

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

D27227  
Y/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - April 1, 2010

HOWARD MILLER, J.P.  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS  
PLUMMER E. LOTT, JJ.

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2008-11292

DECISION & ORDER

In the Matter of Iris Man Yee Lee, petitioner-respondent,  
v New York State Division of Housing and Community  
Renewal, appellant, Angelo Lopez, et al.,  
intervenors-respondents.

(Index No. 4381/08)

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Gary R. Connor, General Counsel, New York, N.Y. (Aida P. Reyes of counsel), for  
appellant.

Borah, Goldstein, Altschuler, Nahins & Goidel, P.C., New York, N.Y. (Paul N.  
Gruber of counsel), for petitioner-respondent.

In a proceeding pursuant to CPLR article 78, inter alia, to review a determination of the New York State Division of Housing and Community Renewal dated December 11, 2007, which confirmed a determination of the Rent Administrator dated July 31, 2007, finding a rent overcharge and assessing treble damages, the New York State Division of Housing and Community Renewal appeals from a judgment of the Supreme Court, Kings County (Vaughan, J.), dated October 16, 2008, which annulled the determination and remitted the matter to the New York State Division of Community Renewal for further consideration of the evidence.

ORDERED that the judgment is affirmed, with costs.

Under the circumstances of this case, the Supreme Court did not err in remitting the matter of the rent overcharge complaint to the New York State Division of Housing and Community

May 4, 2010

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COMMUNITY RENEWAL

Renewal (hereinafter the DHCR) for further consideration of the evidence, including certain leases submitted by the landlord after the DHCR made its final determination (*see Wesby v State of New York Div. of Hous. & Community Renewal [Office of Rent Admin.]*, 20 Misc 3d 1103[A], 2008 NY Slip Op 51207[U]).

In light of our determination, we need not reach the remaining contentions of DHCR.

MILLER, J.P., LEVENTHAL, CHAMBERS and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court