

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.: PJ430053RT

HELENE ZAREMBER

RENT ADMINISTRATOR'S  
DOCKET NO.: OG430004OD

PETITIONER

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ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On October 16, 2001, the above-named tenant timely re-filed a petition for administrative review (PAR) against an order issued by the Rent Administrator, concerning the housing accommodations known as 405 & 465 West 23<sup>rd</sup> Street and 410 and & 470 West 24<sup>th</sup> Street, New York, New York, various apartments, wherein the Rent Administrator granted the owner's application for modification of services.

The owner of the subject premises initiated this proceeding by filing an application requesting the Division's permission to change the house phone/intercom system at the subject premises with an "Enterphone" system. The owner's application claims that the application was filed because the old house phone/intercom system was unreliable and difficult to repair. The "Enterphone" system, as described in the application, involves the use of the tenants' own telephones whereby a tenant dials a "toll free" number to call the doorman. The system also has a call-waiting feature that notifies the tenant when there is a call from the doorman and notifies tenants of incoming calls when they are speaking to the doorman.

The Rent Administrator determined that the "Enterphone" system constituted an adequate substitution of services for which no adjustment in rent was warranted. The Rent Administrator's order required that the tenants not be charged for any features of the Enterphone system, such as call-waiting, and that the owner continue to provide the laundry room and sun deck with the "Centrex Phone" which allows tenants in these areas direct access to the management office and /or building doormen in case of an emergency.

In the subject PAR, the tenant claims, in substance, that the prior "house phone/intercom" allowed tenants to freely call one another and the 14 stores in the complex without cost to the tenants; that

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the owner installed the "Enterphone system" in the early 1990s; that the new "Enterphone" only allows calls to the office, doormen, laundry room, and sun deck; and that the "Enterphone" is not an adequate substitute to the former "house phone/intercom" and therefore, a rent reduction is warranted.

The owner responded to the tenant's PAR claiming, in substance, that the discontinuance of free phone service among tenants and stores is de minimis and does not warrant a rent decrease; and that the Rent Administrator properly found that the "Enterphone" was an adequate substitute.

After careful consideration of the entire record, the Commissioner finds that this petition should be denied.

The Commissioner notes the tenant's initial PAR was previously rejected for not including the proper authorization for the PAR to be filed on behalf of the Four Corners Tenants' Association. The tenant-petitioner re-filed the PAR as an individual and as the President of the Four Corners Tenants' Association, but still failed to provide the proper authorization to be considered a tenant representative as required by Section 2529.1(b)(2) of the Rent Stabilization Code.

However, since the tenant-petitioner also verified the PAR in her individual capacity as a tenant of the subject premises, the Commissioner will be consider the individual PAR of Helene Zarembor.

Sections 2522.4(d) and (e) of the Rent Stabilization Code require the owner to maintain all required services included in the maximum rents of rent stabilized apartments, unless and until the owner files an application with the DHCR to decrease or modify said required services, and an order permitting such decrease or modification has been issued. The implementation of these sections must not be inconsistent with the Rent Stabilization Law and Code.

The Division's records indicate that the provision of an house phone or intercom service is a required service for the subject buildings. However, as noted above, the Division may permit a decrease or modification of a required service if doing so is not inconsistent with the Rent Stabilization Law and Code.

The record indicates that the original "house phone/intercom" when installed in the 1930s included house phone service throughout the complex. The owner's application replaces this "house phone/intercom" with a "Enterphone" which permits toll free calls to the doorman. The owner also provides a "centrex phone" in the

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laundry room and sun deck which allow tenants in these areas to call the doorman or management office. The Commissioner notes that the record indicates that "Enterphone" system co-existed with the old "house phone/intercom" system since the early 1990s, and that the older system was less utilized as the system came into disrepair.

The Commissioner finds that the method of in-house inter-communication, as described above and which is being provided to the tenants without charge, is an adequate substitute for the prior "house phone/ intercom" system. In the instant case, the absence of the feature allowing the tenants to call each other and the stores does not warrant a permanent rent reduction.

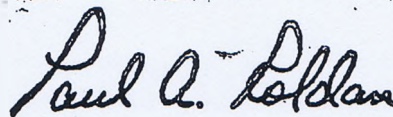
Therefore, the Commissioner finds that the Rent Administrator was correct to determine that the "Enterphone" system, which includes a toll free number and call-waiting feature for the tenants to utilize on their own phones to communicate with the doorman, and the continued provision of the "Centrex" phones in the laundry room and sun deck are an adequate substitute for the prior "house phone/intercom".

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

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

ISSUED:

FEB 02 2004



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PAUL A. ROLDAN  
Deputy Commissioner



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### **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 120 Broadway, 24th Floor, New York, New York 10271.

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.