

STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR)
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.: MT210023RO

2258 ASSOCIATES, LLC,
PETITIONER

RENT ADMINISTRATOR'S
DOCKET NO: KU210005RV

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TENANT: [REDACTED]

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named owner filed a timely petition for administrative review (PAR) of an order issued on July 24, 2024 by the Rent Administrator (RA) concerning apartment [REDACTED] at 2258 Ocean Avenue, Brooklyn, NY 11229 which directed the owner to offer the tenant a renewal lease on the same terms and conditions as the expiring lease.

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 this PAR.

Now on PAR, the owner contends that no vacancy lease exists under which it could prepare a renewal lease. The owner annexed a proposed renewal lease at a legal rent of \$945.81 to be increased on a two-year renewal to \$969.46 per month. The owner also annexed a proposed vacancy lease which was backdated to the term January 15, 2021 to January 14, 2022 at a rent of \$945.81 per month. The owner states that \$945.81 was the legal rent in effect at the time the court granted succession rights to the tenant.

The Commissioner denies this PAR.

The PAR has not raised any basis to revoke or modify the RA order. It is undisputed that the tenant has succession rights to the apartment based on a Court order. The offering of a renewal lease, not a vacancy lease, is what has been mandated. While the amount of the legal regulated rent was not a subject for the lease violation complaint, and was not established by the Court, the Commissioner finds that the renewal lease rent may be based on the amount of rent being paid by the tenant at the time of the Court order granting succession, which amount is both reasonable and seemingly agreeable to the parties.

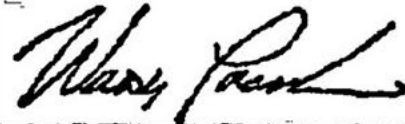
PAR Docket No. MT210023RO

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

ORDERED, that the petition for administrative review be, and the same hereby is, denied; and the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

JAN 06 2025



WOODY PASCAL
Deputy Commissioner



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

Right to Court Appeal

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

There is no other method of appeal.

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IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF

ADMINISTRATIVE REVIEW
DOCKET NO.: MU210009RT

RENT ADMINISTRATOR'S
DOCKET NO.: LO210048RV
(KT210072RV)

PETITIONER

OWNER: Michael C. Rochford

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) of an order issued on September 5, 2024 by the Rent Administrator (RA) concerning apartment [REDACTED] at 270 Pulaski Street, Brooklyn, NY 11206.

It is noted that this PAR was against RA order LO210048RV which was closed without action because the substantive claims were decided in a consolidated proceeding under Docket Number KT210072RV, an order in which was issued on September 11, 2024.

In the consolidated proceeding decided under Docket Number KT210072RV, the RA found that the tenant is a recipient of a HUD project-based Section 8 subsidy from the New York City Housing Development Corporation (HDC) and the tenant's apartment is not subject to Rent Stabilization. Therefore, the tenant's lease violation complaint was denied.

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

On PAR, the tenant contends that the RA failed to address issues concerning rent overcharge; that the reason for the RA decision was not clear; that the owner's behavior was disingenuous; that the owner mis-recorded the amount of rent paid; that the rent for the lease period 09/01/2023 through 08/01/24 was fully paid; that the owner's rent ledger shows a lesser amount paid; and that the owner cannot require tenants to pay by debit card.

The owner opposed the PAR arguing that petitioner has not demonstrated any error with the RA's substantive findings and that the premises is not under DHCR jurisdiction.

PAR Docket Number MU210009RT

The tenant replied that regardless of whatever not-for profit status of the owner's building or HDC corporation, the owner should stop overcharging him.

The Commissioner denies this PAR.

Petitioner has not set forth any error of fact or law that would warrant reversal of the RA order. The record evidence establishes that the subject apartment is under a Regulatory Agreement between the owner and HUD and HDC which exempts the building from Rent Stabilization. Therefore, DHCR has no jurisdiction to determine petitioner's allegations concerning lease violation or rent overcharges.

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

ORDERED, that the petition for administrative review be, and the same hereby is, denied; and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

JAN 30 2025



WOODY PASCAL
Deputy Commissioner



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JAMAICA, NEW YORK 11433

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IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF

44th Street Development, LLC, Owner-Petitioner

and

██████████ Tenant-Petitioner

ADMINISTRATIVE REVIEW
DOCKET NOS.: MV410029RO
MW410003RT

RENT ADMINISTRATOR'S
DOCKET NO.: JW410009RV

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**ORDER AND OPINION GRANTING OWNER'S PETITION FOR ADMINISTRATIVE
REVIEW AND DENYING TENANT'S PETITION FOR ADMINISTRATIVE REVIEW**

The owner and the tenant filed timely petitions for administrative review (PARs) of an order issued on October 2, 2024 by the Rent Administrator (RA) concerning apartment █████ at 530 West 45th Street, New York, NY 10036.

The Commissioner finds that the two PARs should be consolidated because they involve the same parties, same premises, and common questions of fact and law. The Commissioner further notes that deciding the PARs together promotes administrative efficiency and neither party is prejudiced by the consolidation. *See Rent Stabilization Code (RSC) §2529.1(c).*

RA Proceedings

On November 7, 2021, the tenant filed a complaint alleging that the owner failed to offer a renewal lease on the same terms and conditions as the expiring lease; took away a utility credit which was part of the original lease term; and added an impermissible "Temporary Rent Concession Rider."

The owner answered that under the tenant's initial lease, the utility allowance/credit is not permanent. The owner submitted a copy of the initial lease with a Rider Establishing Preferential Rent for a Low-Income Unit indicating that the preferential rent shall be the rent throughout the tenancy, subject to future renewals with applicable guideline increases.

The RA granted the tenant's application and advised the owner that the "life of tenancy leases must be offered on the same terms and conditions as were contained in the initial lease

PAR Docket Nos.: MV410029RO and MW410003RT

through the lease that expired on 05/31/2021. As such, the owner is directed to include the utility allowance/credit in all renewal leases offered to the tenant.”

Owner’s PAR (MV410029RO)

The owner contends that the RA improperly directs the owner to offer the complaining tenant a renewal lease inclusive of the “utility allowance/credit”; that it advised the RA on its August 19, 2024 submission that the subject building participates in a Low-Income Housing Tax Credit (LIHTC) program; and that this building is outside DHCR jurisdiction as has already been determined in prior DHCR orders and upheld by both the NY Supreme Court and the Appellate Division.

The tenant answered that the LIHTC and associated agreements do not exempt the owner from obligations of the rent stabilization laws; that the apartment is registered as rent stabilized; that his leases are rent-stabilized; that the utility credit is part of the lease; and that all previous determinations and agreements cannot override the rent stabilization laws requiring DHCR jurisdiction.

The owner’s PAR is granted, and the RA order is revoked.

DHCR has previously determined, and the Courts have upheld said determination, that DHCR has no jurisdiction over the legal and collectible rent of the apartments in this building complex known as Gotham West Apartments. Indeed, the rents were established by the Department of Housing Preservation and Development (HPD) pursuant to a Regulatory Agreement. It has also been held that the disputed utility allowance/credit is revised annually by HPD and is not under DHCR’s jurisdiction. *See* PAR Docket Number JV410001RK; Tarkington v. DHCR & 44 Street Development LLC Index No. 151722/22; and In the Matter of Patricia Tarkington v. NYSDHCR, et.al 215 A.D.3d 465 (1st Dept. 2023).

Tenant’s PAR (MW410003RT)

The tenant contends that the RA correctly ordered the owner “to include utility allowance on future leases, but there was not an order directing the landlord to offer a renewal lease;” that the subject apartment is under rent stabilization; and that the RA’s order should be so amended to direct the owner to offer a rent-stabilized lease.

The PAR is denied.

As has been previously determined and has been noted above, the subject apartment is not under DHCR jurisdiction.

THEREFORE, in accordance with the Rent Stabilization Law and Code, as well as in

PAR Docket Nos.: MV410029RO and MW410003RT

compliance with prior PAR orders and Court determinations, it is

ORDERED, that the owner's PAR be, and the same hereby is, granted; that the tenant's PAR be, and the same hereby is, denied, and that the Rent Administrator's order be, and the same hereby is, revoked.

ISSUED:

FEB 03 2025



WOODY PASCAL
Deputy Commissioner



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-----X
IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF
[REDACTED]
PETITIONER
-----X

ADMINISTRATIVE REVIEW
DOCKET NO.: MV610017RT

RENT ADMINISTRATOR'S
DOCKET NO: MQ610087RV

OWNER: Taylor Ave Estates LLC

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The above-named tenant filed a timely petition for administrative review (PAR) of an order issued on September 30, 2024 by the Rent Administrator (RA) concerning apartment [REDACTED] at 1450 Taylor Avenue, Bronx, NY, 10460.

In the order under review, the RA found that the tenant filed a lease violation complaint on May 23, 2024 alleging that the owner refuses to offer him a renewal lease on the same terms and conditions as were contained in his expiring lease; that the owner had made changes in the renewal lease; that the owner answered the tenant's complaint and submitted a copy of the fully executed renewal lease; that the tenant replied that he is further complaining about rent payments; that the lease violation complaint is the only issue under consideration in the instant proceeding; and that the proceeding is terminated. The RA advised the tenant that his complaint of rent overcharge will be addressed in proceeding KW610059R.

On PAR, the tenant contends that he withdrew his rent overcharge complaint (KW610059R); that he has filed two court cases; that his goal in filing this proceeding was to amend the security deposit on line 3 of the lease and the Senior Citizen Rent Increase Exemption (SCRIE) amount on line 9 of the renewal lease; and that there has been no fully executed renewal lease.

The owner answered the PAR, contending that the tenant seems to agree that he has a valid lease but only seeks to correct lines 3 and 9 of said lease; that, regarding line 3 of the lease dealing with the security deposit, the tenant has paid the additional security deposit to bring it up to one month's rent, that payment was received and credited to the tenant's account on 8/1/2024, and line 3 is now correct; that line 9 mistakenly reflected the amount of the tenant's reduced rent under SCRIE, but that such error has been corrected; and that the corrected lease has been mailed to the tenant. With the answer, the owner includes a copy of a fully executed lease showing that lines 3 and 9 have been changed as stated in the owner's answer.

The tenant replied to the owner's answer, contending that the lease in question was not fully executed; that the tenant did not receive all the pages of the renewal lease; that the single page lease alluded to by the owner is not the entire lease; that the owner tampered with the lease and then corrected the tampering in 2022; that he brought the owner and its attorney to Court; and that, if his PAR is denied, as he expects it will be, he will file another lease violation complaint.

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

The record shows that the owner did correct the issues on the lease that the tenant complains about, namely the amounts of his security deposit and of the tenant's reduced rent under SCRIE. It is noted that the tenant has not contested the owner's allegations that line 3 of said lease dealing with the security deposit, and line 9 of said lease dealing with the tenant's reduced rent under SCRIE, have been properly corrected, and has not contested the owner's allegation that such corrected lease was properly served on, and received by, the tenant.

It is noted that the single page renewal lease at issue is a sufficient lease renewal and is on the same terms and conditions as the prior lease.

The Commissioner further notes that the RA was correct to state that this proceeding is confined to the issue of lease renewal. If the tenant has withdrawn some other overcharge complaint, this does not in any way change the scope of the instant proceeding or the correctness of the RA's order at issue.

Given that the owner corrected the lease, and that it is uncontested that such lease was adequately corrected and that such lease has been duly delivered to the tenant, the tenant has not stated any error that need be addressed or corrected, and the tenant's PAR is therefore denied.

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

ORDERED, that the petition for administrative review is denied and that the Rent Administrator's order is affirmed.

ISSUED:
MAR 13 2025



WOODY PASCAL
Deputy Commissioner



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