

NEW YORK COURT OF APPEALS

Matter of Terrace Court, LLC v. New York State Division of Housing & Community Renewal

2012 NY Slip Op 1100 (N.Y. Ct. App. 2012) · No. No. 2 · Decided February 14, 2012

SUMMARY

The New York Court of Appeals held that DHCR had authority to grant a major capital improvement rent increase while permanently exempting particular apartments affected by construction-related water damage. The court concluded that DHCR's permanent exemption of five apartments was rational and was not arbitrary or capricious. It also held that the governing regulation did not require DHCR to use only temporary suspensions of the rent increase.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Judge Graffeo; Chief Judge Lippman; Judge Ciparick; Judge Read; Judge Smith; Judge Pigott; Judge Jones
JURISDICTION	New York
DECIDED	February 14, 2012
DOCKET	No. 2
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal as of right from an Appellate Division order affirming Supreme Court's denial of Terrace Court's CPLR article 78 petition challenging DHCR's permanent exemption of five apartments from a major capital improvement rent increase.
STANDARD OF REVIEW	Under CPLR article 78, DHCR's determination is reviewed to determine whether it has a rational basis and is arbitrary or capricious. An agency's interpretation of its own regulation is entitled to deference and must be upheld if it is not irrational.
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion; binding statewide precedent.
PARTIES	Terrace Court, LLC v. New York State Division of Housing and Community Renewal

TOPICS

judicial review of agency action

administrative law

landlord tenant

statutory interpretation

agency adjudication

PRACTICE AREAS

Administrative law

Landlord-tenant law

New York rent regulation

Judicial review of agency action

QUESTIONS PRESENTED

1. Whether DHCR had authority to grant a major capital improvement rent increase while permanently exempting particular apartments from paying the increase.
2. Whether DHCR was required to temporarily suspend the increase for the affected apartments under Rent Stabilization Code § 2522.4(a)(13).
3. Whether DHCR's permanent exemption of the five apartments was arbitrary or capricious or represented an unexplained departure from agency precedent.

HOLDINGS

1. DHCR has authority in appropriate circumstances to grant a major capital improvement rent increase while permanently exempting particular apartments from the increase.
2. Rent Stabilization Code § 2522.4(a)(13) did not require DHCR to temporarily suspend the MCI increase for the five apartments because the phrase 'all required services' refers to required services unrelated to the MCI project.
3. DHCR did not improperly depart from its precedent because its prior determinations were not limited to temporary suspensions and included permanent exemptions in similar circumstances.
4. DHCR acted rationally and not arbitrarily or capriciously in permanently exempting the five apartments from the MCI rent increase.

KEY QUOTATIONS

"We hold that DHCR has been granted such authority and, on this record, it was not arbitrary or capricious for DHCR to permanently exempt five apartments." (at 450-451)

"It is therefore apparent that DHCR is not limited to temporarily suspending an MCI rent increase; the agency may permanently exempt an apartment in certain situations." (at 454)

"On these facts, it was reasonable for the agency to conclude that those apartments did not benefit from the MCI project since they had been adversely affected by the construction work." (at 454-455)

FACTUAL BACKGROUND

Terrace Court owned a 91-unit Manhattan apartment building containing 37 rent-regulated apartments and spent approximately \$1.2 million on facade-related work, including pointing and replacement of masonry, lintels, and parapets. After the owner applied for a major capital improvement rent increase, tenants reported water intrusion

and related damage in their apartments. A DHCR inspection approximately 16 months after the application found disrepair and moisture-related conditions in five apartments, and DHCR permanently exempted those apartments from the increase while granting the increase for the remaining apartments.

PROCEDURAL HISTORY

DHCR granted Terrace Court's application for a major capital improvement rent increase but permanently exempted five apartments that exhibited moisture-related damage associated with the construction project. DHCR denied Terrace Court's petition for administrative review. Supreme Court denied the owner's CPLR article 78 petition, and the Appellate Division affirmed, with two Justices dissenting. The New York Court of Appeals affirmed the Appellate Division.

DISPOSITION

affirmed

CASES CITED

- Matter of Lantry v. State of New York, 6 N.Y.3d 49, 58 (2005)
- Matter of Charles A. Field Delivery Service (Roberts), 66 N.Y.2d 516, 520 (1985)
- Matter of IG Second Generation Partners L.P. v. New York State Division of Housing & Community Renewal, Office of Rent Administration, 10 N.Y.3d 474, 481 (2008)
- Matter of Riverside Equities v. New York State Division of Housing & Community Renewal, 292 A.D.2d 313, 313-314 (1st Dep't 2002)
- Matter of Peckham v. Calogero, 12 N.Y.3d 424, 431 (2009)
- Matter of Pell v. Board of Education of Union Free School District No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 N.Y.2d 222, 231 (1974)
- Matter of John P. v. Whalen, 54 N.Y.2d 89, 97 n. 4 (1981)
- Matter of Various Tenants of 315 W. 57th St., DHCR Admin. Review Docket No. ED 430065-RT et al.
- Matter of Clermont Tenants Assn., DHCR Admin. Review Docket Nos. UA410049RT and UD410012RO (Oct. 8, 2008)
- Matter of Sunden, DHCR Admin. Review Docket Nos. BF 210190-RT & BF 230079-RT
- Matter of Tenants of 27 W. 96th St. New York, NY, DHCR Admin. Review Docket No. SJ430047RT (July 10, 2000)