

Fordham Law School

## FLASH: The Fordham Law Archive of Scholarship and History

---

All Decisions

Housing Court Decisions Project

---

2023-11-02

### 276-W71, LLC v. SANTAMARIA

Follow this and additional works at: [https://ir.lawnet.fordham.edu/housing\\_court\\_all](https://ir.lawnet.fordham.edu/housing_court_all)

---

#### Recommended Citation

"276-W71, LLC v. SANTAMARIA" (2023). *All Decisions*. 1351.  
[https://ir.lawnet.fordham.edu/housing\\_court\\_all/1351](https://ir.lawnet.fordham.edu/housing_court_all/1351)

This Housing Court Decision is brought to you for free and open access by the Housing Court Decisions Project at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in All Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact [tmelnick@law.fordham.edu](mailto:tmelnick@law.fordham.edu).

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS: HOUSING PART R

-----X  
276-W71, LLC,

Petitioner,

Index No. 71059/2019

-against-

GILBERTO SANTAMARIA,

DECISION/ORDER

Respondent.

-----X

Present: Hon. Jack Stoller  
Judge, Housing Court

Recitation, as required by CPLR §2219(a), of the papers considered in the review of this motion:

Pages	numbered
Order To Show Cause and Supplemental Affidavit Annexed	1, 2
Affirmation In Opposition	3

Upon the foregoing papers, the Decision and Order on this motion are as follows:

In this nonpayment proceeding, the papers reveal no dispute that Petitioner has not participated in a process that would procure rent arrears from HRA. Such circumstances present an equitable factor that gives rise to grounds to vacate a warrant of eviction. *Dino Realty Corp. v Khan*, 46 Misc. 3d 71, 73 (App. Term 2nd Dept. 2014), *Flushing QP Portfolio, II LLC v. Williams*, 2017 N.Y.L.J. LEXIS 2462, \*3-4 (Civ. Ct. Queens Co.). As Petitioner expressed that it does not wish to have the warrant vacated, the Court stays execution until such date as Petitioner completes the City FHEPS package that the Court has placed on NYSCEF and incorporates by reference, to be forwarded to Respondent’s counsel by email, and then the execution of the warrant shall be stayed for thirty days thereafter for Respondent to pay \$23,650 as rent owed through November 30, 2023. This amount does not credit HRA shelter allowance payments received on or after September 15, 2023 which shall be credited if paid. If the

execution of the warrant extends past November 30, 2023, then payment of rent for the current months must be paid in order for the warrant to be permanently stayed.

This constitutes the decision and order of this Court.

Dated: New York, New York  
November 2, 2023



---

HON. JACK STOLLER  
J.H.C.