

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Raffa v. Bova-Hiatt

2026 NY Slip Op 03678 · No. 2022-00505 · Decided June 10, 2026

SUMMARY

The Appellate Division, Second Department, affirmed a judgment denying a CPLR article 78 petition challenging the Governor's Office of Storm Recovery's determination that the petitioner was ineligible for New York Rising Housing Recovery Program funds. The court held that the Supreme Court properly permitted supplementation of the administrative record and that the agency's determination had a rational basis and was not arbitrary and capricious.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. Lasalle, P.J.; William G. Ford, J.; Helen Voutsinas, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 10, 2026
DOCKET	2022-00505
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed from a judgment of the Supreme Court, Nassau County, that denied her CPLR article 78 petition and, in effect, dismissed the proceeding, after permitting the respondent to supplement the administrative record.
STANDARD OF REVIEW	An administrative determination reviewed under CPLR article 78 will be upheld if it has a rational basis and is not arbitrary and capricious. The court does not substitute its judgment for that of the agency where the determination is rationally supported by the record.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Doreen Raffa v. Lisa Bova-Hiatt, as executive director of the Governor's Office of Storm Recovery

TOPICS

judicial review of agency action

agency adjudication

standard of review

appellate procedure

civil procedure

PRACTICE AREAS

administrative law

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QUESTIONS PRESENTED

1. Whether the Supreme Court properly exercised its discretion under CPLR 405(a) to permit supplementation of the administrative record with exhibits from the petitioner's related insurance litigation.
2. Whether the Governor's Office of Storm Recovery's determination that Raffa was ineligible for program assistance was arbitrary and capricious or lacked a rational basis.

HOLDINGS

1. The Supreme Court properly exercised its discretion in permitting the respondent to supplement the administrative record with three exhibits because the agency had, in effect, relied on those records in making its determination.
2. The Governor's Office of Storm Recovery's determination had a rational basis in the record and was not arbitrary and capricious.

KEY QUOTATIONS

*“Judicial review of an administrative decision pursuant to CPLR article 78 is limited . . . to a determination of whether the administrative decision is arbitrary or capricious, or lacks a rational basis” ([*2])*

*“An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts” ([*2])*

*“If the court finds that the determination is supported by a rational basis, it must sustain the determination even if the court concludes that it would have reached a different result than the one reached by the agency” ([*2])*

FACTUAL BACKGROUND

Raffa applied for and received \$306,250 of a \$400,000 grant from the New York Rising Housing Recovery Program to repair Hurricane Sandy flood damage to her Long Beach residence. The Governor's Office of Storm Recovery later determined that she was ineligible because she had failed to disclose a prior fire, an insurance claim to Allstate, and Allstate's denial of that claim based on fraud, misrepresentation, or concealment of material facts. In related litigation against Allstate, a jury found in Allstate's favor on defenses of arson and fraud.

PROCEDURAL HISTORY

The Governor's Office of Storm Recovery determined that Raffa was ineligible for New York Rising Housing Recovery Program funds and required her to return the funds. After an administrative appeal was denied, Raffa commenced a CPLR article 78 proceeding seeking to annul the agency determination. The Supreme Court granted the respondent's cross-motion to supplement the administrative record and then denied the petition; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Brooklyn Vaporium, Inc. v. New York City Dept. of Consumer Affairs, 241 AD3d 680, 681
- Matter of M 20-46 Steinway, LLC v. Niblack, 240 AD3d 898, 899
- Matter of Peckham v. Calogero, 12 NY3d 424, 431
- Matter of Pell v. Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d 222, 231
- Matter of McCollum v. City of New York, 184 AD3d 838, 840

OPINION

Matter of Raffa v. Bova-Hiatt 2026 NY Slip Op 03678

PER CURIAM.

Matter of Raffa v Bova-Hiatt - 2026 NY Slip Op 03678 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Matter of Raffa v Bova-Hiatt 2026 NY Slip Op 03678 June 10, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. In the Matter of Doreen Raffa, appellant, v Lisa Bova-Hiatt, etc., respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 10, 2026 2022-00505, (Index No. 175/20) Hector D. Lasalle, P.J. William G. Ford Helen Voutsinas James P. McCormack, JJ. Charles E. Holster III, Garden City, NY, for appellant. Rozario Touma, P.C., New York, NY (Rovin R. Rozario and Hiba Touma of counsel), for respondent. [*1] DECISION & ORDER In a proceeding pursuant to CPLR article 78 to review a determination of the Governor's Office of Storm Recovery dated October 16, 2019, which upheld a determination of the same agency dated November 14, 2018, finding that the petitioner was ineligible to receive grant funds from the New York Rising Housing Recovery Program, the petitioner appeals from a judgment of the Supreme Court, Nassau County (Christopher G. Quinn, J.), entered January 10, 2022. The judgment, upon an order of the same court entered August 16, 2021, granting the respondent's cross-motion to supplement the

administrative record, denied the petition and, in effect, dismissed the proceeding. ORDERED that the judgment is affirmed, with costs. In April 2013, the petitioner applied to the New York Rising Housing Recovery Program (hereinafter Program), a disaster assistance program implemented by the Governor's Office of Storm Recovery (hereinafter the GOSR), for funds to repair flood damage caused by Hurricane Sandy to her single-family residence in Long Beach. The petitioner was awarded the sum of \$400,000 in grant funds from the Program, \$306,250 of which was paid out to the petitioner. Subsequently, in November 2018, the GOSR informed the petitioner that she was ineligible for Program assistance and was required to return all grant funds that she had received from the Program, on the ground that she had been "convicted of insurance fraud." The petitioner appealed the determination pursuant to the designated administrative appeal process. In a determination dated October 16, 2019, the GOSR denied the petitioner's appeal, clarifying that its determination was based upon the petitioner's failure to disclose that a fire had damaged her home, that she had submitted a claim for fire damage with Allstate Insurance Company (hereinafter Allstate), and that Allstate had denied her claim on the grounds of "fraud, misrepresentation, or concealment of material facts and circumstances." The petitioner subsequently commenced this CPLR article 78 proceeding against Lisa Bova-Hiatt (hereinafter the respondent), as executive director of the GOSR, to annul the GOSR's determination. The respondent submitted an answer that included as attachments, among other things, three exhibits from an action the petitioner had commenced against Allstate to recover [*2] damages for breach of contract, which had terminated in a jury verdict in Allstate's favor on the defenses of arson and fraud. The petitioner moved, inter alia, to strike the exhibits on the ground that they were not part of the administrative record to which the parties had stipulated. The respondent opposed the motion and cross-moved pursuant to CPLR 405 to supplement the administrative record to include these exhibits. In an order entered August 16, 2021, the Supreme Court granted the respondent's cross-motion to supplement the administrative record. In a judgment entered January 10, 2022, the court denied the petition and, in effect, dismissed the proceeding. The petitioner appeals from the judgment. Contrary to the petitioner's contention, the Supreme Court providently exercised its discretion in permitting the respondent to supplement the administrative record with the three exhibits because the GOSR, in effect, relied upon those records in reaching its determination (see CPLR 405[a]). "Judicial review of an administrative decision pursuant to CPLR article 78 is limited . . . to a determination of whether the administrative decision is arbitrary or capricious, or lacks a rational basis" (Matter of Brooklyn Vaporium, Inc. v New York City Dept. of Consumer Affairs , 241 AD3d 680 , 681 [internal quotation marks omitted]; see CPLR 7803[3]; Matter of M 20-46 Steinway, LLC v Niblack , 240 AD3d 898 , 899). "An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts" (Matter of Peckham v Calogero , 12 NY3d 424, 431 ; see Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County , 34 NY2d 222 , 231). "If the court finds that the determination is supported by a rational basis, it must sustain the determination even if the court

concludes that it would have reached a different result than the one reached by the agency" (Matter of Peckham v Calogero , 12 NY3d at 431). Here, contrary to the petitioner's contention, the GOSR's determination had a rational basis in the record and was not arbitrary and capricious (see id. ; Matter of McCollum v City of New York , 184 AD3d 838, 840). Accordingly, the Supreme Court properly denied the petition and, in effect, dismissed the proceeding. The petitioner's remaining contentions either are without merit or do not warrant reversal or modification of the judgment. LASALLE, P.J., FORD, VOUTSINAS and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.