

**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 JU630034RT**

**[REDACTED],**

**RENT ADMINISTRATOR'S  
DOCKET NO JN610009OR**

**PETITIONER**

----- X

**ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW**

On September 20, 2021, the above named petitioner tenant filed a Petition for Administrative Review ( PAR' ) of an order the Rent Administrator issued on August 16, 2021 under Docket Number JN610009OR, concerning the housing accommodation known as 1005 Jerome Avenue Bronx, NY wherein the Rent Administrator granted the owner's application to restore the 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 PAR

The Rent Administrator's order under Docket Number JN610009OR found that services with respect to water leaks in the hallway walls and ceiling, and defects to the staircase windows as described in the underlying matter under Docket Number GM630017B, were restored

In the PAR, the petitioner-tenant requests a reversal of the Rent Administrator's order however, beyond requesting a sixty (60) day extension, the petitioner-tenant offers no reason to warrant such a reversal

The Commissioner notes that the petition submitted by the petitioner-tenant can only be accepted as an individual petition because it did not contain the proper authorization to represent any other tenant as required by Section 2529 I(b)(2) of the Rent Stabilization Code (the ' Code' )

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

Section 2529 I of the Code requires a PAR to allege errors upon which the order being appealed is based Section 2529 8 of the Code authorizes the denial of a PAR if it substantially fails to comply with the provisions of the Rent Stabilization Law or Code

Here, although the petitioner tenant requests a reversal of the Rent Administrator's order, the petitioner tenant failed to contest or state any error in the Rent Administrator's order at the time of filing or at any other time. Further, no additional correspondence was received from the petitioner tenant during this PAR proceeding. The Commissioner notes that an administrative appeal proceeding is not an open-ended process.

Accordingly, the Commissioner is of the opinion that this proceeding should be dismissed as there was no issue raised against the Rent Administrator's order in this appeal.

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

**ORDERED** that this Petition for Administrative Review be, and the same hereby is, dismissed.

ISSUED **JAN 20 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  
Critz Plaza 92-31 Union Hall Street  
Jamaica NY 11453  
Web Site: [www.hcr.ny.gov](http://www.hcr.ny.gov)

### Right to Court Appeal

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

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There is no other method of appeal.

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JAMAICA, NEW YORK 11433**

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

**ADMINISTRATIVE REVIEW  
DOCKET NO IN230009RO**

2502 REALTY LLC

**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO HO210024OR**

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

On February 5, 2020, the above named petitioner owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on January 23, 2020 (the "order"), concerning the housing accommodation known as 2502 Avenue D, Brooklyn, New York, wherein the Administrator denied the owner's rent restoration application finding the elevator service not 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

After careful consideration, the Commissioner is of the opinion that the petition should be denied and that the Rent Administrator's order should be affirmed

In the PAR, the owner, through its representative, seeks a reversal of the Rent Administrator's order, claiming the order was issued as a result of illegality and irregularity, and is contrary to law and established DHCR policy. The owner asserts that the elevator is permitted to have up to 1¼ inches horizontal clearance between the elevator cab and the hallway floor as set by the United States Access Board. The owner also claims that it was unlawful for the Rent Administrator to have denied the owner's rent restoration application based on a condition not associated with the underlying rent reduction order.

ADMINISTRATIVE REVIEW DOCKET NO IN230009RO

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 and New York Courts have consistently recognized the reliability of DHCR inspections.

In the initial proceeding, rent was reduced by order issued on June 8, 2012 under Docket No. AO230011B based on the owner's failure to maintain the essential elevator service due to the existence of numerous elevator defects including, in relevant part, possible trip hazard conditions due to the elevator not leveling on the first, third, and sixth floor hallways.

The owner's first rent restoration application was filed on January 29, 2013, assigned under Docket No. BM230099OR. On December 20, 2013, the Rent Administrator denied the owner's application finding the owner had not restored the elevator service as the Agency inspection revealed there were defects to the elevator including jerking when the elevator stopped on all the floors, a large gap at the entrance to the cab, and the door frame to the cab was found to be deteriorating.

The Agency records show the owner filed a second rent restoration application on January 23, 2014 and it was assigned Docket No. CM210046OR. On April 3, 2014, the Rent Administrator denied the owner's rent restoration application finding the owner had not restored the elevator service based on an Agency inspection which revealed the elevator jerked when it stopped on all floors and that there was a large gap at the entrance to the elevator cab.

In the proceeding below, the owner commenced a subsequent rent restoration proceeding on March 12, 2019, claiming the owner had restored the elevator service. On March 14, 2019, the tenant was served with the owner's application to restore rent. The record indicates that the Rent Administrator requested an Agency inspection which was conducted on January 4, 2020. The Agency inspector found at the time of inspection a one-inch gap between the elevator cab and the hallway floor. On January 23, 2020, the Rent Administrator denied the owner's rent restoration application based on the Agency inspection report which found the elevator service not restored.

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 entire record, including the January 4, 2020 Agency inspection which revealed the elevator service had not been restored as the inspection found a one-inch gap between the elevator cab and the hallway floor. Contrary to the owner's assertion, the defective elevator service condition reported by the Agency inspector below was within the ambit of the underlying rent reduction order. As reported herein and in the underlying rent reduction order, the elevator service was found to be defective and unmaintained. The defective condition of the elevator compromises the safety of the entire premises and is a failure to provide required services pursuant to Section 2523.4 of the RSC.

ADMINISTRATIVE REVIEW DOCKET NO IN230009RO

The Commissioner further finds the owner's claims that the elevator's gap is within the limit recommended by the United States Access Board is without merit as this claim is not determinative of the facts of this proceeding as DHCR may determine whether the elevator service is being maintained by the owner. In this case based upon the Agency inspection the Rent Administrator properly determined that the elevator service was not properly restored pursuant to the RSC and Agency policy.

Based on the totality of the record, the Commissioner finds the Rent Administrator's order was correctly issued, and the Rent Administrator and Agency staff conducted the proceeding below in accordance with established law and practice, and principles of due process. The Rent Administrator's reliance on the inspector's observations, training, and experience in the area of building inspections, as well as the inspector's impartiality in conducting the inspection was reasonable. Consequently, the Commissioner finds that the owner has not presented any allegations of error of fact or law to warrant a reversal of the Rent Administrator's order.

The Commissioner notes that the owner subsequently applied for a rent restoration of the same condition which was assigned Docket No. JT210034OR and was granted on December 16, 2021.

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 **JAN 21 2022**



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Woody Pascal  
Deputy Commissioner



State of New York  
Division of Housing and Community Renewal  
Office of Rent Administration  
Gertz Plaza 92-31 Union Hall Street  
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Web Site: [www.hcr.ny.gov](http://www.hcr.ny.gov)

### Right to Court Appeal

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There is no other method of appeal.

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DIVISION OF HOUSING AND COMMUNITY RENEWAL  
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GERTZ PLAZA  
92-31 UNION HALL STREET  
JAMAICA, NEW YORK 11433**

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JV410012RT**

**[REDACTED]**

**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: HT410060OR  
(HS410034S)**

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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On October 7, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on September 3, 2021 (the "order"), concerning the housing accommodation known as 211 East 60<sup>th</sup> Street, Apt [REDACTED], New York, New York, wherein the Rent Administrator granted the owner's rent restoration application upon finding the owner had restored the tenant's living room and bedroom 1 air conditioner services.

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

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

In the PAR, the petitioner-tenant seeks a modification of the Rent Administrator's order and in substance, claims the services were not maintained on the effective date and asserts the complete restoration occurred in the summer of 2021.

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. DHCR 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 and New York Courts have consistently recognized the reliability of DHCR inspections.

The Agency records show that the tenant filed a complaint on July 7, 2019 alleging the air conditioner was broken in the living room and bedroom 1 assigned under Docket No. HS410034S. The tenant's application was granted by the Rent Administrator on August 16, 2019, effective August 1, 2019, based on an Agency inspection which revealed the air conditioners in bedroom 1 and living room were not working properly and were blowing warm air (the Inspector noted that the Superintendent provided the tenant with two temporary and portable air conditioners).

In the proceeding below, the owner filed its application to restore the rent on August 23, 2019, claiming it restored the air conditioner service in the living room and bedroom 1 found unmaintained in the underlying rent reduction order. The tenant was afforded an opportunity to respond by service of the rent restoration application ("Initial Notice") on August 26, 2019. The tenant responded and in substance claimed the owner's application should not be granted until the owner repairs the "unit that not only affects the cooling capacity" but the heating function as well. In a follow up response, the tenant claimed the cooling function was not adequate to cool the rooms. Subsequently, the Rent Administrator requested an inspection, and it was conducted on June 30, 2021. The Agency inspector found:

1. The Living room is served with air conditioner/heat combo system (wall mounted unit) and upon inspection found a properly operable (adequate temperature - 60 F at register) air conditioner regime of the wall mounted heat/air conditioner combo system, and
2. Bedroom 1 is served with air conditioner/heat combo system (wall mounted unit) and upon inspection found a properly operable (adequate temperature - 60 F at register) air conditioner regime of the wall mounted heat/air conditioner combo system.

Based on the Agency inspection, the Rent Administrator, on September 3, 2021 granted the owner's application to restore the rent finding the air conditioner services in the living room and bedroom 1 restored effective September 1, 2019.

In view of the above, the Commissioner finds the tenant's PAR does not establish any basis to modify the Rent Administrator's determination which was based on the June 30, 2021 Agency inspection which found the air conditioner service in the tenant's living room and bedroom 1 maintained. The Administrator properly concluded that the DHCR inspectors, as disinterested parties, accurately reported the conditions in the tenant's apartment and that the Rent Administrator properly concluded the services were being maintained.

Moreover, the Rent Administrator correctly established September 1, 2019 as the effective date of the rent restoration. Pursuant to DHCR Policy Statement 90-2, where DHCR

ADMINISTRATIVE REVIEW DOCKET NO. JV410012RT

issues an order restoring rent, the rent will be restored to the first of the month following the date of service on the tenant of the owner's application. Here, the owner filed their complaint on August 23, 2019 and the Agency served the tenant with the owner's application on August 26, 2019. Therefore, the first of the month following service of the application on the tenant was September 1, 2019.

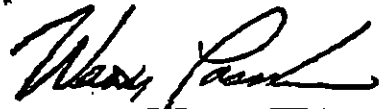
Based on the foregoing, the Commissioner finds that the Rent Administrator's determination was neither arbitrary nor capricious and was supported by a rational basis, namely the inspector's report dated June 30, 2021. The Rent Administrator's reliance on the inspector's training and experience in the 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 a modification or 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: **JAN 27 2022**



Woody Pascal  
Deputy Commissioner



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Office of Rent Administration  
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DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION  
GERTZ PLAZA  
92-31 UNION HALL STREET  
JAMAICA, NEW YORK 11433**

**IN THE MATTER OF THE  
ADMINISTRATIVE APPEAL OF**

**50 Manhattan Avenue, LLC**

**PETITIONER**

**ADMINISTRATIVE REVIEW  
DOCKET NO.: GR410022RO**

**RENT ADMINISTRATOR'S  
DOCKET NO.: FV410088OR  
(FO410039B)**

## **ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On June 19, 2018, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued on May 29, 2018, by the Rent Administrator concerning the housing accommodations known as 50 Manhattan Avenue, Various Apartments, New York, New York, wherein the Administrator denied the owner's application to restore rent, finding that the floor covering the 5th floor hall was not restored.

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 modification of the Rent Administrator's order and contends that mismatched floor tiles should not constitute a decrease in service in the absence of defects in the tiles; that a mismatched tile condition is not a Housing Maintenance Code violation and not a safety hazard; that in the Matter of Sandell Realty, LLC<sup>1</sup>, the Agency only found mismatched tiles to be a decrease in service when the tiles were loose, contained gaps, missing tiles and not leveled, which is not the case herein; and that the rent restoration order thus needs to be reviewed. The owner submitted photographs of the tiled floor to support its contention.

The tenants, represented by the Goddard Riverside Community Center Law Project, opposed the owner's petition.

<sup>1</sup> DHCR Admin. Rev. Docket No. UD410010RO.

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

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), and Section 2202.16 of the New York City Rent and Eviction Regulations ("Regulations"), 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.

The Commissioner notes that in the initial proceeding, Docket No. **FO410039B**, commenced by the tenants on March 17, 2017, rent was reduced on September 18, 2017, wherein the following items were found not maintained: floor covering on the 5<sup>th</sup> floor hall in that the ceramic floor tile on the 5<sup>th</sup> floor was mismatched; and that there were defects to the walls and the ceramic tiles around the baseboard by each apartment entrance on the 6<sup>th</sup> floor hallway.

On October 17, 2017, the owner commenced the rent restoration ("OR") proceeding herein below, wherein the owner indicated that the conditions for which a rent reduction was granted below had been resolved. On October 23, 2017, the tenants were served with a copy of the owner's rent restoration application.

The Agency's records indicate that during the subject OR proceeding, the Rent Administrator requested an Agency inspection, which was conducted on April 25, 2018. Said inspection did not indicate that the floor covering condition on the 5<sup>th</sup> floor had been restored, in that the floor tiles were found mismatched just as they were found during the underlying service reduction proceeding, Docket No. **FO410039B**. The inspection report was augmented by photographic evidence which indicated that a portion of the 5<sup>th</sup> floor covering was replaced with tiles other than the original tiles on the rest of the floor.

The Commissioner notes the owner's argument that in the absence of defects and safety hazards, mismatched tiles be deemed *de minimis* pursuant to Section 2523.4(e) is rejected. The Commissioner notes that while the Agency's policy is that an owner should not be penalized for the inability to procure matching tiles which may not be manufactured anymore or was difficult to obtain, pursuant to longstanding Agency policy, same can only be determined to be *de minimis* provided the owner submits an affidavit of good faith efforts to match the tiles. Herein, the owner did not assert a good faith effort to obtain tiles of the same color, or submit an affidavit thereto, resulting in the use of available color(s). In fact, the photographic evidence submitted by the owner shows that the owner merely put plain single-colored, large, tiles in a substantial portion of the area which already had tiny mixed-colored tiles. Thus, there is no merit to the owner's argument that the mismatched tile repairs herein should be treated as a *de minimis* condition.

The Commissioner also finds that the owner may not collaterally attack the findings in a rent reduction order in a rent restoration proceeding. The owner's assertion that mis-matched tiles is a *de minimis* condition is such a collateral attack. The underlying rent reduction order, Docket No. **FO410039B** was appealed by the owner, which was denied by the Commissioner on September 12, 2018 under Docket No. **FV410005RO**, and, as such, the rent reduction order is final.

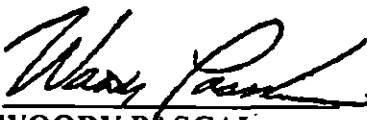
Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that there is no basis to modify or reverse the Rent Administrator's determination.

The Agency's records show that the owner had since filed two<sup>2</sup> rent restoration applications subsequently, and that the owner was granted a rent restoration under Docket No. IO430034OR, issued November 19, 2021.

**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**, 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: **JAN 27 2022**

  
**WOODY PASCAL**  
Deputy Commissioner

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<sup>2</sup> Docket Nos. GU430070OR, which was denied and IO430034OR, which was granted.



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JAMAICA, NEW YORK 11433**

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JX210005RT**

**PETITIONER**  
-----x

**RENT ADMINISTRATOR'S  
DOCKET NO.: JR210068OR  
(AS210133S)**

**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On December 2, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on November 23, 2021 (the "order"), concerning the housing accommodation known as 114 Fenimore Street, Apt [REDACTED] Brooklyn, New York, wherein the Rent Administrator granted the owner's rent restoration application upon finding the owner had restored the paint/plaster service on the foyer and living room ceilings.

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

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

In the PAR, the tenant seeks a reversal of the Rent Administrator's order asserting the original foyer issue remains uncorrected and denies the paint/plaster service was restored. The tenant submitted photographic evidence to support her claim.

The owner, through counsel, submitted an answer objecting to the tenant's appeal and requests that the Administrator's order be affirmed as issued.



## ADMINISTRATIVE REVIEW DOCKET NO. JX210005RT

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. DHCR 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 and New York Courts have consistently recognized the reliability of DHCR inspections.

The Agency records show that the tenant filed a complaint alleging a diminution of a multitude of services in her apartment including defective paint and plaster apartment-wide, assigned under Docket No. AS210133S. The tenant's application was granted by the Rent Administrator on March 14, 2013 based on an Agency inspection which revealed the light switch in the bathroom, floor/covering living room, and paint/plaster apartment-wide were defective and found to be unmaintained.

Subsequently, the owner filed the rent restoration applications, Docket Nos. BO210104OR, BV210066OR<sup>1</sup>, and DO210055OR wherein the service at issue in the instant PAR, the apartment-wide paint and plaster were found not restored.

On May 28, 2019, the owner filed a subsequent rent restoration application assigned Docket No. HQ210162OR wherein the owner asserted the remaining conditions cited in the underlying order were corrected. The Rent Administrator on November 25, 2020 determined that the conditions cited in the order reducing rent had been partially corrected in that the owner restored the living room floor/coverings. The Agency inspection had revealed that the foyer and living room ceilings had not been properly painted.

Thereafter, on June 30, 2021, the owner filed the rent restoration application below asserting the paint and plaster on the foyer and living room ceilings were corrected on June 21, 2021. The owner's rent restoration application was served on the tenant on July 14, 2021 ("Initial Notice"). The Rent Administrator requested an Agency inspection, and an inspection was conducted on October 27, 2021. The inspection revealed the living room and foyer ceilings were properly painted. On November 23, 2021, the Rent Administrator granted the owner's rent restoration application based on the Agency's inspection which revealed the owner restored the paint/plaster conditions to the foyer and living room ceilings. The Administrator noted that the other services found unmaintained in the underlying rent reduction order were found restored by the orders issued on March 17, 2014 and November 25, 2020 under Docket Nos. BV210066OR and HQ210162OR.

The Commissioner notes that the tenant disputes the inspector's findings. However, the Commissioner finds that the Rent Administrator's determination was appropriate and was supported by a rational basis, namely the inspector's report and the photographic evidence that revealed the paint and plaster apartment wide were restored at the time of the Agency inspection.

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<sup>1</sup> The Rent Administrator found on March 17, 2014 that the conditions cited in the order reducing rent had been partially corrected as an Agency inspection found the bathroom light switch restored.

ADMINISTRATIVE REVIEW DOCKET NO. JX210005RT

Thus, 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, taking photographs, and noting observations depicting the restored paint and plaster on the foyer and living room ceilings were reasonable and in compliance with Section 2523.4 of the RSC and DHCR Policy Statement 90-2.

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

The tenant is advised that they may file a fresh service application 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: **JAN 28 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](http://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@nysher.org](mailto:DHCRLegalMail@nysher.org). Upon receipt of the complete filings, the receipt of such documents will be acknowledged by email. Only after such acknowledgement of receipt of such documents will the service by email be deemed good service on New York State Division of Housing and Community Renewal (DHCR). DHCR is not the agent for service for any other entity of the State of New York or any third party. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, NY 10005. Since Article 78 proceedings take place in the Supreme Court, it is advisable that you consult legal counsel.

There is no other method of appeal.

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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JR410006RP  
(EQ410034RT)**

**52 PARTNERS LLC**

**PETITIONER**  
-----X

**RENT ADMINISTRATOR'S  
DOCKET NO.: EN410061OR**

**ORDER AND OPINION REMANDING PROCEEDING**

On May 20, 2016, the tenant of Apartment [REDACTED] filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on April 15, 2016, under Docket Number EN410061OR, concerning the housing accommodation known as 452 Fort Washington Avenue, Apartment [REDACTED] New York, New York, wherein the Rent Administrator granted an order restoring the rent for the subject apartment, effective May 1, 2008. In support of the effective date of the rent restoration order, the Rent Administrator noted that the tenant responded that all conditions were restored, and further, subsequent to the underlying order that reduced the rent for the subject apartment, Docket Number VH410100S issued on November 14, 2007 which reduced the rent to \$1.00 per month based upon a Vacate Order issued by the New York City Department of Housing Preservation and Development ("HPD"), the owner claimed that the apartment was restored to habitability as of May 1, 2008 and included a copy of a letter from the Fire Department of the City of New York as evidence of such apartment restoration.

Pursuant to the tenant's appeal of the Rent Administrator's order restoring rent, the Commissioner under Docket Number EQ410034RT on November 17, 2017 granted the tenant's PAR and modified the Rent Administrator's order, Docket Number EN410061OR. The Commissioner found that the Rent Administrator erred by establishing an effective date of May 1, 2008, and determined that the effective date of the order restoring rent, Docket Number EN410061OR was therefore modified to March 1, 2016, which was the first of the month following the date of service of the owner's rent restoration application upon the tenant.

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ADMINISTRATIVE REVIEW DOCKET NO. JR410006RP

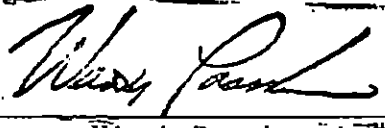
The Commissioner's order of the aforementioned PAR under Docket Number EQ410034RT was subsequently appealed in a proceeding commenced by the owner pursuant to Article 78 of the Civil Practice Law and Rules, *Matter of Piermont Court, LLC v. NYS DHCR*, Supreme Court of the State of New York, New York County, Index No. 150452/2018. In a Decision and Order of the Court dated November 19, 2018, the Honorable Justice Shlomo Hagler, J.S.C. vacated the subject PAR, Docket Number EQ410034RT and remanded the case back to the DHCR to issue a determination consistent with the record of the Court under Index No. 150452/2018. In the official Court transcript from the oral argument between the owner and DHCR on November 19, 2018, Justice Hagler stated that he was vacating the PAR order and remanding the case back to the Rent Administrator to notify the tenant's attorney, the tenant, and the owner's attorney that there is a restoration order sought through May 1, 2008, thereby giving an opportunity for the tenant to have a position regarding the delay of the owner in applying for the rent restoration under Docket Number EN410061OR.

Based on the foregoing, the Commissioner is remanding the proceeding to the Rent Administrator to provide all parties with an opportunity to comment and offer evidence and for the Rent Administrator to reconsider this matter and render a determination addressing the effective date of the owner's rent restoration application for the subject apartment.

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

ORDERED, that this petition is granted, vacating the PAR order, EQ410034RT, and remanding the proceeding to the Rent Administrator for further processing and reconsideration in accordance with this Order and Opinion.

ISSUED: **FEB 3 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  
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There is no other method of appeal.

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

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

ADMINISTRATIVE REVIEW  
DOCKET NO.: JV110014RT

██████████ :

RENT ADMINISTRATOR'S  
DOCKET NO.: IU110014OR  
(HK110233S)

PETITIONER

-----X

**ORDER AND OPINION DISMISSING PETITION FOR ADMINISTRATIVE REVIEW**

On October 12, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on September 24, 2021, concerning the housing accommodations located at 39-30 59<sup>th</sup> Street, Woodside, NY, wherein the Administrator granted the owner's application to restore rent.

The tenant contends that the tenant's collectible and initial rent was frozen pursuant to a conference held for the tenant's fair market rent appeal case, in the proceeding under Docket No. NL110017HL and that the initial order herein below, Docket No. HK110233S was part of said conference; and that the tenant's fair market appeal finding should have been enforced in the calculation of the tenant's rent during the rent restoration proceeding.

Pursuant to Section 2523.4 of the Rent Stabilization 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.

In the initial proceeding, Docket No. HK110233S commenced by the tenant on November 22, 1993, the Rent Administrator, on September 15, 1994, granted the tenant a rent reduction and directed the restoration of services based on a finding of water coloration in the kitchen and water coloration in the bathroom.

On September 2, 2020, the owner commenced the rent restoration proceeding below, and the tenant was served with a copy of the owner's rent restoration application on September 15, 2020.

The Agency records indicates that on July 6, 2021, the tenant informed the inspector that the owner had satisfactorily completed the necessary repairs, based upon which the inspection scheduled for July 8, 2021 was canceled. Thus, the Rent Administrator granted the owner's rent restoration application.

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

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

Given the entire background in the underlying proceeding(s), the tenant's PAR herein has not shown any error in the Rent Administrator's order as the tenant was only contending the calculation of the tenant's rent, not that the items found not maintained in the initial proceeding had not been repaired. The Commissioner notes that for any concerns that the tenant may have regarding rent calculation, the tenant may commence an overcharge proceeding with the Overcharge Unit of the Agency.

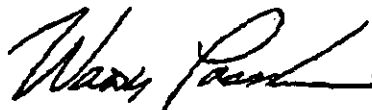
Based on the foregoing, the Commissioner finds that the tenant's petition must be dismissed, as the tenant has not established any basis to disturb the Rent Administrator's determination.

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

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

ISSUED:

**FEB 04 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  
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### **Right to Court Appeal**

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There is no other method of appeal.

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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JU410035RT**



**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IR410021OR**

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

On September 22, 2021, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against IR410021OR, an order the Rent Administrator issued on August 18, 2021 (the "order"), concerning the housing accommodation known as 407 East 69<sup>th</sup> Street, Apartment [REDACTED] New York, New York, wherein the Rent Administrator granted the owner's rent restoration application finding that Vacate Order #151949, upon which an order was issued reducing rent to \$1.00 per month under Docket No. IM410003S, was rescinded and the tenant was informed they could resume occupancy.

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 seeks a reversal of the Rent Administrator's order claiming the repairs conducted at the subject apartment was poorly performed, there is constant odor and residue of debris causing difficulties in breathing, it took a long time to have openings sealed, corks repaired, non-operable windows replaced, there is debris falling from openings on walls and moldings, and the floor is defective, causing the floor to rise and shrink based on the temperature in the apartment or from wetness underneath.

The owner responded to the tenant's appeal opposing the tenant's PAR, claiming that the tenant's PAR is without basis and that the substantial repairs in the apartment were inspected by both New York City Department of Buildings (DOB) and New York City Department of Housing Preservation and Development, and that the vacate order was rescinded.

ADMINISTRATIVE REVIEW DOCKET NO. JU410035RT

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 pursuant to Section 2520.11 (e)(7) of the New York City Rent Stabilization Code ( RSC or the Code), where a hazardous condition causes a tenant to vacate her apartment pursuant to an order from a governmental agency, following a complaint of decreased service, the DHCR is empowered pursuant to Section 2522.6 of the Code, to issue an order reducing tenant's rent to a minimal amount until the landlord restores the premises to a habitable condition. When a tenant is forced to vacate an apartment because it is legally inhabitable, the rent is established at \$1.00 per month to maintain the landlord/tenant relationship between the parties until the apartment is restored to habitability and the subject tenant has resumed possession of the apartment or refused an offer to reoccupy the subject apartment. Likewise, the DHCR will subsequently issue an order restoring the rent if there is a finding that the owner has restored the tenant to occupancy.

In the initial proceeding, on February 5, 2020 rent was reduced to \$1.00 by an order issued under Docket IM410003S based upon finding that the subject apartment was rendered inhabitable pursuant to Vacate Order # 151949 issued by the HPD.

Subsequently, on June 30, 2020, the owner filed an application to restore rent based on restoration of occupancy of the subject apartment on May 28, 2020. The owner's application was accompanied by a report dated May 18, 2020 from the HPD rescinding Vacate Order #151949 issued for the subject premises on January 8, 2020 pursuant to an inspection conducted on May 8, 2020. The owner also included a certified letter sent to the tenant advising the tenant that the apartment was available to resume occupancy on May 28, 2020.

The Agency records indicate that on July 2, 2020, the tenant was served with the owner's application including the supporting documents. On July 21, 2020, the tenant responded citing conditions in need of repair without disputing the owner's assertion that the tenant was restored to occupancy on May 28, 2020.

The Agency's review of the HPD website confirms that Vacate Order #151949 was rescinded on May 18, 2020. Based on the totality of the record, including Vacate Order #151949 was rescinded and the tenant's failure to contest the owner's claims that the subject apartment was restored to occupancy on May 28, 2020, the Rent Administrator on August 18, 2021 determined that a rent restoration was warranted, thereby granting the owner's application to restore rent under Docket No. IR410021OR.

The Commissioner finds the tenant's PAR does not establish any basis to modify or revoke the Rent Administrator's determination which was based on the entire record, including HPD's records revealing that Vacate Order #151949 was rescinded and that the tenant did not contest the owner's statement that the tenant was able to resume occupancy on May 28, 2020. As mentioned above, the Commissioner notes that the RSC permits the DHCR to issue an order restoring the rent where there is a finding that the owner has restored the tenant to occupancy. Here, the tenant was served with the owner's application to restore rent, wherein, the owner

ADMINISTRATIVE REVIEW DOCKET NO. JU410035RT

affirmed that the subject apartment had been restored and that the tenant was able to resume occupancy, and included supporting evidence. Moreover, the record shows that the tenant had opportunity to challenge the owner's claim of the tenant's occupancy, but rather, the tenant cited conditions in the subject apartment that needed repair. Thus, the Commissioner finds the Rent Administrator conducted the underlying proceeding 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 advises the tenant to file a fresh services complaint concerning the alleged conditions in the apartment needing repair as these conditions are beyond the scope of the instant proceeding.

Based on the foregoing, the Commissioner finds that the tenant's PAR has not presented any allegations of error of fact or law to warrant a reversal of the Rent Administrator's decision.

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:



Woody Pascal  
Deputy Commissioner

**FEB 04 2022**



State of New York  
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Office of Rent Administration  
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There is no other method of appeal.

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

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IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
	:	ADMINISTRATIVE REVIEW
	:	DOCKET NO.: JQ630017RT
	:	
	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.: IO630087OR
	:	
PETITIONER	:	
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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On May 17, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on May 7, 2021 (the "Order"), concerning the housing accommodation known as 1014 Gerard Avenue, Bronx, 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 October 13, 1992, various tenants filed an application for a building-wide rent reduction based on various decreased services. Agency inspections conducted on June 1, 1994 and November 14, 1994, revealed that: (1) the washing machines and dryers were not working; and (2) there was no access to storage rooms. As a result, the Rent Administrator granted the petitioners' application for a rent reduction on April 21, 1995, under Docket Number GJ630033B.

The owner subsequently filed three applications to restore the rent under Docket Numbers JF630184OR, DX630006OR and FT630125OR, which were respectively denied on March 25, 1997, September 14, 2016, and on April 9, 2018. Under Docket Number FT630125OR, the Rent Administrator found services with respect to the washing machines and dryers restored; however, there was no storage room access provided for tenants. The owner filed a fourth application to restore the rent, which was granted on May 7, 2021, under Docket Number IO630087OR, after an Agency inspection conducted on April 21, 2021, found that the lone outstanding condition of access to storage rooms was restored to tenants.

**ADMINISTRATIVE REVIEW DOCKET NO.: JQ630017RT**

In the PAR, the petitioner-tenant asserts that the Rent Administrator's order should be reversed as the tenant does not have access to the storage rooms.

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 GJ630033B was restored and that tenants are able to access to the storage room as indicated by the Agency inspection conducted on April 21, 2021. 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.

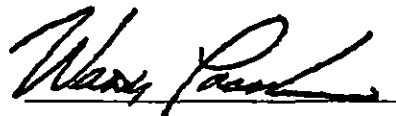
The petitioner-tenant is advised to file a fresh complaint if the facts so warrant.

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

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

ISSUED:

**FEB 04 2022**



Woody Pascal  
Deputy Commissioner



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There is no other method of appeal.



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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.: IX410002RT  
:

: RENT ADMINISTRATOR'S  
: DOCKET NO.: IN410067OR  
:

PETITIONER :  
----- X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On December 1, 2020, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on October 27, 2020 (the "Order"), concerning the housing accommodation known as 462 E. 115th Street, Apt. [REDACTED] 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 August 28, 2018, the petitioner-tenant filed an application for a rent reduction based on various decreased services, asserting that: (1) the windows to the fire escape were inoperable; (2) the bathroom ceiling required repair; (3) and water was cascading or soaking the bathroom fixture. An Agency inspection conducted on November 14, 2018, revealed that the fire escape metal bars, fire escape window exterior flushing, and fire escape lock were damaged; and the bathroom ceiling was bulging, sagging, and in danger of collapsing. As a result, the Rent Administrator granted the petitioner's application for a rent reduction on November 29, 2018, under Docket Number GT410251S.

On August 28, 2019, another Agency inspection was conducted at the subject apartment pursuant to the related non-compliance proceeding, Docket Number HM410003NC (filed on January 7, 2019), whereby the inspection revealed that there was no evidence of a collapsing ceiling and the fire escape window was operable (the window opened, closed, and locked); however, the top element of the strike hole on the fire escape window lock was bent. The non-

**ADMINISTRATIVE REVIEW DOCKET NO.: IX410002RT**

compliance proceeding was therefore closed, and the owner was advised to request a restoration of rent.

The owner subsequently filed an application to restore the rent and included the subject tenant's "Statement of Consent" signed and dated February 7, 2020, acknowledging that the tenant read the owner's rent restoration application and agreed that the services were restored. The owner's application, including the tenant's "Statement of Consent" were mailed to the tenant on February 26, 2020, providing the tenant with an opportunity to respond. No response was received from the tenant during the Rent Administrator's proceeding. Thereafter, on October 27, 2020, under Docket Number IN410067OR, after a review of the record supported that services underlying the rent reduction order Docket Number GT410251S with respect to the fire escape windows and bathroom ceiling were restored, the Rent Administrator granted the owner's rent restoration application. The petitioner-tenant then filed the instant appeal.

In the PAR, the petitioner-tenant, through counsel, asserts that the owner's application to restore the rent was never received by the tenant, and further, that the tenant signed the Tenant's Statement of Consent portion of the owner's application to restore the rent, attesting to the repairs being completed because the tenant was "nervous and uncomfortable", but agreed that some repairs were done and at the time of signing the document, the ceiling "looked okay." The tenant also claims that the repairs to the bathroom ceiling were completed in an unworkmanlike manner.

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 services complained of under Docket Number GT410251S were found maintained at the time of inspection on August 28, 2019, save for a defect on the fire escape window lock. Additionally, there is no evidence to support that the petitioner-tenant did not receive the owner's application to restore the rent, as the record does not support that any mail addressed to the tenant was returned to the Agency. Further, it is undisputed that the tenant signed the Tenant's Statement of Consent portion of the owner's application to restore the rent, attesting to the completion of repairs. As such, the Commissioner finds that the Administrator properly relied on the record, including the observations of the Agency inspector. Based on the foregoing, the petitioner has not set forth any basis to revoke the Rent Administrator's order.

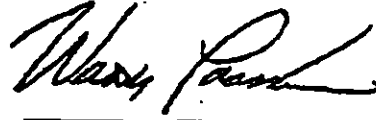
The petitioner-tenant is advised to file a fresh services complaint and/or a complaint of harassment, if the facts so warrant.

ADMINISTRATIVE REVIEW DOCKET NO.: IX410002RT

**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: **FEB 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](http://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](mailto: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.: JV410001RT**



**RENT ADMINISTRATOR'S  
DOCKET NO.: JO410116OR  
(CS410003HW)**

**PETITIONER**

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

On October 4, 2021, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on September 24, 2021, concerning the housing accommodations located at 166 West 75<sup>th</sup> Street, 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 tenant requests a reversal of the Rent Administrator's order and alleges that there was an error in fact, in that the correct New York City Department of Housing Preservation and Development (HPD) violation number that should be relied upon is Violation Number 6881990/3051221, not Violation Number 10316867; and that the tenant has attached a printout of HPD open violations, which includes Violation Number 6881990/3051221, for which the management has failed to provide clearance for.

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.

The Commissioner notes that in the initial proceeding, Docket No. CS410003HW, the Rent Administrator granted the tenant a rent reduction based on inadequate hot water, supported by the HPD Violation Number 10316867, which was in existence in the HPD database at the time of the Rent Administrator's order on September 8, 2014.

On March 12, 2021, the owner commenced the rent restoration ("OR") proceeding herein below, wherein the owner indicated that the owner made efforts to access the subject apartment, but that the tenant was refusing the owner access to perform the necessary repairs; submitting as evidence, letters requesting access on January 13, 2021, and February 8, 2021.

The tenant was served with a copy of the owner's rent restoration application on April 6, 2021. By submission dated May 12, 2021, the tenant responded to the owner's rent restoration application, that the owner was yet to comply with the initial order Docket No. CS410003HW as hot water service was still not provided in the subject apartment, *inter alia*.

The records show that at the time of the Rent Administrator's order, HPD Violation Number 10316867, upon which the initial rent reduction order was issued had been cleared from the HPD database and no new violations were on record.

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 the tenant contends herein that Violation Number 6881990/3051221, issued for inadequate hot water in the subject apartment, is still in the HPD database. Foremost, the Commissioner notes that the Rent Administrator's initial service reduction order, Docket No. CS410003HW was based on the HPD Violation Number 10316867, which was not in the HPD database at the time of the Rent Administrator's order restoring rent under Docket No. CS410003HW, issued on September 8, 2014. The Commissioner also notes that no new hot water violations were open at the time that the Rent Administrator's issued the order restoring rent below.

Additionally, the Agency's records indicate that in a separate proceeding, under Docket No. VH410002HW, on September 5, 2007, the Rent Administrator granted the tenant a rent reduction for inadequate hot water pursuant to HPD Violation Number 6881990/3051221. However, as expounded below, the continuous presence of the violation number in the HPD database, in this specific case, is beyond the scope of the subject proceedings.

Specifically, the Agency records indicate that the HPD Violation Number 6881990/3051221 may not be relied upon in the subject case as Agency records show that the owner filed a rent restoration application, Docket No. ZF410024OR, against the order under Docket No. VH410002HW, which was granted on June 27, 2011. In said proceeding, pursuant to the Agency's inspection of December 30, 2010, and the tenant's written statement dated May 17, 2011, wherein the tenant acknowledged the service restored, the Rent Administrator found that the

reduction in hot water service for which the order, under Docket No. **VH410002HW** was issued had been resolved. Therefore, the Commissioner finds that in this particular instance, the tenant is barred by the doctrine of collateral estoppel to claim that a reduction in hot water service still exists based on the HPD Violation Number 6881990/3051221.

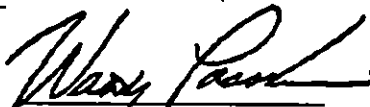
Based on the foregoing, the Commissioner finds that the Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process, and that the Administrator properly granted the owner's rent restoration application.

The 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: **FEB 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](http://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](mailto: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.: JV410023RT**



**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IV410057OR**

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

On October 14, 2021, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against IV410057OR, an order the Rent Administrator issued on October 1, 2021 (the "order"), concerning the housing accommodation known as 3111 Broadway, Apartment [REDACTED] New York, New York, wherein the Rent Administrator granted the owner's rent restoration application based upon the finding that the Petitioner did not provide access for the DHCR inspection scheduled for 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 seeks a modification of the Rent Administrator's order, averring that the Rent Administrator predicated their decision upon the owner's claim that the defective conditions were remedied without inspecting the apartment for confirmation. The Petitioner-tenant however acknowledges that they were not in town on the date scheduled for the inspection. Nevertheless, the tenant claims that they called the inspector on the date of the inspection requesting a new date, but such request was dismissed. Lastly, the tenant contends that the kitchen floors and the bathroom tiles have not been restored, and requests DHCR schedule a new date for an inspection.

The owner responded to the tenant's PAR opposing the petition claiming that the underlying services were repaired.

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ADMINISTRATIVE REVIEW DOCKET NO. JV410023RT

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 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, Section 2523.4(d)(2) provides that the 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 further, Policy Statement 90-2 provides that if the tenant fails to provide access for the DHCR inspection, then the rent will be restored.

The tenant commenced the initial proceeding on December 26, 2019, alleging various services in the subject apartment were unmaintained. An August 7, 2020 physical inspection of the apartment confirmed the owner failed to maintain the services complained of by the tenant in their application including the floor/covering kitchen, the kitchen wall(s), the kitchen countertop, the kitchen cabinets, the leaks/stains in the bathroom, and the bathroom tiles. Thereafter, the Rent Administrator granted the tenant a rent reduction for the decreased services on September 21, 2020.

On October 28, 2020, the owner filed the underlying rent restoration application wherein the owner asserted the conditions cited in the rent reduction order had been remediated. Subsequent thereto, the Rent Administrator requested an Agency inspection of the subject apartment to ascertain the condition of the issues the owner affirmed to have been corrected.

The Commissioner notes that a review of the Agency record discloses that on June 29, 2021, a Notice of Inspection ("Notice"), which scheduled an inspection for July 14, 2021, between the hours of 11:00 AM and 3:00 PM was mailed to the owner and tenant advising both parties to be present during the inspection. The Notice contained cautionary language advising the tenant that a failure to provide access (or failure to call to reschedule the appointment) may result in a determination against the tenant's interests. The record shows that the tenant failed to keep the appointment to inspect the subject apartment on July 14, 2021, as scheduled. The inspection report notes that the property manager and superintendent was present for the inspection, but that the tenant failed to keep such appointment. There is no record that the tenant requested the inspection to be rescheduled.

On October 1, 2021, upon finding that the Petitioner failed to provide access for the Agency inspection scheduled for July 14, 2021, the Rent Administrator granted the owner's rent restoration application and determined that services were restored.

The Commissioner finds that based on the evidence of record, the Rent Administrator correctly granted the owner's rent restoration application. In this case, the tenant was notified during the Rent Administrator's proceeding on June 29, 2021 that a failure to grant access to the inspector, or the failure to call two (2) days in advance to reschedule the inspection may result in a determination against the tenant's interest. The record is void of any evidence that the tenant requested to reschedule the inspection prior to the date of inspection, July 14, 2021, as advised.

ADMINISTRATIVE REVIEW DOCKET NO. JV410023RT

Consequently, based upon the RSC and Policy Statement 90-2 and the Petitioner's failure to comply with the requirement as stated above, the Commissioner finds the tenant's claim is meritless and unpersuasive in this case.


In light of the foregoing, the Commissioner finds that the tenant's PAR is denied, and that the tenant has not established any basis to modify the Rent Administrator's order.

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: **FEB 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](http://www.hcr.ny.gov)

### Right to Court Appeal

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There is no other method of appeal.

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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JU210047RO**

**151 DUPONT STREET LLC**

**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IS210062OR**

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

On September 29, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IS210062OR, an order the Rent Administrator issued on August 26, 2021 (the "order"), concerning the housing accommodation known as 151 Dupont Street, Apartment [REDACTED] Brooklyn, New York, wherein the Rent Administrator denied the owner's application to restore rent, finding that the owner failed to keep the appointment scheduled for May 25, 2021 for the purposes of physical inspection of the subject apartment.

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 seeks a modification of the Rent Administrator's order and contends that the owner did not receive the notice of inspection, and as a result, the owner requests a new inspection date; that an inspection might not be necessary as the current occupant of the subject apartment acknowledged that the owner has completed all the necessary repairs; that since the rent reduction order was issued almost three decades ago, no other tenant has complained about decreased conditions in the subject apartment; and that the loss of the inspection notice might have been precipitated by the disruptions from the Covid-19 pandemic. The owner annexed a letter to their PAR from the new tenant purporting that work has been completed in the subject apartment (the apartment was vacant at the time of the Rent Administrator's proceeding). The owner submitted a supplement to the PAR after receiving the

record below and again claimed that they did not receive notice of the inspection during the Rent Administrator's proceeding.

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. Furthermore, DHCR Policy, in accordance with the Code, recognizes that denial of a rent restoration is appropriate where an owner fails to provide access at the time arranged for an inspection. Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination.

The Commissioner notes that in the initial proceeding, Docket No. GC210631S, commenced by the tenant on March 30, 1992, rent was reduced on March 15, 1994, wherein the following items were found not maintained: leaks/stains bedroom 1; vermin control apartment-wide; kitchen and bathroom ceiling; plumbing bathroom sink; wall around tub faucet; ceiling living room; intercom; and paint/plaster apartment-wide.

A review of the Rent Administrator's record of proceeding reveals that the owner previously applied for a rent restoration assigned Docket No. CO210055OR, and that such application was denied based upon the owner failing to keep the scheduled Agency inspection for February 5, 2015.

On July 23, 2020, the owner commenced the rent restoration proceeding herein below, wherein the owner indicated that the conditions for which a rent reduction was granted had been resolved. On July 28, 2020, the "current occupant" was served with a copy of the owner's rent restoration application.

The Agency records indicate that during the subject owner restoration proceeding, the Rent Administrator requested an Agency inspection. The Commissioner notes that a review of the administrative file in this matter discloses that on May 14, 2021, a Notice of Inspection ("Notice"), which scheduled an inspection for May 25, 2021 between the hours of 9:00 AM and 10:00 AM was mailed to the owner advising them to be present and provide access during the inspection, and to notify the inspector prior to the date of the scheduled inspection if there is any new tenant in the subject apartment. The record shows that the owner failed to keep the appointment to inspect the subject apartment on May 25, 2021 as scheduled and did not inform the Agency that there is a new tenant in the subject apartment as advised.

Thereafter, on August 26, 2021, upon finding that the Petitioner failed to provide access for the Agency inspection, the Rent Administrator denied the owner the relief sought under Docket No. IS210062OR.

The Commissioner finds that the owner's claim that they did not receive notice of the Agency inspection is insufficient to warrant a revocation or modification of the Rent Administrator's order. The Rent Administrator's record reflects that the inspection notice was properly mailed to the owner on May 14, 2021 at [REDACTED] which is the address noted in the record. There is no evidence in the record indicating that the mail to the owner was returned to the Agency as undeliverable. Under established principles of law, an article which was mailed to the proper address is presumed to have been received. Therefore, the Petitioner's unsubstantiated claim that the owner did not have notice of the scheduled Agency inspection is meritless in this case.

With respect to the owner's claim that the current occupant of the subject apartment acknowledged that the owner has restored services, the Commissioner notes that the tenant did not submit notice to the Agency that they were satisfied with repairs, and the record does not indicate that the tenant executed a Statement of Consent, Part B of the owner's application affirming that services had been restored. As such the owner's claim is unpersuasive.

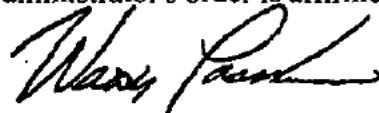
In light of the above, Commissioner finds that the Rent Administrator conducted the underlying proceeding in accordance with established law, Agency practice and principles, and that the Rent Administrator properly concluded that a rent restoration was not warranted and denied the owner's rent restoration application. The Petitioner's PAR is denied as the Petitioner does not establish any basis to revoke or modify the Rent Administrator's decision.

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: **FEB 18 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](http://www.hcr.ny.gov)

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There is no other method of appeal.



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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: HV110230RO**

**NAPA PARTNERS LLC**

**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: GR110197OR  
(DR110131S)**

-----x  
**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On October 28, 2019, the above-named petitioner-tenant filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on September 23, 2019 (the "order"), concerning the housing accommodation known as 90-38 170<sup>th</sup> Street, Apt. [REDACTED] Jamaica, New York, wherein the Rent Administrator denied the owner's rent restoration application finding the intercom service not 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.

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

In the PAR, the owner, by counsel, requests a reversal of the order claiming in substance that the intercom service is maintained at the subject premises, is presently in use and has been for many years, that the inspector found the intercom system was not broken or defective in any way, and that the tenant moved out so the new tenant would not be experiencing a decrease in services. The owner further claims that the use of a telephone-based intercom system should not be grounds for the denial of the rent restoration application as the system has been used for many years and should not be deemed a modification of services for which Agency approval is needed,

ADMINISTRATIVE REVIEW DOCKET NO. HV110230RO

citing to the Matter of [REDACTED] DHCR Adm. Rev. Docket No. RC410058RT and the Matter of [REDACTED] DHCR Adm. Rev. Docket No. EW610016RT to support their claims.

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. Section 2520.6 (r)(1) of the RSC defines required services as those services which the owner maintained or was required to maintain on the applicable base date or provided thereafter. Section 2522.4 (d) and Section 2522.4 (e) of the Code require the owner to file an application with DHCR for permission to decrease a required service, or for any modification or substitution of required services. Accordingly, no modification or substitution of required services may take place prior to the approval of the owner's application by DHCR, unless it is required for the operation of the building in accordance with specific requirements of law.

The underlying order reducing rent issued on January 13, 2016 under Docket No. DR110131S determined that the owner had modified intercom services without obtaining prior DHCR approval, by unilaterally changing the building's intercom from a bell/buzzer system to a telephone-based system which utilizes each tenant's personal landline phone or cellphone.

In the proceeding below, the owner through counsel, commenced a rent restoration proceeding on June 29, 2018, claiming the intercom service is provided and maintained in good working order. On July 13, 2018, the tenant was served with the owner's application to restore rent ("Initial Notice"). In response to a Request for Additional Information regarding the tenant of the subject apartment, the owner notified the Rent Administrator that the apartment was vacant.

Subsequently the Rent Administrator requested an Agency inspection be conducted. The Agency inspection was completed on August 26, 2019. The inspector found the following at the time of the inspection:

1. The intercom system is operating properly.
2. The intercom system is connected to either a cellphone or landline to operate; and
3. The intercom system is a video/cell/landline system.

The inspector noted that the apartment intercom system is linked to the superintendent's ([REDACTED]) cellphone and that the subject apartment is vacant.

On September 23, 2019, the Rent Administrator denied the owner's application to restore the rent based on the Agency inspection report that found the intercom system operating properly and currently using a phone-based intercom system with video features that requires the use of tenant(s) cellphone or landline to operate. However, the Rent Administrator found that the evidence of record revealed that the owner had not filed an application to modify the intercom system to a phone-based intercom system and therefore denied the owner's rent restoration application. The Rent Administrator noted that the owner may file a new application for restoration of rent once Agency approval is obtained for the modification of the intercom service.

The Commissioner finds the owner's request to reverse the Rent Administrator's order in this proceeding is without merit as the owner's claims do not refute the finding that the owner has not filed an application to modify the intercom system which had been the basis of the

ADMINISTRATIVE REVIEW DOCKET NO. HV110230RO

underlying rent reduction order. Moreover, the Commissioner finds that the owner cannot attack the Rent Administrator's rent reduction order in Docket No. DR110131S finding that the modification of the intercom service warranted a rent reduction in this appeal herein as such impermissible collateral attack is outside of the scope of the Commissioner's review in this proceeding which is an appeal of the rent restoration order, Docket No. GR110197OR (the Commissioner notes that no appeal was filed against Docket No. DR110131S and therefore such rent reduction order is final).

As for the owner's claim that the rent restoration denial was not warranted for the modification of the intercom service, the Commissioner finds is without merit in this case. It is longstanding Agency policy that an owner must first apply to the DHCR for approval of the modification of a bell/buzzer intercom system to an intercom system that uses the tenants' telephones prior to such modification, and if the owner unilaterally discontinues such bell/buzzer intercom system without Agency approval, a rent reduction is warranted. See Matter of 254 PAS Prop. LLC v. DHCR, 2012 NY Slip Op 30791(U) (Sup. Ct., NY County 2012). With respect to the case cited by the owner, Matter of [REDACTED], the Agency is not bound to follow such determination in this case as Agency policy regarding intercom service was updated following such decision (see Matter of Beach Lane Management, DHCR Adm. Rev. Docket No. VG430024RO). The Commissioner notes that Matter of [REDACTED] is not applicable to the subject case as Matter of [REDACTED] was an appeal against a building-wide service reduction order concerning services not related to intercoms.

Based on the foregoing, the Commissioner finds that the Rent Administrator, in accordance with Agency policy and the RSC, correctly deemed the intercom services not restored based on the record and properly denied the owner's rent restoration application. Accordingly, the owner's PAR is denied as the owner does not establish any basis to modify or revoke the Administrator's determination.

The Commissioner advises the owner to file an Owner's Application For Modification Of Services with this Agency as prior approval of the Agency is required when modifying an existing intercom system with a new telephone/cellphone/video-based intercom. If the Owner's Application For Modification of Services is granted, the owner may thereafter take steps to have the rent reduction lifted by filing an application for a restoration of rent.

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: **FEB 18 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](http://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](mailto: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.: JU110048RO**

**1682 Woodbine Partners, LLC :**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IX110028OR  
(PG110028S)**

**PETITIONER**

-----X

**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On September 27, 2021, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued by the Rent Administrator on September 2, 2021, concerning the housing accommodations known as 1682 Woodbine Street, Apartment [REDACTED] Ridgewood, 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, in substance, that in the proceeding under review, the Rent Administrator requested a No-Access inspection as the owner submitted evidence to show that the tenant was denying access; that the Agency's inspection was conducted on July 21, 2021; that while the Rent Administrator found that the bathroom door had been repaired, the order indicated that vermin condition was not restored, even though the order noted that an exterminator was present, whom, during the inspection, plugged holes along the kitchen baseboard, floor and set sticky traps; and that the Administrator thus "irrationally gifted the tenant" even though the tenant failed to honor the owner's two previous requests for access.

ADMINISTRATIVE REVIEW DOCKET NO.: JU110048RO

The tenant opposed the petition, stating that no one knocked on the tenant's door or called on the phone for access on the dates that the owner requested access for repairs.

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.

In the initial proceeding under Docket No. **PG110028S** the tenant filed a complaint, on July 13, 2001, alleging a diminution in various services. On November 6, 2001, the Administrator issued a rent reduction order, which found the following services not maintained: bathroom door, bathroom floor, living room window and vermin control in the subject apartment.

Agency records indicate that the owner commenced a rent restoration proceeding, Docket No. **GP110112OR** which was denied on December 3, 2018, based on an Agency's inspection of October 18, 2018, which found the door frame alignment in the bathroom and vermin control not restored; the Rent Administrator found the bathroom floor and living room window restored.

Subsequently, another rent restoration proceeding was commenced by the owner, under Docket No. **HQ110009OR** which was denied on October 2, 2020, based on an Agency's inspection of September 10, 2020, which found the door frame alignment in the bathroom and vermin control not restored.

Thereafter, on December 7, 2020, the owner filed the rent restoration application herein below, Docket No. **IX110028OR**. The owner claimed that the tenant unreasonably refused to grant the owner access to the apartment for the subject repairs. The owner's application was served on the tenant on December 15, 2020. By response dated January 4, 2021, the tenant opposed the owner's rent restoration application and claimed that the owner always has access to their home, with or without a request to inspect.

The Rent Administrator requested an "No Access" Agency inspection which was conducted on July 21, 2021. Pursuant to the Agency's inspection, the Rent Administrator found the bathroom door restored after a new door was installed, but not the vermin control, as the inspection report indicated that, although the exterminator was present and extermination services were performed on the inspection day, mouse droppings were observed throughout the kitchen (the inspector did not observe any evidence of roaches).

Based on the foregoing, the Commissioner finds that the Rent Administrator's order was correct as issued, based on the inspector's report of July 21, 2021 by the Agency's impartial inspector who is not a party to the proceeding, which confirmed a diminution in the vermin control service. The Commissioner notes, on vermin issues, the presence of the exterminator at the time of the Agency's inspection is not an indication that the issue had been resolved.

Accordingly, the Commissioner finds that there is no basis to revoke or modify the Rent Administrator's order.

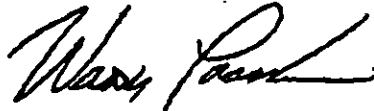
ADMINISTRATIVE REVIEW DOCKET NO.: JU110048RO

The Commissioner notes that the owner may file a fresh rent restoration application, if the facts so warrant.

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

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

ISSUED: **FEB 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](http://www.hcr.ny.gov)

### **Right to Court Appeal**

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There is no other method of appeal.



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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JV310003RO**

**DAVID WEISS**

**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IR310044OR**

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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On October 6, 2021, the above-named Petitioner-owner re-filed a Petition for Administrative Review ("PAR") against IR310044OR, an order the Rent Administrator issued on August 9, 2021 (the "order"), concerning the housing accommodation known as 1300 Richmond Avenue, Apartment [REDACTED], Staten Island, New York, wherein the Rent Administrator denied the owner's rent restoration application predicated upon an Agency inspection of the subject apartment on June 25, 2021 which confirmed that the conditions cited in the order reducing rent under Docket No. GX310207S were not fully 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 owner seeks a reversal of the Rent Administrator's order and affirms that all services have been restored, and that the tenant's denial of access was a deliberate effort to delay the processing of the case. The owner annexed access letters to the tenant and work orders purporting to support their claims on appeal.

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

Pursuant to Section 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

ADMINISTRATIVE REVIEW DOCKET NO. JV310003RO

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 9, 2019, under Docket GX310207S based on decrease in multiple apartment-wide services including defective ventilation in the kitchen and bathroom, defects to the bathroom, living room and bedroom ceiling defects, and evidence of mice in the apartment. Thereafter, on June 15, 2020, the owner applied to restore rent based on the restoration of services for which rent was reduced. In the owner's application received by the Agency on June 15, 2020, the owner certified and affirmed that the services found unmaintained in Docket No. GX310207S were restored. The tenant was afforded an opportunity to respond by service of the owner's application on July 14, 2020.

Following the owner's application to restore rent, the Rent Administrator requested an inspection of the subject premises, and an Agency inspection was conducted at the subject premises on June 25, 2021 by an Agency's impartial inspector. The inspection report revealed that, at the time of the inspection, the inspector found the following services unrestored: (1) fan/vent kitchen, improper ventilation in the kitchen; (2) bathroom, evidence of an active leak on bathroom ceiling (potential mold creation); (3) ceiling living room, living room ceiling was sagging; (4) vermin apartment, evidence of mice infestation; and (5) bedroom ceiling, unworkmanlike repair to the bedroom ceiling, bulging/unsanded surfaces.

The Rent Administrator therefore determined that the conditions cited in the order reducing rent were not corrected and denied the owner's application for rent restoration (however, the Rent Administrator found that the fan/ventilation in the bathroom was restored as evidenced by the inspection report from June 25, 2021).

The Petitioner-owner subsequently filed the instant PAR averring that the Rent Administrator's order be reversed.

After a review of the Petitioner-owner's appeal, the Commissioner finds that the Petitioner-owner has not presented any allegations of errors of fact or law against the Rent Administrator's determination on appeal that warrant reversal of the Rent Administrator's order, but instead, the owner asserts that they have complied with the Rent Administrator's instruction by restoring the services at issue.

Furthermore, the Commissioner finds that the owner's claim that the tenant "denied access" to protract the proceeding is without merit. Section 2523.4 (d)(2) of the Code provides that within the owner's application to restore rent, the owner should advise the Agency that the tenant has denied access and annex copies of two (2) letters sent to the tenant trying to arrange access, each of which must have been sent certified mail, return receipt requested at least eight (8) days before the proposed access date. Here, the owner failed to offer such evidence below, and moreover, the letters provided on PAR are beyond the scope of the subject appeal which is limited to the facts and/or evidence before the Rent Administrator. *See* Section 2529.6 of the Code. The Commissioner also finds the owner's claim that the tenant failed to provide access unavailing in this case as the owner affirmed in their rent restoration application that the services

ADMINISTRATIVE REVIEW DOCKET NO. JV310003RO

were restored, however, the Agency inspection conducted on June 25, 2021 contradicted such claim by the owner. Accordingly, the Rent Administrator properly relied upon the Agency inspection when making the determination in this case.


Based upon the foregoing, the Commissioner finds that the Rent Administrator's order should not be disturbed, and that the Petitioner-owner's PAR is denied.

The Commissioner advises the owner to file a fresh "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:

**FEB 25 2022**

  
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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](http://www.hcr.ny.gov)

### Right to Court Appeal

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There is no other method of appeal.

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

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**IN THE MATTER OF THE  
ADMINISTRATIVE APPEAL OF:**

**VARIOUS TENANTS OF 2518 FREDERICK  
DOUGLASS BLVD.**

**PETITIONERS**

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**ADMINISTRATIVE REVIEW  
DOCKET NO.: JT410013RT**

**RENT ADMINISTRATOR'S  
DOCKET NO.: HR410040OR**

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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On August 11, 2021, the above-named petitioner-tenants filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on July 7, 2021 (the "Order"), concerning the housing accommodation known as 2518 Frederick Douglass Boulevard, New York, NY, wherein the Rent Administrator issued an order denying the Owner's application to restore rent for several apartments in the subject premises.

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

In the PAR, the Tenants claim that the Order incorrectly concluded that the following services were restored: mailboxes, fire escape steps, stairwells building-wide, door/roof, floor covering roof area, and door sweep main entry. The Tenants insist that these services have not been restored and that they were not notified of the January 8, 2021 inspection.

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

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant where it is determined that required services have not been maintained. Likewise, an owner is entitled to the restoration of rent when it is established that the required services that were cited in the rent reduction order have been restored. Also, 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 the Agency on June 12, 2019, alleging the restoration of services in the subject building including those services found unmaintained in the underlying rent reduction Order, Docket No. EP410026B (mailboxes, fire escape steps, stairwells building-wide, door of roof, floor tiles of the roof, the recycling bins, and the door/sweep main entry). The Owner's application included various Tenants signing "PART B – Tenant's Statement of Consent", agreeing that the services were restored. DHCR served the Tenants in the building with notice of the Owner's application (the "Initial Notice") on June 28, 2021. The Agency records indicate that multiple Tenants responded to the Initial Notice on July 25, 2021, where those Tenants refuted the Owner's application to restore rent for the services that were granted rent reductions under Docket No. EP410026B. The Tenants claimed that the mailboxes were not secured and broken, the fire escape steps were not repaired, the public hallway stairwells building-wide were cracked in various places, the recycling bins were not accessible, and the main entry door and main entry door sweep was damaged.

Based on the foregoing claims, the Agency arranged an inspection of the subject premises without notice to the Owner or Tenants. The inspection was completed on January 8, 2021. During the inspection, the impartial DHCR inspector made the following observations:

- a. Mailboxes: Mailboxes [REDACTED] and [REDACTED] were locked and closed at the time of the inspection; Mailboxes [REDACTED], [REDACTED] and [REDACTED] were not loose or unsecured at the time of the inspection.
- b. Fire Escape Steps: The inspector found no rusted/peeling paint on the fire escape steps during the inspection.
- c. Stairwells Building-wide: The inspector found no cracks on the third-floor stairwell during the inspection.
- d. Door/Roof: The inspector observed that the roof doors were locked and secure at the time of the inspection.
- e. Floor Covering/Roof Area: The inspector observed that there are no tiles on the floor of the bulkhead at the time of the inspection.
- f. Recycling Bins: The inspector noted that the building was served with a garbage chute that was operable at the time of the inspection. The inspector did not have access to the recycling room to see the arrangements.
- g. Door Sweep Main Entry: The inspector found properly operable(open/close/self-closing/locking) main entry door without any defects/damages at the time of the inspection.

The Rent Administrator requested a follow-up inspection for the recycling bins as the inspector did not have access during the January 8, 2021 inspection. During the re-inspection on June 28, 2021, the inspector noted that the Tenants had full access of regular garbage to a garbage shaft in the building, but that the recycling room was locked with no access for the Tenants. The inspector noted that the recycling is stored near the recycling room in the lobby, causing an obstruction for walking.

On July 7, 2021, based upon the inspection reports from January 8, 2021 and June 28, 2021, the Rent Administrator denied the Owner's rent restoration application, finding that the recycling

bins were not restored, however, found that the mailboxes, fire escape steps, stairwells building-wide, the door/roof, the floor covering roof area, and the door/sweep main entry were restored.

The Commissioner notes the Tenants' contention in their appeal that the services are not restored. However, this claim contradicts the above-noted findings of the neutral DHCR inspector(s) who visited the building on January 8, 2021, and June 28, 2021, finding the above listed services restored at the time of the inspections, except for the recycling bins. 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 and taking the photographs was reasonable (*see* Policy Statement 90-2).

The Commissioner also finds that the Rent Administrator and Agency staff conducted the proceeding below in accordance with established law, Agency practice, and principles of due process. An Agency notice of inspection is not required where, as in this case, those items to be inspected are building-wide and not confined to individual apartments.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the Owner's rent restoration application in accordance with Section 2523.4 of the RSC and DHCR Policy Statement 90-2. The Tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The Tenants are advised to file a fresh rent reduction application, 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: **MAR 3 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  
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**STATE OF NEW YORK  
DIVISION OF HOUSING AND COMMUNITY RENEWAL  
OFFICE OF RENT ADMINISTRATION  
GERTZ PLAZA  
92-31 UNION HALL STREET  
JAMAICA, NEW YORK, 11433**

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<b>IN THE MATTER OF THE</b>	:	
<b>ADMINISTRATIVE APPEAL OF:</b>	:	<b>ADMINISTRATIVE REVIEW</b>
	:	<b>DOCKET NO.: JU410017RO</b>
	:	
	:	<b>RENT ADMINISTRATOR'S</b>
21 EAST 9 REALTY LLC,	:	<b>DOCKET NO.: IV410019OR</b>
	:	
	:	
<b>PETITIONER</b>	:	
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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On September 7, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on August 6, 2021 (the "Order"), concerning the housing accommodation known as 21 E. 9th Street, Apt. ■, New York, NY, wherein the Rent Administrator denied the owner's application to restore rent.

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 June 20, 1994, the tenant filed an application for a rent reduction based on various decreased services, which the Rent Administrator granted on December 6, 1994, under Docket Number IF410219S, after the record revealed that services with respect to vermin control throughout the apartment, the living room window caulking and window sash/frame, and the floor/covering in the dining room, were not maintained.

On October 9, 2020, the petitioner-owner filed an application to restore the rent alleging that new living room replacement windows were installed with new caulking, the floors throughout the apartment were repaired and refinished, vermin control is provided monthly, and no vermin is present in the apartment. An Agency inspection conducted on June 24, 2021, revealed that services were restored with respect to the living room windows and apartment floors; however, services with respect to vermin were not maintained as there was evidence of an infestation of mice.

In the PAR, the petitioner seeks a modification of the Rent Administrator's order, alleging that there are no fresh or current mice droppings as the subject apartment receives pest control treatments for vermin.

ADMINISTRATIVE REVIEW DOCKET NO.: JU410017RO

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

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services. 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, including photographic evidence, supports a presence of vermin at the time of inspection on June 24, 2021. As such, the Commissioner finds that the Rent Administrator appropriately relied on the record and the petitioner-owner has not set forth any basis to modify the Rent Administrator's order.

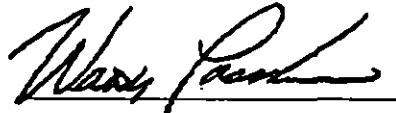
The Commissioner notes that the petitioner-owner filed a subsequent application to restore the rent on August 16, 2021, which is currently pending under Docket Number JT410060OR.

**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:

MAR 04 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](http://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](mailto: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.: JV410017RO**

**EVP 514 East 12<sup>th</sup> Street, LLC :**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IW410016OR  
(HW410170S)**

**PETITIONER**

-----X

**ORDER AND OPINION GRANTING PETITION FOR ADMINISTRATIVE REVIEW**

On October 14, 2021, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued by the Rent Administrator on September 10, 2021, concerning the housing accommodations known as 514 East 12<sup>th</sup> Street, Apartment [REDACTED] New York, 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, through counsel, requests a reversal of the Rent Administrator's order and contends, in substance, that in the proceeding under review, the Rent Administrator improperly denied the owner's rent restoration application; and that it was an error to conduct an inspection of the bathtub in the subject apartment, the only item found not maintained by the Rent Administrator – tub enamel as the owner advised the DHCR that the tenant refused to permit the owner to fix the condition at issue.

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

ADMINISTRATIVE REVIEW DOCKET NO.: JV410017RO

restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

In the initial proceeding under Docket No.: **HW410170S** the tenant filed a complaint, on November 25, 2019, alleging a diminution in various services. On August 27, 2020, the Administrator issued a rent reduction order, which found the following services not maintained: kitchen - mold at the top of the wall (refrigerator side); chipped enamel on the bathtub surface in the bathroom; and broken fire escape window thermal seal in bedroom 2.

The Agency's records indicate that on November 5, 2020, the owner commenced the rent restoration proceeding below, under Docket No. **IW410016OR**, which was served on the tenant on November 17, 2020. Said application was denied on September 10, 2021, based on an Agency's inspection of August 3, 2021, which confirmed the bathtub enamel in the bathroom not restored, while the other items were found restored.

The Commissioner notes that the owner submitted with its rider to the rent restoration application, communication from the tenant to the owner, dated February 26, 2020, wherein the tenant stated, concerning the bathtub condition and her decrease in service complaint under Docket No. **HW410170S**, that the owner's offer to reglaze the bathtub was declined by the tenant based on attendant health risks from fumes. The owner also submitted an email with the rent restoration application from the tenant from October 22, 2020 wherein the tenant stated that she received the notice about the tub reglaze and that she had "repeatedly stated" that she is unable to glaze the tub. As previously noted, the owner's rent restoration application, including all attachments were served on the tenant during the Rent Administrator's proceeding. On December 21, 2020 the tenant responded to the owner's rent restoration application, however, the tenant did not refute the owner's claim that the tenant continued to refuse the repair to the bathtub as required by the Rent Administrator's order under Docket No. **HW410170S** (the Commissioner notes that the tenant's response did indicate that the tenant did not agree that the glass on the windows or the issues with the mold were repaired, as well as claimed other service issues not related to the subject proceeding).

The Commissioner notes that when a tenant refuses repairs, and such refusal is supported by the record, a rent reduction is not warranted. Hence, in view of the tenant's correspondence of February 26, 2020, noted above, which was unrefuted by the tenant, the bathtub enamel should have been deemed restored below. Additionally, as the bathtub enamel was the only item upon which the denial of the owner's rent restoration was based, the Commissioner finds that the Rent Administrator's order should be modified to include the bathtub enamel as part of the items restored, the effect of which is that there was no outstanding diminution in service at the time of the Rent Administrator's rent restoration order, per the items found not maintained in the initial proceeding under Docket No. **HW410170S**. Accordingly, the Rent Administrator's order under Docket No. **IW410016OR** is to be corrected to include the bathtub enamel as part of the items found maintained.

The Commissioner finds that based on the irregularity indicated above, the Rent Administrator's order under Docket No. **IW410016OR** is hereby modified to grant the owner's rent restoration application, finding the sole service issue, the bathtub – chipped enamel,

ADMINISTRATIVE REVIEW DOCKET NO.: JV410017RO

maintained. 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. Accordingly, the effective date of the rent restoration order under Docket No. **IW410016OR** is December 1, 2020, the first of the month following the date of service on the tenant of the owner's application to restore rent, which was November 17, 2020.

Any arrears owed as a result of this Commissioner's Order and Opinion may be paid in equal monthly installments equal to the monthly rent reduction taken.

**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, granted, and that the Rent Administrator's order be, and the same hereby is, modified to include the bathtub enamel in the list of items found maintained based on the set of facts explicated above; and it is further

**ORDERED**, that the Rent Administrator's order pursuant to Docket No. **IW410016OR** is hereby modified to grant the owner's rent restoration application, effective December 1, 2020.

ISSUED:

MAR 04 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](http://www.hcr.ny.gov)

### **Right to Court Appeal**

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There is no other method of appeal.

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

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


**ADMINISTRATIVE REVIEW  
DOCKET NO.: JX610040RT**



**PETITIONER**

**RENT ADMINISTRATOR'S  
DOCKET NO.: IW610063OR**

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

On December 29, 2021, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against IW610063OR, an order the Rent Administrator issued on December 17, 2021 (the "order"), concerning the housing accommodation known as 1720 University Avenue, Apartment  Bronx, New York, wherein the Rent Administrator denied the owner's rent restoration application for the owner's failure to fully restore services based on DHCR August 4, 2021 inspection which revealed the presence of vermin in the kitchen and evidence of peeling paint/plaster in the living room right front window ledge/sill.

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 asserts that the Rent Administrator's order appealed herein should be modified because the kitchen window is dysfunctional as reported by the inspector, and the rest of the windows accumulate mold and humidity.

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

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

In this case, rent was previously reduced by an order issued on November 12, 2019 under Docket No. HN610067S based on apartment-wide decreased services as revealed in the DHCR October 3, 2019 inspection, including evidence of peeling paint and plaster on living room right front window ledge, the kitchen window did not lock, the bathroom window did not lock (but opened/closed properly), the bedroom #1 right window top sash slid down and did not lock, the bedroom #2 left window did not lock, the living room right front window did not open/close/lock and was off the track, the living room side window was hard to open/close and did not lock, the balance was defective, and vermin control apartment-wide.

On November 20, 2020, the owner filed the underlying rent restoration application herein, Docket No. IW610063OR, asserting that the owner painted the complete apartment, had pest control treatments, and the glass and windows were repaired in all windows. The owner asserted that they had difficulty obtaining access from the tenant, and that when the tenant eventually granted the owner access for repairs, the owner repaired the subject conditions, however, the owner further claimed that after the work was completed, the tenant refused to sign-off on the work. The owner also indicated that they were requesting an inspection of the subject unit and that the tenant refused to sign the Statement of Consent, Part B of the owner's rent restoration application.

The tenant was afforded an opportunity to respond to the owner's application by service on the tenant on November 25, 2020. On December 7, 2020, the tenant responded to the owner's application and claimed that the conditions were not repaired.

The Agency determined that an inspection was warranted to ascertain if the conditions were corrected as claimed by the owner. An inspection was ordered and an inspection was conducted at the subject premises on August 4, 2021 by the Agency's impartial inspector. The inspection report, with substantiated photographic evidence, revealed that at the time of the inspection, there were two services previously found not maintained under Docket No. HV610067S not restored: (1) there was evidence of roach infestation in the kitchen; and (2) the paint/plaster in the living room right front window ledge/sill was peeling.

Therefore, based on the owner's failure to properly restore the underlying service conditions, namely, the vermin control and paint/plaster of the living room right front window ledge/sill as reported by the inspector, the Rent Administrator denied the owner's application for rent restoration on December 17, 2021 under Docket No. IW610063OR.

The Commissioner notes the Petitioner's dispute with the inspector's findings. 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 the kitchen was infested by roaches and the paint/plaster in the living room right front window ledge/sill was peeling at the time of Agency inspection on August 4, 2021. Thus, the Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as his impartiality in

ADMINISTRATIVE REVIEW DOCKET NO. JX610040RT

conducting the inspection and noting observations depicting the two unrestored service issues was reasonable and in compliance with Section 2523.4 of the RSC and Policy Statement 90-2. As noted above, the August 4, 2021 inspection report revealed defects to the subject apartment's living room right front window ledge/sill and vermin control at the time of inspection, and the rest of the conditions previously found not maintained under Docket No. HN610067S were found restored.

Furthermore, the additional service issues that the tenant raises in the PAR including the dysfunctional kitchen window and the humidity accumulating in the windows are beyond the scope of the underlying proceeding, Docket No. IW610063OR. The service issues the tenant raises in the PAR are separate from the service issues noted above that were found unmaintained in the underlying rent reduction order, Docket No. HN610067S, and therefore, such new service complaints cannot be entertained herein. The Commissioner advises the tenant to file a fresh service application, if the facts so warrant.

In light of the foregoing, the Commissioner finds that the Rent Administrator properly relied upon the Agency inspection when denying the owner's rent restoration application, finding the living room right front window ledge/sill and vermin control not restored.

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

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:

**MAR 16 2022**



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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](http://www.hcr.ny.gov)

### **Right to Court Appeal**

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There is no other method of appeal.

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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JW910022RO**

**180 HAWTHORNE REALTY/GERALD ZEIRING**

**PETITIONER**  
-----X

**RENT ADMINISTRATOR'S  
DOCKET NO.: JO910101OR**

**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On November 8, 2021, the above-named Petitioner-owner re-filed a Petition for Administrative Review ("PAR") against JO910101OR, an order the Rent Administrator issued on August 20, 2021 (the "order"), concerning the housing accommodation known as 180 Hawthorne Avenue, Apartment [REDACTED] Yonkers, New York, wherein the Rent Administrator denied the owner's rent restoration application finding the service issue of paint/plaster living room, which was cited in the underlying order reducing rent, Docket No. YE910008S, was not fully restored as evinced from an Agency inspection conducted at the subject apartment on June 3, 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-owner requests a reversal of the Rent Administrator's order and states that the order found the living room paint/plaster condition as the only service not restored. However, the owner claims that contrary to this finding, the owner has documentary proof that the service issue was restored prior to the inspection and attached copies of invoices, pictures, emails between the management and the tenant, and an email from DHCR in regard to a harassment matter pending before the Agency to substantiate their claim.

In the tenant's response to the appeal, the tenant states that the leak in the tenant's bedroom has not been restored and claims that the owner is attempting to charge the tenant an increased rent,

ADMINISTRATIVE REVIEW DOCKET NO. JW910022RO

different than what is in their lease. The owner, in response, objected to the tenant's claims made on appeal.

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

Pursuant to Section 2503.4 of the Emergency Tenant Protection Regulations ("Regulations"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the underlying rent reduction order have been restored. Section 2507.5(b) grants the Administrator the authority to conduct an inspection at any stage of a DHCR proceeding and New York Courts have consistently held that the DHCR has broad discretion to decide if an inspection is necessary. Policy Statement 90-2 allows the Administrator to rely on an Agency inspection and New York Courts have consistently upheld the reliability of the DHCR inspections.

A review of the record shows that in the initial proceeding under Docket No. YE910008S, a rent reduction was granted on February 17, 2011 for paint/plaster living room, mildew on ceiling/bathroom, paint/plaster bedroom 2, paint/plaster hallway, fan/ventilation bathroom, intercom, and paint/plaster bathroom at the subject premises.

The owner subsequently applied for restoration of rent based on the restoration of services. The owner's application, Docket No. IX910038OR, was denied on March 3, 2021 due to the owner's failure to fully restore services as reported from the inspection on February 3, 2021 which confirmed that only the fan/ventilation bathroom and the intercom were restored.

The owner commenced the rent restoration proceeding below on March 25, 2021 and claimed that the paint/plaster living room, mildew on ceiling/bathroom, paint/plaster bedroom 2, paint/plaster hallway, and paint/plaster bathroom were restored on February 18, 2021. On April 14, 2021, the tenant was served with the owner's application to restore rent.

An inspection was ordered and thus following an inspection conducted on June 3, 2021, DHCR found only one service not restored, specifically, inter alia, the paint/plaster living room was unrestored as the ceiling/walls had cracks and the wall below the window showed evidence of leak/stain damage at the time of the Agency inspection. As a result, the Rent Administrator denied the Petitioner's application for a rent restoration on August 20, 2021, under Docket No. JO910101OR.

The Petitioner-owner then filed the instant PAR seeking a reversal of the Administrator's order.

The Commissioner finds that the Rent Administrator properly relied upon the Agency inspection when denying the owner a rent restoration. In this case, the owner claimed to have fixed the paint/plaster condition in the living room, thus warranting an Agency inspection to confirm. However, the Agency inspection revealed that the defects to the living room were not restored as the ceiling/walls had cracks and the wall below the window showed evidence of leak/stain damage at the time of the inspection, thereby warranting a denial of the owner's rent restoration

ADMINISTRATIVE REVIEW DOCKET NO. JW910022RO

application. As a result, the owner's unsubstantiated claim that the services were fully restored at the time of the DHCR inspection is unpersuasive. The Rent Administrator properly relied upon the Agency's inspection when making her determination. Accordingly, the owner's PAR has not established any basis to modify or reverse the Rent Administrator's determination.

Notwithstanding the owner's dispute with the inspector's findings, the Commissioner notes that Section 2510.3 of the Regulations states that the Commissioner's review of evidence is limited to the evidence or facts in the record below and the Petitioner is precluded from introducing new evidence on appeal. As such, the new evidence submitted by the Petitioner, including the invoices, photographs, and emails are outside of the Commissioner's scope of review in this case, and furthermore, any new issues raised by either party on appeal, cannot be herein entertained.

Based on the foregoing, the Commissioner finds that the Petitioner-owner's claim on appeal that the work was completed before the Agency inspection is without merit.

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

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

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

ISSUED:

**MAR 18 2022**



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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](http://www.hcr.ny.gov)

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There is no other method of appeal.

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

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

**ADMINISTRATIVE REVIEW  
DOCKET NO.: JV410050RO**

**321 WEST 11 ST, LLC**

**PETITIONER**  
-----X

**RENT ADMINISTRATOR'S  
DOCKET NO.: IP410014OR**

**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On October 28, 2021, the above-named Petitioner-owner filed a Petition for Administrative Review ("PAR") against IP410014OR, an order the Rent Administrator issued on September 23, 2021 (the "order"), concerning the housing accommodations known as 321 West 11<sup>th</sup> Street, Apartment [REDACTED] New York, New York, wherein the Rent Administrator denied the owner's rent restoration application upon finding that the inclined/unleveled stairs between the 4<sup>th</sup> and the 5<sup>th</sup> floor stairway cited in the order reducing rent under Docket No. EQ410012B were not fully restored at the time of Agency inspection on May 12, 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 asserts that the Rent Administrator's order appealed herein should be revoked because the Rent Administrator's order is not supported by substantial evidence which is required under the State Administrative Procedure Act ("SAPA") Sections 307 and 302(3). The owner claims that the order does not identify what evidence shows "inclined/ unleveled stairs between the 4<sup>th</sup> and the 5<sup>th</sup> floor stairway" and further, that there is no such evidence because the Petitioner-owner photographed the subject stairs upon receipt of the order using a level on each step and that no step appears to mis-level. The owner asserts that they renovated the public hall and that the steps have always been leveled from the time the hall was renovated to the date the inspection was conducted, including when the owner took photographs of the stairs.



ADMINISTRATIVE REVIEW DOCKET NO. JV410050RO

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.

In the proceeding below, rent was previously reduced by an order issued on October 13, 2016 under Docket No. EQ410012B based on decreased services including, in relevant part, cracked walls of first floor lobby; unpainted plaster patches on various areas of lobby walls; peeling paint and plaster on various areas of halls and staircase walls and ceiling; inclined/unlevelled/sloped stairs between the 4<sup>th</sup> and 5<sup>th</sup> floors; and peeling paint on handrails.

On April 29, 2020, the owner filed the underlying rent restoration application herein, Docket No. IP410014OR asserting that the repairs were completed on March 13, 2018. All parties were offered an opportunity to respond by service of the owner's application on May 7, 2020.

In order to facilitate the resolution of the owner's rent restoration application, the Rent Administrator determined that an inspection was warranted to ascertain the condition of the services previously found not maintained under Docket No. EQ410012B that were now claimed by the owner to be restored.

An Agency inspection was conducted on May 12, 2021 by an impartial DHCR inspector. The inspection report revealed that at the time of the inspection, the stair/rail condition was not restored. The impartial inspector specifically reported that he inspected the stairs between the 4<sup>th</sup> and 5<sup>th</sup> floors and found that the stairs were inclined/unleveled. All other services previously found not maintained under Docket No. EQ410012B, including the cracks on the walls in the lobby, paint/plaster lobby, and the paint/plaster in the halls/ceiling/handrails were found restored at the time of the inspection.

Therefore, based on the record, namely the inspection report of the impartial Agency inspector, the Rent Administrator, on September 23, 2021, denied the owner's application for a rent restoration under Docket No. IP410014OR, finding the unleveled stair/rail condition as the sole service not restored.

The Commissioner has carefully reviewed all of the facts as presented and concludes that the Rent Administrator's order is correct as issued, and that the Rent Administrator's reliance on the Agency records and inspector's training and experience in the area of building inspections as well as his impartiality in conducting the inspection and taking the photographs was reasonable.

The Commissioner rejects the owner's contention that there is no evidence that the rail/stair between the 4<sup>th</sup> and 5<sup>th</sup> stairway is unlevelled. The inspection report by the Agency's impartial inspector, as noted above, contradicts the owner's claims in this appeal. The impartial inspector, who is not a party to this case, made their observations and accurately reported their findings and confirmed that the defect to the rail/stair existed at the time of the inspection on May 12, 2021. Moreover, where there is a dispute as to whether required services have been provided or maintained, the Rent Administrator may rely on the results of an Agency inspection in accordance with Policy Statement 90-2. See also 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]. Additionally, any observable condition reported by the Agency's impartial inspector for which no alternative expertise is required may be properly relied upon by the Agency, and in the instant case, the stair/rail issue was discernable by visual inspection by the Agency's inspector, and further, such stair/rail defect was also observed by an Agency inspector in the underlying rent reduction order, Docket No. EQ410012B. As such, there is no merit to the owner's argument that there was no evidence of inclined/unlevelled stairs between the 4<sup>th</sup> and the 5<sup>th</sup> floor stairway as the inspection report reveals that the inspector observed such inclined/unlevelled stairs at the time of the inspection.

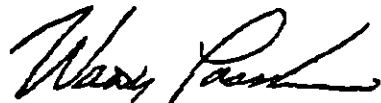
As for the owner's claim regarding SAPA requirements, the Commissioner has reviewed the order in its entirety and finds that the order is clear regarding the basis upon which the decision was made. The Rent Administrator in her order clearly cites to the inspection report from May 12, 2021, restating the inspector's observations of the stair/rail condition at the time of the inspection.

Accordingly, the Commissioner finds that there is no basis to revoke the Rent Administrator's order in this case.

The Commissioner notes that the owner has filed another rent restoration application which is currently pending under Docket No. JW410018OR.

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: **MAR 23 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](http://www.hcr.ny.gov)

### Right to Court Appeal

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

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There is no other method of appeal.

**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.: KM410020RT**

**[REDACTED]**

**RENT ADMINISTRATOR'S  
DOCKET NO.: JO410072OR  
(HB510252S)**

**PETITIONER**

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

On January 10, 2022, the above-named petitioner-tenant filed a Petition for Administrative Review (PAR) against an order of the Rent Administrator issued on December 17, 2021, concerning the housing accommodations located at 490 W. 187<sup>th</sup> Street, Apartment [REDACTED] New York, NY, wherein the Administrator granted the owner's application to restore rent after the tenant failed to provide access to the subject apartment for the purpose of a physical inspection on September 16, 2021.

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 reversal of the Rent Administrator's order, contending that the tenant was unable to grant access into the subject apartment on the day scheduled for the Agency's inspection as she was hospitalized with COVID at the time; that the tenant lives alone; and that the underlying conditions have not been corrected.

The owner responded by a letter dated February 8, 2022, contending that the tenant lives with her husband, and that on her last renewal lease<sup>1</sup>, she had also listed two other occupants in the subject apartment; that the tenant knows what to do if a change in inspection date is required

<sup>1</sup> Copy submitted by the owner, indicating other occupants in the subject apartment.

as she had done that in the past; and that the tenant was not always available even when appointments had been made.

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. DHCR Policy Statement 90-2 provides that the DHCR may rely on a DHCR inspection when making a determination, and further, if the tenant denies access for the DHCR inspection, the rent will be 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. **HB510252S**, the Rent Administrator granted the tenant a rent reduction based on the following conditions in the subject apartment: peeling paint and plaster in the hallway, cracked ceiling in the bedroom, and leaks/stains on the bedroom walls.

The Agency records indicates that the owner filed multiple rent restoration applications<sup>2</sup> prior to the filing of the rent restoration application herein below, Docket No. **JO410072OR**.

On March 10, 2021, the owner commenced the rent restoration proceeding herein below, wherein the owner indicated that the outstanding necessary repair(s) had been completed.

The tenant was served with a copy of the owner's rent restoration application on April 9, 2021; and by submission dated May 7, 2021, the tenant opposed the owner's rent restoration application.

The Agency's records indicate that the Rent Administrator had requested an inspection of the outstanding item(s) in the subject apartment. Said inspection was scheduled for September 16, 2021. A Notice of Inspection was mailed to the tenant at the subject apartment on September 2, 2021 advising the tenant of the September 16, 2021 inspection appointment and warned the tenant that the failure to provide access, without rescheduling, may result in a determination against the tenant's interests. The inspector noted in the inspection report, that at the time of the Agency's scheduled inspection on September 16, 2021, the tenant failed to grant the inspector access into the subject apartment for the purpose of physical inspection. As the tenant failed to grant access to the subject apartment, the Rent Administrator granted the owner's rent restoration application on December 17, 2021.

The Commissioner notes that where the records indicate that an inspector was unable to conduct an Agency's scheduled inspection either through a tenant's refusal or the lack of cooperation by the tenant, the Rent Administrator may properly find services restored. Based on

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<sup>2</sup> Docket Nos. CO410022OR, DT410095OR, ET410124OR, FO410164OR and HO410099OR.

the totality of the record, the Commissioner denies the tenant's petition as the record did not show any error on the side of the Rent Administrator. There is no evidence in the record that the tenant, after being advised of the inspection scheduled for September 16, 2021, attempted to notify the inspector or Agency in an attempt to reschedule.

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 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: **MAR 23 2022**



**WOODY PASCAL**  
Deputy Commissioner



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### Right to Court Appeal

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There is no other method of appeal.

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

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IN THE MATTER OF THE	:	
ADMINISTRATIVE APPEAL OF:	:	
	:	ADMINISTRATIVE REVIEW
<u>ELDRIDGE ASSOCIATES, LLC</u>	:	DOCKET NO.: JR-430010-RO
(OWNER)	:	
	:	RENT ADMINISTRATOR'S
	:	DOCKET NO.: HS-430085-OR
PETITIONER	:	
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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On June 10, 2021, the above-named Petitioner-owner timely filed a Petition for Administrative Review ("PAR") challenging HS430085OR, the order the Rent Administrator issued on May 7, 2021 (the "Order"), concerning various rent controlled and rent stabilized housing accommodations located at 135 Eldridge Street, New York, NY, wherein the Rent Administrator issued an order denying the Owner's application to restore rent, finding that the paint/plaster building-wide was not restored.

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

In the PAR, Petitioner-owner's counsel claims that all services are restored and seeks a modification of DHCR Order No. HS-430085-OR. The Owner claims that, contrary to the photographic evidence that was attached to the Owner's rent restoration application purporting to show the repairs, the Rent Administrator improperly found that the paint/plaster was not restored.

On June 28, 2021, the Agency sent notices to all Tenants affected by the PAR, providing the Tenants with an opportunity to respond to the Owner's PAR. Two Tenants responded on July 19, 2021, with requests for an extension of time to obtain translation services and retain an attorney. The two Tenants also asserted that the DHCR inspector was correct in finding defective paint and plastering throughout the building; the Owner's photographs did not show the whole picture and did not disprove what both the DHCR inspector saw on January 21, 2021, and what the Tenants in the building see every day. No further response from the Tenants were received during the pendency of this appeal.



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

Pursuant to Section 2202.16 of the New York City Rent and Eviction Regulations ("RER" or "the Regulations") and 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 Administrator may grant a rent restoration of rent where it is determined that the required services cited in the rent reduction order have been restored.

A review of the Agency's records reveal that rent was previously reduced for the subject housing accommodations on April 18, 2019 for defects with the main entrance door, unworkmanlike repairs to the public area walls and ceiling, building-wide hallway floor tiles that were cracked, inadequate janitorial services, and defective stairs on the first and second floor under Docket No. GS-430045-B.

In the proceeding below, the Owner filed an application to restore rent with this Agency on June 24, 2019, alleging the restoration of those services found not maintained at the subject premises under Docket No. GS-430045-B. The Owner provided photographs claiming to substantiate the Owner's restoration of the ceilings and walls.

The Tenants were served with notice of the Owner's application (the "Initial Notice") on August 5, 2019 and the Tenants responded on September 17, 2019, with the claim that the Owner had yet to restore the subject services. The Tenants provided photographs claiming to depict unworkmanlike repairs and cracks on walls and ceiling, unworkmanlike installation of floor coverings, inadequate janitorial service on the staircases in the building, and cracked, broken and uneven stairs. The Tenants also claimed that the invoices that were attached to the Owner's application to restore rent provided no evidence for services that were pertinent to this matter.

To facilitate the resolution of the Owner's application to restore rent, the Rent Administrator requested an Agency inspection of the services claimed to be restored by the Owner. On January 21, 2021, the subject premises was inspected and the Agency inspector reported, in relevant part, that the paint and plaster throughout the public areas were repaired in an unworkmanlike manner at the time of the inspection, specifying that there were cracks, peeling paint, and bulging and unsanded plaster observed. The Inspector substantiated the inspection report with date and time-stamped photographs depicting the varying issues with the paint and plaster.

Based on the foregoing details, including the Agency inspection from January 21, 2021, the Rent Administrator issued an order denying the Owner's rent restoration request, finding that the paint/plaster building-wide was not restored (the Rent Administrator, based on the January

21, 2021 Agency inspection, found all other conditions restored, which included the main entry door, the floor covering the hallway, the stair/rail condition, and the staircase janitorial services).

After a review of the Owner's PAR, the Commissioner finds that the Owner's appeal has not presented any allegations of errors of fact or law against the Rent Administrator's determination that warrants the modification of the Rent Administrator's order. Here, the Owner avers that they complied with the Rent Administrator's instruction by restoring the paint/plaster services at issue prior to the Owner's rent restoration application from June 24, 2019. However, this unsubstantiated claim by the Owner in this PAR is without merit and contradicts the Agency inspection conducted thereafter on January 21, 2021. As noted above, at the time of the Agency inspection, there were cracks, peeling paint, bulging and unsanded plaster, and unworkmanlike repairs throughout the public area walls and ceiling. The Agency inspection report was substantiated by date and time-stamped photographs that depicted the paint and plaster issues with the walls and ceiling. The Commissioner finds that the Rent Administrator, in accordance with the Code and Regulations and Policy Statement 90-2, properly relied on the evidence contained in the record, namely the Agency inspection report from January 21, 2021 and the corresponding date and time-stamped inspection photographs. The Rent Administrator's reliance on the Inspector's impartiality in conducting the inspection and taking the photographs was reasonable and in compliance with longstanding Agency policy.

Based on the foregoing, the Commissioner finds that the Rent Administrator correctly denied the Owner's rent restoration request. The Owner's PAR has not established any basis to modify the Rent Administrator's determination.

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 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: **MAR 24 2022**



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Woody Pascal  
Deputy Commissioner



State of New York  
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Office of Rent Administration  
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### **Right to Court Appeal**

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**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.: JU610027RO
	:	
	:	RENT ADMINISTRATOR'S
3530 DECATUR AVE ASSOC. LLC,	:	DOCKET NO.: IT610092OR
	:	
	:	
PETITIONER	:	
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**ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW**

On September 15, 2021, the above-named petitioner-owner filed a Petition for Administrative Review ("PAR") of an order the Rent Administrator issued on August 11, 2021 (the "Order"), concerning the housing accommodation known as 3530 Decatur Avenue, Apt. [REDACTED] Bronx, NY, wherein the Rent Administrator denied the owner's application to restore rent.

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 September 4, 2018, the tenant filed an application for rent reduction based on various decreased services, which the Rent Administrator granted on May 16, 2019, under Docket Number GU610006S, after the record revealed that there was evidence of vermin; the kitchen ceiling, bathroom ceiling, living room ceiling and walls, and bedroom #1 ceiling required proper plastering, sanding, and painting; the bathroom ceiling was sagging and the bathroom wall and ceiling above the shower contained evidence of mold and leaks and/or stains; the ceiling in bedroom #1 was sagging; the hall/foyer ceiling and walls contained bubbling and peeling paint and/or plaster in several areas due to water leaks; there is a gap between the top of the door to the bathroom and the head jam; the flooring in the living room near the radiator is loose and separating; the apartment entry door peephole is missing; and the bathtub/shower area is in need of caulking.

The petitioner-owner then filed a PAR on June 20, 2019, which was dismissed on July 29, 2020, under Docket Number HR610014RO. The petitioner subsequently filed an application to restore the rent, which was denied on August 11, 2021, under Docket Number IT610092OR, after an Agency inspection conducted on June 24, 2021, revealed that at the time of inspection,

the bathroom was repaired in an unworkmanlike manner; the bathroom ceiling was uneven above the bathtub; the ceiling/wall above the bathtub had evidence of mold-like stains; and the bathroom door had a one-inch gap between the top of the door and the head jamb. All other services were found restored. The petitioner-owner then filed the instant PAR.

In the instant PAR, the petitioner-owner seeks a reversal of the Rent Administrator's order, alleging that all services were restored as the bathroom was plastered and/or painted; new sheetrock was installed in the ceiling; and the bathroom door was re-fitted and re-installed.

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

Pursuant to Section 2523.4 of the Rent Stabilization Code (the "Code"), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services. Policy Statement 90-2 states that the Rent Administrator may rely on an Agency inspection when making a determination.

Here, the record supports that at the time of inspection on June 24, 2021, the bathroom ceiling was uneven and the bathroom, including the ceiling, required proper painting and/or plastering; and the bathroom door had a gap between the top of the door and the head jamb.

In sum, the record supports that the Administrator properly relied on the record, including the results of the inspection. As such, the petitioner has not set forth any basis to revoke the Rent Administrator's order.

The petitioner-owner is advised to file an application to restore 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: **MAR 31 2022**



Woody Pascal  
Deputy Commissioner



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