

**Clermont York Assoc., LLC v New York State Div. of
Hous. & Community Renewal**

2021 NY Slip Op 34240(U)

June 30, 2021

Supreme Court, New York County

Docket Number: Index No. 157776/2020

Judge: Arthur F. Engoron

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARTHUR F. ENGORON PART IAS MOTION 37EFM

Justice

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CLERMONT YORK ASSOCIATES, LLC	INDEX NO. <u>157776/2020</u>
Petitioner,	MOTION DATE <u>09/23/2020</u>
- v -	MOTION SEQ. NO. <u>001</u>

NEW YORK STATE DIVISION OF HOUSING AND
COMMUNITY RENEWAL,

**DECISION + ORDER ON
MOTION**

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion for CPLR ARTICLE 78 RELIEF.

Upon the foregoing documents, it is hereby ordered that the petition is denied and dismissed.

In this special proceeding, petitioner, the landlord/owner of a rent stabilized housing unit known as apartment 30G of 444 East 82nd Street, New York, New York (“the apartment”), seeks to overturn a final determination of the Division of Housing and Community Renewal (“DHCR”) that denied petitioner’s Petition for Administrative Review (“PAR”) and held that the apartment can no longer be deregulated.

Background

The facts, simply stated, are as follows: On June 22, 2016, petitioner filed a “Petition by Owner for High Income Deregulation 2016 Filing Period” (“the deregulation petition”) seeking an order deregulating the apartment based on the tenant’s failure to properly return income certification forms to petitioner. On April 5, 2019, DHCR issued a response to the deregulation petition stating that the apartment would be deregulated upon the expiration of the existing lease. At the time DHCR issued its response, the tenant’s lease would next have expired on July 31, 2019.

On June 14, 2019, the New York State Legislature enacted the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”), which repealed high-income deregulation as was set forth in the Rent Stabilization Law (“RSL”) §§ 26-504.1, 26-504.2, and 26-504.3. Prior to the enactment of HSTPA, RSL § 26-504.3b provided that where tenants acknowledged that the household income exceeded the deregulation threshold, DHCR shall deregulate the premises “upon the expiration of the existing lease.”

HSTPA provides that if the lease in effect on the day DHCR’s deregulation order was issued had expired before June 14, 2019, the housing accommodation would become deregulated, and if the lease expires on or after June 14, 2019, the housing accommodation would stay regulated.

The tenants' renewal lease in the apartment expired on July 31, 2019. Accordingly, DHCR determined that the apartment is not deregulated, and remains subject to the rent protections that HSTPA affords.

Petitioner then commenced the instant special proceeding, seeking to overturn the final determination of DHCR, which held that the apartment is not regulated.

Discussion

The Court's function in reviewing DHCR's determinations is limited. "Where the interpretation of a statute or its application involves knowledge and understanding of underlying operational practices or entails an evaluation of factual data and inferences to be drawn therefrom, the courts regularly defer to the governmental agency charged with the responsibility for administration of the statute. If its interpretation is not irrational or unreasonable, it will be upheld." Ansonia Residents Ass'n v New York State Div. of Hous. & Cmty. Renewal, 75 NY2d 206, 213 (1989).

In the instant special proceeding, the Court cannot say that DHCR acted arbitrarily or irrationally in interpreting the plain language of the HSTPA. The legislature, as is its prerogative, made the determination that the public policy of this State was best served in overhauling the rent stabilization laws, and it was the legislature's determination that such changes be implemented as of June 19, 2019. 191 Realty Assocs., L.P. v Tejada, 119 NYS3d 675 (NY App Term 2019), aff'd, No. 13654, 2021 WL 1567339 (NY App Div Apr. 22, 2021) ("reject[ing] tenant's contention that the Housing Stability and Tenant Protection Act of 2019, which repealed high rent vacancy deregulation, effectively re-regulated units that had been legally deregulated under previous rent laws").

Furthermore, petitioner's arguments that DHCR unreasonably delayed are without merit as there was no showing that DHCR deliberately or negligently delayed processing the application. Mountbatten Equities v New York State Div. of Hous. & Cmty. Renewal, 226 AD2d 128, 129 (1st Dept. 1996).

The Court has considered petitioner's other arguments and finds them non-dispositive and/or unavailing.

Thus, for the reasons stated herein, the Clerk is hereby directed to enter judgment denying and dismissing the petition in its entirety.

6/30/2021
DATE


ARTHUR F. ENGORON, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER

REFERENCE