

**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**

-----X
IN THE MATTER OF THE ADMINISTRATIVE APPEAL OF
Electro Concourse Associates,
c/o Stellar Management,
PETITIONER

ADMINISTRATIVE REVIEW
DOCKET NO.: DT630042RO

RENT ADMINISTRATOR'S
DOCKET NO.: CN630016B

-----X
ORDER AND OPINION DENYING PETITION FOR ADMINISTRATIVE REVIEW

On August 21, 2015, the above-named owner, by counsel, filed a timely petition for administrative review (PAR) of an order issued on July 17, 2015 by a Rent Administrator concerning the various housing accommodations at the premises 2558 Grand Concourse, Bronx, New York. This order directed a reduction in rent due to a decrease in building-wide services relative to the Rent Administrator's finding that the owner had failed to file an application for the DHCR's approval of a modification of services prior to converting the building intercom from a traditional system to a phone-line system.

The Commissioner has reviewed the entire record and has carefully considered that portion of the record that is relevant to the issues raised by these appeals.

In its PAR, the owner contends that the order was issued in error because the tenants have actually benefited from a new, improved and modernized intercom system, thus the Rent Administrator's imposition of a punishment is counterintuitive and creates a disincentive for landlords to modernize their buildings. The owner's counsel further states that the owner elected to not file a modification application in the good faith belief that the new system would benefit the tenants and not result in a rent reduction order; that the old system had become so antiquated that repairing same became impractical if not impossible; that the tenants had previously complained to management about service interruptions and lengthy delays with servicing and repair of the old system; that the new system is modern in every facet, requires less maintenance and is more easily repairable in the event repairs are needed; that there is no substantive difference between an intercom ringing on phone attached to the wall and the intercom ringing on a cell phone (or landline) maintained by the tenant; that none of the tenants ever advised management that he/she does not have a cell phone or landline; and, that the Rent Administrator's decision elevates form over substance whereby administrative filings are placed ahead of substantive building improvements.

In answer to the PAR, one tenant, joined by 18 tenant-signatories, states in pertinent part that the prior intercom system had been working fine until the "limping" oddly started, and instead of repairs being made the owner chose to effect the conversion without giving the tenants any choice; and, that the prior system was more casual whereas the new system is too advanced to be practical, since cell phone users may be out driving, busy at work, or occupied doing something else and may not be able to answer a visitor's call for hours or even days.

After careful consideration, the Commissioner is of the opinion that the PAR should be denied.

By law, an owner of rent regulated property has an affirmative duty to maintain required services and to certify annually that all required services are being maintained (Section 26-514 of the Rent Stabilization Law). Pursuant to Section 2523.4 of the Rent Stabilization Code (RSC), the 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. Further, an owner may not unilaterally change or modify essential or required services without permission from the DHCR. Pursuant to RSC Sections 2522.4(d) and (e), an owner is required to file an application for permission to eliminate or modify required services prior to doing so, providing that doing so would not be inconsistent with the Rent Stabilization Law and Code.

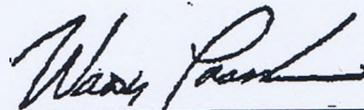
While the petitioner's claims regarding the many benefits and advantages of the new system are noted, they fail to warrant reversal of the order. It is the DHCR's policy, upheld by the courts, that a modification of an existing building intercom from a traditional system to a phone-system constitutes a reduction in services in the absence of an approved modification application, therefore the Commissioner finds that the Rent Administrator's determination was correct.

THEREFORE, in accordance with the applicable provisions of the New York City Rent Stabilization Law and Code, it is

ORDERED, that the petition for administrative review be, and the same hereby is, denied; and, that the Rent Administrator's order be, and the same hereby is, affirmed.

ISSUED:

MAR 09 2018



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

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.