

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

insurance

## 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