

Block v NYC Hous. Dev. Corp.
2026 NY Slip Op 31253(U)
March 27, 2026
Supreme Court, New York County
Docket Number: Index No. 156683/2025
Judge: David B. Cohen
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DAVID B. COHEN PART 58

Justice

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MARCELLINE BLOCK,

Petitioner,

- v -

NYC HOUSING DEVELOPMENT CORPORATION,
YORKVILLE TOWERS ASSOC. LLC

Respondents.

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INDEX NO. 156683/2025

MOTION DATE 05/22/2025

MOTION SEQ. NO. 001

DECISION + JUDGMENT

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34

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

In this CPLR Article 78 proceeding, petitioner seeks a judgment annulling respondent New York City Housing Development Corporation’s (HDC) determination denying her eligibility for a Housing Assistance Contract (HAC) rent subsidy associated with apartment 8F, located at 1601 Third Avenue, New York New York, within the Yorkville Towers complex, a former Mitchell-Lama development (the premises).

I. RELEVANT FACTS

Petitioner resides in the premises and states that she has maintained it as her primary residence since childhood, except during periods when she was away for educational purposes (NYSCEF 27). The apartment was previously occupied by petitioner’s mother, the tenant of record, who received an HAC rent subsidy administered by HDC (NYSCEF 16, 25).

The HAC subsidy program applicable to the building is administered pursuant to a Tenant Assistance Contract (the Contract) between HDC and the building owner (NYSCEF 15).

The contract provides that HAC assistance payments are made only on behalf of “Eligible

Households,” defined as households that were tenants in the project on the contract’s effective date and that qualify as low-income tenants under the program requirements (*id.*). It further provides that no assistance payment will be made with respect to any low-income tenant or subsequent tenant who was not identified on the income affidavit submitted to the owner immediately preceding January 1, 2001, and who does not continue to be identified on subsequent income affidavits submitted thereafter (*id.*).

Following her mother’s death in 2020, petitioner sought succession to the tenancy and was recognized as the successor tenant in a Housing Court proceeding (NYSCEF 4). After obtaining succession rights, petitioner requested from HDC that the HAC subsidy associated with the premises continue to apply to her tenancy.

HDC denied petitioner’s request (NYSCEF 3). In its final determination, HDC concluded that petitioner was not eligible to receive HAC assistance because she was not identified as a member of the tenant household on the income certifications submitted for the premises during the relevant period (*id.*).

II. DISCUSSION

Petitioner contends that HDC’s determination denying her eligibility for the HAC subsidy was arbitrary and capricious, arguing that she has maintained the premises as her primary residence since childhood, and because her succession rights are established, she is entitled to receive the HAC subsidy that had been associated with the apartment during her mother’s tenancy. Petitioner further argues that HDC improperly relied on the absence of her name from certain income certifications submitted during prior years of her mother’s tenancy and that such documentation is not dispositive of residency.

HDC argues that its determination was rational and consistent with the governing HAC program requirements, arguing that eligibility for the subsidy is governed by the Contract, which limits HAC assistance to “Eligible Households,” defined as tenants in the project on the contract’s effective date who meet the program’s income requirements. According to HDC, the administrative record demonstrates that petitioner was not identified on the income certifications submitted for the apartment during the relevant period preceding the contract’s effective date and therefore does not qualify for the subsidy.

In reply, petitioner maintains that HDC improperly elevated a technical documentation requirement over the substantive residency standard governing succession claims. She argues that her omission from certain income certifications does not negate her residency in the apartment and therefore should not disqualify her from receiving the HAC subsidy.

In an Article 78 proceeding challenging an administrative determination, judicial review is limited to whether the determination was arbitrary and capricious, affected by an error of law, or made in violation of lawful procedure (CPLR 7803[3]). A determination is arbitrary and capricious only if it is without a sound basis in reason or taken without regard to the facts (*Matter of Pell v Board of Educ. of Union Free Sch. Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 231 [1974]). Where the determination has a rational basis in the administrative record, it must be sustained (*Matter of Partnership 92 LP & Bldg. Mgt. Co., Inc. v State of N.Y. Div. of Hous. & Community Renewal*, 46 AD3d 425, 429 [1st Dept 2007], *affd* 11 NY3d 859 [2008]). Courts must also accord deference to an agency’s interpretation of the statutes, regulations, and program requirements it administers, so long as that interpretation is not irrational or unreasonable (*Matter of Wadsworth Assoc. LLC v New York State Div. of Hous. & Community Renewal*, 242 AD3d 539, 540–541 [1st Dept 2025]).

The issue before the Court is whether HDC's determination denying petitioner's application for the HAC subsidy was arbitrary and capricious. HDC concluded that petitioner does not qualify for the subsidy because she does not satisfy the eligibility requirements set forth in the governing the Contract.

Although income certification records from 2001 and 2002 are not contained in the administrative record, HDC relied on the available certifications from 2003 through 2011, which do not identify petitioner as a member of the tenant household. Based on those records, HDC determined that petitioner does not qualify as an "Eligible Household" under the Contract.

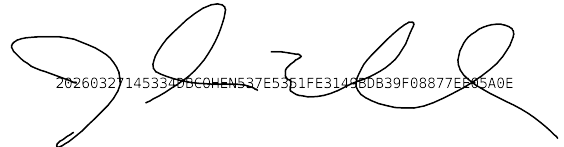
While petitioner resided in the apartment for many years and was recognized as the lawful successor tenant following her mother's death, succession to the tenancy and eligibility for the HAC subsidy are distinct issues. Succession doctrine determines whether an occupant may succeed to a regulated tenancy. The HAC subsidy, by contrast, is governed by the terms of the Contract, which establishes separate eligibility requirements for participation in the subsidy program.

Petitioner also relies on documents from 2011 and thereafter reflecting her presence in the premises, but those records do not undermine HDC's determination. HDC reasonably relied on the absence of petitioner's name from the relevant income certifications in concluding that she does not qualify for the subsidy by the terms of the Contract.

Under these circumstances, HDC's determination that petitioner is not eligible to receive the HAC subsidy has a rational basis in the administrative record and therefore is not arbitrary or capricious.

Accordingly, it is

ORDERED and ADJUDGED that the application is denied and the petition is dismissed.



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3/27/2026

DATE

DAVID B. COHEN, 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