

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - March 6, 2007

HOWARD MILLER, J.P.
WILLIAM F. MASTRO
DAVID S. RITTER
RUTH C. BALKIN, JJ.

2006-02181

DECISION & JUDGMENT

In the Matter of Raymond M. Weinstein,
et al., petitioners, v City of New York Department
of Housing Preservation and Development, et al.,
respondents.

(Index No. 21896/05)

Goldberg, Scudieri, Lindenberg & Block, P.C., New York, N.Y. (David Scudieri of counsel), for petitioners.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and Norman Corenthal of counsel), for respondent City of New York Department of Housing Preservation and Development.

Breier Deutschmeister Urban & Fromme, P.C., New York, N.Y. (Miriam M. Breier of counsel), for respondent Cadman Towers, Inc. (no brief filed).

Proceeding pursuant to CPLR article 78 to review a determination of the City of New York Department of Housing Preservation and Development dated March 23, 2005, which, after a hearing, granted the application of Cadman Towers, Inc., for a certificate authorizing it to proceed with a proceeding to evict the petitioners.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed, on the merits, with costs payable to the respondent City of New York Department of Housing Preservation and Development.

April 17, 2007

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OF HOUSING PRESERVATION AND DEVELOPMENT

There is no merit to the petitioners' contention that the missing portion of the hearing transcript warrants an annulment of the administrative determination. This court is able to undertake a meaningful review of the administrative determination under the substantial evidence standard based upon the available testimony and the documentary evidence (*see Matter of Sledge v Sledge*, 228 AD2d 310, 310; *Matter of Peterkin v Reid*, 105 AD2d 707, 707). Moreover, there is substantial evidence in the record to support the determination of the respondent the City of New York Department of Housing Preservation and Development that the petitioners were subject to eviction from the subsidized apartment they occupied (*see* 28 RCNY § 3-02[n][4]; 28 RCNY § 3-02[p][2][ii]; 28 RCNY § 3-02[p][3-4]; *Matter of Shi Yi Jang v New York City Dept. of Hous. Preserv. & Dev.*, 29 AD3d 470; *Matter of Estate of Vaisman v East Midtown Plaza Hous. Co.*, 15 AD3d 290).

The petitioners' remaining contentions are without merit.

MILLER, J.P., MASTRO, RITTER and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court