

Matter of Troise v Marchiano

2025 NY Slip Op 33914(U)

October 10, 2025

Supreme Court, New York County

Docket Number: Index No. 158658/2025

Judge: Lyle E. Frank

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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IN THE MATTER OF THE APPLICATION OF EMANUEL
TROISE AND TROISE PLUMBERS CORP,

Petitioner,

INDEX NO. 158658/2025

MOTION DATE 07/07/2025

MOTION SEQ. NO. 001

- v -

MARIA MARCHIANO, CHIEF CLERK, OATH, NYC OFFICE
OF ADMINISTRATIVE TRIALS AND HEARINGS, NYC
DEPARTMENT OF BUILDINGS

Respondent.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, the petition is denied and the cross-motion to dismiss the petition is granted.

Background

Petitioner Emanuel Troise is a licensed plumber and owner of Troise Master Plumbers Corp. In July of 2025, Petitioner (through his attorney) submitted a document request to Respondent New York City Department of Buildings. The request consisted of a short email to the OATH Clerk’s office requesting any outstanding summonses or fines against Petitioner. OATH responded by directing Petitioner’s counsel to the appropriate email address and informing them that a copy of the relevant DOB license would be required. Petitioner’s counsel, who maintains that he has historically been able to obtain the requested information without providing a DOB license, confirmed that the OATH Clerk was refusing to process the document

request in the manner by which it was sent. It is this decision that Petitioner now timely challenges.

Standard of Review

A party may bring an Article 78 petition to challenge the final determination of an administrative agency. CPLR § 7801(1). A court must give great deference to the agency's decision and cannot "interfere unless there is no rational basis for the exercise of discretion or the action complained of is arbitrary and capricious." *Pell v. Board of Education*, 34 N.Y.2d 222, 231 [1974]. Judicial review is also available if the agency's determination was "contrary to law or procedure." *Barrett Japaning, Inc. v. Bialobroda*, 190 A.D.3d 544, 545 [1st Dept. 2021]. An action is irrational or arbitrary and capricious if "it is taken without sound basis in reason or regard to the facts." *Matter of A.Z. v. City Univ. of N.Y., Hunter Coll.*, 197 A.D.3d 1027, 1027 [1st Dept. 2021].

Discussion

The petition requests mandamus relief directing the OATH Clerk to respond to email document requests relating to DOB plumber violations Respondents have cross-moved to dismiss the petition for lack of standing and failure to state a claim. Petitioner opposes. For the reasons that follow, the petition is dismissed.

The Petition Does Not Establish Clear Legal Entitlement to Mandamus Relief

Ultimately, the two causes of action in the barebones petition seek mandamus relief that would require OATH to issue the requested documentation to any email request, regardless of whether such request is in the format required by OATH. Mandamus relief, which allows a court to compel a governmental agency to perform a ministerial duty, cannot "compel an act which involves an exercise of judgment or discretion." *Brusco v. Braun*, 84 N.Y.2d 674, 679 [1994]. It

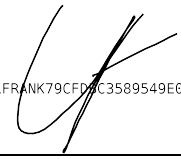
is not available unless the duty sought to be compelled is “mandatory, nondiscretionary action” and the party seeking such relief can establish a clear legal right to said relief. *Id, see also N.Y. Civ. Liberties Union v. State*, 4 N.Y.3d 175, 184 [2005] (explaining that mandamus relief is only available “to enforce a clear legal right where the public official has failed to perform a duty enjoined by law” and cannot enforce a discretionary duty). While Petitioner characterizes the right to receive the requested documents as a ministerial and mandatory action, the true relief that the petition seeks is the right to receive the requested information in the format of Petitioner’s choosing and through the means that Petitioner expects to be accepted. That is, the challenge is not to the obligation of OATH to provide records of summons and fines, but rather to the obligation of OATH to provide such records to any person emailing regardless of what email address the request is sent to or whether the requestor provides the requested DOB license information.

There may be an obligation by OATH to provide such records (although Petitioner does not cite to any statutory or other authority for the existence of such a duty). But Petitioner has not established a clear legal right to receive the records via the request method of his choosing. To the extent that OATH is obligated to provide the requested records, establishing the valid method of requesting such records is within their discretion. Neither can it be said that the decision to only accept records requests sent to a specific email address and containing a copy of the relevant DOB license was an arbitrary and capricious decision by OATH’s Clerk’s office. Therefore, Petitioner has not established entitlement to mandamus relief, and the cross-motion to dismiss the petition must be granted. Accordingly, it is hereby

ADJUDGED that the petition is denied; and it is further

ORDERED that the cross-motion to dismiss the petition is granted.

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10/10/2025
DATE

LYLE E. FRANK, 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

APPLICATION:

CHECK IF APPROPRIATE: