

**Caceres v Division of Hous. Supervision of the Dept. of
Hous. Preserv. & Dev. of N.Y. (HPD)**

2025 NY Slip Op 34893(U)

December 12, 2025

Supreme Court, New York County

Docket Number: Index No. 152914/2025

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12M

Justice

-----X

VICTOR M. CACERES,

Plaintiff,

- v -

DIVISION OF HOUSING SUPERVISION OF THE
DEPARTMENT OF HOUSING PRESERVATION AND
DEVELOPMENT OF NEW YORK (HPD), RAHFIV TOWER
WEST LLC

Defendant.

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INDEX NO. 152914/2025
MOTION DATE N/A
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19

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

FACTUAL BACKGROUND

Petitioner Victor M. Caceres commenced this proceeding pursuant to CPLR article 78 seeking to annul a final determination of respondent New York City Department of Housing Preservation and Development (HPD), dated November 18, 2024, which denied petitioner’s application for succession rights to a Mitchell-Lama apartment located at 65 West 96th Street, Apartment 4A, New York, New York (the “subject apartment”), and issued a certificate of eviction. The subject apartment is owned and operated by respondent Rahf IV Tower West LLC, an Article II housing company organized under the Private Housing Finance Law.

The tenant of record for the subject apartment was Carmen Caceres, petitioner’s mother, who passed away in December 2023. Petitioner thereafter sought succession rights as a family

member pursuant to Title 28 of the Rules of the City of New York (RCNY) § 3-02(p), which governs succession rights in Mitchell-Lama housing.

By letter dated March 29, 2024, Rahf IV Tower West LLC denied petitioner's application for succession rights. Petitioner, through counsel, timely appealed that determination to HPD. By letter dated July 29, 2024, HPD acknowledged receipt of the appeal and expressly advised petitioner that he could submit additional documentation in support of his claim, including documentation demonstrating primary residence during the required co-residency period.

After review of the housing company's records and the materials submitted by petitioner, HPD's designated hearing officer issued a final agency determination dated November 18, 2024, affirming the denial of succession rights. HPD found that although petitioner qualified as a family member under the regulations, he failed to establish that he resided in the subject apartment as his primary residence for the requisite two-year period immediately preceding the tenant of record's permanent vacatur. The determination noted that petitioner had been given opportunities to submit additional proof but failed to provide documentation sufficient to meet his burden.

Petitioner thereafter commenced this Article 78 proceeding by Order to Show Cause dated March 10, 2025. The filing of the instant petition stayed enforcement of the HPD determination pending resolution of this proceeding.

LEGAL STANDARD

Judicial review of an administrative determination is limited to whether the determination was made "in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion..." CPLR 7803(3). In *Matter of Pell v Board of Educ.* (34

NY2d 222, 231 [1974]), the Court of Appeals held that an action is “arbitrary and capricious” when it is “...without sound basis in reason and is generally taken without regard to the facts.” If the Court finds that the determination is supported by a rational basis, it must sustain the determination. (Id.)

DISCUSSION

The Court finds that HPD’s determination denying petitioner’s application for succession rights was rational, supported by the administrative record, and neither arbitrary nor capricious. Under the applicable regulations, an applicant seeking succession rights to a Mitchell-Lama apartment must, among other requirements, demonstrate that he or she resided with the tenant of record in the apartment as a primary residence for at least two consecutive years immediately prior to the tenant’s permanent vacatur, and that the applicant appeared on required income documentation during the relevant reporting periods (28 RCNY § 3-02[p]). The burden of establishing entitlement to succession rights rests with the applicant.

Here, HPD expressly acknowledged that petitioner is the son of the tenant of record and therefore a qualifying family member. The denial of succession rights was based solely on petitioner’s failure to satisfy the co-residency and primary-residence requirements. The administrative determination reflects review of each document submitted by petitioner and reasonably concluded that the materials were insufficient to establish continuous primary residence in the subject apartment during the relevant period. Many of the documents relied upon by petitioner were undated or dated after the tenant of record’s death, and only a limited number fell within the required two-year co-residency period. HPD further noted that petitioner was specifically invited to submit additional documentation on appeal but failed to do so.

Contrary to petitioner’s contention, HPD was not required to conduct an evidentiary hearing in connection with a succession-rights application. The First Department has repeatedly held that the Mitchell-Lama regulations governing succession rights do not provide for evidentiary hearings, and that the absence of a hearing does not render a determination arbitrary or capricious.

On this record, HPD’s determination reflects a reasoned application of the governing regulations to the evidence presented. The Court’s role is limited to assessing whether a rational basis exists for the agency’s action, not to reweigh the evidence or substitute its judgment for that of HPD. Because petitioner failed to meet his burden of demonstrating eligibility for succession rights despite repeated opportunities to do so, there is no basis to disturb the agency’s determination.

The court has considered the remaining arguments of the parties and finds such unavailing. Accordingly; it is hereby

ORDERED that the petition is denied in its entirety; and it is further

ORDERED that the Article 78 proceeding is dismissed; and it is further

ORDERED that the interim stay issued by Order to Show Cause dated March 10, 2025 is vacated.

The foregoing constitutes the decision and order of the court.


12/12/2025
DATE

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

APPLICATION: GRANTED DENIED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER REFERENCE

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT


LESLIE A. STROTH, J.S.C.