

**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.: MU410027RT**

████████████████████

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LV410042OR**

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On September 3, 2024, the above-named Petitioner-tenant re-filed a Petition for Administrative Review ("PAR") challenging LV410042OR, an order the Rent Administrator issued on August 22, 2024 (the "Order"), concerning the housing accommodation known as 2170 Madison Avenue, Apartment ██████ New York, New York, wherein the Rent Administrator granted the owner's application to restore rent after the tenant failed to provide access to the apartment for the Agency inspection scheduled for July 25, 2024.

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 requests a reversal of the Rent Administrator's order and avers that the management never corrected the items, which have gotten worse; that they did not have access to the mailbox and did not know of the inspection date; and that the tenant attempted to reschedule the inspection.

The owner responded to the tenant's petition, challenging the PAR on the basis that the tenant has not stated any errors of fact or law contained in the order being appealed, and as such, the instant appeal should be denied.

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

ADMINISTRATIVE REVIEW DOCKET NO. MU410027RT

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

A review of the record indicates that rent was previously reduced on April 17, 2023 under Docket No. KS410155S for the owner’s failure to maintain the living room and the dining room floor coverings; the kitchen cabinet; the tub/shower; the bathroom light fixture; the bathroom sink stopper; and the shower sink stopper.

Subsequently, on October 16, 2023, the owner filed the underlying rent restoration application herein, Docket No. LV410043OR, asserting that all conditions found unmaintained under Docket No. KS410155S had been corrected, and attached supporting documentation. The tenant was afforded an opportunity to respond by service of the owner’s rent restoration application on the tenant on October 18, 2023. In the tenant’s response to the owner’s application received by the DHCR on November 6, 2023, the tenant refuted the owner’s claims that it had restored services, and listed the conditions that were yet to be restored.

The Rent Administrator requested an Agency inspection to ascertain if the conditions were restored as the owner claimed.

On July 11, 2024, a Notice of Inspection (“Notice”), which scheduled an inspection for July 25, 2024, between the hours of 10:00 AM and 2:00 PM was mailed to the parties advising both parties to be present during the scheduled inspection. The Notice contained cautionary language advising the tenant that a failure to provide access (or call to reschedule the inspection) may result in a determination against the tenant’s interests. The Notice also advised the tenant to notify the inspector no later than two business days in advance by calling the inspector at the number provided, and that inspections may only be rescheduled for good cause. The record shows that the tenant failed to keep the July 25, 2024 inspection appointment and did not call to reschedule (for good cause) as advised.

As such, on August 22, 2024, the Rent Administrator granted the owner’s rent restoration application under Docket No. LV410042OR.

The Commissioner finds that based on the evidence in the record, the Rent Administrator correctly granted the owner’s rent restoration application pursuant to Section 2523.4 of the RSC and DHCR Policy Statement 90-2. In this case, the tenant was notified during the Rent Administrator’s proceeding that a failure to grant access to the inspector, or the failure to reschedule the inspection may result in a determination against the tenant’s interest. As the inspection report reveals, the tenant failed to grant access to the inspector on the date of the scheduled inspection.

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The Commissioner further finds that the Petitioner's unsubstantiated claim regarding their attempt to reschedule is unfounded. A review of the Rent Administrator's record does not disclose any evidence that the tenant requested to reschedule the inspection prior to the date of inspection as claimed by the Petitioner-tenant. In light of the above, the Commissioner finds that the Petitioner-tenant's claims are without merit, and that the tenant has not established any basis to revoke or modify the Rent Administrator's order.

As for the Petitioner's claim that they did not have access to their mailbox and as such did not know about the inspection date, the Commissioner notes that the tenant did not complain about their mailbox below and may not raise such claim on appeal. Additionally, said Notice of Inspection and the Rent Administrator's underlying order herein, against which the tenant promptly filed a PAR, were all sent to the same address. Moreover, the record is devoid of any evidence that the "Notice" sent to the tenant was returned to the Agency as undeliverable. Under established principles of law, an article which was mailed to the proper address is presumed to have been received. As the Rent Administrator's record reflects that the Notice was properly mailed to the owner on July 11, 2024 at their address noted in the record, the Notice is presumed to have been received.¹

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

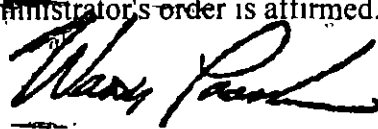
The tenant is advised that they may file a fresh service complaint if the facts so warrant.

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

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

ISSUED:

JAN 29 2025



Woody Pascal
Deputy Commissioner

¹ The Commissioner notes that on the one hand, the tenant claims not to be in receipt of the Notice of Inspection that was sent to her, and on the other hand, claims that she attempted to reschedule the inspection.



State of New York
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Office of Rent Administration
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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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DIVISION OF HOUSING AND COMMUNITY RENEWAL
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**IN THE MATTER OF THE ADMINISTRATIVE
APPEAL OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: MT410015RT**

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PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LX410037OR**

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 22, 2024, the above-named petitioner-tenant timely re-filed a Petition for Administrative Review (“PAR”) against an order the Rent Administrator issued on July 25, 2024 (the “Order”), concerning the housing accommodation known as 135 West 96th St., New York, NY (the “Premises”), wherein the Rent Administrator granted the owner’s application to restore rent, finding the courtyard/playground access 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 tenant requests a reversal of the Order, asserting, in substance, that (1) as of December 28, 2023, the breezeway roof that cuts through the courtyard was littered with refuse and abandoned furniture, purportedly resulting from the construction work, (2) the Owner did not clean up after the construction work was done, “leaving behind a hazardous and unsightly condition,” and (3) the effective date of the rent restoration order should be the “date of correction” of the courtyard condition. In support, the tenant attached a photo dated December 28, 2023, purportedly depicting the condition of the breezeway roof. The owner was offered an opportunity to respond by service of the petition on September 3, 2024.

In the owner’s response dated September 20, 2024, the owner argued that the petition should be denied, that the rent reduction granted under Docket No. JP41 0002B was based on the shared

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playground/courtyard not being accessible, and that access to that area had been restored prior to the issuance of the Order. A copy of the owner's response was provided to the tenant on October 9, 2024.

The tenant submitted two letters in the instant proceeding. In the tenant's "addendum to the ...PAR" dated October 3, 2024, the tenant claimed, in substance, that the "hazardous furniture from the breezeway roof" was removed on October 3, 2024 and, consequently, the date for the rent restoration must be adjusted accordingly. In addition, in a letter dated October 14, 2024, the tenant claimed that the courtyard condition was not fully restored until November 2023, and that unsafe conditions resulting from construction debris existed until around October 3, 2024. Copies of both letters were provided to the owner on October 23, 2024.

The owner responded by submission dated November 14, 2024, reiterating, in substance, the owner's position that the petition should be denied.

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" or "RSC"), 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. Additionally, Policy Statement 90-2 allows the Rent Administrator to rely on an Agency's inspection in determining if services at issue are maintained or properly restored. New York Courts have consistently upheld the reliability of the Agency inspections. See Matter of 113-117 Realty, LLC v. DHCR, 2021 N.Y. Slip. Op. 06432 [1st Dept. 2021] citing to Matter of Sherman v. DHCR, 210 AD2d 486 [2nd Dept. 1994].

A review of the record shows that on April 5, 2021, the tenants filed a building-wide rent reduction application, asserting, in substance, that beginning in October 2018, they lost their courtyard access as a result of balcony demolition and façade work by the owner. The tenants asserted that the courtyard area was once a safe outdoor space that included gardens, a sitting area, and a playground, but was closed off to tenants, and remained closed off to tenants as the courtyard area now functioned as a construction site and storage center for equipment and supplies.

Furthermore, the Agency's record reveals that on September 24, 2021, under Docket No. JP410002B, the Rent Administrator granted the tenants a building-wide rent reduction for the courtyard/playground services as the courtyard/playground area was not accessible due to construction work in the subject premises.

On December 15, 2023, under Docket No. LX410037OR, the owner filed a rent restoration application, claiming that access to the courtyard/playground had been restored. In response to the notice of the owner's application, dated December 28, 2023, the petitioner-tenant objected to

ADMINISTRATIVE REVIEW DOCKET NO. MT410015RT

the owner's claims¹, asserting that the conditions were not restored, that there was refuse on top of the breezeway that runs through the courtyard, and submitted a purported photo of the condition of the breezeway.

The Rent Administrator, in accordance with DHCR procedure, requested an inspection to facilitate the resolution of the owner's rent restoration application and to ascertain the condition of the services found previously not maintained, to wit: courtyard/playground access.

On May 20, 2024, an Agency inspection was conducted. The inspector reported that the courtyard and playground were accessible to the tenants, no construction was observed, and there were no equipment or materials obstructing the courtyard/playground. The inspector also substantiated their inspection report with photographs of the subject premises and courtyard area, dated May 20, 2024.

Subsequent thereto, based upon a complete review of the record including the inspection report from May 20, 2024, the Rent Administrator determined that courtyard/playground access was restored, and directed the restoration of rent with the effective date of January 1, 2024, under Docket No. LX410037OR.

At the outset, the Commissioner notes that, in general, inspections during the rent restoration proceeding are based upon the services found unmaintained during the rent reduction proceeding, and the Rent Administrator's scope of review is limited to same.

The Commissioner notes that although the Petitioner disputes the inspector's findings and the Rent Administrator's order regarding the courtyard/playground access, the Rent Administrator's determination was appropriate and was supported by a rational basis, namely the inspection report that revealed that courtyard and playground access was restored at the time of the Agency inspection on May 20, 2024. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as their impartiality in conducting the inspection and their observations of the restored access to the courtyard and playground was reasonable and in compliance with Section 2523.4 of the RSC and Policy Statement 90-2.

Pursuant to DHCR Policy Statement 90-2, the effective date for a rent restoration order is the first day of the month following service of the owner's application to restore rent on the tenant. In the matter at hand, since the owner's application to restore rent was served on the tenants on December 18, 2023, the Rent Administrator correctly determined the effective date as January 1, 2024.

In light of the above, Commissioner finds that the Rent Administrator conducted the proceeding below in accordance with established law, Agency practice and policy, and principles of due process.

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

¹ Various other tenants also objected to the rent restoration application.

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The tenant may file a fresh services complaint with this Agency, should 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 11 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

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

**ADMINISTRATIVE REVIEW
DOCKET NO.: MW41002RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: MQ410049OR**

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 4, 2024, the above-named Petitioner-tenant filed a Petition for Administrative Review ("PAR") against MW410049OR, an order the Rent Administrator issued on October 4, 2024 (the "order"), concerning the housing accommodations known as 235 West 75th Street, New York, New York, wherein the Rent Administrator issued an order granting the owner's application to restore rent, finding that the laundry service condition cited in the order reducing rent, under Docket No. DO410014B, had been restored.

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

In the PAR, the Petitioner-tenant asserts that they believe there was an error of fact in the Rent Administrator's order which found that the laundry service had been restored. The Petitioner asserts that having 6 washers and 6 dryers in the cellar is not the same as having 24 washers and 24 dryers, a side by side set on each floor; that service is not restored when the Petitioner has to travel on an elevator and a lift with their laundry to access the laundry room in the cellar; that construction at the tenant's tower slows the elevator considerably; that the elevator has been unavailable sporadically; that the lift has been unavailable many time, specifically, from July 5, 2022 to January 13, 2023, and from October 15, 2024 to October 16, 2024; that the dryers in the cellar are not side by side but stacked; that reaching the dryers without a chair is impossible, and poses a fall risk; that Assembly Woman, Linda Rosenthal wrote a letter of support, indicating

that this is a permanent reduction in service, and there is no restoration of service; and, that the owner modified this service without prior approval from the DHCR.

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

The owner, through counsel, opposes the tenant's claim and requests that the Rent Administrator's order be affirmed, stating that the owner had filed, with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted;¹ that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

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.

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on December 6, 2015 under Docket DO410014B based on decrease in laundry service – elimination of floor-by-floor laundry rooms. According to the Rent Administrator's record of proceeding, the owner's subsequent applications to restore the rent were denied.² The owner then filed an Owner's Application to Modify Service ("OD"), under Docket Number ES410006OD,³ which was granted.

Thereafter, on May 22, 2024, the owner applied to restore the rent based on restoration of service and submitted supporting documentation to corroborate such claim. The tenants were afforded an opportunity to respond by service of owner's application on May 24, 2024. The records indicate that, in response, the tenants made various submissions individually, including the subject tenant, contending, in substance, that relocating the laundry service to the basement was not convenient,

¹ The Rent Administrator granted the owner's application for permission to modify the laundry room services by eliminating the small laundry rooms on each floor, which contained one washing machine and one dryer per floor, and determined that a central laundry room in the basement of the subject premises with 6 new washing machines and 6 new dryers was an adequate substitution which did not warrant a concomitant permanent rent reduction. On appeal, the Commissioner, under Docket No. GP410005RT, modified the Rent Administrator's order and granted the tenants a permanent \$30 reduction in rent, and affirmed the Rent Administrator's decision concerning modification of the laundry service.

² Rent Administrator's Docket No. DW410056OR dated April 22, 2016 found the laundry service had not been restored, and that there was no evidence that the owner had filed an application to modify services with the Agency; Docket No. KV410045OR dated May 18, 2023 was denied as there was evidence that the owner provided 3 washers and 3 dryers, instead of 6 washers and 6 dryers as directed under ES410006OD.

³ The owner's application to modify services under Docket No. ES410006OD, was granted on February 27, 2018, and the owner was directed to provide the building with 6 new washing machines and 6 new dryers for the tenants' use, in the central basement of the subject building.

ADMINISTRATIVE REVIEW DOCKET NO. MW410002RT

and had caused the tenants undue hardship. The tenants, including the Petitioner, argued that the substitution was inadequate; that the location of the laundry room and the way the machines were positioned raised some safety and medical emergency concerns, especially for the elderly tenants like the Petitioners, as there was no communication device or security camera; that it was difficult making several trips on the elevator and then walking up to half the city block to the "amenities" elevator, just to access the basement to do laundry, especially with laundry load and detergents; that the amenity elevator was regularly out of service, and people would often get trapped; that the cost of taking laundry to outside facility is expensive; and that the \$30 rent reduction granted the tenants was insufficient considering the above facts.

The record reveals that an inspection was conducted at the premises on August 15, 2024 under a separate rent restoration proceeding addressing the same issue as herein, Docket No. MQ410048OR, to confirm if the owner restored the laundry service as claimed. The inspection report indicated that at the time of inspection, the central laundry room was accessible to tenants, with 6 operable washers and dryers respectively.

After consideration of the submissions by the tenant and the owner, including the inspection report from the August 15, 2024 inspection, the Rent Administrator determined that the laundry room condition cited in the order reducing rent had been restored and granted the owner's application to restore rent under Docket No. MQ410049OR, the subject of this appeal.⁴

At the outset, the Commissioner notes that, 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, and that this determination is made by the Rent Administrator, predicated upon an Agency inspection conducted at the premises.

The Commissioner notes the Petitioner's dispute with the Rent Administrator's determination regarding the laundry service. However, the Commissioner finds that this contention by the Petitioner is insufficient to revoke or modify the Rent Administrator's decision. Here, the Rent Administrator reduced the tenant's rent based on the removal of laundry service. The owner subsequently applied for permission to substitute floor by floor laundry room service with central laundry service in the basement. The Rent Administrator granted the owner's request to modify the laundry room service under Docket No. ES410006OD and directed the owner to provide 6 new washers and 6 new dryers in the basement for the tenant's use, noting that the rent reduction order which the tenants had already been granted under Docket No. DO410014B would remain in effect until the owner files for rent restoration with the DHCR.

As the records indicate that the owner had been granted permission by the Agency to substitute floor-by-floor laundry room service with central laundry service in the basement, and the Agency inspection confirmed that the owner had complied with the Rent Administrator's directive

⁴ The Rent Administrator noted that as the inspection report revealed that the central laundry room was accessible to the rent stabilized tenants at the time of inspection, and the owner had provided 6 washers and 6 dryers as directed, which were operational, a rent restoration was warranted. The Administrator further noted that the scope of the underlying proceeding being limited to those issues contained in the original proceeding, and not conditions extraneous to rent restoration proceeding, the tenants may file a new application for the complained of services, using DHCR Form RA - 81, or DHCR Form RA - 84 for conditions within the apartments, if warranted.

ADMINISTRATIVE REVIEW DOCKET NO. MW410002RT

regarding washers and dryers, and the Petitioners do not dispute that the owner provided the building with 6 washers and 6 dryers, the Rent Administrator determined that rent restoration was warranted.

Based on the evidence in the record, the Commissioner finds that the Rent Administrator's decision is appropriate, and in accordance with established principles and procedures. As noted above, 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. Here it is not in dispute that the owner complied with the Rent Administrator's directive to provide the building with 6 washers and 6 dryers. As it is evident that the owner restored the service pursuant to the modification of service order, a rent restoration was warranted.

Additionally, the Commissioner notes that the Agency's longstanding policy provides that where a rent is reduced due to a failure to maintain services, the rent will be restored where it is found that the owner has restored the service cited in the rent reduction order. The Commissioner further notes that, modification of service does not preclude an owner from filing a rent restoration application. Similarly, any permanent reduction granted the tenants as a result of such modification shall remain in force. See the Commissioner's decision under Docket No. GP410005RT.⁵

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

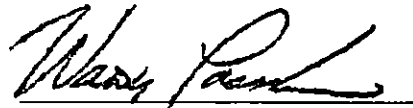
The tenant is advised that they may file a fresh service application if the facts so warrant.

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

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

ISSUED:

MAR 10 2025



Woody Pascal
Deputy Commissioner

⁵ The Commissioner modified the Rent Administrator's decision under Docket No. ES410006OD and granted the tenants a permanent concomitant rent reduction of \$30, per month. This reduction is still active and will remain in force permanently.



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**IN THE MATTER OF THE ADMINISTRATIVE
APPEALS OF**

**ADMINISTRATIVE REVIEW
DOCKET NO.: MW410005RT**

**██████████ AND ██████████
(TENANTS)**

PETITIONERS

**RENT ADMINISTRATOR'S
DOCKET NO.: MQ410051OR**

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

The above-named Petitioner-tenants timely filed their respective Petitions for Administrative Review ("PARs") challenging MQ410051OR, an order the Rent Administrator issued on October 4, 2024 (the "Order"), concerning the housing accommodations known as 235 West 75th Street, New York, New York, wherein the Rent Administrator issued an order granting the owner's application to restore rent, finding that the laundry service condition cited in the order reducing rent, under Docket No. DW410009B, had been restored.

The above referenced administrative appeals have been consolidated under Docket No. MW410005RT for a uniform disposition as they both contain common issues of law and fact and appeal the same rent reduction and rent restoration orders.

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 PARs.

██████████ - (Apartment ██████████)

In the PAR, the Petitioner-tenant requests a reversal of the Rent Administrator's order, asserting that restoration of original 26 washer/dryers on each floor would be to provide a washer/dryer on every floor; that 6 machines in basement are a limited and poor substitution for the reduction in

service the Petitioner had conveniently enjoyed since they moved into the building in 1979; that compensatory amount for the reduced service should be a minimum of \$100.00 per month; that the 6 new washers and 6 new dryers are not sufficient, and has led to competition between the rent stabilized tenants and the condo housekeepers; that accessing the basement from the 3 towers entails taking elevator from the apartment to the lobby, and then walk (with laundry and cleaning products), the equivalent of more than half city block (each way) to the amenities elevator, that are always out of service; and that the laundry area has a heavy door which constitutes safety hazard and medical risk to people with physical impairment or seniors with medical condition like the Petitioner. The Petitioner attached a copy of a letter from Assemblywoman, [REDACTED] [REDACTED]¹ and a copy of the underlying rent restoration order.

The owner, through counsel, opposes the tenant's claim and requests that the Rent Administrator's order be affirmed, asserting that the owner had filed with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted the owner; that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

The Petitioner answered the owner, reiterating, majorly, facts previously established, adding that the Petitioner did not receive the retroactive rent reduction; that the owner eliminated the floor to floor laundry service prior to getting approval from the DHCR, specifically, that the owner discontinued service in September of 2015, the tenants filed their rent reduction application in October of 2015, and the owner filed for modification in July of 2016, 11 months after the service was discontinued; that the rent reduction was supposed to take a retroactive effect but it was not applied; that the machines are being shared with condo owners and housekeepers; that the \$30 permanent rent reduction is inadequate compensation for the decreased service given that it costs the tenant a lot more to send out laundry to external facility; that the tenant received a one-time credit of \$31.05 instead of the retroactive rent reduction; that the floor by floor laundry service was an enticement to taking residency in the subject building; and that certain services had been decreased since the building was converted to condominium apartments, citing to such conditions. The Petitioner-tenant attached more documentation to substantiate their claims.

[REDACTED] [REDACTED] - - (Apartment [REDACTED])

The Petitioner-tenant seeks a reversal of the Rent Administrator's order averring that the tenant believes the error in fact is that the removal of the floor to floor laundry service can neither be restored nor equaled, or substituted, and until floor to floor laundry service is reinstated, service is not restored, as such, the rent should not be restored; that the removal of the laundry service from the floors was for the owner's economic gain premised on conversion of the building to condominium; that the removal was an egregious act by the owner because the owner did not

¹ The Commissioner notes that this document is outside the scope of the Commissioner's review as same was not presented during the underlying Rent Administrator's proceeding.

ADMINISTRATIVE REVIEW DOCKET NO. MW410005RT

honor the lease that the parties executed with the original owner in 1978; that discontinuation of the floor to floor laundry service is a breach of the lease term, which has violated the tenant's rights to safe, sanitary, and livable apartment granted under the original lease; and, that restoration of rent will cause the Petitioner a financial stress.

The owner, through counsel, opposed the tenant's claim and requested that the Rent Administrator's order be affirmed, stating that the owner had filed, with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted the owner;² that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

In response, the Petitioner-tenant contends, in substance, that: the convenience of having laundry service on the floor was the reason the Petitioner accepted to live in the building; the number of machines currently is clearly inadequate to meet the needs of the remaining rent stabilized tenants who are not condo owners given that condo owners still use the machines; the tenant makes at least 6 trips for each load of laundry, and additional trips are often required if the machines are unavailable or the clothes are not properly dried; the process is time consuming, difficult, and physically demanding for a senior citizen like the Petitioner; the \$30 permanent monthly rent reduction was never applied to the tenant's rent, except a one-time \$31.50 credit the subject Petitioner received; the permanent rent reduction should remain in force; the on-going construction in the building has caused major disruption to the tenant's daily life, and constitutes nuisance, encompassing noise, dirt, drilling, and banging; accessing the laundry facility is inconvenient given that the tenant has to make several trips on the elevator and walk about a city block just to get to the basement which is located in the middle tower, and the tenant resides in the north tower; it is unsafe to use the amenity elevator as it often malfunctions and people do get stuck in it; as a result of the inconvenience and hardship, the tenant sends laundry to outside facility, and the service is more expensive;

After careful consideration of the entire evidence of record, the Commissioner is of the opinion that the petitions 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

² The Rent Administrator granted the owner's application for permission to modify the laundry room services by eliminating the small laundry rooms on each floor, which contained one washing machine and one dryer per floor, and determined that a central laundry room in the basement of the subject premises with 6 new washing machines and 6 new dryers was an adequate substitution which did not warrant a concomitant permanent rent reduction. On appeal, the Commissioner, under Docket No. GP410005RT, modified the Rent Administrator's order and granted the tenants a permanent \$30 reduction in rent, and affirmed the Rent Administrator's decision concerning modification of the laundry service.

ADMINISTRATIVE REVIEW DOCKET NO. MW410005RT

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

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on June 10, 2016 under Docket DW410009B based on decrease in laundry service – elimination of floor-by-floor laundry rooms. According to the Rent Administrator's record of proceeding, the owner's subsequent applications to restore the rent were denied.³ The owner subsequently filed an Owner's Application to Modify Service ("OD"), under Docket Number ES410006OD⁴, which was granted.

Thereafter, on May 22, 2024, the owner applied to restore the rent based on restoration of service and submitted supporting documentation to corroborate such claim. The tenants were afforded an opportunity to respond by service of owner's application on May 24, 2024. The records indicate that, in response, the tenants made various submissions individually, including the subject tenant, contending, in substance, that relocating the laundry service to the basement was not convenient, and had caused the tenants undue hardship; that the substitution was inadequate; that the location of the laundry room and the way the machines were positioned raised some safety and medical emergency concerns, especially for the elderly tenants like the Petitioners, as there was no communication device or security camera; that it was difficult making several trips on the elevator and then walking up to half the city block to the "amenities" elevator, just to access the basement to do laundry, especially with laundry load and detergents; that the amenity elevator was regularly out of service, and people would often get trapped; that the cost of taking laundry to outside facility is expensive; and that the \$30 rent reduction granted the tenants was insufficient considering the above facts.

The record reveals that an inspection was conducted at the premises on August 15, 2024 under a related rent restoration proceeding addressing the same issue as herein, Docket No. MQ410048OR, to confirm if the owner restored the laundry service as claimed. The inspection report indicated that at the time of inspection, the central laundry room was accessible to tenants, with 6 operable washers and dryers respectively.

After consideration of the submissions by the tenant and the owner, including the inspection report from the August 15, 2024 inspection, the Rent Administrator determined that the laundry room condition cited in the order reducing rent had been restored and granted the owner's application to restore rent under Docket No. MQ410051OR, the subject of this appeal.⁵

³ Rent Administrator's Docket No. DW410056OR dated April 22, 2016 found the laundry service had not been restored, and that there was no evidence that the owner had filed an application to modify services with the Agency; Docket No. KV410045OR dated May 18, 2023, was denied as there was evidence that the owner provided 3 washers and 3 dryers, instead of 6 washers and 6 dryers as directed under ES410006OD.

⁴ The owner's application to modify services under Docket No. ES410006OD, was granted on February 27, 2018, and the owner was directed to provide the building with 6 new washing machines and 6 new dryers for the tenants' use, in the central basement of the subject building.

⁵ The Rent Administrator noted that as the inspection report revealed that the central laundry room was accessible to the rent stabilized tenants at the time of inspection, and the owner had provided 6 washers and 6 dryers as directed, which were operational, a rent restoration was warranted. The Administrator further noted that the scope of the underlying proceeding being limited to those issues contained in the original proceeding, and not conditions extraneous to rent restoration proceeding, the tenants may file a new application for the complained of services, using DHCR Form RA – 81, or DHCR Form RA – 84 for conditions within the apartments, if warranted.

ADMINISTRATIVE REVIEW DOCKET NO. MW410005RT

At the outset, the Commissioner notes that, 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, and that this determination is made by the Rent Administrator, predicated upon an Agency inspection conducted at the premises.

The Commissioner notes the Petitioners' dispute with the Rent Administrator's determination regarding the laundry service. However, the Commissioner finds that the Petitioners' contentions are insufficient to revoke or modify the Rent Administrator's decision. Here, the Rent Administrator reduced the tenants' rent based on the removal of laundry service. The owner subsequently applied for permission to substitute floor by floor laundry room service with central laundry service in the basement. The Rent Administrator granted the owner's request to modify the laundry room service under Docket No. ES410006OD and directed the owner to provide 6 new washers and 6 new dryers in the basement for the tenants' use.

As the records indicate that the owner had been granted permission by the Agency to substitute floor-by-floor laundry room service with central laundry service in the basement, and the Agency inspection confirmed that the owner had complied with the Rent Administrator's directive regarding washers and dryers, and the Petitioners do not dispute that the owner provided the building with 6 washers and 6 dryers, the Rent Administrator determined that rent restoration was warranted.

Based on the evidence in the record, the Commissioner finds that the Rent Administrator's decision is appropriate, and in accordance with established principles and procedures. As noted above, 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. Here it is not in dispute that the owner complied with the Rent Administrator's directive to provide the building with 6 washers and 6 dryers. As it is evident that the owner restored the service pursuant to the modification of service order, a rent restoration was warranted.

Additionally, the Commissioner notes that the Agency's longstanding policy provides that where a rent is reduced due to a failure to maintain services, the rent will be restored where it is found that the owner has restored the service cited in the rent reduction order. The Commissioner further notes that, modification of service does not preclude an owner from filing a rent restoration application. Similarly, any permanent reduction granted the tenants as a result of such modification shall remain in force. See the Commissioner's decision under Docket No. GP410005RT.⁶

Regarding the tenants' complaint that they have not been accorded the \$30.00 permanent monthly rent reduction granted by the Commissioner under GP410005RT, the Commissioner notes that the owner is obligated to comply with said Commissioner's order, and that the tenant(s) may file an overcharge complaint using DHCR Form RA-89 if the owner fails to do so.

⁶ The Commissioner modified the Rent Administrator's decision under Docket No. ES410006OD and granted the tenants a permanent concomitant rent reduction of \$30, per month. This reduction is still active and will remain in force permanently.

ADMINISTRATIVE REVIEW DOCKET NO. MW410005RT

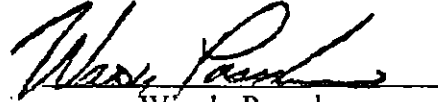
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration and the tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

The tenants are advised that they may file a fresh service application if the facts so warrant.

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

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

ISSUED: **MAR 10 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.

**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.: MW410017RT**

██████████ ██████████

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: MQ410050OR**

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

On November 8, 2024, the above-named Petitioner-owner re-filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on October 4, 2024 (the "Order"), concerning the housing accommodation known as 235 West 75th Street, New York, New York, wherein the Rent Administrator issued an order granting the owner's application to restore rent, finding that the laundry service condition cited in the order reducing rent, under Docket No. DO410014B, had been restored.

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

In the PAR, the Petitioner-tenant of apartment ██████ requests that the underlying Rent Administrator's order be reversed, claiming, in pertinent detail, that the dryers are placed too high from the floor which is not conveniently accessible for the elderly, the disabled, or other residents who are less than a certain height, as they are not able to see the inside, and as a result, clothes are constantly left in the dryer; that the laundry room is constantly cold; that access to the laundry room is challenging for the physically impaired when the service elevator malfunctions, sometimes for weeks, and that the Petitioner was once trapped in the subject elevator; that the machines are shared with unit owners, and significantly less available to address the reduction of service; that the original laundry facility was discontinued prior to obtaining authorization from

ADMINISTRATIVE REVIEW DOCKET NO. MW410017RT

DHCR; that the new laundry room is not a replacement for the convenience the Petitioner lost; and that the convenience was the reason the Petitioner-tenant chose to rent the subject apartment.

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

The owner, through counsel, opposes the tenant's claim and requests that the Rent Administrator's order be affirmed, stating that the owner had filed, with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted;¹ that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

In response, the tenant clarified several averments claimed to have been misconstrued by the owner, and reasserted that the owner eliminated the laundry facility before filing an application with the DHCR to modify said service.

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.

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on September 21, 2016 under Docket ES410030B based on decrease in laundry service – elimination of floor-by-floor laundry rooms. According to the Rent Administrator's record of proceeding, the owner's subsequent application to restore the rent was denied.² The owner subsequently filed an Owner's Application to Modify Service ("OD"), under Docket Number ES410006OD,³ which was granted.

¹ The Rent Administrator granted the owner's application for permission to modify the laundry room services by eliminating the small laundry rooms on each floor, which contained one washing machine and one dryer per floor, and determined that a central laundry room in the basement of the subject premises with 6 new washing machines and 6 new dryers was an adequate substitution which did not warrant a concomitant permanent rent reduction. On appeal, the Commissioner, under Docket No. GP410005RT, modified the Rent Administrator's order and granted the tenants a permanent \$30 reduction in rent, and affirmed the Rent Administrator's decision concerning modification of the laundry service.

² Rent Administrator's Docket No. KV410040OR dated May 17, 2023 found the laundry service had not been restored, and that there was evidence that the owner provided 3 washers and 3 dryers, instead of 6 washers and 6 dryers as directed under ES410006OD.

³ The owner's application to modify services under Docket No. ES410006OD, was granted on February 27, 2018, and the owner was directed to provide the building with 6 new washing machines and 6 new dryers for the tenants' use, in the central basement of the subject building.

ADMINISTRATIVE REVIEW DOCKET NO. MW410017RT

Thereafter, on May 22, 2024, the owner applied to restore the rent based on restoration of service and submitted supporting documentation to corroborate such claim. The tenant was afforded an opportunity to respond by service of owner's application on May 24, 2024. The records indicate that the tenant's response dated June 5, 2024, disagreed with the owner's assertions, and contended, in substance, that restoration was not completed according to the original status. Specifically, that the laundry room was originally on every floor, hence, the new location of the laundry room "does not provide the same convenience" as the original facility that was just steps away; that said service was discontinued without prior approval from the DHCR; that the new laundry room "does not have" security camera, intercom, or cell phone service; that there were insufficient machines to accommodate the stabilized tenants, in addition to the increasing use by the condo owners; and that residents with physical impairments find it difficult to use the new machines as the dryers were placed on top of the washers, making it difficult to see the inside, hence clothes are left inside the machines.

The record reveals that an inspection was conducted at the premises on August 15, 2024 under a separate rent restoration proceeding addressing the same issue as herein, Docket No. MQ410048OR, to confirm if the owner restored the laundry service as claimed. The inspection report indicated that at the time of inspection, the central laundry room was accessible to tenants, with 6 operable washers and dryers respectively.

After consideration of the submissions by the tenant and the owner, including the inspection report from the August 15, 2024 inspection, the Rent Administrator determined that the laundry room condition cited in the order reducing rent had been restored and granted the owner's application to restore rent under Docket No. MQ410050OR, the subject of this appeal⁴.

At the outset, the Commissioner notes that, 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, and that this determination is made by the Rent Administrator, predicated upon an Agency inspection conducted at the premises.

The Commissioner notes the Petitioner's dispute with the Rent Administrator's determination regarding the laundry service. However, the Commissioner finds that this Petitioner's contentions are insufficient to revoke or modify the Rent Administrator's decision. Here, the Rent Administrator reduced the tenant's rent based on the removal of laundry service. The owner subsequently applied for permission to substitute floor by floor laundry room service with central laundry service in the basement. The Rent Administrator granted the owner's request to modify service (the laundry room) under Docket No. ES410006OD and directed the owner to provide 6 new washers and 6 new dryers in the basement for the tenant's use. The Administrator noted that the rent reduction order which the tenants had already been granted under Docket No. ES410030B would remain in effect until the owner files for rent restoration with the DHCR.

⁴ The Rent Administrator noted that as the inspection report revealed that the central laundry room was accessible to the rent stabilized tenants at the time of inspection, and the owner had provided 6 washers and 6 dryers as directed, which were operational, a rent restoration was warranted. The Administrator further noted that the scope of the underlying proceeding being limited to those issues contained in the original proceeding, and not conditions extraneous to rent restoration proceeding, the tenants may file a new application for the complained of services, using DHCR Form RA - 81, or DHCR Form RA - 84 for conditions within the apartments, if warranted.

ADMINISTRATIVE REVIEW DOCKET NO. MW410017RT

As the records indicate that the owner had been granted permission by the Agency to substitute floor-by-floor laundry room service with central laundry service in the basement, and the Agency inspection confirmed that the owner had complied with the Rent Administrator's directive regarding washers and dryers, and the Petitioners do not dispute that the owner provided the building with 6 washers and 6 dryers as directed, hence, the Rent Administrator determined that rent restoration was warranted.

Based on the evidence in the record, the Commissioner finds that the Rent Administrator's decision is appropriate, and in accordance with established principles and procedures. As noted above, 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. Here it is not in dispute that the owner complied with the Rent Administrator's directive to provide the building with 6 washers and 6 dryers. As it is evident that the owner restored the service pursuant to the modification of service order, a rent restoration was warranted.

Additionally, the Commissioner notes that the Agency's longstanding policy provides that where a rent is reduced due to a failure to maintain services, the rent will be restored where it is found that the owner has restored the service cited in the rent reduction order. The Commissioner further notes that, modification of service does not preclude an owner from filing a rent restoration application. Similarly, any permanent reduction granted the tenants as a result of such modification shall remain in force. See the Commissioner's decision under Docket No. GP410005RT.⁵

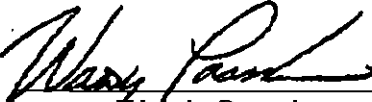
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration and the tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

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

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED:

MAR 10 2025


Woody Pascal
Deputy Commissioner

⁵ The Commissioner modified the Rent Administrator's decision under Docket No. ES410006OD and granted the tenants a permanent concomitant rent reduction of \$30, per month. This reduction is still active and will remain in force permanently.



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.her.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.

**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.: MW410023RT**

██████████ ██████████

PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: MQ410051OR**

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On November 20, 2024, the above-named Petitioner-tenant timely re- filed a Petition for Administrative Review ("PAR") challenging MQ410051OR, an order the Rent Administrator issued on October 4, 2024 (the "Order"), concerning the housing accommodation known as 235 West 75th Street, New York, New York, wherein the Rent Administrator issued an order granting the owner's application to restore rent, finding that the laundry service condition cited in the order reducing rent, under Docket No. DO410014B, had been restored.

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

In the PAR, the Petitioner-tenant of apartment ██████ avers that there has been a substantial reduction in laundry machines from 24 washers and 24 dryers to 6 washers and 6 dryers. The Petitioner asserts that the ease of doing laundry has been compromised, in that the Petitioner-tenant has to walk half a block within the lobby, and then take an amenity elevator to the basement, and that in the past two years, the amenity elevator did not function on several dates indicated in the instant appeal. Lastly, the Petitioner-tenant avers that the North Tower elevator in the building has not been functioning properly due to ongoing construction, and that based on all of these facts, service is not restored. Additionally, the tenant claims that the elimination of the floor-by-floor laundry room has permanently reduced laundry service, that the floor-by-floor laundry room was advertised as a provided service when the Petitioner took residency in the building. Lastly, that the owner eliminated the laundry service prior to obtaining modification approval to do so.

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

ADMINISTRATIVE REVIEW DOCKET NO. MW410023RT

The owner, through counsel, opposed the tenant's claim and requested that the Rent Administrator's order be affirmed, stating that the owner had filed, with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted¹; that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

In response, the Petitioner-tenant asserts that for more than forty years, they had enjoyed the convenience of having laundry service on the apartment floor, which was the motivating factor in choosing the subject housing accommodation, and remains so, and that the floor-by-floor laundry service was advertised as a major amenity when the tenant took occupancy, as such, removing this service is a breach of the owner's promise; that the discontinuance of floor-by-floor laundry service has created hardship to the Petitioner, who is a senior citizen with medical condition; that the owner terminated the service without prior approval from the DHCR; and that 6 washers and 6 dryers are insufficient to serve the number of resident users.

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.

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on June 10, 2016 under Docket DW410009B based on decrease in laundry service – elimination of floor-by-floor laundry rooms. According to the Rent Administrator's record of proceeding, the owner's subsequent applications to restore the rent

¹ The Rent Administrator granted the owner's application for permission to modify the laundry room services by eliminating the small laundry rooms on each floor, which contained one washing machine and one dryer per floor, and determined that a central laundry room in the basement of the subject premises with 6 new washing machines and 6 new dryers was an adequate substitution which did not warrant a concomitant permanent rent reduction. On appeal, the Commissioner, under Docket No. GP410005RT, modified the Rent Administrator's order and granted the tenants a permanent \$30 reduction in rent, and affirmed the Rent Administrator's decision concerning modification of the laundry service.

ADMINISTRATIVE REVIEW DOCKET NO. MW410023RT

were denied.² The owner subsequently filed an Owner's Application to Modify Service ("OD"), under Docket Number ES410006OD,³ which was granted.

Thereafter, on May 22, 2024, the owner applied to restore the rent based on restoration of service and submitted supporting documentation to corroborate such claim. The tenants were afforded an opportunity to respond by service of owner's application on May 24, 2024. The records indicate that, in response, the tenants made various submissions individually, including the subject tenant, contending, in substance, that relocating the laundry service to the basement was not convenient, and had caused the tenants undue hardship. The tenants, including the Petitioner, argued that the substitution was inadequate; that the location of the laundry room and the way the machines were positioned raised some safety and medical emergency concerns, especially for the elderly tenants like the Petitioners, as there was no communication device or security camera; that it was difficult making several trips on the elevator and then walking up to half the city block to the "amenities" elevator, just to access the basement to do laundry, especially with laundry load and detergents; that the amenity elevator was regularly out of service, and people would often get trapped; that the cost of taking laundry to outside facility is expensive; and that the \$30 rent reduction granted the tenants was insufficient considering the above facts.

The record reveals that an inspection was conducted at the premises on August 15, 2024 under a separate rent restoration proceeding addressing the same issue as herein, Docket No. MQ410048OR, to confirm if the owner restored the laundry service as claimed. The inspection report indicated that at the time of inspection, the central laundry room was accessible to tenants, with 6 operable washers and dryers respectively.

After consideration of the submissions by the tenant and the owner, including the inspection report from the August 15, 2024 inspection, the Rent Administrator determined that the laundry room condition cited in the order reducing rent had been restored and granted the owner's application to restore rent under Docket No. MQ410051OR, the subject of this appeal.⁴

At the outset, the Commissioner notes that, 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, and that this determination is made by the Rent Administrator, predicated upon an Agency inspection conducted at the premises.

The Commissioner notes the Petitioner's dispute with the Rent Administrator's determination regarding the laundry service. However, the Commissioner finds that this Petitioner's contention

² Rent Administrator's Docket No. DW410056OR dated April 22, 2016 found the laundry service had not been restored, and that there was no evidence that the owner had filed an application to modify services with the Agency; Docket No. KV410045OR dated May 18, 2023, was denied as there was evidence that the owner provided 3 washers and 3 dryers, instead of 6 washers and 6 dryers as directed under ES410006OD.

³ The owner's application to modify services under Docket No. ES410006OD, was granted on February 27, 2018, and the owner was directed to provide the building with 6 new washing machines and 6 new dryers for the tenants' use, in the central basement of the subject building.

⁴ The Rent Administrator noted that as the inspection report revealed that the central laundry room was accessible to the rent stabilized tenants at the time of inspection, and the owner had provided 6 washers and 6 dryers as directed, which were operational, a rent restoration was warranted. The Administrator further noted that the scope of the underlying proceeding being limited to those issues contained in the original proceeding, and not conditions extraneous to rent restoration proceeding, the tenants may file a new application for the complained of services, using DHCR Form RA - 81, or DHCR Form RA - 84 for conditions within the apartments, if warranted.

ADMINISTRATIVE REVIEW DOCKET NO. MW410023RT

is insufficient to revoke or modify the Rent Administrator's decision. Here, the Rent Administrator reduced the tenant's rent based on the removal of laundry service. The owner subsequently applied for permission to substitute floor by floor laundry room service with central laundry service in the basement. The Rent Administrator granted the owner's request to modify the laundry room service under Docket No. ES410006OD and directed the owner to provide 6 new washers and 6 new dryers in the basement for the tenant's use.

As the records indicate that the owner had been granted permission by the Agency to substitute floor-by-floor laundry room service with central laundry service in the basement, and the Agency inspection confirmed that the owner had complied with the Rent Administrator's directive regarding washers and dryers, and the Petitioners do not dispute that the owner provided the building with 6 washers and 6 dryers, the Rent Administrator determined that rent restoration was warranted.

Based on the evidence in the record, the Commissioner finds that the Rent Administrator's decision is appropriate, and in accordance with established principles and procedures. As noted above, 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. Here it is not in dispute that the owner complied with the Rent Administrator's directive to provide the building with 6 washers and 6 dryers. As it is evident that the owner restored the service pursuant to the modification of service order, a rent restoration was warranted.

Additionally, the Commissioner notes that the Agency's longstanding policy provides that where a rent is reduced due to a failure to maintain services, the rent will be restored where it is found that the owner has restored the service cited in the rent reduction order. The Commissioner further notes that, modification of service does not preclude an owner from filing a rent restoration application. Similarly, any permanent reduction granted the tenants as a result of such modification shall remain in force. See the Commissioner's decision under Docket No. GP410005RT.⁵

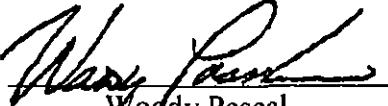
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration and the tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

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

THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is ORDERED, that this petition is denied and that the Rent Administrator's order is affirmed.

ISSUED:

MAR 10 2025


Woody Pascal
Deputy Commissioner

⁵The Commissioner modified the Rent Administrator's decision under Docket No. ES410006OD and granted the tenants a permanent concomitant rent reduction of \$30, per month. This reduction is still active and will remain in force permanently.



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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.: MW410015RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: MQ410051OR**

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

On November 8, 2024, the above-named Petitioner-tenant timely re- filed a Petition for Administrative Review (“PAR”) challenging MQ410051OR, an order the Rent Administrator issued on October 4, 2024 (the “Order”), concerning the housing accommodation known as 235 West 75th Street, New York, New York, wherein the Rent Administrator issued an order granting the owner’s application to restore rent, finding that the laundry service condition cited in the order reducing rent, under Docket No. DO410014B, had been restored.

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

In the PAR, the Petitioner-tenant of apartment [REDACTED] seeks a reversal of the Rent Administrator’s order, averring that substituting the each floor washer and dryer in the subject premises with six washers and six dryers is not a restoration of service; that traveling back and forth to do laundry is tasking, dangerous, and poses extreme safety concerns for a senior citizen like the Petitioner who resides on the 10th floor of the building; that the subject machines are mostly taken by the condo owners, and are mostly available for renters in the evenings; that the amenity elevator is not always functioning properly “currently indefinitely”, and the tenant would have to walk a full flight of stairs to get to the basement to do their laundry; that the laundry being in an isolated area, and in between two heavy doors, (a gym and a bathroom) is scary and potentially dangerous in case of emergency; and that a \$30 per month permanent rent reduction is not sufficient compensation.

ADMINISTRATIVE REVIEW DOCKET NO. MW410015RT

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

The owner, through counsel, opposes the tenant's claim and requests that the Rent Administrator's order be affirmed, stating that the owner had filed, with the Agency, an application to modify the laundry room service, under Docket No. ES410006OD, which the Rent Administrator granted¹; that said order was modified on appeal, and the tenant was granted a permanent \$30 rent reduction monthly for the modification of the laundry room service. Additionally, the owner avers that the Petitioner has failed to substantiate their claim that the Rent Administrator erred in granting the owner's rent restoration application, instead, the Petitioner-tenant reiterates the exact claims they raised during the modification proceeding, which were considered and factored into the \$30 rent reduction that was granted to the tenant.

In response, the Petitioner expatiated on issues previously asserted, adding that the 6 washers and 6 dryers are inadequate and do not constitute a restoration of service; accessibility impediment relating to safety concerns; dryers are too high to reach, causing clothes to fly out; and washing machines are too low.

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.

A review of the Agency's record shows that in the underlying proceeding, rent was previously reduced by order issued on June 10, 2016 under Docket DO410014B based on decrease in laundry service – elimination of floor-by-floor laundry rooms. According to the Rent Administrator's record of proceeding, the owner's subsequent applications to restore the rent were denied.² The owner subsequently filed an Owner's Application to Modify Service ("OD"), under Docket Number ES410006OD³, which was granted.

¹ The Rent Administrator granted the owner's application for permission to modify the laundry room services by eliminating the small laundry rooms on each floor, which contained one washing machine and one dryer per floor, and determined that a central laundry room in the basement of the subject premises with 6 new washing machines and 6 new dryers was an adequate substitution which did not warrant a concomitant permanent rent reduction. On appeal, the Commissioner, under Docket No. GP410005RT, modified the Rent Administrator's order and granted the tenants a permanent \$30 reduction in rent, and affirmed the Rent Administrator's decision concerning modification of the laundry service.

² Rent Administrator's Docket No. DW410056OR dated April 22, 2016 found the laundry service had not been restored, and that there was no evidence that the owner had filed an application to modify services with the Agency; Docket No. KV410045OR dated May 18, 2023, was denied as there was evidence that the owner provided 3 washers and 3 dryers, instead of 6 washers and 6 dryers as directed under ES410006OD.

³ The owner's application to modify services under Docket No. ES410006OD, was granted on February 27, 2018, and the owner was directed to provide the building with 6 new washing machines and 6 new dryers for the tenants' use, in the central basement of the subject building.

ADMINISTRATIVE REVIEW DOCKET NO. MW410015RT

Thereafter, on May 22, 2024, the owner applied to restore the rent based on restoration of service and submitted supporting documentation to corroborate such claim. The tenants were afforded an opportunity to respond by service of owner's application on May 24, 2024. The records indicate that, in response, the tenants made various submissions individually, including the subject tenant, contending, in substance, that relocating the laundry service to the basement was not convenient, and had caused the tenants undue hardship. The tenants, including the Petitioner, argued that the substitution was inadequate; that the location of the laundry room and the way the machines were positioned raised some safety and medical emergency concerns, especially for the elderly tenants like the Petitioner, as there was no communication device or security camera; that it was difficult making several trips on the elevator and then walking up to half the city block to the "amenities" elevator, just to access the basement to do laundry, especially with laundry load and detergents; that the amenity elevator was regularly out of service, and people would often get trapped; that the cost of taking laundry to outside facility is expensive; and that the \$30 monthly rent reduction granted the tenants was insufficient considering the above facts.

The record reveals that an inspection was conducted at the premises on August 15, 2024 under a separate rent restoration proceeding addressing the same issue as herein, Docket No. MQ410048OR, to confirm if the owner restored the laundry service as claimed. The inspection report indicated that at the time of inspection, the central laundry room was accessible to tenants, with 6 operable washers and dryers respectively.

After consideration of the submissions by the tenant and the owner, including the inspection report from the August 15, 2024 inspection, the Rent Administrator determined that the laundry room condition cited in the order reducing rent had been restored and granted the owner's application to restore rent under Docket No. MQ410051OR, the subject of this appeal.⁴

At the outset, the Commissioner notes that, 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, and that this determination is made by the Rent Administrator, predicated upon an Agency inspection conducted at the premises.

The Commissioner notes the Petitioner's dispute with the Rent Administrator's determination regarding the laundry service. However, the Commissioner finds that this Petitioner's contention is insufficient to revoke or modify the Rent Administrator's decision. Here, the Rent Administrator reduced the tenant's rent based on the removal of laundry service. The owner subsequently applied for permission to substitute floor by floor laundry room service with central laundry service in the basement. The Rent Administrator granted the owner's request to modify the laundry room service under Docket No. ES410006OD and directed the owner to provide 6 new washers and 6 new dryers in the basement for the tenants' use.

⁴ The Rent Administrator noted that as the inspection report revealed that the central laundry room was accessible to the rent stabilized tenants at the time of inspection, and the owner had provided 6 washers and 6 dryers as directed, which were operational, a rent restoration was warranted. The Administrator further noted that the scope of the underlying proceeding being limited to those issues contained in the original proceeding, and not conditions extraneous to rent restoration proceeding, the tenants may file a new application for the complained of services, using DHCR Form RA - 81, or DHCR Form RA - 84 for conditions within the apartments, if warranted.

ADMINISTRATIVE REVIEW DOCKET NO. MW410015RT

As the records indicate that the owner had been granted permission by the Agency to substitute floor-by-floor laundry room service with central laundry service in the basement, and the Agency inspection confirmed that the owner had complied with the Rent Administrator's directive regarding washers and dryers, and the Petitioners do not dispute that the owner provided the building with 6 washers and 6 dryers, the Rent Administrator determined that rent restoration was warranted.

Based on the evidence in the record, the Commissioner finds that the Rent Administrator's decision is appropriate, and in accordance with established principles and procedures. As noted above, 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. Here it is not in dispute that the owner complied with the Rent Administrator's directive to provide the building with 6 washers and 6 dryers. As it is evident that the owner restored the service pursuant to the modification of service order, a rent restoration was warranted.

Additionally, the Commissioner notes that the Agency's longstanding policy provides that where a rent is reduced due to a failure to maintain services, the rent will be restored where it is found that the owner has restored the service cited in the rent reduction order. The Commissioner further notes that, modification of service does not preclude an owner from filing a rent restoration application. Similarly, any permanent reduction granted the tenants as a result of such modification shall remain in force. See the Commissioner's decision under Docket No. GP410005RT.⁵

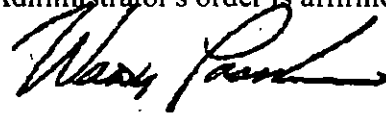
Based on the foregoing, the Commissioner finds that the Rent Administrator correctly granted the owner a rent restoration and the tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination.

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

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

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

ISSUED: **MAR 13 2025**



Woody Pascal
Deputy Commissioner

⁵ The Commissioner modified the Rent Administrator's decision under Docket No. ES410006OD and granted the tenants a permanent concomitant rent reduction of \$30, per month. This reduction is still active and will remain in force permanently.



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

**ADMINISTRATIVE REVIEW
DOCKET NO.: MU410002RT**



PETITIONER

**RENT ADMINISTRATOR'S
DOCKET NO.: LV410095OR**

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

On September 5, 2024, the above named petitioner-tenant filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on August 22, 2024 (the "order"), concerning the housing accommodations known as 113 East 13th Street, New York, New York, wherein the Rent Administrator granted the owner's rent restoration application upon finding the owner had restored access to the backyard/courtyard.

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 order asserting that the backyard remains locked and inaccessible through the steps or elevator. The tenant contends, in substance, that the backyard/courtyard has two levels and that the yard on the lower level is only accessible via a gate that is padlocked at all times; that even if this gate is unlocked many of the residents are unable to walk down the stairs to access the lower level; that the elevators do not permit access to the backyard/courtyard on the lower level; that the lower level is secured with locked doors at all times and is inaccessible with a building key-fob; and that the tenants of the building only have access to a small area outside the tenants' laundry room which does not include the yard on the lower level. The tenant submits, *inter alia*, photographs depicting the alleged lower level yard inaccessible condition.

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

ADMINISTRATIVE REVIEW DOCKET NO. MU410002RT

Pursuant to Rent Stabilization Code (“RSC”) Section 2523.4, the Rent Administrator is authorized to direct the restoration of services and grant a rent reduction, upon application by a tenant, where it is determined that required services have not been maintained. Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. 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 maintained. RSC Section 2527.5(b) gives the Administrator the authority to request an inspection at any stage of a DHCR proceeding and New York courts have consistently held that the DHCR has broad discretion to decide if an inspection is necessary.

The Agency records show that the tenant filed a complaint on March 22, 2018, alleging a lack of access to the backyard/courtyard service assigned Docket No. GO410027B. On October 29, 2018, the Rent Administrator granted the tenant’s application finding access to the backyard/courtyard service unmaintained.

On December 21, 2018, the tenant filed an Affirmation of Non-Compliance assigned Docket No. GX410010NC, affirming that the owner failed to comply with the Rent Administrator’s underlying rent reduction order assigned Docket No. GO410027B. On March 14, 2019, an agency inspection was conducted and the inspector reported that there is no access to the backyard for the tenants and noted that the superintendent stated that the tenants do not use the backyard -it is a restricted area for them. The compliance proceeding closed with a Notice of Settlement and the imposition of a civil penalty for the owner’s non-compliance with the underlying order assigned Docket No. GO410027B¹.

The records further reveal that the owner filed their first rent restoration application on October 18, 2021 assigned Docket No. JV410050OR. On June 7, 2022, the Rent Administrator denied the owner’s application finding that the owner failed to submit information necessary to process the case as requested by notice dated December 7, 2021.

In the proceeding below, the owner filed their second rent restoration application on October 25, 2023, claiming it restored access to the backyard/courtyard service found unmaintained in the underlying rent reduction order. The tenant was afforded an opportunity to respond by service of the rent restoration application on October 14, 2023. The tenant submitted an answer denying the backyard was fully reopened for tenants to access. The tenant asserted that the tenants only have access to the top level; that the tenants only have access to approximately “1/10th of the backyard”; and that the lower level of the backyard is “padlocked.” The tenant submitted a December 19, 2022 Help USA notice which advised the tenants that the “upper level of the backyard is currently open”, along with numerous photographs purportedly depicting the upper and lower levels of the backyard and a “padlocked gate.”

¹ The Commissioner notes that, on July 3, 2019, the tenant filed a second Affirmation of Non-Compliance assigned Docket No. HS410007NC affirming that the owner failed to comply with the Rent Administrator’s underlying rent reduction order. This compliance proceeding closed with the issuance of a Commissioner’s Order which imposed a civil penalty for the owner’s non-compliance with the underlying order. Furthermore, the Commissioner notes that the owner filed an application to modify services assigned Docket No. KO410017OD on March 23, 2022. The Administrator, on October 4, 2023, denied the application based on the owner’s failure to submit information/evidence necessary to process the case as requested on June 15, 2023 and August 23, 2023.

ADMINISTRATIVE REVIEW DOCKET NO. MU410002RT

Prompted by the aforementioned, the Rent Administrator requested an Agency inspection. On July 5, 2024, the Agency conducted an inspection of the subject premises. The Agency inspector reported that all tenants have access to the backyard (top/lower levels); that the tenants' access is provided by key-fob through rear-left (west) entry door of the building lobby; and that there is adequate maintenance/janitorial service on the backyard (top/lower levels).

Based on the findings of the independent Agency inspector which revealed access to the backyard/courtyard being maintained, the Rent Administrator, on August 22, 2024, granted the owner's rent restoration application.

With regard to the photographs submitted on PAR by the tenant, the Commissioner notes this documentation had not been submitted to the Rent Administrator below. Pursuant to the fundamental principles of the administrative appeal process and under Section 2529.6 of the RSC, this evidence is beyond the scope of review of this administrative appeal, which is limited to a review of the facts or evidence presented to the Rent Administrator.

The Commissioner notes that although the tenant disputes the inspector's findings regarding the backyard/courtyard access, the Rent Administrator's determination was appropriate and was supported by a rational basis, namely the inspection report that revealed that the backyard/courtyard access was restored at the time of the Agency inspection on July 5, 2024. The Rent Administrator's reliance on the inspector's training and experience in the area of building inspections as well as their impartiality in conducting the inspection and their observations of the restored access to the backyard/courtyard was reasonable and in compliance with Section 2523.4 of the RSC and Policy Statement 90-2.

In view of the above, 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 July 5, 2024 Agency inspection which found access to the backyard/courtyard restored. Accordingly, the Commissioner finds that the Rent Administrator appropriately granted the owner a rent restoration and the tenant has not presented any allegations of errors of law or fact to warrant reversal of the Rent Administrator's order.

The tenant is advised to file an "Application to Reduce Rent based on Decreased Building-Wide Service(s)," 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: **MAR 26 2025**



Anthony Tatano
Deputy Commissioner



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

ADMINISTRATIVE REVIEW
DOCKET NO.: MX410005RT



PETITIONER

RENT ADMINISTRATOR'S
DOCKET NO.: LW410206OR

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

On December 17, 2024, the above-named petitioner-tenants timely filed a Petition for Administrative Review ("PAR") against an order the Rent Administrator issued on November 26, 2024 (the "Order"), concerning the housing accommodation known as 201 Avenue A, Apt. [REDACTED] New York, NY (the "Premises"), wherein the Rent Administrator granted the owner a rent restoration, finding that vermin control in the apartment had been 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 tenants request the modification of the Order and claim, in substance, that (1) the Order should not have been retroactively applied to January 1, 2024 since the inspection was conducted on September 6, 2024, (2) the language regarding arrears "due to the owner as a result of this order" is unclear and there should not be any arrears as the rent is current, (3) the Order should specify the exact amount of the future rent and when the payment of that rent begins. The owner was offered an opportunity to respond by service of the petition on January 8, 2025.

In the owner's answer dated January 21, 2025, the owner objected and argued, in substance, that (1) the effective date is the first day of the month after the owner's restoration is filed, (2) the granting of the order "does not imply that there are actual rental arrears", and the tenants have no

ADMINISTRATIVE REVIEW DOCKET NO. MX410005RT

rental arrears as of the date of the answer, (3) the Agency is not required to determine what the rent is as part of the issuance of an "OR" order.

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

Pursuant to Section 2523.4 of the Rent Stabilization Code ("RSC" or the "Code"), the Rent Administrator is authorized by law to direct the restoration of services and grant a rent reduction, upon application by a tenant where it is determined that required services have not been maintained. 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, Policy Statement 90-2 permits the Rent Administrator to rely on an Agency inspection when making a determination. New York Courts have consistently upheld the reliability of Agency inspections. See Matter of 113-117 Realty, LLC v. DHCR, 2021 N.Y. Slip. Op. 06432 [1st Dept. 2021] citing to Matter of Sherman v. DHCR, 210 AD2d 486 [2nd Dept. 1994].

On October 4, 1986, the tenant(s) filed an application for a rent reduction based upon decreased apartment-wide services which the Rent Administrator granted on January 24, 1990 under Docket No. CJ410545S.

On March 2, 1990, the owner filed an Application to Restore Rent under Docket No. EC410128OR. Under Docket No. EC410128OR, the Rent Administrator found, in pertinent part, that (1) there was evidence of roach infestation in the apartment, and (2) that the paint and plaster, living room radiator, and bathroom window services were maintained. Consequently, the owner's application was denied on October 15, 1990.

Subsequently, on November 30, 2023, the owner commenced the underlying rent restoration proceeding, Docket No. LW410206OR, and asserted, in pertinent part, that adequate extermination is provided in the apartment¹. The tenants were served with the notice of the owner's rent restoration application on December 29, 2023.

In the tenants' answer dated January 17, 2024, in pertinent part, the tenants alleged that the extermination services were inadequate, and that there were gaping holes in the kitchen wall, cupboard and around the two living room windows.

The Rent Administrator, in accordance with DHCR procedure, requested an inspection to facilitate the resolution of the owner's rent restoration application and to ascertain the condition of the services found previously not maintained, to wit: vermin control in the apartment.

On September 6, 2024, an Agency inspection was conducted. The inspector reported that there was no evidence of vermin (roaches/rodents) in the apartment. The inspector also substantiated their inspection report with photographs taken at the subject premises, dated September 6, 2024.

¹ The owner also stated that the apartment has been repainted and replastered, the window in the bathroom is no longer cracked, and the radiator in the living room is not leaking.

ADMINISTRATIVE REVIEW DOCKET NO. MX410005RT

Subsequently, the Rent Administrator granted the owner's rent restoration application and directed the restoration of rent with an effective date of January 1, 2024, under Docket No. LW410206OR. The Rent Administrator found, based upon a complete review of the record including the inspection report from September 6, 2024, that the vermin control services had been restored, and noted that there was no evidence of vermin (roaches/rodents) in the apartment. The order also stated, "Any Arrears due the owner as a result of this order may be paid in equal monthly installments equal to the monthly rent reduction taken."

At the outset, the Commissioner notes that, in general, inspections during the rent restoration proceeding are based upon the services found unmaintained during the rent reduction proceeding, and the Rent Administrator's scope of review is limited to same.

Pursuant to DHCR Policy Statement 90-2, the effective date for a rent restoration order is the first day of the month following service of the owner's application to restore rent on the tenant. In the matter at hand, since the owner's application to restore rent was served on the tenants on December 29, 2023, the Rent Administrator correctly determined the effective date as January 1, 2024.

The Commissioner notes the tenants' contention that the language regarding arrears is unclear and that the tenants disagree with the date of applicability of the order. The Commissioner notes that while the Rent Administrator's order was issued on November 26, 2024, the effective date for rent restoration was indicated, properly so, as shown above to be January 1, 2024. Hence, any difference due the owner between the two dates is considered arrears. Accordingly, the Commissioner finds the Rent Administrator's language to be unambiguously clear.

Based on the foregoing, the Commissioner finds that the Rent Administrator appropriately granted the owner's rent restoration application and tenants' PAR has not established any basis to modify or revoke the Rent Administrator's determination. Here, a review of the Agency records reveals that the underlying service condition for which a rent reduction was granted, and had been previously determined not restored under Docket No. EC410128OR, was for vermin control. The Rent Administrator correctly granted the owner a rent restoration, under Docket No. LW410206OR, based upon the finding that vermin control service initially found decreased in the subject apartment, under Docket No. CJ410545S, had been restored. 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 and in accordance with the Code and Policy Statement 90-2.

The tenants may file a fresh services complaint with this Agency, should the facts so warrant.

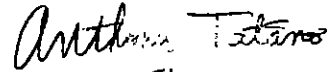
The tenants may, if the facts so warrant, file a complaint of rent overcharge.

ADMINISTRATIVE REVIEW DOCKET NO. MX410005RT

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 28 2025



Anthony Tatano
Deputy Commissioner



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