SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Matter of 7 Ave Assets LLC v. Carrion

2026 NY Slip Op 03872 · No. Index No. 159132/24; Appeal No. 6910; Case No. 2025-06231 · Decided June 18, 2026

SUMMARY

The Appellate Division, First Department affirmed the denial of a petition challenging HPD's determination that renovations to a fire-damaged building did not qualify for RPTL 421-a tax benefits. The court held that HPD's interpretation of "floor area" and "new multiple dwelling" was rational and entitled to deference because the statute was ambiguous. The court also applied the principle that tax exemptions are strictly construed against the taxpayer.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Mendez, J.; Shulman, J.; Higgitt, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	June 18, 2026
DOCKET	Index No. 159132/24; Appeal No. 6910; Case No. 2025-06231
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from a Supreme Court, New York County judgment, denominated an order, that denied its CPLR article 78 petition seeking annulment of HPD's denial of RPTL 421-a tax benefits and dismissed the proceeding.
STANDARD OF REVIEW	Whether HPD's interpretation of RPTL 421-a was rational and supported by the record; an agency's interpretation of an ambiguous statute is entitled to deference when rational.
PRECEDENTIAL VALUE	Published opinion; precedential value under New York appellate practice, subject to the decision being uncorrected and subject to revision before publication in the Official Reports.
PARTIES	7 Ave Assets LLC v. Adolfo Carrion Jr., New York City Department of Housing Preservation and Development

TOPICS

property tax | statutory interpretation | judicial review of agency action | administrative law | real estate

PRACTICE AREAS

property tax | administrative law | statutory interpretation | real estate

QUESTIONS PRESENTED

1. Whether HPD rationally interpreted RPTL 421-a's definition of 'floor area' to include the geometric areas of the building's stories regardless of the physical condition of the floors or other structural elements.
2. Whether the petitioner established that its interpretation of RPTL 421-a was the only reasonable construction of the statute.
3. Whether the ambiguity in the tax-benefit statute should be resolved in favor of the taxing authority.

HOLDINGS

1. HPD rationally interpreted 'floor area' to refer to the geometrical areas of the structure's stories, regardless of the physical condition of the structural elements comprising those areas. Because both petitioner's and HPD's readings were permissible, HPD's interpretation was entitled to deference.
2. The ambiguity in RPTL 421-a must be resolved against the petitioner because tax exemptions are strictly construed against the party seeking the benefit and doubts are resolved in favor of the taxing authority.

KEY QUOTATIONS

> *“Given that "the language of the statute is susceptible to conflicting interpretations," HPD's interpretation of the statutory definition of "floor area" is entitled to deference”* ([*1])

> *“tax exemptions . . . are to be strictly construed against the one seeking the benefit and, in case of ambiguity, any doubt resolved in favor of the taxing authority”* ([*2])

FACTUAL BACKGROUND

7 Ave Assets LLC owned a five-story building that it renovated after a fire. The fire destroyed the building's interior wood flooring but left the exterior brick walls and foundation intact. The renovation created interior floor structures where none previously existed but did not increase the building's overall dimensions. HPD denied the application for RPTL 421-a tax benefits because the work occurred entirely within the pre-existing structure and therefore did not satisfy the statutory requirement that no more than 49 percent of the floor area consist of the pre-existing building or structure.

PROCEDURAL HISTORY

HPD denied 7 Ave Assets LLC's application for tax benefits under RPTL 421-a. Supreme Court, New York County, denied the petition to annul HPD's determination and dismissed the article 78 proceeding. The Appellate Division, First Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Chin v New York City Bd. of Standards and Appeals, 97 AD3d 485, 487 (1st Dept 2012), lv denied 19 NY3d 815 (2012)
- Matter of 31171 Owners Corp. v New York City Dept. of Hous. Preserv. and Devel., 190 AD2d 441, 446 (1st Dept 1993)
- Matter of Park Row 23 Owners LLC v Jiha, 246 AD3d 438, 439 (1st Dept 2026)

OPINION

PER CURIAM.

Matter of 7 Ave Assets LLC v Carrion - 2026 NY Slip Op 03872 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 7 Ave Assets LLC v Carrion 2026 NY Slip Op 03872 June 18, 2026 Appellate Division, First 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 7 Ave Assets LLC, Petitioner-Appellant, v Adolfo Carrion Jr. etc., et al, Respondents-Respondents. Decided and Entered: June 18, 2026 Index No. 159132/24|Appeal No. 6910|Case No. 2025-06231| Before: Manzanet-Daniels, J.P., Mendez, Shulman, Higgitt, Hagler, JJ. Rothkrug Rothkrug & Spector LLP, Great Neck (Simon H. Rothkrug of counsel), for appellant.

Steven Banks, Corporation Counsel, New York (Rebecca L. Visgaitis of counsel), for respondents. [*1] Judgment (denominated an order), Supreme Court, New York County (Verna L. Saunders, J.), entered August 8, 2025, which denied the petition to annul a determination of the New York City Department of Housing Preservation and Development (HPD), dated June 18, 2024, denying petitioner's application for tax benefits under RPTL 421-a, and dismissed the proceeding brought pursuant to CPLR article 78, unanimously affirmed, without costs.

Under RPTL 421-a as amended in 2003, alterations or improvements of existing structures qualify for tax benefits as "new multiple dwellings" if "no more than forty-nine percent of the floor area... of the multiple dwelling consists of the pre-existing building or structure that was converted, altered or improved" (RPTL 421-a[1][c]).

The statute defines "floor area" as "[t]he horizontal areas of the several floors or any portion thereof of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls" (id. 421-a[1][b]). Petitioner owns a five-story building that it renovated after a fire.

Although the fire destroyed the building's interior wood flooring, it left the exterior brick walls and foundation intact. The renovation created interior floor structures where there were none, but did not increase the building's overall dimensions. HPD denied petitioner's application for RPTL 421-a tax benefits on the ground that renovation did not qualify as a "new multiple dwelling" because the alteration work was performed entirely within the pre-existing structure, and therefore, more than 49 percent of the floor area of the multiple dwelling consisted of the "pre-existing building or structure."

Supreme Court properly denied the petition because HPD's reading of RPTL 421-a was rational and supported by the record (see Matter of Chin v New York City Bd. of Standards and Appeals, 97 AD3d 485, 487 [1st Dept 2012], lv denied 19 NY3d 815 [2012]). Petitioner interprets "horizontal areas of the several floors" to refer to the walkable flooring physically present in the structure.

By contrast, HPD interprets that language to refer to the geometrical areas of the structure's stories, regardless of "the physical condition of structural elements that comprise" those areas. Both readings are permissible (compare Merriam-Webster.com Dictionary, floor ["the level base of a room;" "a structure dividing a building into stories"] [https://www.merriam-webster.com/dictionary/floor]; Oxford Learner's Dictionaries, floor, def 1 ["the surface of a room that you walk on"] [https://www.oxfordlearnersdictionaries.com/us/definition/english/floor_1] with Oxford Learner's Dictionaries, floor, def 3 ["all the rooms that are on the same level of a building"] [id.]).

Given that "the language of the statute is susceptible to conflicting interpretations," HPD's interpretation of the statutory definition of "floor area" is entitled to deference (Matter of Chin, 97 AD3d at 487). [*2] The legislative history cited by the parties does not resolve the ambiguity in petitioner's favor, as it can support either interpretation of the disputed language.

The statements by the bill's sponsor that the section 421-a amendments would include improvements of existing structures "if more than 51% of the completed project is new residential space" suggests that the amendments were intended to capture only additions to existing buildings (as HPD argues), but the sponsor's statement that the program would incentivize "owners to maintain and upgrade existing multiple dwellings" suggests that the program would also capture exclusively interior renovations of uninhabitable existing structures (as petitioner argues).

The ambiguity must be resolved against petitioner for the additional reason that "tax exemptions... are to be strictly construed against the one seeking the benefit and, in case of ambiguity, any doubt resolved in favor of the taxing authority" (Matter of 31171 Owners Corp. v New York City Dept. of Hous. Preserv. and Devel., 190 AD2d 441, 446 [1st Dept 1993]).

Petitioner fails to demonstrate that its interpretation is "not simply... plausible," but is "the only reasonable construction" (Matter of Park Row 23 Owners LLC v Jiha, 246 AD3d 438, 439 [1st Dept 2026] [internal quotation marks omitted]).

We have considered petitioner's remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT ENTERED: June 18, 2026