

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

D29159
C/prt

_____AD3d_____

Submitted - November 5, 2010

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
PLUMMER E. LOTT, JJ.

2009-06652

DECISION & ORDER

In the Matter of Jamaica Estates, LLC, appellant, v
New York State Division of Housing and Community
Renewal, respondent-respondent, et al., respondent.

(Index No. 28826/08)

Curtis Harger, Jamaica, N.Y., for appellant.

Gary R. Connor, New York, N.Y. (Jeffrey G. Kelly of counsel), for respondent-
respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the New York State Division of Housing and Community Renewal dated October 3, 2008, which denied its petition for administrative review of an order of the Rent Administrator dated May 8, 2008, directing a reduction in the amount of rent payable for a rent-regulated apartment based on failure to provide adequate services, the petitioner appeals from a judgment of the Supreme Court, Queens County (J. Golia, J.), dated May 11, 2009, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Where a rational basis exists in the record to support a determination of the Division of Housing and Community Renewal (hereinafter the DHCR), that determination will be sustained (*see Matter of 333 E. 49th Assoc., LP v New York State Div. of Hous. & Community Renewal, Off. of Rent Admin.*, 9 NY3d 982; *Matter of 68 Apt. Assoc., Inc. v New York State Div. of Hous. & Community Renewal*, 71 AD3d 1031; *Matter of 508 Realty Assoc., LLC v New York State Div. of*

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Hous. & Community Renewal, 61 AD3d 753, 754-755).

Here, the determination of the Rent Administrator for the DHCR that the petitioner did not provide adequate services, and that there should be a corresponding reduction in rent, is supported by a rational basis given the record of inspections of the subject premises and the evidence that the tenant provided access for residential services to be performed (*see Matter of 333 E. 49th Assoc., LP v New York State Div. of Hous. & Community Renewal, Off. of Rent Admin.*, 9 NY3d 982; *Matter of 68 Apt. Assoc., Inc. v New York State Div. of Hous. & Community Renewal*, 71 AD3d 1031; *Matter of Dayton Seaside Assoc. No. 2. v New York State Div. of Hous. & Community Renewal*, 271 AD2d 529, 529-530; *Matter of Bel Air Leasing Ltd. Partnership v Div. of Hous. & Community Renewal*, 259 AD2d 542, 543).

MASTRO, J.P., COVELLO, ANGIOLILLO and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court