



*State of New York
Court of Appeals*

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COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

October 6, 2023 through October 12, 2023

Each week the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11. For those appeals that proceed to briefing in the normal course, the briefing schedule generally will be: appellant's brief to be filed within 60 days after the appeal was taken; respondent's brief to be filed within 45 days after the due date for the filing of appellant's brief; and a reply brief, if any, to be filed within 15 days after the due date for the filing of respondent's brief.

The Court welcomes motions for amicus curiae participation from those qualified and interested in the subject matter of these newly filed appeals. Please refer to Rule 500.23 and direct any questions to the Clerk's Office.

MATTER OF 160 E. 84th v DHCR (Index No. 157576/20):

1st Dept. App. Div. order of 2/24/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)'s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law; Supreme Court, New York County, among other things, denied petition to annul

respondent New York State Division of Housing and Community Renewal's (DHCR) "Explanatory Addenda" to a rent deregulation order, to annual DHCR's order denying a petition for administrative review challenging the addenda, to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 160 E. 84th v DHCR (Index Nos. 157558, 157560 & 157579 & 157582/20):

1st Dept. App. Div. order of 5/26/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)'s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, denied petitions to annul respondent New York State Division of Housing and Community Renewal's (DHCR) "Explanatory Addenda" to a rent deregulation orders, to annul DHCR's orders denying petitions for administrative review challenging the addenda, to reinstate the deregulation orders, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 160 E. 84th v DHCR (Index No. 157557/20):

1st Dept. App. Div. order of 10/18/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)'s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, denied petition to annul respondent New York State Division of Housing and Community Renewal's (DHCR) "Explanatory Addenda" to rent deregulation order, to annul DHCR's order denying petition for administrative review challenging the addenda, to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 1700 YORK AVE. v DHCR (Index No. 157893/20):

1st Dept. App. Div. order of 10/13/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)’s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, denied petition to annul respondent New York State Division of Housing and Community Renewal’s (DHCR) “Explanatory Addenda” to a rent deregulation order, to annul DHCR’s order denying a petition for administrative review challenging the addenda, to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 87th ST. SHERRY v DHCR (Index Nos. 153992, 159887 & 154002/20):

1st Dept. App. Div. order of 10/13/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)’s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, denied petitions to annul respondent New York State Division of Housing and Community Renewal’s (DHCR) “Explanatory Addenda” to rent deregulation orders, to annul DHCR’s orders denying petitions for administrative review challenging the addenda, to reinstate the deregulation orders, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 87th ST. SHERRY v DHCR (Index No. 153995/20):

1st Dept. App. Div. order of 2/24/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue

explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)’s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, among other things, denied petition to annul respondent New York State Division of Housing and Community Renewal’s (DHCR) “Explanatory Addenda” to a rent deregulation order, to annul DHCR’s order denying a petition for administrative review challenging the addenda, to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF 87th ST. SHERRY v DHCR (Index No. 153999/20):

1st Dept. App. Div. order of 2/24/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)’s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, among other things, denied petition to annul respondent New York State Division of Housing and Community Renewal’s (DHCR) “Explanatory Addenda” to a rent deregulation order, to annul DHCR’s order denying a petition for administrative review challenging the addenda, to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.

MATTER OF CLERMONT YORK v DHCR (Index No. 157776/20):

1st Dept. App. Div. order of 10/13/22; affirmance; leave to appeal granted by the Court of Appeals, 9/21/23;

Landlord and Tenant-Rent Regulation—Whether respondent New York State Division of Housing and Community Renewal (DHCR) had the authority to issue explanatory addenda to prior rent deregulation orders; whether the Housing Stability and Tenant Protection Act of 2019 (HSTPA)’s repeal of luxury deregulation provisions applies to luxury deregulation orders issued prior the enactment of the HSTPA, regardless of whether such application is denominated

retroactive or not; whether a DHCR order deregulating an apartment, with implementation to occur at the end of the lease then in effect, may be nullified due to the lease expiring after an intervening change in law;

Supreme Court, New York County, denied the petition to annul respondent New York State Division of Housing and Community Renewal's (DHCR) September 6, 2019 "Explanatory Addenda" to a rent deregulation order dated April 5, 2019, to annul DHCR's August 6, 2020 order denying the petition for administrative review challenging the addenda, and to reinstate the deregulation order, and dismissed the proceeding brought under CPLR article 78; App. Div. affirmed.