Seadyck Realty Co., LLC v State of N.Y. Div. of Hous. & Community Renewal
2025 NY Slip Op 35044(U)
December 31, 2025
Supreme Court, New York County
Docket Number: Index No. 157369/2020
Judge: Arlene P. Bluth

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ARLENE P. BLUTH** **PART** **14**

Justice

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SEADYCK REALTY CO., LLC

Petitioner,

- v -

STATE OF NEW YORK DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent.

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INDEX NO. 157369/2020

MOTION DATE N/A

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1- 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 44, 45, 46, 47, 48, 49, 50, 51

were read on this motion to/for ARTICLE 78.

The petition to vacate respondent's order concerning an underlying petition for administrative review ("PAR") is remanded as described below.

Background

Petitioner owns a building in Manhattan and this dispute concerns individual apartment improvements ("IAIs") for a unit in the premises. It claims that up until 2015 the property was subject to rent control. Following the vacatur of that tenant, the unit rented for $2,541.34 with a preferential rent of $2,500. Prior to this tenancy, it rented (while under rent control) for $1,319.75. Petitioner contends that it renovated the apartment after the rent-controlled tenant left and that the Rent Administrator approved $44,125.00 in IAIs for purposes of increasing the legal regulated rent. That amount led to a legal rent of $2,639.42 which exceeded the then-applicable deregulation threshold.

The tenants filed an overcharge complaint with respondent and, over the next two years, respondent demanded various responses from petitioner. The Rent Administrator ("RA")

considered the tenants' complaint as a fair market rent appeal (NYSCEF Doc. No. 4). The RA observed that petitioner had filed a high rent vacancy in 2015 and that petitioner had submitted proof of the individual apartment improvements (*id*. at 1). The RA concluded that petitioner "sufficiently substantiated the cost of the improvements made to the subject apartment" (*id*. at 2). The RA denied the fair market rent claim (*id*.).

The tenants then filed a PAR and respondent issued a decision reversing the RA. It concluded that petitioner "failed to rebut evidence of an equity interest and/or identity of interest existing between the owner and Ella Realty Services, the contractor. Both the record evidence and public records prove an identity of interest, including the deed for the subject property, which was endorsed by Richard Parkoff, partner of Seadyck Realty Co. as well as the building's HPD registration which indicates that Richard Parkoff is a shareholder and the head officer for the building. Parkoff was the managing agent for the premises and the owner failed to provide any explanation to justify why it deposited the check made out to Ella into Parkoff's account" (NYSCEF Doc. No. 3 at 5). Respondent therefore invalidated the IAIs (*id*.).

Petitioner seeks to vacate this decision on the ground that the relevant policy statement upon which respondent relied does not mandate invalidation of all IAIs. It argues that respondent could have asked for additional information, which it did not do, and that it was impermissible to simply throw out the entire rent increase.

In opposition, respondent emphasizes that petitioner failed to explain why it deposited the check made out to the contractor that did the work into the bank account of a partner of petitioner. Respondent adds that the identity of interest issue was not the only reason to reverse the RA's order and points out that petitioner submitted an invoice for $45,000 and one cancelled check for $45,000, neither of which was contemporaneous with the work done.

Discussion

First, this Court must address the elephant in the room—that this motion has been pending for way too long. It was fully briefed (although never actually marked submitted) in February 2021 and then nothing happened until this proceeding was transferred to this part in December 2025. This Court apologizes, on behalf of the court system, for this absurd delay. There are no excuses – only apologies.

Turning to the merits, "In the context of an article 78 proceeding, it is established that judicial review is limited to a determination of whether the administrative decision is arbitrary and capricious, or lacks a rational basis" (*Slesinger v Dept. of Hous. Preserv. and Dev. of City of New York*, 39 AD3d 246, 246 [1st Dept 2007] [citations omitted]).

The central issue on this motion is the basis for respondent's reversal of the RA order—the identity of interest. Respondent observed that the check for construction work was deposited in an account belonging to a partner of petitioner. Obviously, this raises a clear issue concerning the ties between the contractor and petitioner. However, the problem for this Court is that the result—complete invalidation -is not supported in respondent's determination. The mere fact of an identity of interest between the owner of a building and a contractor does not automatically compel the invalidation of the IAIs.

Respondent's policy statement observes that "If it is found that there is an equity interest or an identity of interest between the contractor and the building owner, then additional proof of cost and payment, specifically related to the installation, may be requested. Where proof is not adequately substantiated, the difference between the claimed cost and the substantiated cost will be disallowed" (NYSCEF Doc. No. 39). In this Court's view, an equity interest means that there should be additional scrutiny of whether the work was actually done, the charges incurred and

the value thereof. This makes sense—if the owner is also affiliated with the contractor, it creates the potential for excessive (and possibly illusory) charges for in the improvements in an effort to get a higher rent increase. Respondent's decision, however, makes no evaluation of the purported improvements and instead jumps to the conclusion that no increase is permitted at all. That conclusion is not supported by respondent's own policy statement. And, contrary to respondent's opposition, the underlying determination did not cite the fact that there was a single $45,000 check as a basis for invaliding the IAIs.

Moreover, the Court is unable to ignore that the RA credited almost all of the work performed in the apartment—the identity of interest issue did not seem to be before the RA. So at least one fact finder thought there was substantial work done in the apartment and respondent's determination reversing the RA did not opine about the work.

Therefore, the Court grants the portion of the petition that seeks to remand the proceeding to the RA for another determination that takes into account the acknowledged identity of interest issue.

Accordingly, it is hereby

ADJUDGED that the petition is granted only to the extent that the proceeding is remanded to the Rent Administrator for further proceedings consistent with this opinion.

12/31/2025
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	X	CASE DISPOSED			NON-FINAL DISPOSITION		
		GRANTED		DENIED	GRANTED IN PART	X	OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT		REFERENCE