Court of Appeals

STATE OF NEW YORK

Index No. 157576/2020

In the Matter of the Application of

160 EAST 84TH STREET ASSOCIATES LLC,

Petitioner-Appellant,

APL-2023-00147

AD1
Case No.
2021-00718

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING
AND COMMUNITY RENEWAL,

Respondent-Respondent.

(Additional Caption on the Reverse and Following Page(s))

BRIEF IN SUPPORT OF NEW YORK APARTMENT ASSOCIATION, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS-APPELLANTS

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Date Completed: September18, 2024

Index Nos. 157558/2020, 157560/2020, 157579/2020 and 157582/2020

APL-2023-00148

AD1 Case Nos. 2021-02603 2021-02604 2021-02605 2021-02606

In the Matter of the Application of

160 East 84th Street Associates LLC,

Petitioner-Appellant,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

New York State Division of Housing and Community Renewal,

Respondent-Respondent.

Index No. 157557/2020

APL-2023-00149

AD1 Case Nos. 2021-02556 2021-03885 2021-03891

In the Matter of the Application of

160 East 84th Street Associates LLC,

Petitioner-Appellant,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

New York State Division of Housing and Community Renewal,

Respondent-Respondent.

Index No. 157893/2020

APL-2023-00150

AD1 Case No. 2021-03068

In the Matter of the Application of

1700 York Avenue Associates, LLC,

Petitioner-Appellant,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

New York State Division of Housing and Community Renewal,

Respondent-Respondent.

Index Nos. 153992/2020, 153997/2020 and 154002/2020

APL-2023-00151

In the Matter of the Application of

87TH STREET SHERRY ASSOCIATES, LLC,

Petitioner-Appellant,

AD1 Case Nos. 2021-02679 2021-02680 2021-02681

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent.

Index No. 153995/2020

APL-2023-00152

In the Matter of the Application of

87TH STREET SHERRY ASSOCIATES LLC,

Petitioner-Appellant,

AD1 Case No. 2021-00655

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent.

Index No. 153999/2020

APL-2023-00153

In the Matter of the Application of

87TH STREET SHERRY ASSOCIATES, LLC,

Petitioner-Appellant,

AD1 Case No. 2021-00644

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent.

Index No. 157776/2020

APL-2023-00154

In the Matter of the Application of

CLERMONT YORK ASSOCIATES, LLC,

Petitioner-Appellant,

AD1 Case No. 2021-03069

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent.

Index Nos. 157563/2020, 157573/2020 and 157580/2020

APL-2024-00003

In the Matter of the Application of

160 EAST 84TH STREET ASSOCIATES LLC,

Petitioner-Appellant,

AD1 Case Nos. 2021-02599 2021-02600 2021-02601

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules

against

NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL,

Respondent-Respondent.

CORPORATE DISCLOSURE STATEMENT

New York Apartment Association, Inc. is a membership organization. It has no parents or subsidiaries. Its affiliates are:

Realty Systems of America, Inc.;

RSA Mortgage Brokerage, Inc.; and

RSA Insurance Agency, Inc.

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PRELIMINARY STATEMENT

New York Apartment Association, Inc. ("NYAA") (formerly the Rent Stabilization Association of New York City, Inc. ["RSA"]) is a domestic not-for-profit membership trade association comprised of New York residential property owners and managers of rent regulated properties. NYAA respectfully submits the within *amicus curiae* brief to assist the Court in understanding how the Order of the Appellate Division, First Department entered on February 24, 2022, in the underlying Article 78 proceeding, and similar orders in the companion appeals (collectively, the "Appellate Division Orders")[1] erroneously upheld the *sua sponte* retroactive revocation of fully adjudicated and final high income/high rent deregulation orders (*i.e.,* Luxury Deregulation Orders) by respondent New York State Division of Housing and Community Renewal ("DHCR").

Petitioners-Appellants ("Owners") challenge the "Explanatory Addenda" ("EA"), promulgated by DHCR after the passage of the Housing Stability and Tenant Protection Act of 2019 ("HSTPA"), L.2019, ch. 36, which purports to enable the retroactive revocation of pre-HSTPA final Luxury Deregulation Orders.

[1] The Appellate Division Order under review in the instant appeal, APL-2023-00147, is effectively the same as the Appellate Division orders issued in the companion appeals: APL-2023-00148, 2023-00149, and 2024-00003 against the same Petitioner-Appellant, 160 East 84th Street Associates LLC. It is also effectively the same as the Appellate Division orders issued in companion appeals: APL-2023-00150 against 1700 York Avenue Associates, LLC; APL-2023-00151—00153 against 87th Street Sherry Associates LLC; and APL-2023-00154 against Clermont York Associates, LLC. In total, there are nine appeals before this Court involving 16 Appellate Division orders. This *amicus curiae* brief is submitted in support of all these appeals.

However, the HSTPA, *inter alia*, repealed luxury deregulation *prospectively – i.e.,* repealed Rent Stabilization Law ("RSL") §26-504.1 ("Exclusion of accommodations of high income renters"), §26-504.2 ("Exclusion of high rent accommodations"), and §26-504.3 ("High income rent deregulation") (collectively the "Luxury Deregulation Law"), effective June 14, 2019 (the effective date of the HSTPA). *See* Part D, §5 of L. 2019, ch. 36.[2]

The HSTPA repeal did not invalidate any Luxury Deregulation Orders that issued *prior to* June 14, 2019. Legislation promulgated shortly after the passage of the HSTPA, known as the "Cleanup Bill" emphasized that "any unit that was lawfully deregulated prior to June 14, 2019 *shall remain deregulated*." L. 2019, ch. 39, Part Q, §10 (emphasis supplied).

Contrary to those explicit statutory proscriptions, the EA impermissibly re-regulated apartments that had been "lawfully deregulated" prior to June 14, 2019. The EA revoked final Luxury Deregulation Orders that DHCR had previously issued to Owners almost a year *before* the HSTPA repeal of the Luxury Deregulation Law. DHCR maintained that because the Luxury Deregulation Orders contained language stating that the "housing accommodations shall not be subject to the provisions of [the RSL] *upon the expiration of the existing lease*" (emphasis supplied), which

[2] Only RSL §§ 26-504.1 and 26.504.3 are at issue in the instant appeals.

expiration occurred post-HSTPA, the subject apartments could no longer be deregulated and the pre-existing Luxury Deregulation Orders could not be enforced.

This *amicus* brief will focus on the misconstruction of the Luxury Deregulation Law with respect to the lease expiration issue. *Amicus* will show that in upholding the EA, the Appellate Division Orders contravene basic statutory construction principles and misunderstand the effect of the pendency of leases in the overall scheme of luxury deregulation proceedings.

Owners' briefing fully demonstrates how Owners had relied on the law in effect when they (a) filed the Luxury Deregulation petitions, (b) obtained the final Luxury Deregulation Orders, and (c) initially entered into the subject leases – all pre-HSTPA. At that time, the Luxury Deregulation Law was fully in effect, reflecting a long-standing legislative policy to not use rent regulation to protect and subsidize wealthy individuals who were more than able to afford market-rate housing. As the Court noted in *Ram I LLC v. NYS Div. of Hous. & Comm. Renewal,* 123 A.D.3d 102, 106 (2014), *app dism,* 26 N.Y.3d 1068 (2015) ("we are not unmindful that the legislative history [of the Luxury Deregulation Law] indicates a preference not to have people who can easily afford market value rental property inhabit rent-regulated housing"). *Amicus* fully supports those reliance and due process arguments.

To that end, *Amicus* will not repeat those arguments in this brief, but will show that before the HSTPA repeal of the Luxury Deregulation Law, RSL §26-504.1 expressly granted rights to Owners that "[u]pon the issuance of an order by the division," an apartment that satisfies (1) the high income threshold and (2) the high rent threshold, is no longer a "housing accommodation" subject to rent regulation. There is no mention of a lease term having to expire, as a pre-condition to exemption from rent regulation in RSL §26-504.1. Owners extensively relied upon, and greatly valued those rights, which not only restored their properties to their original unregulated state, but also enabled Owners to operate these apartments consistent with market forces – precisely what the Cleanup Bill was supposed to ensure.

Accordingly, for the reasons detailed below – in addition to those detailed in Owners' own briefing – the Appellate Division Orders should be reversed and the Owners' petitions granted. The Court should annul the erroneous EA that improperly added a lease expiration pre-condition to the statutory exemption provision of the RSL, and reinstate the Luxury Deregulation Orders. Owners are entitled to fully enforce those pre-HSTPA rights.

INTEREST OF THE *AMICUS CURIAE*

The August 5, 2024 moving affirmation of Olga Someras, General Counsel of RSA, and now also of NYAA, sets out NYAA's interest in the consolidated appeal.

In sum, NYAA's membership consists of over 25,000 private owners and managers of residential rental properties throughout the City and State of New York, which include approximately one million rental apartments; many of which are subject to the RSL (Administrative Code of the City of NY §26-501 *et seq.*) and the Rent Stabilization Code ("RSC") (9 NYCRR Parts 2520-2531), as amended.

The issues raised in this consolidated appeal affect many NYAA members and their properties; most notably those who exercised rights under the Luxury Deregulation Law, a prominent feature of rent stabilization since 1993, prior to the passage of the HSTPA. The consolidated appeal involves the devastating effect that DHCR's misplaced interpretation of the HSTPA repeal of the Luxury Deregulation Law had on the hundreds of Luxury Deregulation petitions that had been finally determined by the DHCR at the time that the HSTPA repeal went into effect. Those final Luxury Deregulation Orders involved apartments where the legal monthly rents were determined by DHCR to be over $2,700, and the tenants in occupancy had a combined household income of more than $200,000 in each of the immediately two preceding calendar years. *See* New York City Rent Guidelines Board: Changes to

the Rent Stabilized Housing Stock in NYC in 2019 [https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2020/05/2020-Changes.pdf]. Moreover, many of the apartments where final Luxury Deregulation Orders issued prior to the HSTPA repeal had unexpired leases still in effect. This was a common, and indeed, expected occurrence for apartments undergoing Luxury Deregulation proceedings. However, the pendency of a lease did not preclude deregulation under RSL § 26-504.1.

Yet, now, the regulatory status of all those apartments that were "lawfully deregulated" before the HSTPA repeal by virtue of the final Luxury Deregulation Orders, but which had leases that did not expire until after the HSTPA repeal went into effect, have been turned around and re-regulated due to the EA and the Appellate Division Orders. NYAA members with such adversely impacted apartments are denied fundamental property rights they had prior to the HSTPA, which did not extinguish those rights. Indeed, the Cleanup Bill intended to preserve those pre-HSTPA rights. The EA and the Appellate Division Orders are the outliers.

NYAA, thus, respectfully submits that the Appellate Division Orders must be reversed, the EA annulled as contrary to law, and the pre-HSTPA final Luxury Deregulation Orders reinstated.

STATEMENT OF FACTS

This *amicus curiae* brief adopts and fully incorporates the facts as recited in the main brief of the Owners.

POINT I

IN THE LUXURY DEREGULATION STATUTORY SCHEME, THE OPERATIVE FACTORS FOR EXEMPTION FROM RENT REGULATION ARE INCOME AND RENT, NOT LEASE EXPIRATION

The Appellate Division Orders upheld the EA and DHCR's revocation of pre-HSTPA Luxury Deregulation Orders because they found that the Luxury Deregulation Orders stated that the subject apartments would become deregulated "[u]pon the expiration of the existing lease[s]" and such expiration occurred post-HSTPA. In so ruling, the Appellate Division Orders misapprehended that RSL §26-504.1 defines when a housing accommodation becomes exempt from rent regulation, and lease expiration is *not* mentioned in the statutory text as a precondition for exemption.

RSL §26-504.1 stated, in pertinent part, as follows:

> **Exclusion of accommodations of high income renters.**
>
> Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter, in excess of the deregulation income threshold, as defined in section 26-504.3 of this chapter, for each of the two preceding calendar years; and (2) have a legal regulated monthly rent that equals or exceeds the deregulation rent threshold, as defined in section 26-504.3 of this chapter.

The balance of RSL §26-501.1, then, sets out exceptions to the regulatory exemption criteria. The exceptions pertain to housing accommodations that receive certain tax benefits under the Real Property Tax Law, or which are subject to the Loft Law (Article 7C of the Multiple Dwelling Law). Notably, nowhere in the text of RSL §26-501.1 is lease expiration mentioned as a criterion for exemption, or as a limitation or exception to exemption. Where the Legislature wanted to impose limits on Luxury Deregulation, it certainly did so – and the need to await lease expiration was never included among the limits in RSL §26-501.1. The Appellate Division Orders should not, therefore, have applied such unstated limit as grounds to revoke the Luxury Deregulation Orders. *Kuzmich v. 50 Murray St. Acquisition, LLC,* 34 N.Y.3d 84, 91-92 (2019) (rules of statutory construction preclude judicial [or administrative] addition of terms in plainly worded statutes).

Rather, the two criteria for high income/high rent exemption under RSL §26-504.1 were <u>solely</u> (1) total annual income of the tenant household above the regulatory threshold for each of two calendar years preceding the petition,[3] and (2) legal regulated rent of the apartment above the regulatory threshold.[4] The Luxury

[3] Between July 1, 2011 and June 13, 2019, the deregulation income threshold was $200,000.

[4] In 2018 and 2019, the rent deregulation thresholds were $2,733.57 and $2,774.76, respectively.

See DHCR Historical Deregulation Rent and Income Thresholds, Fact Sheet #36. https://hcr.ny.gov/system/files/documents/2020/11/fact-sheet-36-02-2020.pdf. It is telling that DHCR affirmatively states in this Fact Sheet that "[o]ccupied apartments, with tenants whose rent and income reached the deregulation thresholds, could be deregulated by order of the DHCR."

Deregulation Orders all found that these criteria were met, here, *pre-HSTPA.* Thus, the statutory criteria for high income/high rent exemption were adjudicated *prior to* the passage of the HSTPA repeal of the Luxury Deregulation Law. Further, the Luxury Deregulation Orders became final and binding *prior to* the passage of the HSTPA repeal, when the tenants did not contest the orders within the requisite time frame to file a petition for administrative review.

An administrative order in New York is considered final when it imposes an obligation, denies or grants a right, or fixes some legal relationship, resulting in an actual, concrete injury, change or impact. The determination must be complete and the injury, change or impact inflicted must not be significantly ameliorated by further administrative action or steps available to the complaining party. *Essex County v. Zagata,* 91 N.Y.2d 447 (1998); *Matter of Guido v Town of Ulster Town Bd.*, 74 A.D.3d 1536 (3rd Dep't 2010); *Matter of Rosado-Ciriello v. Board of Educ. of the Yonkers City Sch. Dist.*, 219 A.D.3d 839 (2d Dep't 2023).

The finality of an administrative order is also determined by whether the administrative process has been consummated and whether the decisionmaker has arrived at a definitive position on the issue. *Essex County v. Zagata, supra.* If further administrative steps are not available to secure a change in result, the decision is

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DHCR never states that lease expiration is also required.

final *LaMonica v. Novello,* 2006 N.Y. Misc. LEXIS 3892 (S. Ct. NY Co.) (Cahn, J.).

The Luxury Deregulation Orders fully satisfied these finality mandates. After full review under the procedures set forth in RSL § 26-504.3, DHCR had determined that the statutory criteria for exemption had been met for the subject housing accommodations, and the time to challenge those determinations had expired. Nevertheless, contrary to controlling principles of statutory construction, the Appellate Division Orders affirmed the *sua sponte* addition of a third criterion by the DHCR in the EA, which is not in the statutory text of RSL § 26-504.1. The Appellate Division Orders improperly condoned the addition of a subsequent "lease expiration" as a third criterion for exemption from rent regulation under RSL §26-504.1. That was an impermissible expansion of the controlling statute and improperly undermined the legislative intent of the Cleanup Bill. *See, e.g., 191 Realty Assocs. v. Tejeda,* 65 Misc.3d 150(A) (App. T. 1st Dep't 2019), *aff'd,* 193 A.D.3d 561 (1st Dep't 2021).

A fundamental principle of statutory construction is that "[i]f the terms of the statute are clear and unambiguous, 'the court should construe it so as to give effect to the plain meaning of the words used'" (*Matter of Auerbach v Board of Educ. of City School Dist. of City of N.Y.*, 86 NY2d 198, 204 [1995], quoting *Patrolmen's Benevolent Assn. of City of N.Y. v City of New York*, 41 NY2d 205, 208 [1976]).

This Court has instructed that the judicial objective in applying that principle is "to discern and apply the will of the Legislature, not the court's own perception of what might be equitable" (*Matter of Sutka v Conners*, 73 NY2d 395, 403, [1989]; *see also Matter of Orens v Novello*, 99 NY2d 180, 185 [2002]).

"The statutory text is the clearest indicator of legislative intent." (*Maraia v Orange Regional Med. Ctr.*, 63 AD3d 1113, 1116 [2d Dept 2009] [internal quotation marks and citations omitted].) "[A] court cannot amend a statute by inserting words that are not there, nor will a court read into a statute a provision which the Legislature did not see fit to enact" (*Matter of Chemical Specialties Mfrs. Assn. v Jorling*, 85 NY2d 382, 394 [1995], quoting McKinney's Cons Laws of NY, Book 1, Statutes § 363, at 525.

When initially enacting the Luxury Deregulation Law in 1993 under the Rent Regulation Reform Act ("RRRA" [as added by L. 1993, ch 253]), and thereafter, amending it numerous times during the intervening 26 years (*e.g.,* L. 1997, ch. 116; L. 2003, ch. 82; L. 2011, ch. 97; and L. 2015, ch. 20), the Legislature never changed the two criteria for high income/high rent exemption from rent regulation. The respective dollar amounts of the deregulation thresholds were changed, but not the two criteria.

Nor did the Legislature change the criteria for "lawful deregulat[ion]" when it enacted the HSTPA repeal and the Cleanup Bill in 2019. Nothing in the

HSTPA or the Cleanup bill provided that prior exemption or "lawful deregulat[ion]" could only occur if the apartment lease had expired prior to the HSTPA repeal. The Legislature's intent concerning the application of the HSTPA repeal was made clear in the Cleanup Bill, which expressly clarified that "any unit that was *lawfully deregulated* prior to June 14, 2019 shall remain deregulated." L. 2019, ch. 39, Part Q, §10.

The issuance of final Luxury Deregulation Orders under the plain terms of RSL § 26-504.1 prior to June 14, 2019 necessarily establish that the subject apartments, here, were "lawfully deregulated" prior to the HSTPA repeal such that those apartments must remain deregulated. The final Luxury Deregulation Orders were based on the apartments having met the two RSL § 26-501.1 criteria prior to June 14, 2019. Therefore, it was error to hold that "lawful deregulat[ion]" did not occur until after the HSTPA repeal when the leases expired. Lease expiration was not a criterion for exemption from rent regulation under the plain words of RSL §26-504.1. *Matter of Regina Metro. Co., LLC v. NYS Div. of Hous. & Comm. Renewal,* 35 N.Y.3d 332, 350 (2020) ("From 1993 until the enactment of the HSTPA in 2019, the RSL contained 'luxury deregulation' provisions, permitting an owner of a stabilized unit to deregulate if the rent exceeded a statutory threshold and [1] the tenant vacated or [2] the tenants' combined income exceeded a statutory threshold [former RSL §§ 26-504.1, 26-504.2].) *See also, Matter of Park v. NYS Div. of Hous.*

& Comm. Renewal, 150 A.D.3d 105 (1st Dep't 2017); *Dowling v. Holland,* 245 A.D.2d 167 (1st Dep't 1997).

Lease expiration is referenced only in RSL §26-504.3(b) and (c). These sections pertain to procedures and time frames in high income/high rent administrative proceedings; *not* to the substantive elements required for exemption from rent regulation, which is addressed in § 26-504.1. In subdivision (b) of § 26-504.3, the statute describes the process and timing for certifying the income and rent criteria and provides that if the applicable certification form shows that the income and rent thresholds are met, DHCR "shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease."

Subdivision (c) speaks to the process that is required if the income and rent criteria are contested or if the tenant fails to answer the high income/high rent petition. Upon DHCR resolving the issues or the time for the tenant to answer passes, subdivision (c) also directs DHCR to "issue an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease."

These provisions recognize the tenant's contractual right to possession of the apartment through the expiration date of the specific term of the lease. They make clear that the Luxury Deregulation Order may not automatically terminate the

lease upon the order's issuance. The Luxury Deregulation Order concerns the regulatory status of the apartment, but does not automatically extinguish a lease that is still in effect. However, the fact that a lease may still have an unexpired term in effect does not mean that the apartment has not been "lawfully deregulated" by the Luxury Deregulation order prior to the lease expiration.

Indeed, this is made evident by subdivision (e) of RSL § 26-501.3. Subdivision (e) entitles an owner in receipt of a final Luxury Deregulation Order to offer the tenant a market lease. If the tenant fails to respond or declines the offer within a 10-day timeframe specified in the statute, "the owner may commence an action or proceeding for the eviction of such tenant." This section does not provide that the offer must await the expiration of the lease. This section allows the offer to be made "[u]pon receipt of such order of deregulation…".

Thus, upon issuance of a Luxury Deregulation Order, the tenant is no longer entitled to a rent stabilized renewal lease, which is a right that flows from the regulatory status of the apartment; not the lease.

Similarly, RSC § 2529.2 states that the time to file a petition for administrative review runs from the "issuance date" of the order determining a petition, complaint, or application, such as a Luxury Deregulation Order. It does not run from the expiration of a lease because it is clear that the pendency of a lease does not negate or limit the substance of the administrative order. It simply enable the

tenant to stay in possession until the term expires. However, the regulatory rights of the parties are determined via the administrative order; *not* the lease. The lease simply dictates possessory rights; *not* regulatory rights.

The Appellate Division Orders conflate the substantive exemption criteria in RSL §26-504.1 with the procedures in RSL § 26-504.3. They misinterpret that the expiration of an existing lease is not a condition precedent to deregulation.

Amicus submits that the statute, RSL §26-504.1, provides that the regulatory status is determined when the criteria for exemption are met, which are (a) a high rent exceeding the deregulation threshold, and (b) a high income exceeding the deregulation threshold, as adjudicated in the final Luxury Deregulation Order. It is, then, when the Luxury Deregulation Order issues and becomes final that should control the substantive state of exemption from rent regulation, such that if the final Luxury Deregulation Order pre-dates the HSTPA, the apartment is "lawfully deregulated." Should an underlying lease be still pending means only that the contractual terms of the tenancy, such as rental rate, use rules, and other lease rights and obligations will temporarily continue until the lease expires. However, the legal regulatory status of the apartment has been fully adjudicated and determined by DHCR upon issuance of the final Luxury Deregulation Order.

The HSTPA repeal of the Luxury Deregulation Law prospectively precluded an owner's ability to apply for such deregulation order at DHCR. It did

not vitiate pre-existing orders that had already determined the regulatory status of the apartment. The HSTPA repeal did not say that it applied to pending actions or proceedings, or to leases where a final deregulation order had already issued. The HSTPA repeal certainly did not compel continued rent regulation after the Luxury Deregulation Order issued. The HSTPA repeal did not *re-regulate* tenancies that had already been found to be exempt from rent stabilization by reason of high rent and high income.

Accordingly, *Amicus* respectfully submits that there was no legal basis for the EA revoking pre-HSTPA fully adjudicated and final Luxury Deregulation Orders, and the Appellate Division Orders committed reversible error in upholding this unlawful EA.

CONCLUSION

WHEREFORE, NYAA as *amicus curiae,* respectfully requests that the Appellate Division Orders be reversed in their entirety, with such other and further relief as deemed just and proper by this Court.

Dated: New York, New York
September 18, 2024

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CERTIFICATE OF COMPLIANCE

Pursuant to 22 NYCRR § 500.13(c)

The foregoing brief was prepared on a computer using the word processing program, Microsoft Word 2016 MSO. A proportional typeface was used, as follows:

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Dated: September 18, 2024

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