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Matter of Singh v. New York State Div. of Hous. & Community Renewal

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Matter of Singh v New York State Div. of Hous. & Community Renewal
2022 NY Slip Op 02419
Decided on April 13, 2022
Appellate Division, Second Department
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Decided on April 13, 2022 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department
VALERIE BRATHWAITE NELSON, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
JOSEPH A. ZAYAS, JJ.

2019-06944
(Index No. 6769/18)

[*1] In the Matter of Harinder Jeet Singh, appellant,

v

New York State Division of Housing and Community Renewal, respondent.

Harinder Jeet Singh, Hollis, NY, appellant pro se.

Mark F. Palomino, New York, NY (Kathleen Lamar of counsel), for respondent.

DECISION & ORDER

In a proceeding pursuant to CPLR article 78 to review a determination of the Deputy Commissioner of the New York State Division of Housing and Community Renewal dated July 6, 2018, which denied certain petitions for administrative review and affirmed a determination of a Rent Administrator dated July 14, 2017, granting an application for a

major capital improvement rent increase for certain work, the petitioner appeals from a judgment of the Supreme Court, Queens County (Ulysses B. Leverett, J.), dated April 16, 2019. The judgment denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

The petitioner is a tenant in a rent-stabilized building located in Queens. In July 2017, a Rent Administrator granted the building owner's application for a major capital improvement (hereinafter MCI) rent increase based upon the installation of a new roof, pointing, waterproofing, parapet, and sidewalk shed. In response to the rent increase, certain tenants of the building, including the petitioner, filed petitions for administrative review (hereinafter PARs). The Deputy Commissioner for the New York State Division of Housing and Community Renewal (hereinafter the DHCR) denied the PARs and affirmed the Rent Administrator's determination. The petitioner then commenced this proceeding pursuant to CPLR article 78 to review the DHCR's determination. The Supreme Court denied the petition and dismissed the proceeding. The petitioner appeals, and we affirm.

Contrary to the petitioner's contention, the determination of the DHCR denying the PARs and affirming the Rent Administrator's grant of a rent increase for work performed in connection with, and directly related to, a major capital improvement was not arbitrary and capricious and was supported by a rational basis in the record (*see* 9 NYCRR 2522.4; [Matter of Scher v New York State Div. of Hous. & Community Renewal](#), 80 AD3d 769, 770; [Matter of Hogan v New York State Div. of Hous. & Community Renewal](#), 33 AD3d 1001, 1001).

The petitioner's contention that in determining the amount of the rent increase, the Rent Administrator should have disallowed the cost of the sidewalk shed, raised for the first time on appeal, is not properly before the Court (*see* [Matter of Peckham v Calogero](#), 12 NY3d 424, 430; [\[*2\]Matter of 333 E. 49th Partnership, LP v New York State Div. of Hous. & Community Renewal](#), 165 AD3d 93, 99).

The petitioner's remaining contentions are either not properly before this Court or without merit.

BRATHWAITE NELSON, J.P., CHAMBERS, ROMAN and ZAYAS, JJ., concur.

ENTER:

Maria T. Fasulo

Clerk of the Court

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