

Matter of Francis v Bova-Hiatt
2025 NY Slip Op 35538(U)
June 22, 2026
Supreme Court, Bronx County
Docket Number: Index No. 801981/26E
Judge: Shawn T. Kelly
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SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY: PART 24

C

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IN THE MATTER OF THE APPLICATION OF VANCE
FRANCIS,

INDEX NO. 801981/26E

Plaintiff,

MOTION DATE 03/30/2026

- v -

MOTION SEQ. NO. 1

LISA BOVA-HIATT, NEW YORK CITY HOUSING
AUTHORITY

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 1) 2, 10
were read on this motion to/for ARTICLE 78 (BODY OR OFFICER)

Upon the foregoing documents, it is

Petitioner moves unopposed for an order pursuant to Article 78, vacating and annulling the October 3, 2025 determination of status and underlying decision; or in the alternative, modifying the October 3, 2025 determination to impose a lesser penalty of probation; or in the alternative, remanding for the imposition of a lesser penalty or action; or in the alternative, remanding for a new termination hearing for Petitioner; and staying, pursuant to CPLR §6301, the pending eviction proceeding in Bronx Housing Court, Index No. LT-339113-25/BX; and staying the Respondents, pursuant to CPLR §6301, from commencing or continuing any other proceeding or action to evict Petitioner or executing any judgment or warrant of eviction against Petitioner so as to remove him from possession from the premises located at 1665 Randall Avenue, Bronx, New York 10473 pending the resolution of this action; and awarding costs and disbursements and awarding to petitioner's attorneys reasonable attorney's fees; and granting such other and further relief as this Court deems just and proper.

Petitioner contends that he is facing loss of his home, removal from his community, and imminent homelessness after NYCHA's agency determination terminated his tenancy on October 3, 2025, despite his having already remedied the charges. The charges against Petitioner are related to an improper sublet for four months in 2018, which he was forthcoming about at the 2025 Administrative Hearing, and alleged chronic delinquent rent payments. NYCHA's Specification of Charges were partly dismissed by the Hearing Officer, who found that the remaining charges related to improper sublet had already long been cured by Petitioner.

The only outstanding issue by the time the hearing closed on June 27, 2025, was outstanding rent arrears. Prior to submitting his Closing Statement, Mr. Francis was successfully approved for rent arrears assistance through NYC Department of Social Services, who paid the entire back amount owed through May 2025 directly to NYCHA by electronic check.

In the context of an Article 78 proceeding, the court's function is to evaluate whether, upon the facts before an administrative agency, that agency's determination had a rational basis in the record or was arbitrary and capricious (CPLR §7803[3]; *see, e.g. Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222 [1974]; *Matter of E.G.A. Assoc. v New York State Div. of Hous. & Community Renewal*, 232 AD2d 302 [1st Dept 1996]). The administrative determination will only be found arbitrary and capricious if it is "without sound basis in reason, and in disregard of . . . the facts" (*see Matter of Century Operating Corp. v Popolizio*, 60 NY2d 483, 488 [1983], citing *Matter of Pell, supra* at 231). A reviewing court may not substitute its own judgment for that of the agency making the determination (*see Partnership 92 LP v New York State Div. of Hous. & Community Renewal*, 46 AD3d 425 [1st Dept 2007]). If the administrative determination has a rational basis, there can be no judicial interference (*Matter of Pell, supra* at

231-232; 559 West 156 BCR LLC v New York State Div. of Housing and Community Renewal, No. 153232/2023, 2024 WL 99519, at *2 [NY Sup Ct Jan. 08, 2024]).

It is well established that a court has the authority to remit an administrative determination for further proceedings, including additional fact-finding or issuance of a new determination (*50 Plaza Co. v New York City Conciliation and Appeals Board*, 104 AD2d 886, 889 [2d Dept 1984]). Remittal is appropriate where DHCR concedes that its prior determination was based on error (*see Matter of Hakim v New York State Div. of Hous. & Community Renewal*, 273 AD2d 3 [1st Dept 2000]), incomplete documentation (*see Matter of 47 Clinton St. Co. v New York State Div. of Hous. & Community Renewal*, 161 AD2d 402 [1st Dept 1990]), or inadequate review of issues raised (*see Matter of Porter v New York State Div. of Hous. & Community Renewal*, 51 AD3d 417 [1st Dept 2008]).

On review of Petitioner's submissions, the Court finds that remittal of this matter to NYCHA for the purpose of further fact-finding is warranted. On remand, NYCHA shall reconsider Petitioner's application, and issue a decision that considers and addresses Petitioner's papers. Accordingly, it is hereby

ORDERED and ADJUDGED that the petition is granted to the extent of annulling the Hearing Officer's October 3, 2025 decision, and remanding this matter to NYCHA for further fact-finding and determination; and it is further

ORDERED that petitioner shall serve a copy of this decision and order upon all parties and upon the Clerk of the General Clerk's Office with notice of entry within twenty days thereof; and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the Protocol on Courthouse and county Clerk Procedures for

Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that any requested relief not expressly considered herein has been considered and is denied.

This constitutes the decision and order of the Court.

<u>6/22/2025</u>			
DATE		SHAWN T. KELLY, J.S.C.	
CHECK ONE:	☒ CASE DISPOSED	☐ NON-FINAL DISPOSITION	
	☒ GRANTED ☐ DENIED	☐ GRANTED IN PART	☐ OTHER
APPLICATION:	☐ SETTLE ORDER	☐ SUBMIT ORDER	
CHECK IF APPROPRIATE:	☐ INCLUDES TRANSFER/REASSIGN	☐ FIDUCIARY APPOINTMENT	☐ REFERENCE