

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

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF

X
ADMINISTRATIVE REVIEW
DOCKET NO.: NP410031RT

RENT ADMINISTRATOR'S
DOCKET NO.: IT410019R

DEAN DODOS,

OWNER:244-246 E 7TH ST.INV. LLC.

PETITIONER

X

ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

The petitioner-tenant filed an administrative appeal (PAR) against an order issued on April 4, 2025 by the Rent Administrator (RA) concerning the housing accommodation known as Apt. 13 located at 244 East 7th Street, New York, NY which denied petitioner's rent overcharge complaint.

The tenant took occupancy of the subject apartment on July 1, 2016, pursuant to a two-year lease. The tenant filed a rent overcharge complaint on August 10, 2020 challenging his rent of \$2,600.00 per month and alleging that the rent was inflated based on the cost of Individual Apartment Improvements (IAIs) that were never made. The case was originally brought in New York Supreme Court under Index no. 153378/2018 and was transferred to DHCR by Court Order, dated November 22, 2019, under the doctrine of primary jurisdiction.

The tenant asserted that under the Housing Stability and Tenant Protection Act (HSTPA) and given the allegations of fraud, the agency should consider public records and pending HCR complaints for other tenants in its review; that the owner failed to register the units despite receiving tax benefits when it was clear that Roberts v. Tishman Speyer Properties, L.P., 13 N.Y.3d 270 (2009) was retroactive; that such action is demonstrative of building-wide fraud; that the Department of Buildings (DOB) records show no improvements to the property that would entitle the owner to IAI rent increases; and that

under HSTPA, the tenant is entitled to recover legal fees (64.6 hours x \$550.00 per hour).

The owner answered that all rent increases were lawful; that the failure to register was not evidence of fraud; that if the increases in the legal regulated rent were lawful, except for the failure to file a timely registration, the owner, upon the filing of the late registration, should not be found to have collected an overcharge at any time prior to the filing of the late registration; that the 2018 annual apartment registration was filed on April 1, 2018 with a legal rent of \$3,825.65 and a preferential rent of \$2,600.00; and that since the owner has registered the premises with DHCR the owner cannot be found to have overcharged the tenant during the time that the subject premises was not registered.

The RA found that the base date for this proceeding is June 14, 2015, the earliest allowable base date under HSTPA; that the base date legal regulated rent was \$1,750.00 per month; that said rent was increased by a renewal lease signed by the former tenant as of September 1, 2015 to \$1,798.13 per month; that the tenant's initial rent as of July 1, 2016 was calculated by adding a 20% vacancy increase and \$1,667.89 in IAIs to the former tenant's rent; that the initial legal regulated rent was therefore \$3,825.65 per month and the tenant paid a preferential rent of \$2,600.00 per month; that the owner proved the cost of the installation of IAIs in the amount of \$66,715.89 and was entitled to a rent increase equal to 1/40th of that amount (\$1,667.89) per month; that the owner discontinued the preferential rent as of July 1, 2018; that all rent increases subsequent to the base date have been lawful; that the legal regulated rent as of January 31, 2025 was \$4,212.54 per month; and that since there was no rent overcharge, no attorney fees are awarded.

On PAR, the petitioner asserts that the June 14, 2015 base date is incorrect since the proceeding was commenced as a referral from the Court; that the Court case commenced on April 13, 2018 which would make the base date April 13, 2014; that under CPLR §205(a), the DHCR complaint filing relates back to the filing of the Supreme Court action; that the DHCR rent history shows that the rent charged and paid in 2014 and 2015 was \$1,750.00 and the rent charged and paid in 2016 was \$1,798.13 making the RA's order incorrect; that the owner should not be entitled to any rent increases where there was no DHCR registration or rent stabilization rider; that the illegal deregulation of the subject apartment occurred after the Roberts

decision and is fraudulent; that treble damages should be awarded; and that legal fees should be awarded because the tenant achieved rent stabilized status as a result of the RA order.

In its answer to the PAR, the owner asserts that the RA correctly determined that the base date was June 14, 2015 which is four years prior to the filing of the agency complaint; that the petitioner misunderstands CPLR §205(a) which preserves a tenant's right to refile after dismissal by allowing the new action to relate back to the original filing date for statute of limitations only; that CPLR §205(a) has no application to administrative base date calculations under rent stabilization laws; that the petitioner cites no case law supporting this theory because none exists; that the Court referred the case to DHCR for jurisdiction over rent regulation matters, but the referral does not transform the DHCR complaint into a continuation of the court action for procedural purposes; that DHCR opens an administrative docket and applies its own procedural rules including how the base date is determined under Rent Stabilization Law (RSL) §26-516(a); that the date the complaint was filed governs the base date calculation not the prior court filing; that the RA properly used the last reliable registered rent which was \$1,798.13 from the 2016 rent registration as RSL §26-516(a) requires and found no overcharge; that the petitioner's claim that post-Roberts deregulation is fraudulent is legally baseless; that there is no evidence of a fraudulent scheme to deregulate the premises; that the RA denied all requested relief and the petitioner is not the prevailing party in this matter; and that the RA's order is legally sound and consistent with DHCR precedent and HSTPA's statutory framework.

The petitioner submitted a reply stating essentially that the base date should be April 13, 2014, which was four years before the Supreme Court case was instituted.

The Commissioner, having reviewed the evidentiary record, finds that the PAR should be denied.

As a first matter, the RA properly established the base date as June 14, 2015, the earliest allowable base date under HSTPA, in accordance with the New York Court of Appeals decision in Regina Metropolitan Co. LLC v DHCR 35 N.Y.3d (2020). With that said, even were the tenant's proposed base date of April 13, 2014 to be used, the outcome of the case would not change. The base date rent would remain

at \$1,750.00 per month which was the rent set forth in the lease of the prior tenant spanning September 1, 2013 through August 31, 2015, which rent was also contemporaneously registered with DHCR. The former tenant then signed a renewal lease commencing September 1, 2015 at a rent of \$1,798.13 per month, which rent was also contemporaneously registered with DHCR.

Based on a review of the totality of the circumstances in this case, the Commissioner finds no evidence of a fraudulent scheme to deregulate the subject apartment. Other than in 2010¹, the apartment has been contemporaneously registered as rent stabilized since Roberts was decided in 2009 and all rent adjustments have been in accordance with applicable rent stabilization laws. The initial lease offered to the petitioner was also a rent stabilized lease. The absence of a rent stabilization rider, standing alone, is insufficient evidence of a fraudulent scheme to deregulate.

In addition to the 20% statutory vacancy allowance that the owner was permitted in 2016, the owner was also entitled to the IAI rent increase found by the RA. The owner provided sufficient evidence to justify the IAI rent increase as found by the RA in accordance with DHCR policy in effect at the time. The IAI evidence included: an invoice from FAO Environmental along with a corresponding cancelled check for \$732.00, dated April 27, 2016; an invoice from DT Maintenance for the installation of wall framing, sheetrock and new windows along with a corresponding cancelled check for \$5,000.00, dated May 17, 2016; an invoice from A2 Architecture for preparation and submission of plans and drawings to the NYC Department of Buildings and a corresponding cancelled check for \$3,000.00, dated July 6, 2016; an invoice from Skinner Plumbing & Heating for the installation of plumbing fixtures along with 3 corresponding cancelled checks totaling \$16,396.35, dated June 6, 2016, June 27, 2016 and June 27, 2016, respectfully; an invoice from WR Flooring with a corresponding cancelled check for \$5,017.50, dated June 1, 2016; an invoice from Joe Johnson for various demolition and renovation work along with a corresponding cancelled check for \$3,000.00, dated May 2, 2016; an invoice from Handyman Specialist Co. for the preparation and priming of the walls and ceilings along with a corresponding cancelled check for \$1,500.00, dated June 8, 2016; an invoice from Handyman Specialist Co. for the preparation and priming of the walls and ceiling along with a corresponding check for \$1,530.00, dated June 8, 2016; an invoice from P.C. Richard & Son for

¹ The 2010 registration was filed in 2012.

new appliances along with a corresponding check for \$2,888.14, dated May 18, 2016; an invoice from Tri State Marble & Tile for the removal of existing fixtures and installation of a new door along with a corresponding cancelled check for \$3,500.00, dated August 5, 2016; an invoice from TAW Construction Inc. for electrical work along with a corresponding cancelled check for \$5,950.00, dated July 26, 2016; an invoice from Renaissance Renovations for construction management and the delivery of fixtures along with a corresponding cancelled check for \$2,700.00, dated April 30, 2016; an invoice from Renaissance Renovations for construction management and the delivery of fixtures along with a corresponding cancelled check for \$5,618.72, dated May 31, 2016; an invoice from Renaissance Renovations for construction management and the delivery of fixtures along with a corresponding cancelled check for \$8,844.53, dated June 30, 2016; and an invoice from Renaissance Renovations for construction management and the delivery of fixtures along with a corresponding cancelled check for \$2,566.39, dated July 26, 2016.

The Commissioner finds that in 2016 the IAI work did not need DOB approval to qualify for a rent increase and therefore any discrepancies in the DOB filings does not invalidate said IAI rent increase. The petitioner has otherwise not demonstrated that the work was not performed. The Commissioner also finds that it is not unusual for an owner to pay for the IAI work after it is completed and that some of the payments may be dated after the incoming tenant has already taken occupancy.

The petitioner's request for treble damages and attorney fees is moot given that the overcharge complaint was denied. Rent Stabilization status was never denied to the petitioner by the owner and therefore the petitioner is not entitled to attorney fees based on a finding that he was a rent stabilized tenant.

The Commissioner has considered all other claims raised by the petitioner and finds them to be without merit.

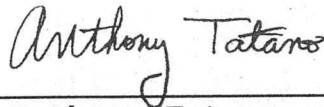
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THEREFORE, in accordance with the relevant Rent Regulatory Laws and Regulations, it is

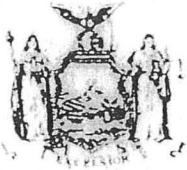
ORDERED, that this petition be, and the same hereby is denied, and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

AUG 25 2026



Anthony Tatano
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.