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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

1 No. 183 SSM 30
In the Matter of 333 East 49th
Associates, LP et al.,
 Appellants,
 v.
New York State Division of
Housing and Community Renewal,
Office of Rent Administration,
 Respondent.

Submitted by Robert H. Gordon, for appellants.
Submitted by Jeffrey G. Kelly, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

A rational basis exists for the Division of Housing and
Community Renewal's determination that petitioners failed to

maintain adequate janitorial services warranting a rent reduction (see Matter of Gilman v New York State Div. of Hous. & Community Renewal, 99 NY2d 144, 149 [2002]). The determination, implicitly rejecting petitioners' claim that the violation was de minimis, is rationally based on the inspector's observations of debris in the compactor rooms, which confirmed the tenants' sworn complaint of filthy compactor rooms that were not maintained. DHCR's determination that petitioners reduced services by failing to maintain the compactor rooms was not irrational and must be sustained (see Matter of KSLM-Columbus Apts., Inc. v New York State Div. of Hous. & Community Renewal, 5 NY3d 303, 312 [2005]; Matter of Mid-State Mgt. Corp. v New York City Conciliation & Appeals Bd., 112 AD2d 72, 75-76 [1st Dept 1985], affd 66 NY2d 1032 [1985]).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo and Jones concur. Judges Read, Smith and Pigott dissent and vote to reverse for the reasons stated in the dissenting memorandum by Justice George D. Marlow at the Appellate Division (40 AD3d 516, at 517-520 [2007]).

Decided November 27, 2007