermination services are being provided.

However, the Commissioner finds that these claims by the owner's attorney do not warrant a modification or reversal of the Rent Administrator's order. Agency records show that the tenant filed a service complaint with this Agency on June 4, 2020. The order reducing rent, issued on March 5, 2021, cited vermin control as the sole service not maintained after an agency inspection on December 15, 2020, ascertained the presence of vermin in the apartment. The fact that there were roaches on a glue trap and evidence of vermin (mice droppings) in the kitchen and living room during the inspection conducted during the instant rent restoration proceeding on September 8, 2021 reveals that vermin were still evident at the time of the inspection in the subject apartment, and therefore a rent restoration was not warranted at that time. Furthermore, there is no evidence in the record that the subject tenant agreed that the vermin control services were restored, only that the "conditions [were] improved since repairmen have sealed holes in various areas" in the apartment.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the owner's rent restoration request. The observation of roaches on a glue trap and mice droppings in the kitchen and living room during the DHCR inspection clearly indicates that this problem has not been eradicated from the tenant's apartment. The owner's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The Commissioner notes that the Owner has filed another rent restoration application which is currently pending under Docket No. KP610030OR.

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:

JUN 10 2022

A handwritten signature in black ink, appearing to read "Woody Pascal", written over a horizontal line.

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 efilings 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**

-----X
**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: JW210011RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: IS210011OR**

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 1, 2021, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against IS210011OR, an order the Rent Administrator issued on September 28, 2021 (the "order"), concerning the housing accommodations known as 201 East 18th Street, Various Apartments, Brooklyn, New York, wherein the Rent Administrator granted the owner's rent restoration application finding the elevator condition was restored.

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 their representative, requests a reversal of the Administrator's order averring in substance, that at a minimum, the elevator condition has not been restored as shown on the most recent OATH/ECB violation # 39047105H issued on September 9, 2021; that on October 11, 2021, an elderly tenant was trapped in the elevator until the Fire Department of New York rescued the tenant; that in anticipation of such malfunctions, the tenants are careful to never ride the elevator without their cell phones so that they will be able to call for help when trapped, and as such, the owner's rent restoration application should be denied until the elevator is safe and fully functional; that the Petitioner-tenant has submitted a Freedom Of Information Law ("FOIL") request for the records of proceeding and will supplement their PAR upon receipt if warranted. Attached to the Petitioner's PAR is a copy of the underlying order restoring the rent, a copy of FOIL request form, a copy of DHCR Fact Sheet

ADMINISTRATIVE REVIEW DOCKET NO. JW210011RT

18, a copy of OATH/ECB Violation Summary for Violation # 39047105H from the New York City Department of Building (DOB)'s website, for the subject building.

The owner, through counsel, opposes the tenant's appeal by correspondence dated December 16, 2021 affirming that the elevator has been functional, that the elevator is regularly serviced, and defects repaired whenever the owner has notice of defective conditions; that there are no current violations issued by the DOB or the New York City Housing Preservation and Development ("HPD"), and that the owner is willing to abate any HPD's violations that exist at the time of their response. The owner submitted along with their response, a letter dated December 16, 2021, from the vendor (Sentry Elevator Corp.) purporting to confirm that the tests performed showed the subject elevator was working properly, a printed copy of the OATH/ECB Violation Summary Details indicating that the DOB/ECB Violation # 39047105H for the subject premises was resolved, with a compliance date of November 1, 2021 and a copy of a mailing receipt.

The Petitioner-tenant, through counsel, by correspondence dated February 11, 2022 responded, claiming that the owner's submission fails to demonstrate that the elevator conditions were corrected, and that the letter from the vendor is vague and fails to provide any information about the work performed, and fails to reference any of the open DOB violations for the elevator, several of which are for failure to correct defects identified in inspections conducted years ago, (citing to: 05785, 05623, 03207, 04667, and 06461).

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. Likewise, an owner is entitled to a restoration of rent when it is established that the required services that were cited in the rent reduction order have been restored. Furthermore, Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination.

In this case, rent was previously reduced by an order issued on April 15, 2019, under Docket No. GU210027B based on decrease in various building-wide services that included, specifically, vermin control in the public areas, and evidence of rust on the door frame and lower portion of the elevator cab (hazardous condition). Thereafter, on May 8, 2019, the owner applied to restore rent based on the restoration of services for which rent was reduced in Docket No. GU210027B (Docket No. HQ210032OR). However, an Agency inspection of the subject premises was conducted during the pendency of the rent restoration proceeding, Docket No. HQ210032OR, on January 14, 2020. The Agency inspector noted that the bottom of the elevator door was rusted at the time of inspection. On June 25, 2020, the Rent Administrator denied the owner's rent restoration application under Docket No. HQ210032OR based on the inspection report that depicted the rust on the elevator door (the Commissioner notes that the vermin control was found restored under Docket No. HQ210032OR).

On July 7, 2020, the owner commenced the underlying rent restoration proceeding stating that they had restored the defects to the subject elevator door frame and the lower portion of the cab.

ADMINISTRATIVE REVIEW DOCKET NO. JW210011RT

The tenants were afforded an opportunity to respond to the owner's application by service effected on July 15, 2021. There is no evidence in the record showing that the tenants disputed the owner's claim or responded to the rent restoration application.

Thereafter, the Rent Administrator requested an Agency inspection to ascertain if the bottom of the elevator cab door was rusted, the underlying service condition based upon which rent was reduced under Docket No. GU430017B had been restored. On May 26, 2021, the Agency's impartial inspector conducted an inspection of the subject premises.

The Agency's inspection report confirmed that at the time of the inspection on May 26, 2021, there was no evidence of rust on the bottom of the cab door of the elevator.

Subsequent thereto, based upon a complete review of the record including the inspection report from May 26, 2021, the Rent Administrator determined that the rusty elevator door cab cited in the order reducing rent had been restored, and granted the owner's application to restore rent under Docket No. IS210011OR, the subject of this appeal.

The Commissioner notes the Petitioner's dispute with the Rent Administrator's rent restoration order under Docket No. IS210011OR. However, the Commissioner finds that the Rent Administrator's determination was proper and supported by a rational basis, namely the inspector's report that revealed there was no evidence of rust on the door frame of the elevator and the lower portion of the elevator cab at the time of the Agency inspection. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as his impartiality in conducting the inspection and noting observations depicting the restored service at issue, specifically, the rusty elevator door, was reasonable and in compliance with Section 2523.4 of the RSC and Policy Statement 90-2. As noted above, the May 26, 2021 inspection report revealed that there was no rust on the subject building's elevator door at the time of inspection.

The Commissioner further notes that the review of the Rent Administrator's order in a PAR proceeding is limited to the issues or facts in the record below in accordance with Section 2529.6 of the RSC. Here, the underlying Rent Administrator's proceeding, Docket No. IS210011OR, is in regard to a rusty elevator cab door that was confirmed restored at the time of inspection, and for which a rent reduction was originally granted for under Docket No. GU210027B. As such, the Petitioner-tenant's claims pertaining to the malfunctioning of the elevator are beyond the scope of the subject appeal and are therefore beyond the review of the subject order under Docket No. IS210011OR.

In the light of the foregoing, the Commissioner finds that the Rent Administrator appropriately granted the owner a rent restoration for the rusty elevator cab door and the tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The tenant is advised to file a fresh complaint regarding any current issues with the subject elevator, should the facts so warrant.

ADMINISTRATIVE REVIEW DOCKET NO. JW210011RT

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:

JUN 24 2022



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 e-filing 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

-----	X
IN THE MATTER OF THE	:
ADMINISTRATIVE APPEAL OF:	:
	:
	: ADMINISTRATIVE REVIEW
	: DOCKET NO.: KO410049RT
	:
	: RENT ADMINISTRATOR'S
	: DOCKET NO.: JV410036OR
	:
PETITIONER	:
	:
-----	X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On March 29, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") with claims against JV410036OR, an order the Rent Administrator issued on March 2, 2022 (the "Order"), concerning the housing accommodation known as 206 East 87th Street, Apt. [REDACTED] New York, NY 10128, wherein the Rent Administrator issued an order restoring the rent for the subject apartment based on a DHCR finding that the tenant failed to provide access to a DHCR inspector and the owner/repair person pursuant to a "no access" inspection that was scheduled at the tenant's apartment on February 24, 2022.

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 tenant's follow-up filing to the PAR (received by this Agency on May 2, 2022,) the tenant requested that the Order be reversed. The tenant claims that the squeaky and spongy floors in the kitchen, living room, and bedroom were not corrected, that the tenant during the Rent Administrator's proceeding requested the inspection to be rescheduled, and that outstanding violations with the New York City Department of Housing Preservation and Development ("HPD") were not considered. The tenant attached a copy of a Tenant's Statement of Complaint(s) – Harassment, a copy of a the Notice of Settlement and the Notice of Non-Compliance Based on Inspection dated April 12, 2021 for Docket No. IX410045NC, correspondence regarding the condition of the floors, the Notice of Inspection – For Access for the subject case, Docket No. JV410036OR, pictures purporting to be of the subject floors, and the open HPD violation list for the subject premises.

ADMINISTRATIVE REVIEW DOCKET NO.: KO410049RT

On June 1, 2022, the owner objected to the tenant's appeal, claiming that the tenant's allegations are without merit and the Rent Administrator properly found that the tenant failed to provide access to the DHCR inspector.

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

In the proceeding below, the owner filed an application to restore rent with this Agency on October 14, 2021, indicating their inability to restore services in the subject apartment as the tenant was failing to provide access by submitting copies of two letters, dated August 31, 2021 and September 15, 2021, that sought access to the subject apartment to make all repairs and correct all defective conditions in the subject apartment (the Commissioner notes that such letters were sent to the tenant by certified mail, return receipt requested, requesting access more than eight days prior to such proposed access dates in accordance with Section 2523.4(d) of the Rent Stabilization Code ("RSC" or the "Code"). The tenant was served with the notice of the owner's application (the "Initial Notice") on November 1, 2021.

Agency records indicate that the tenant responded to the Initial Notice on November 19, 2021. In her response the tenant maintained that she did not deny access to her apartment, she simply informed the owner that the 10 plus days requested were not available. The tenant objected to the landlord's request for several consecutive days to access her apartment after they already had multiple opportunities to enter her apartment under Docket Nos. IX410045NC and JM410078OR.

On January 7, 2022, a Notice of Inspection – For Access was sent to the landlord and tenant with the inspection set for January 21, 2022 between 9:30 a.m. and 10:30 a.m. The tenant responded on January 18, 2022 with a notification to reschedule all DHCR inspections at 206 East 87th Street, Apt. [REDACTED] NY, NY 10128 until after the "winter surge" of the COVID19 pandemic. The tenant submitted that March 28, 2022 through April 1, 2022 were possible dates for rescheduling the inspection. The Agency sent a Notice to Cancel Inspection to all parties on January 18, 2022.

On February 14, 2022 this Agency sent a Notice of Inspection – For Access to the tenant and landlord with the inspection set for February 24, 2022 between 9:30 a.m. and 10:30 a.m. The Notice advised the tenant that the failure of the tenant to keep the appointment would result in a determination based solely on the evidence in the record. Thereafter, on February 22, 2022, the tenant sent this Agency another letter asking to reschedule the Agency inspection. However, in accordance with Section 2523.4 of the RSC and Policy Statement 90-2, the Agency inspection was conducted on February 24, 2022 as scheduled. The Inspector noted that at the time of the inspection on February 24, 2022, the owner/manager and the contractor was willing to provide repairs to the apartment at the time of the No Access inspection, but the tenant failed to keep the inspection appointment (the Inspector noted that he attempted to call the tenant, however, the tenant did not respond).

Based on the foregoing details, the Rent Administrator issued an order granting the owner's request to restore the tenant's rent for the subject apartment on March 2, 2022.

ADMINISTRATIVE REVIEW DOCKET NO.: KO410049RT

Pursuant to Section 2523.4 of 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. Likewise, an owner is entitled to a restoration of rent when it is established that the required services that were cited in the rent reduction order have been restored. Section 2523.4 and Policy Statement 90-2 also provide that an objection to a rent restoration application by a tenant who fails to provide access at the time arranged by the DHCR for the inspection will be denied.

A review of the record shows that rent was previously reduced under Docket No. EJ410476S for the failure to maintain services, specifically, in pertinent part, the living room, kitchen, and bedroom floors were "squeaky". On June 3, 2021, under Docket No. JM410078OR, the Rent Administrator granted the owner a partial rent restoration, however found that the floors in the living room, kitchen, and bedroom were still not restored.

In the instant case, the owner applied for another rent restoration, claiming that the tenant failed to provide access for repairs. In accordance with Agency policy and RSC Section 2523.4, the Rent Administrator requested a No Access inspection, providing the tenant with notice of the inspection as well as allowing the owner the chance to repair the services at the time of the Agency inspection. However, after being notified of the scheduled Agency inspection on multiple occasions, the tenant did not keep the appointment. Therefore, the Commissioner finds that the Rent Administrator properly granted the owner's rent restoration request in this case.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration, and the tenant's PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The tenant is advised to file a fresh services complaint, 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: **JUN 24 2022**



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 e-filing 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 e-filed 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.