

**STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA
92-31 UNION HALL STREET
JAMAICA, NEW YORK 11433**

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**IN THE MATTER OF THE
ADMINISTRATIVE APPEAL OF :**

**ADMINISTRATIVE REVIEW
DOCKET NO.: GP410010RO**

**CF E 86 LLC, SME E 86LLC, :
LSG E 86 LLC/CSFM E 86 Manager LLC**

**RENT ADMINISTRATOR'S
DOCKET NO.: FT410313S**

PETITIONER :

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On April 4, 2018, the above-named petitioner-owner filed a petition for administrative review (PAR) against an order issued on March 2, 2018, by the Rent Administrator concerning the housing accommodations known as 305 E 86th Street, Apartment 16PE, New York, NY, wherein the Administrator granted the tenant a rent reduction and directed the restoration of decreased services.

The Commissioner has reviewed all of the evidence in the record and has carefully considered the portion of the record relevant to the issues raised by the petition.

The owner requests a reversal of the Rent Administrator's order and contends, that the Rent Administrator's order was arbitrary and capricious, and based on a misapprehension of facts and law. The owner argues that although the order was based on the premise that the intercom system was not functioning properly, there was no interruption in the tenant's ability to communicate with the front desk as the owner had installed an auto dialer system in the building which functions similar to an intercom system, but connects to the tenant's phone number directly; that all tenants, including the tenant herein, have use of the auto dialer system, access to the 24-hour doorman via a direct phone line, and that the doorman continued to announce visitors through the use of the auto dialer system; and that the DHCR had determined that similar phone intercom systems are an adequate replacement phone intercom system, not warranting a rent reduction, attaching a copy of the Matter of Tramutola, Administrative Review Docket No. **UE410036RT**, to support its contention.

The tenant opposed the owner's PAR.

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Pursuant to Section 2523.4 of the Rent Stabilization Code (RSC or the Code), DHCR is authorized to order a rent reduction, upon application by a tenant, where it is found that an owner has failed to maintain required or essential services. Likewise, an owner is entitled to the restoration of rent once it is established that the required services cited in the rent reduction order have been restored.

On August 25, 2017, the tenant commenced the proceeding below by the filing of a complaint, alleging a diminution in intercom service to the subject apartment. The tenant's complaint was served on the owner on September 15, 2017.

By correspondence dated October 20, 2017, the owner submitted an answer to the tenant's complaint wherein the owner made the same arguments as it made in its PAR herein, including the following: that the owner was aware of the problems with the intercom system and had been working on it; that to ensure no decrease in service, the owner had installed the auto dialer; that the repair and restoration of the intercom system was not a quick fix in a building of such size, and that the owner expected to reach the tenant's apartment in the near future. And the owner submitted invoices from Speakeasy Intercom and Electric Service, Inc. to indicate that intercom repairs were underway and ongoing at the premises.

The Agency's records indicate that the Rent Administrator subsequently requested an Agency inspection of the intercom conditions in the subject apartment. The inspection was conducted on January 29, 2018. The inspector noted in the report, that there was no working intercom bell/buzzer in the subject building, that there was a 24 hour concierge located at the front desk who calls the tenants on the house or cellphones (only) from an auto dialer; that in the subject apartment, there was a nonworking phone on the wall which was used for intercom service. Thus, the Rent Administrator granted the tenant a rent reduction and directed the restoration of services.

With respect to the Matter of Tramutola cited by the owner, intrinsic in the fact of the case was that the tenant had ordered the phone company to disconnect telephone services to her apartment. No such showing has been made in the instant case.

Additionally, the Commissioner notes that since there was a working intercom system in the subject premises, undisputed by the parties, the owner may not unilaterally change or modify such service without following the proper procedure to so do.

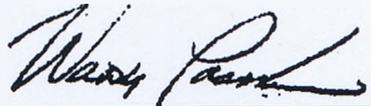
Based on the foregoing, the Commissioner finds that the owner's PAR has not established any basis to modify or revoke the Administrator's determination. More so as the owner has failed to file for permission, from the Agency, to change or modify intercom service, pursuant to Section 2522.4(d) and (e) of the Rent Stabilization Code.

The Commissioner notes that the owner has filed a rent restoration application, Docket No. **GW410047OR**, which is pending.

THEREFORE, in accordance with the Rent Stabilization Law and Code, it is

ORDERED, that this petition be, and the same hereby is, denied, and that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED: **JAN 24 2019**


WOODY PASCAL
Deputy Commissioner



State of New York
Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza, 92-31 Union Hall Street
Jamaica, NY 11433
Web Site: www.nyshcr.org

Right to Court Appeal

In order to appeal this Order to the New York Supreme Court, within sixty (60) days of the date this Order is issued, you must serve papers to commence a proceeding under Article 78 of the Civil Practice Law and Rules. No additional time can or will be given.

In preparing your papers, please cite the Administrative Review Docket Number which appears on the *first page of the attached Order*.

Court appeals from the Commissioner's orders should be served at Counsel's Office, Room 707, 25 Beaver Street, New York, New York 10004. In addition, the Attorney General must be served at 28 Liberty Street, 18th Floor, New York, New York 10005.

Since Article 78 proceedings take place in the Supreme Court, you may require the professional help of an attorney.

There is no other method of appeal.