SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. BRENDAN T. LANTRY** **PART** **46M**

Justice

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KENILWORTH HOLDINGS LLC, 21-45 23RD ST. LLC, 39-12 62ND ST. LLC, 42-59 BOWNE ST. LLC, 1369 COLLEGE LLC, 593 PARK PLACE MANAGEMENT INC., and 43RD STREET ASSOCIATES LLC,

Petitioners-Plaintiffs,

DIFIORE REALTY LLC,

Intervenor-Petitioner,

- v -

NEW YORK CITY RENT GUIDELINES BOARD,

Respondent-Defendant,

NEW YORK STATE TENANTS AND NEIGHBORS, METROPOLITAN COUNCIL ON HOUSING, ELISA BLYNN, MASSEIL SANTOS MOTA, MAGALI R. RIVERA UBIDIA, RAYMUDA VAZQUEZ, ABUNDIO GONZALEZ, CENTRAL PARK GARDENS TENANTS' ASSOCIATION, INC., P.A.'L.A.N.T.E. HARLEM, and HAMILTON HEIGHTS TENANT ASSOCIATION,

Intervenor-Respondents-Defendants.

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INDEX NO. 453580/2026

MOTION DATE 08/13/2026, 09/02/2026, 09/09/2026

MOTION SEQ. NO. 001 002 005

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 24, 42, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 126, 133, 150, 160, 162, 163, 191, 202, 204, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 283, 284

were read on this motion for ARTICLE 78/JUDGMENT - DECLARATORY.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 153, 154, 155, 156, 157, 158, 159, 192

were read on this motion to/for LEAVE TO FILE.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 214, 215, 216, 221

were read on this motion for LEAVE TO FILE.

Background and Procedural History

On June 25, 2026, by way of Apartment and Loft Order No. 58 ("Order No. 58") and for the first time since the inception of the New York City Rent Guidelines Board ("respondent-defendant" or "the Board"), the Board established the annual adjustment for rent stabilized apartments for one-year and two-year leases commencing on or after October 1, 2026 and on or before September 30, 2027 to be 0% across all five boroughs in New York City—in essence, a "rent freeze" on over one million apartment units. This action seeks to vacate and annul Order No. 58.

By verified Article 78 petition and complaint dated July 22, 2026, Kenilworth Holdings LLC, 21-45 23rd St. LLC, 39-12 62nd St. LLC, 42-59 Bowne St. LLC, 1369 College LLC, 593 Park Place Management Inc., and 43rd Street Associates LLC ("petitioners-plaintiffs") commenced this action in the Supreme Court of the State of New York, Richmond County (NY St Ct Elec Filing [NYSCEF] Doc No. 1). On July 22, 2026, the Honorable Ralph J. Porzio signed an order to show cause, ordering respondent-defendant to show cause as to why an order should not be made (1) granting the verified petition; (2) annulling the rent freeze; (3) declaring the rent freeze unlawful; (4) remanding to the Board to reconsider its decision and implement a rent increase based on "the actual data before it and the proper statutory standard applicable"; (5) granting expedited discovery, an evidentiary hearing, barring the rent freeze from going in to effect on October 1, 2026, and continuing rent increase guidelines until such time as respondents-defendants implement a rent increase; (6) awarding petitioners-plaintiffs costs, fees and disbursements; and (7) granting such other and further relief as the court deems just and proper (NYSCEF Doc No. 19) (Motion Sequence 999, now Motion Sequence 001).[1] On August 14, 2026, the Board filed a verified answer along with a notice of cross-motion to dismiss petitioners-plaintiffs' declaratory judgment claims (NYSCEF Doc Nos. 67 and 69).

On August 4, 2026, the Board moved, by notice of motion, to change the venue of the proceedings from Richmond County to New York County (NYSCEF Doc No. 31). Petitioners-plaintiffs opposed the motion (NYSCEF Doc No. 44). By decision and order dated August 21, 2026, the Honorable Ralph J. Porzio granted the Board's motion to change the venue of the proceedings (NYSCEF Doc No. 134). The matter was subsequently transferred to New York County and assigned to the undersigned jurist.

Several individuals and organizations thereafter intervened in the action. New York State Tenants and Neighbors ("Tenants and Neighbors" or "T&N") and the Metropolitan Council on Housing ("Met Council") moved, by notice of motion, for, *inter alia*, leave to intervene in this action, to dismiss the case in its entirety, and for attorney's fees, costs, and disbursements

[1] This matter was transferred from Richmond County to New York County, as detailed herein. Upon such transfer, the parties were instructed to re-file all motions and any related submissions to NYSCEF to ensure that the motions were properly received and sequenced in accordance with New York County procedures. During the transfer and re-filing of such documents, Motion Sequence 001 was identified as Motion Sequence 999. On August 27, 2026, at the direction of the General Clerk's Office of New York County, petitioners-plaintiffs filed a notice of motion to re-notice Motion Sequence 999, seeking the same relief sought before Justice Porzio in Richmond County. Petitioners-plaintiffs' motion was then identified in New York County as Motion Sequence 001 (NYSCEF Doc No. 160). For the purposes of this decision and order and for ease of reference, the court will refer to petitioners-plaintiffs' motion to, *inter alia*, grant their petition as Motion Sequence 001. In issuing this decision and order, the court has relied upon the entirety of the proceedings and submissions, including all NYSCEF filings filed under Motion Sequence 001 and Motion Sequence 999.

(NYSCEF Doc Nos. 45 and 153) (Motion Sequence 002). Elisa Blynn, Masseil Santos Mota, Magali R. Rivera Ubidia, Raymuda Vazquez, Abundio Gonzalez, Central Park Gardens Tenants' Association, Inc., P.A.'L.A.N.T.E. Harlem, and the Hamilton Heights Tenant Association (together with "Tenants and Neighbors" and "Met Council," "intervenor-respondents-defendants") also moved, by notice of motion, for, *inter alia*, leave to intervene in this action (NYSCEF Doc Nos. 52 and 170) (Motion Sequence 003).

DiFiore Realty LLC ("intervenor-petitioner" and together with "intervenor-respondents-defendants," "intervenors") also moved, by order to show cause, for, *inter alia*, leave to intervene in this action (NYSCEF Doc Nos. 122 and 190) (Motion Sequence 004).

On September 2, 2026, the court conducted an extensive hearing during which counsel for all parties presented the court with oral arguments regarding all then-pending motions, as detailed in relevant part herein.

By decision and order dated September 4, 2026, the court granted intervenors' motions to the extent that intervenor-petitioner and intervenor-respondents-defendants were permitted to intervene in this action (NYSCEF Doc No. 192-194). The court reserved decision on T&N and Met Council's motion to dismiss the case in its entirety and for attorney's fees, costs, and disbursements (*id.*).

On September 9, 2026, the Manhattan Institute for Policy Research ("Manhattan Institute" or "MI") moved, by notice of motion, for leave to file *amicus curiae* brief in support of petitioners-plaintiffs (NYSCEF Doc No. 214) (Motion Sequence 005). Respondent-defendant opposed the motion (NYSCEF Doc No. 221).

By interim decision and order dated September 16, 2026, the court found that the exchange of certain limited discovery was material and necessary for the court to determine whether the Board's issuance of Order No. 58 constituted an arbitrary and capricious action, an abuse of discretion, an action affected by errors of law, or a violation of lawful procedure (NYSCEF Doc No. 222) ("the September 16, 2026 Interim Decision and Order"). Specifically, the court found an exchange of the following material to be necessary: all written communications between any personnel from the Mayor's Office (including the Mayor of New York City, the Office of the Mayor of the City of New York, the Mayor's Office of Mass Engagement, the Mayor's Office to Protect Tenants, and the Mayor's Office of Management and Budget) with any personnel from the Rent Guidelines Board (including the Board's members and Board staff) from January 1, 2026 to June 25, 2026 (*id.*). The court further found that communications between the Mayor and his staff, communications among the Mayor's staff, communications among the members of the Board, and communications among the staff of the Board were not material and necessary for the court to render its decision and thus did not order the disclosure of same (*id.*).

The court therefore granted count four of petitioners-plaintiffs' petition, which sought expedited discovery and an evidentiary hearing, to the extent that the court ordered the exchange of the aforementioned discovery (*id.*). The court ordered petitioners-plaintiffs to file a discovery demand by September 18, 2026 and for respondent-defendant to file a response to same by

September 23, 2026 (*id.*; NYSCEF Doc No. 226). The parties were ordered to appear for a discovery conference on September 24, 2026 (NYSCEF Doc No. 226).

On September 18, 2026, petitioners-plaintiffs filed discovery demands via NYSCEF (NYSCEF Doc Nos. 225 and 228) ("petitioners-plaintiffs' discovery demands"). On September 23, 2026, respondent-defendant filed responses and objections to same (NYSCEF Doc No. 231).

On September 24, 2026, the court conducted a discovery conference, during which the parties discussed the scope of discovery to be exchanged in accordance with the September 16, 2026 Interim Decision and Order. Following such conference and by interim order dated September 24, 2026, the court ordered (1) respondent-defendant to provide the parties and the court with screenshots of all communications responsive to petitioners-plaintiffs' discovery demands by September 29, 2026; and (2) respondent-defendant to provide a complete response to petitioners-plaintiffs' discovery demands within thirty (30) days of the date of the order (NYSCEF Doc No. 239) ("the September 24, 2026 Interim Order"; *see also* September 24, 2026 tr at 72-73).

On September 29, 2026, respondent-defendant produced approximately 1,000 PDF documents, including mostly photographs of phone text messages and emails, along with Excel spreadsheets and audio recordings in response to petitioners-plaintiffs' discovery demands and in accordance with the September 24, 2026 Interim Order (NYSCEF Doc No. 242). Respondent-defendant asserted that their production "[made] clear that there is absolutely no merit to [petitioners-plaintiffs'] speculative allegations of impropriety" (*id.*). In response, petitioners-plaintiffs asserted that "the ordered discovery [yielded] substantial proof of the continuous collusion between City Hall and the independent RBG," and that the court should schedule an evidentiary hearing (NYSCEF Doc No. 244).

On October 1, 2026, the rent freeze went into effect in accordance with Order No. 58.

On October 2, 2026, respondent-defendant argued that there was no basis for any further discovery or evidentiary hearing and requested an extension of the 30-day deadline set forth in the September 24, 2026 Interim Order (NYSCEF Doc No. 254).

On that same day, respondent-defendant filed an Affirmation of Intention to Move for Permission to Appeal, which provided that respondent-defendant intended to move in the Appellate Division, First Department, for leave to appeal the September 16, 2026 Interim Decision and Order and the September 24, 2026 Interim Order (NYSCEF Doc No. 256).

On October 7, 2026, respondent-defendant submitted a proposed order to show cause to modify the September 24, 2026 Interim Order and to stay the 30-day deadline set forth therein in the interim (NYSCEF Doc No. 265). On October 8, 2026, the court conducted a virtual scheduling conference with the parties wherein an in-person hearing was scheduled for October 13, 2026 for oral arguments on respondent-defendant's proposed interim relief.

On October 13, 2026, the parties appeared before the court as scheduled. Based upon the parties' arguments and the court's review of the relevant statutes, the court found that the matter was stayed by operation of law upon respondent-defendant's filing of an Affirmation of Intention

to Move for Permission to Appeal (*see* CPLR 5519(a)(1), 5701(b)(1), 5513(b); *see* October 13, 2026 tr, *generally*).

That same day, the court signed respondent-defendant's proposed order to show cause and granted the interim relief seeking a stay of the September 24, 2026 Interim Order (NYSCEF Doc No. 274). Specifically, the court ordered petitioners-plaintiffs to show cause on October 23, 2026 at 10:00 am as to why an order should not be made: (1) modifying the September 24, 2026 Interim Order to the extent that same required a duplicative search of the office-issued and personal devices and email accounts of 26 custodians; and (2) staying respondent-defendant's 30-day deadline set forth in the September 24, 2026 Interim Order until the instant motion was decided (*id.*) (Motion Sequence 006). The court therefore set a briefing schedule for petitioners-plaintiffs' opposition, if any, and respondent-defendant's reply.

While on October 15, 2026, petitioners-plaintiffs opposed respondent-defendant's motion to modify the September 24, 2026 Interim Order, petitioners-plaintiffs withdrew such objections three days later on October 18, 2026, by way of letter correspondence filed with the court (NYSCEF Doc Nos. 278 and 279). Consequently, by decision and order dated October 19, 2026, the court granted Motion 006 without opposition and ordered that the September 24, 2026 Interim Order was modified to the extent that the paragraph that ordered respondent-defendant to provide a complete response to petitioners-plaintiffs' discovery demands within thirty (30) days of the date of the order was vacated (NYSCEF Doc No. 282). Discovery exchange therefore concluded, the stay of the matter was rendered moot, and the pending motions were deemed fully submitted (*id.*).

Therefore, what remains for the court's determination is the following: (1) petitioners-plaintiffs' motion for an order (a) granting the verified Article 78 petition and entering a declaratory judgment; (b) annulling respondent-defendant's rent freeze; (c) declaring the rent freeze unlawful; (d) remanding to respondent-defendant to reconsider its decision and implement a rent increase based on "the actual data before it and the proper statutory standard"; (e) granting such other and further relief including continuing current rent increase guidelines until respondent-defendant implements a rent increase; and (f) awarding petitioners-plaintiffs costs, fees and disbursements (Motion Sequence 001); (2) respondent-defendant's cross motion to dismiss petitioners-plaintiffs' claims for declaratory relief (Motion Sequence 001); (3) T&N and Met Council's motion for an order (a) dismissing the case in its entirety; and (b) granting attorney's fees, costs, and disbursements (Motion Sequence 002); and (4) Manhattan Institute's motion for leave to file *amicus curiae* brief (Motion Sequence 005).

For the reasons set forth herein, petitioners-plaintiffs' petition is denied and the case is dismissed in its entirety.

The Parties' Contentions

Petitioners-Plaintiffs

Petitioners-plaintiffs are owners of rent-stabilized buildings throughout New York City and are therefore directly impacted by Order No. 58 (NYSCEF Doc No. 1). The gravamen of petitioners-plaintiffs' arguments in challenging Order No. 58 is that, during his campaign for

Mayor of New York City, Mayor Zohran Mamdani promised New Yorkers that he would freeze the rent and that upon his election, Mayor Mamdani "stacked" the Board and "hand-picked" "loyalists" that would deliver on such promises, and that the Board therefore delivered on same without truly considering the data presented to it during the decision-making process (*id., see also* September 2, 2026 tr, *generally*). In essence, petitioners-plaintiffs assert that Order No. 58 was arbitrary and capricious and the result of a "sham process" insofar as the outcome was predetermined, the Board failed to act independently of the Mayor's Office, and the Board manipulated data to understate costs and overstate income of landlords (*id.*; NYSCEF Doc No. 16). Petitioners-plaintiffs accordingly ask that the court enter judgment finding same (*id.*).

Petitioners-plaintiffs assert that, during his campaign, Mayor Mamdani made several explicit promises and guarantees to freeze the rent, including statements such as "I'm freezing your rent as the next Mayor of New York City," "I'm running for mayor to freeze the rent for every rent-stabilized tenant," "[A]s your next mayor, I will freeze your rent," "As mayor, I'll freeze the rent every year that I'm in office. That's a guarantee," and made similar promises to replace former Mayor Eric Adams' Board appointees upon his election (NYSCEF Doc No. 1). Petitioners-plaintiffs argue that Mayor Mamdani ran his campaign on such promises and that on January 23, 2026, he "began carrying out [such promise] to stack [the Board] with only members who agreed with his vision of a [rent] freeze," such as Chair Chantella Mitchell, Sina Sinai, Lauren Melodia, Brandon Mancilla, Maksim Wynn, and Adán Soltren (*id.*).

Petitioners-plaintiffs assert that, prior to their appointments, certain Board members publicly expressed their support for Mayor Mamdani and a willingness to carry out his promise of a rent freeze and that accordingly, the rent freeze was predetermined prior to the new Board members' appointment (*id.*; NYSCEF Doc No. 16; *see also* September 2, 2026 tr, *generally*). For example, petitioners-plaintiffs assert that in 2023, Lauren Melodia ("Melodia") stated, "I'm in favor of putting limits on practices that predatory landlords are able to get away with," and that in 2026, Melodia expressed her support for Mayor Mamdani, stating, "[g]overnment policy can be an important tool for addressing affordability, and it's also a necessary and powerful tool to address inequality and poverty and the challenging economy that Mayor Mamdani is inheriting" (NYSCEF Doc No. 1 at 24-25). Petitioners-plaintiffs further argue that Brandon Mancilla ("Mancilla") is "aligned with [Mayor Mamdani's] socialist agenda" and that Mancilla "reposted" Mayor Mamdani's statement "freeze the rent" on the platform, X (*id.* at 26-27). Petitioners-plaintiffs similarly argue that Adán Soltren ("Soltren") expressed views that landlords had "indisputably been wildly compensated over the last 31 years," that he contributed $10.00 to Mayor Mamdani's campaign for Mayor of New York City, and that his organization, the Legal Aid Society, explicitly supported a rent freeze (*id.* at 28-32).

Petitioners-plaintiffs further their argument that the rent freeze was predetermined by emphasizing the fact that former-Board member Christina Smyth ("Smyth") resigned from the Board on the morning of the rent freeze vote because the Board "ran a sham process with a predetermined outcome and failed to follow the law" (*id.* at 35). Petitioners-plaintiffs note that in her resignation letter, Smyth criticized the Board's process and asserted that the Board ignored certain evidence and data because it "points to a conclusion the politics will not allow" and that she would not "put [her] name on a conclusion [to freeze the rent] the facts do not support" (NYSCEF Doc No. 3). Petitioners-plaintiffs argue that this further supports their assertion that the

rent freeze determination was predetermined "before a single hearing was held or a single piece of data reviewed" (NYSCEF Doc No. 16 at 6).

Petitioners-plaintiffs further argue that the Board failed to act independently of the Mayor's Office, asserting, for example, that a staff member of the Mayor's Office entered a restricted area with Board members on the night of the vote, that the Mayor's Office of Equity and Racial Justice testified before the Board for the first time, and that Mayor Mamdani spent millions of dollars to encourage one-sided tenant turnout at Board proceedings (NYSCEF Doc Nos. 1 and 16, *generally*).

Much of petitioners-plaintiffs' claims rests on the assertion that the Board disregarded evidence and data that weighed strongly against the idea of a rent freeze. Petitioners-plaintiffs argue that the Board "ignored evidence of soaring landlord costs and manipulated the data to understate the impact of these costs" (NYSCEF Doc No. 1 at 42). Petitioners-plaintiffs note that, in accordance with Administrative Code § 26-510(b) and as discussed in greater detail herein, the Board is mandated to consider several factors in determining rent-increases, such as, generally speaking, the economic condition of the residential real estate industry of the affected area, taxes, maintenance costs, costs and availability of financing, the housing supply and vacancy rates, current and projected cost of living indices for the affected area, and other data made available to the Board (*id.*).

Petitioners-plaintiffs assert that the data that was before the Board was "clear" and that a "rent freeze is impossible to reconcile with [such rising costs]" (*id.*). For example, petitioners-plaintiffs note that the Price Index of Operating Costs ("PIOC") of 2026 indicated that expenses were up in several areas – fuel, insurance, maintenance, utilities, administrative costs, taxes, electricity, water, and sewage – but that despite this, the Board disregarded the data and enacted a rent freeze (*id.*). Petitioners-plaintiffs further argue that the Board's data was "incomplete, flawed…manipulated and misleading" (*id.*). Petitioners-plaintiffs assert, for example, that the Income and Expense Study ("I&E Study") relied upon by the Board, which tracks net operating income ("NOI"), does not "account for debt service" and that while a building may appear to be cash-flow positive, it may actually be cash-flow negative and unable to meet mortgage obligations and thus unable to survive a rent freeze (*id.*). Petitioners-plaintiffs likewise argue that NOI is a distorted data point as it is calculated by factoring in mixed-use buildings containing both market-rate and rent-stabilized units and that the data therefore does not depict the "true distress of 100% rent-stabilized buildings" (*id.*, NYSCEF Doc No. 16; *see* September 2, 2026 tr, *generally*).

In noting that the Board heavily relied on tenant affordability in rendering its decision to freeze the rent, petitioners-plaintiffs argue that the Board "made a uniform affordability judgment" that misaligns with a "common sense" approach that the Board is required to take (NYSCEF Doc Nos. 1 and 16). Petitioners-plaintiffs argue that the Board was required to "rationally differentiate among classes of stabilized housing" and that "to permit otherwise would make a mockery of the entire statutory scheme of balancing interests and considering all the data" (NYSCEF Doc No. 16 at 20). Petitioners-plaintiffs argue that a uniform rent-freeze in light of evidence of "concentrated, cohort-specific distress" cannot "legally stand on the affordability rationale relied on by the Board" (*id.* at 21).

At the crux of their arguments, petitioners-plaintiffs argue that the Board ignored evidence that landlords cannot survive a rent freeze, disproportionately relied upon tenant affordability, and Order No. 58 is therefore not rationally supported by the data presented to it. Petitioners-plaintiffs therefore ask this court to, *inter alia*, grant their petition, enter a declaratory judgment, annul Order No. 58, declare Order No. 58 unlawful, and remand the proceedings to the Board to implement a rent increase based on the data presented to it.

Intervenor-Petitioner

Intervenor-petitioner is a company that owns and operates rent-stabilized units in New York City (NYSCEF Doc No. 200). By Verified Petition dated September 4, 2026, intervenor-petitioner, aligned with petitioners-plaintiffs' claims, asserts that the Board "failed to exercise independent judgment [from the Mayor's Office] and to make an independent evaluation of the evidence that would demonstrate that [Order No. 58 is] the product of a rational and unbiased process" (*id.*). Intervenor-petitioner therefore asks that this court enter judgment annulling Order No. 58 and remanding the matter to the Board for a *de novo* review; prohibiting the Board from voting in favor of a rent freeze; and directing the Board to issue express findings to justify their determination (*id.*).

Respondent-Defendant

Respondent-defendant opposes petitioners-plaintiffs' petition in its entirety and cross-moves to dismiss petitioners-plaintiffs' declaratory judgment claims. Respondent-defendant adamantly defends Order No. 58 and asserts that the Board's determination was "rational and reasonable, supported by evidence in the administrative record" and should therefore be upheld (NYSCEF Doc No. 118; *see also* September 2, 2026 tr, *generally*). To support this argument, respondent-defendant asserts that in determining Order No. 58, the Board "held five public meetings and four public hearings," "reviewed hundreds of written, oral, and video submissions provided by members of the public and public officials," "reviewed numerous reports prepared by [the Board] staff…relating to conditions within the real estate industry," "heard presentations from owner and tenant representatives, housing experts, and other City agencies," and ultimately decided to freeze the rent – a rational determination based on the record before it (NYSCEF Doc Nos. 69 and 118; *see also* September 2, 2026 tr, *generally*).

At the heart of respondent-defendant's response to petitioners-plaintiffs' claims is that the Board appropriately considered all of the data before it as required by the Administrative Code, recognized that tenant affordability was of the utmost importance, and carried out their quasi-legislative functions in determining that a rent freeze on one-year and two-year leases was appropriate given the circumstances. Respondent-defendant asserts that the Board's adoption of Order No. 58 was well within their discretionary authority and satisfies the Article 78 standard of review (NYSCEF Doc No. 118).

Regarding the factors to be considered pursuant to Administrative Code § 26-510(b), as discussed *supra* and *infra*, respondent-defendant argues that the Board conducted a "robust public review process" and considered a myriad of reports, data, and testimony and held several public hearings (*id.* at 14). For example, respondent-defendant notes that in determining Order No. 58,

the Board relied upon the Income and Affordability Study ("I&A Study"), 2026 PIOC, I&E Study, 2026 Mortgage Survey Report, 2026 Housing Supply Report, Changes to the Rent Stabilized Housing Stock Report, expert testimony, rent-stabilized tenant testimony, rent-stabilized owner testimony, and written, video, and audio submissions over a period of approximately three months (*id.*; *see* September 2, 2026 tr, *generally*).

Respondent-defendant argues that the data relied upon demonstrated that New York City tenants were financially struggling and that "[a]lthough a subset of landlords face financial pressure and operating costs have increased, the data also showed that net operating income increased Citywide, indicating that most landlords remain able to absorb these rising costs" (NYSCEF Doc No. 118 at 9). For example, respondent-defendant asserts that the I&A Study demonstrated, *inter alia*, that income has not "kept pace with rising housing costs" and that over 50% of renter households spend at least 30% of their income on rent and nearly 30% of renter households spend at least 50% of their income on rent (*id.* at 14-15). Respondent-defendant asserts that the 2026 PIOC projected rising operating costs and that the I&E Study found that NOI had increased for the third year in a row (*id.* at 16).

Respondent-defendant argues that "the comprehensive data before the Board indicate[d] that most tenants in rent-stabilized housing cannot meet basic affordability thresholds, as housing costs rise and wages for low-income tenants decline" and that "the data also show[ed] that most owners of rent-stabilized properties continue to meet rising costs without experiencing comparable levels of financial distress, while a small segment of owners face measurable financial strain" (*id.* at 19). Respondent-defendant asserts that "[d]espite the existence of rising costs and the subset of owners experiencing financial pressure, the Board found that the best way to balance competing needs of tenants and owners was to keep rents constant" (*id.* at 19-20).

In response to petitioners-plaintiffs' assertion that Order No. 58 was the result of a sham process insofar as the outcome was predetermined, respondent-defendant argues that Mayor Mamdani's campaign statements are "wholly irrelevant" and "immaterial" as "candidates for public office routinely express policy positions on issues of significant public concern, including New York City's housing affordability crisis" (*id.* at 34-35). Respondent-defendant asserts that Mayor Mamdani lawfully appointed members to the Board, consistent with his authority to do so, and that there is nothing in the record to support a notion that the rent freeze was predetermined by the Board members (*id.*). Respondent-defendant likewise argues that Smyth's resignation letter merely expresses her personal views and does not support petitioners-plaintiffs' claim that the Board acted unlawfully or conducted a "sham process" (*id.*).

Respondent-defendant argues that it was rational for the Board to hear from the Mayor's Office of Equity and Racial Justice as they presented the Board with data regarding the cost of living, a factor that the Board is statutorily required to consider. Respondent-defendant argues that petitioners-plaintiffs' assertion that this presentation indicates a lack of independence from the Mayor's Office is without merit. Respondent-defendant likewise argues that the Mayor created the Office of Mass Engagement to encourage turnout of both tenants and landlords to the Board proceedings, rather than the one-sided approach that petitioners-plaintiffs suggest (NYSCEF Doc No. 118 at 40-41).

Respondent-defendant argues that petitioners-plaintiffs' declaratory judgment claims must be dismissed as they are identical to their Article 78 claims and thus "fail for the same reasons" and are further inappropriate as judicial review by way of an Article 78 proceeding is available (*id.* at 44).

Respondent-defendant ultimately argues that "the Board's determination was lawful and proper," that "[petitioners-plaintiffs'] principal grievance rests on the personal views of the Mayor and individual Board members rather than any defect in the administrative process itself," that the Board "fulfilled [their] mandate" by rendering a "rational determination supported by the administrative record" and that Order No. 58 was reasonable and rational and must therefore be upheld (NYSCEF Doc No. 118 at 23, 36-37).

Intervenor-Respondents-Defendants

Intervenor-respondents-defendants T&N and Met Council are organizations whose "missions are dedicated to serving and advocating for [rent-stabilized] tenants" (NYSCEF Doc No. 157). T&N and Met Council likewise oppose petitioners-plaintiffs' petition, arguing, in sum and substance, that Order No. 58 was "lawful, rational, and well within [the Board's] discretion" (NYSCEF Doc No. 158). T&N and Met Council therefore argue that because there is ample support in the record for the passing of Order No. 58 and because the Board is given discretion to weigh the evidence and data presented to it, petitioners-plaintiffs' petition must be dismissed (*id.*; *see also* September 2, 2026 tr, *generally*).

Intervenor-respondents-defendants Elisa Blynn, Masseil Santos Mota, Magali R. Rivera Ubidia, Raymuda Vazquez, and Abundio Gonzalez ("Tenant intervenor-respondents-defendants"), along with Central Park Gardens Tenants' Association, Inc., P.A.'L.A.N.T.E. Harlem, and the Hamilton Heights Tenant Association ("Association intervenor-respondents-defendants," and together, "Tenant and Association intervenor-respondents-defendants") are individual rent-stabilized tenants and tenant associations, respectively (NYSCEF Doc No. 64). Tenant and Association intervenor-respondents-defendants, similar to T&N and Met Council, argue that Order No. 58 was rational, based upon all of the statutorily mandated criteria, and properly issued (NYSCEF Doc No. 217). Tenant and Association intervenor-respondents-defendants argue that the Board acted entirely within its discretion in issuing Order No. 58 and that petitioners-plaintiffs' petition must be denied in its entirety (*id.*).

Manhattan Institute

The Manhattan Institute is a nonprofit public-policy research organization that has "published research and commentary on New York City government and the policies needed to sustain a safe, prosperous, and affordable city" for "nearly five decades" (NYSCEF Doc No. 216). MI moves to appear as *amicus curiae* on the grounds that MI can add perspective on the "irrationality" of the rent freeze in Order No. 58 (NYSCEF Doc No. 215).

MI argues that a rent freeze would "accelerate disinvestment and lead to poorer living conditions for stabilized tenants," issues that are already of concern in large part due to the passage of the Housing Stability and Tenant Protection Act of 2019 ("HSTPA") (NYSCEF Doc No. 216).

MI argues that by eliminating the mechanisms by which regulated rents could reflect rising costs and capital investments, HSTPA "disrupted the economic balance necessary to preserve an aging housing stock while protecting tenants from sudden displacement" (*id.*). MI argues that as a result of such constraints, building owners are unable to keep up with the costs of operating rent-stabilized units as "a substantial apartment rehabilitation may cost far more than the law allows an owner to recover through increased rent" (*id.*). MI argues that rent-stabilized units are thus more likely to remain vacant and contribute to the city's housing shortage (*id.*). MI argues that a rent freeze will worsen such conditions and "should be understood as a severe constraint imposed on a system that already lacks a mechanism to support adequate maintenance and capital investment" (*id.*).

MI argues that the court should not defer to the Board's determination as the evidence suggests that the outcome was predetermined, and that because the Board further failed to provide an adequate written explanation justifying the rent freeze, the court should annul Order No. 58 and remand the matter to the Board for a new determination and a written justification for same (*id.*).

Respondent-Defendant's Opposition

Respondent-defendant, in opposition to MI's motion for leave to file an *amicus curiae* brief, argues that the motion was untimely and that the court should therefore deny same (*id.*). Respondent-defendant requests that to the extent that MI's motion is considered by the court, that they be granted leave to respond to same (*id.*).

Discussion

Rent Regulation in New York City

New York City has an extensive history of rent regulation that has impacted and continues to impact millions of New Yorkers. A brief overview of same provides meaningful context here.

In 1946, the New York State Legislature enacted the Emergency Housing Rent Control Law upon a finding that a "serious public emergency" existed in New York following the aftermath of World War II (1946 N.Y. Laws ch. 274, section 1). "[Rent control] was designed to regulate and control the housing market so as to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health and to prevent uncertainty, hardship and dislocation" (*Braschi v Stahl Assoc. Co.*, 74 NY2d 201 [1989]; citing McKinney's Unconsolidated Laws of NY § 8581 et seq [internal markings omitted]). "Although initially designed as an emergency measure to alleviate the housing shortage attributable to the end of World War II, a serious public emergency continue[d] to exist in the housing of a considerable number of persons," causing the Legislature to "continually reenact the rent control laws, thereby providing continued protection to tenants" (*id.*, 74 NY2d at 208-209).

Of particular importance here, the Rent Stabilization Law of 1969 ("RSL") was enacted upon a declaration of emergency regarding "the housing of a considerable number of persons within the city of New York" (Rent Stabilization Law of 1969 [Administrative Code of the City

of New York] § 26-501). The New York City Council found that "such emergency necessitated the intervention of federal, state, and local government in order to prevent speculative, unwarranted and abnormal increases in rents," that there had been a shortage of dwellings and sharp increases in rent, and that "unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare" (*id.; see also Stein v Rent Guidelines Bd. For City of N.Y.*, 127 AD2d 189 [1st Dept 1987] [noting that according to the New York City Council, "the purpose of enacting the RSL was to, *inter alia*, prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering"]). The RSL expanded the number of dwellings that were covered by rent regulation laws and created the Rent Guidelines Board (the Board) to implement the RSL's policy.

Pursuant to Administrative Code § 26-510(a), "[t]here shall be a rent guidelines board to consist of nine members, appointed by the mayor. Two members shall be representative of tenants, two shall be representative of owners of property, and five shall be public members each of whom shall have had at least five years experience in either finance, economics or housing."

The New York State Legislature thereafter enacted the Emergency Tenant Protection Act of 1974 ("ETPA"), which allowed cities, towns, and villages to declare a housing emergency if the vacancy rates were less than five percent (1974 N.Y. Laws ch. 1974, section 3). The ETPA provided that, "[i]n a city having a population of one million or more, the rent guidelines board shall be the rent guidelines board established pursuant to the New York City rent stabilization law of [1969] as amended, and such board shall have the powers granted pursuant to the New York City rent stabilization law of [1969] as amended" (*id.*, section 4).

In the following years, both New York City and New York State continued to pass legislation regarding the regulation and de-regulation of rent. The New York Court of Appeals has noted that "[t]he legislature has amended and reenacted the RSL numerous times by adjusting the terms under which tenants rent apartments and owners earn revenue from their properties" (*160 East 84th Street Associates LLC v New York State Division of Housing and Community Renewal*, 43 NY23d 275 [2024] [internal citations omitted]). These various pieces of legislation include the Rent Regulation Reform Act of 1993, the Rent Regulation Reform Act of 1997, the Rent Law of 2003, the Rent Act of 2011, and the Rent Act of 2015. Prior to 2019, the law provided building owners with methods in which previously regulated units could become deregulated, such as by meeting a certain rent threshold, a household income threshold, or by making improvements to a unit.

The Housing Stability and Tenant Protection Act of 2019 (HSTPA) brought about significant changes to the law surrounding rent regulation and drastically shifted the climate of same in New York City. The New York State Legislature "recognize[d] that severe disruption of the rental housing market has occurred and threatens to be exacerbated as a result of the present state of the law in relation to the deregulation of housing accommodations upon vacancy" (2019 N.Y. Laws, ch. 36, Senate Bill S6458). The Legislature further found that "[t]he situation has permitted speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families" (*id.*). HSTPA, *inter alia*, repealed various sections of the law that had permitted building owners to increase rents based on

vacancy, income thresholds, and rent thresholds and further limited the manner in which building owners could increase rent based on building improvements (*id.*).

It is thus well documented and established that, in New York City, the home to millions of renters and residential building owners alike, rent regulation has historically been and continues to be at the forefront of policy discussions and legislative priorities, often being a point of contention among building owners and tenants. The New York Court of Appeals has recognized the everchanging nature of this area of the law, stating that, "[g]iven the long history of rent regulation in New York City, neither owners nor tenants can expect the RSL to remain static" (*160 East 84th Street Associates LLC*, 43 NY23d at 279 [internal citations and markings omitted]). The Board therefore is faced with the vital task of establishing annual guidelines for rent adjustments each year, a determination that greatly impacts the lives of millions of New Yorkers. The court is now presented with the question of whether the Board, in administering that task and determining Order No. 58, acted in accordance with the law. The court finds that it did.

Article 78

The questions that may be raised in an action brought pursuant to CPLR Article 78, commonly referred to as an Article 78 proceeding, are limited (*see* CPLR 7803; *see also Whitfield v City of New York*, 96 F4th 504 [2d Cir 2024]). CPLR 7803(3) authorizes judicial review of "whether a determination [made by a body or officer] was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed." An Article 78 proceeding is "the customary procedural vehicle for review of administrative decisions" (*Solnick v Whalen*, 49 NY2d 224 [1980]). "In reviewing an administrative agency determination, courts must ascertain whether there is a rational basis for the action in question or whether it is arbitrary and capricious" (*Peckham v Calogero*, 12 NY3d 424 [2009] [internal citations and markings omitted]). "An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts" (*id.*, 12 NY3d at 431 [internal citations omitted]).

"In [A]rticle 78 proceedings, the doctrine is well settled, that neither the Appellate Division nor the Court of Appeals has power to upset the determination of an administrative tribunal on a question of fact; the courts have no right to review the facts generally as to weight of evidence, beyond seeing to it that there is substantial evidence" (*Matter of Pell v Board of Educ. Of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County,* 34 NY2d 222 [1974]) [internal citations and markings omitted]). "The approach is the same when the issue concerns the exercise of discretion by the administrative tribunal: The courts cannot interfere unless there is no rational basis for the exercise of discretion or the action complained of is arbitrary and capricious" (*id.*, 34 NY2d at 230-231 [internal citations and markings omitted]). "Upon judicial review of a determination rendered by an administrative body after a hearing, the issue presented for the court's consideration is limited to whether that determination is supported by substantial evidence upon the entire record" (*Matter of Purdy v Kreisberg*, 47 NY2d 354 [1979] [internal citations omitted]). "A reviewing court in passing upon this question of law may not substitute its own judgment of the evidence for that of the administrative agency, but should review the whole record to determine whether there exists a rational basis to support the findings upon which the agency's determination is predicated" (*id.*, 47 NY2d at 358; *citing Pell*; *see also Matter*

of Arrocha v Board of Educ. Of City of N.Y., 93 NY2d 361 [1999] ["[i]t is well settled that a court may not substitute its judgment for that of the board or body it reviews *unless* the decision under review is arbitrary and unreasonable and constitutes an abuse of discretion"] [emphasis in original]).

However, "[w]hile agency interpretations of their own regulations are generally afforded considerable deference, courts must scrutinize administrative rules for genuine reasonableness and rationality in the specific context presented by a case" (*Matter of Murphy v New York State Div. of Hous. & Community Renewal*, 21 NY3d 649 [2013] [internal citations and markings omitted]). "A decision of an administrative agency which neither adheres to its own prior precedent nor indicates its reason for reaching a different result on essentially the same facts is arbitrary and capricious" (*Matter of Charles A. Field Delivery Serv.*, 66 NY2d 516 [1985]).

"An order or regulation, which is legislative in nature, issued by an administrative body will be upheld as valid if it has a rational basis, that is, if it is not unreasonable, arbitrary or capricious" (*Stein*, 127 AD2d at 194-195 [internal citations omitted]). When the Rent Guidelines Board decides annual rent increases, it performs "a quasi-legislative function" and accordingly, such standard of review applies (*id.*). "The ultimate weight and significance to be given to the data [reviewed and considered in determining rent adjustments] is within the discretion of [the Rent Guidelines Board], which is not confined to factual data but may also apply to broader judgmental considerations based on its expertise" (*Matter of Apartment House Council of Nassau County, Inc. v Nassau County Rent Guidelines Bd.*, 52 AD3d 702 [2d Dept 2008], citing *Incorporated Vil. of Great Neck Plaza v Nassau County Rent Guidelines Board*, 60 AD2d 593 [2d Dept 1977] and *Stein*, 127 AD2d at 198).

"The [RSL] gives the Board great latitude in deciding what factors to examine and what weight to place on each factor [in determining annual rent increases in accordance with § 26-510(b)]" (*Greystone Hotel Co. v City of New York*, 13 F Supp 2d 524 [1998]). "Not only does [§ 26-510] not require a quasi-legislative body such as [the Board] to state reasons for its determination, but where the guidelines are challenged on the ground of rational basis, the Explanatory Statement, together with the entire record of the Board's proceedings, provides sufficient detail for judicial review" (*Matter of Rent Stabilization Assn. of NYC, Inc., v New York City Rent Guidelines Bd.*, 37 AD3d 374 [1st Dept 2007]).

Here, petitioners-plaintiffs argue that Order No. 58 was arbitrary and capricious. Based upon the entirety of the record and the evidence before the court, the court disagrees.

As discussed, *supra*, the Board is comprised of nine (9) members, each of which is appointed by the Mayor of the City of New York. Unlike members of the art commission, the taxi and limousine commission and the landmarks preservation commission, appointments to the Board – an entity that determines the rates of over a million apartments in the City of New York – are not subject to advice and consent of the New York City Council (*see* NYC Charter § 31). Pursuant to Administrative Code § 26-510(b),

> "The rent guidelines board shall establish annual guidelines for rent adjustments, and in determining whether rents for housing accommodations

> subject to the emergency tenant protection act of nineteen seventy-four or this law shall be adjusted shall consider, among other things (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it."

Upon making such determination, the Board is required to report its findings. Administrative Code § 26-510(b) further provides,

> "Not later than July first of each year, the rent guidelines board shall file with the city clerk its findings for the preceding calendar year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to this law, authorized for leases or other rental agreements commencing on the next succeeding October first or within the twelve months thereafter. Such findings and statement shall be published in the City Record. The rent guidelines board shall not establish annual guidelines for rent adjustments based on the current rental cost of a unit or on the amount of time that has elapsed since another rent increase was authorized pursuant to this title."

On June 25, 2026, the Board issued Order No. 58 and an accompanying 42-page Explanatory Statement (NYSCEF Doc No. 2). In its Explanatory Statement, the Board stated that in accordance with Administrative Code § 26-510(b), it gathered and considered a multitude of data and information, including written, oral, and video submissions; public hearings and meetings; oral and written testimonies; and reports prepared by the Board such as the I&E Study, Mortgage Survey Report, I&A Study, PIOC, Housing Supply Report, and Changes to the Rent Stabilized Housing Stock, all which are available for public viewing (*id.*).

As this court noted in the September 16, 2026 Interim Decision and Order, the allegations set forth by petitioners-plaintiffs raised significant concern regarding the lawfulness of the Board's procedure in determining Order No. 58, a concern that led this court to order the exchange of limited discovery, as discussed *supra* (NYSCEF Doc No. 222). The court noted that it was unprecedented for a candidate for Mayor of New York City to guarantee that the Board, an independent entity, would freeze the rent upon his election to office, making statements such as, "My name is Zohran Mamdani and I'm running for mayor of New York City . . . Eric Adams has raised the rent 9% . . . As mayor, I'll freeze the rent every year that I'm in office . . . That's a guarantee . . ." (*id.*, citing NYSCEF Doc No. 1 at fn. 45). The court, questioning how Mayor Mamdani would make such guarantees to voters, further expressed its concerns over potential communications between the Mayor's Office and the members of the Board regarding the rent freeze (*id.*). However, while such concerns remain, the court finds that with the record before it and in accordance with the jurisprudence surrounding this area of law, *supra*, Order No. 58 was not unreasonable, arbitrary, or capricious and must therefore be upheld.

While petitioners-plaintiffs adamantly assert that Order No. 58 was predetermined, that the guideline-setting process was a sham, and that the Board failed to act independently of the Mayor's Office, it was petitioners-plaintiffs who consented to halt the exchange of discovery (NYSCEF Doc No. 279). It was petitioners-plaintiffs who did not seek leave to conduct depositions and it was petitioners-plaintiffs who acquiesced to cut off the exchange of further information that the court had otherwise permitted. The court is thus confined to the record before it, and what the record shows is that petitioners-plaintiffs' claims are without merit.

Regarding Mayor Mamdani's campaign for Mayor of New York City, the court would be remiss not to state that such comments, promises, and guarantees to freeze the rent were reckless and irresponsible. The Mayor of the City of New York has no authority to unilaterally raise, "freeze" or otherwise adjust the rent of stabilized units in this City – that responsibility is within the power of the Board and the Board alone. The court recognizes that political candidates routinely comment on prevalent policy issues while running for an elected position, but to guarantee a rent freeze to millions of New Yorkers without the authority to do so, is irresponsible and, quite frankly, invited the instant proceeding. However, without a showing that the Board simply adopted Mayor Mamdani's campaign promise instead of engaging in an evaluation of the factors contained within Administrative Code § 26-510(b), Mayor Mamdani's calls to "freeze the rent" are inconsequential to this proceeding.

Petitioners-plaintiffs take issue with the fact that Mayor Mamdani appointed Board members who share his beliefs and who he knew would implement his promise of a rent freeze. However, elections have consequences, a premise that is the backbone of our democracy. Mayor Mamdani, a self-proclaimed democratic socialist, was elected Mayor of New York City in the 2025 general election. Upon his election, he appointed members to the Board of his choosing, appointments he was fully empowered to make. That the Board members share his political views and philosophies is of no moment and does not indicate any level of collusion. Further, upon review of the first and only batch of discovery provided by respondent-defendant, except as indicated *infra*, there are no communications to suggest that the Mayor's Office and the Board engaged in anything other than ordinary exchanges and there is nothing to suggest that the guideline-setting process was an orchestrated "sham process" as petitioners-plaintiffs suggest.

Troubling, though not fatal to Order No. 58, is email correspondence between the Board's chair and the Office of the Mayor, specifically Deputy Chief of Staff to the Deputy Mayor for Housing and Planning, wherein a draft of the Explanatory Statement was shared before the Board voted in favor of Order No. 58. Such communication puts a dark shadow over the purported "independence" of the Board, but without a record of further corroboration of an administration-dictated decision, it does not rise to the level of an Article 78 violation.

What is, however, in the record is Order No. 58 and the Explanatory Statement. In accordance with *Matter of Apartment House Council of Nassau County, Inc. v Nassau County Rent Guidelines Bd.*, 52 AD3d 702 [2d Dept 2008], *Incorporated Vil. of Great Neck Plaza v Nassau County Rent Guidelines Board*, 60 AD2d 593 [2d Dept 1977], and *Stein v Rent Guidelines Bd. For City of N.Y.*, 127 AD2d 189 [1st Dept 1987], the court must acknowledge that it is within the Board's discretion to weigh and consider the data reviewed in contemplation of Order No. 58 and that the Board must therefore be afforded deference. While referred to as an Explanatory

Statement, the Board is not required to explain much, a notion that this court is bound to follow (*see Matter of Rent Stabilization Assn. of NYC, Inc.*, 37 AD3d 374 [1st Dept 2007]). Nonetheless, on its face, the Explanatory Statement demonstrates that each factor of Administrative Code § 26-510(b) was considered, including the economic condition of the residential real estate industry and the current and projected cost of living.

While Order No. 58 may have detrimental impacts on the New York City residential real estate industry, the court is not to substitute its judgment for that of the Board (*see Matter of Purdy v Kreisberg*, 47 NY2d 354 [1979]; *Matter of Pell,* 34 NY2d 222 [1974]; *Matter of Arrocha v Board of Educ. Of City of N.Y.*, 93 NY2d 361 [1999]). Indeed, Order No. 58 very well may make it "extremely difficult, if not impossible for landlords to refinance mortgages to avoid foreclosure or renovate" (NYSCEF Doc No. 283 [internal markings omitted]). Order No. 58 very well may "further reduce the resources available to preserve the buildings already under the greatest financial and physical strain," "worsen the scarcity that drives New York's housing-affordability crisis," and it may "give incumbent tenants an even stronger incentive to remain in place, suppress turnover, and direct still more demand into the limited unregulated stock" (NYSCEF Doc No. 216). However, the Court's review is not whether the Board's determination was wise or if it may cause negative collateral consequences to the overall real estate market. It is solely whether, while affording great deference to the Board, Order No. 58 has a rational basis, that is, that it is not unreasonable, arbitrary, or capricious (*Stein*, 127 AD2d at 194-195).

For the reasons discussed, *supra*, petitioners-plaintiffs and intervenor-petitioner have failed to establish that the passing of Order No. 58 was unreasonable, arbitrary, or capricious. The court therefore finds that based upon the entirety of the record, respondent-defendant has established that Order No. 58 has a rational basis and must therefore be upheld as valid.

Accordingly, petitioners-plaintiffs' petition is denied and the claims set forth therein are dismissed.

Declaratory Judgment

Pursuant to CPLR 3001, "[t]he supreme court may render a declaratory judgment having the effect of a final judgment as to the rights and other legal relations of the parties to a justiciable controversy whether or not further relief is or could be claimed." "A declaratory judgment is ex vi termini a judgment on the merits" (*Rockland Power & Light Co. v City of New York*, 289 NY 45 [1942]). It is well established that "granting declaratory judgment is left to the court's discretion" (*Morgenthau v Erlbaum*, 59 NY2d 143 [1983]; *see also Board of Ed. Of Freeport Union Free School Dist. V Nyquist*, 50 NY2d 889 [1980]; *see also Bower & Gardner v Evans*, 60 NY2d 781 [1983]). "[D]eclaratory judgment does not entail coercive relief, but only provides a declaration of rights between parties that, it is hoped, will forestall later litigation" (*Morgenthau*, 59 NY2d at 148 [internal citations omitted]).

The court "may decline to hear the [declaratory judgment] matter if there are other adequate remedies available, and it must dismiss the action if there is already pending between the parties another action in which all the issues can be determined" (*Morgenthau*, 59 NY2d at 148; citing *Woollard v Schaffer Stores Co.*, 272 NY 204 [1936]; *see also Rockland Power & Light Co.*, 289 NY at 51 [holding that the court's "discretionary and extraordinary power [to pronounce a

declaratory judgment] is properly invoked only where resort to ordinary actions or proceedings would not afford adequate relief"]). "The mere existence of other adequate remedies, however, does not require dismissal." (*Morgenthau*, 59 NY2d at 148.). "When, however, another action between the same parties, in which all issues could be determined, is actually pending at the time of the commencement of an action for a declaratory judgment, the court abuses its discretion when it entertains jurisdiction." (*Woollard*, 272 NY at 311 [internal citation omitted]).

"[A] declaratory judgment is not the proper vehicle to challenge an administrative act, when other remedies, including an Article 78 proceeding are available" (*Greystone Management Corp. v Conciliation and Appeals Bd. Of City of New York*, 94 AD2d 614 [1st Dept 1985], citing *Gaynor v Rockefeller*, 15 NY2d 120 [1965]).

Here, respondent-defendant argues that petitioners-plaintiffs' declaratory judgment claims must be dismissed because judicial review of Order No. 58 by way of Article 78 proceedings is available. The court agrees.

The causes of action set forth in petitioners-plaintiffs' pleadings which seek relief pursuant to CPLR 3001, i.e. declaratory judgment, are counts one, two, and three (*see generally*, NYSCEF Doc No. 1, petitioners-plaintiffs' petition and complaint). Petitioners-plaintiffs ask that this court declare that (1) the Board's decision in Order No. 58 was the result of a sham process with a predetermined outcome; (2) the Board's guideline-setting process for Order No. 58 was not truly independent; and (3) the Board adopted Order No. 58 by manipulating data to landlords' detriment and disregarding or failing to rationally weigh the required statutory factors (*see id.*). Petitioners-plaintiffs further ask that this court enter judgment pursuant to CPLR 3001 declaring that the Board's decision in Order No. 58 was illegal, null and void, and in violation of statutory requirements (*see id.*).

In essence, the declaratory judgment claims set forth by petitioners-plaintiffs each relate specifically to the Board's decision in Order No. 58 – the very determination that is challenged by way of the instant Article 78 proceedings. The court is unpersuaded by petitioners-plaintiffs' assertion that the Article 78 claims "seek annulment of a specific agency action, while the [declaratory judgment claims] seek a broader declaration regarding [the Board's] statutory obligations that will guide its future conduct" (NYSCEF Doc No. 126 at 24). Rather, the declaratory judgment claims seek declarations specifically regarding Order No. 58, not a broad declaration regarding the Board's statutory obligations as petitioners-plaintiffs suggest. Therefore, because the relief sought by petitioners-plaintiffs' declaratory judgment claims can be adequately addressed by way of Article 78 proceedings and have in fact been addressed herein, the Board's cross-motion to dismiss such claims is granted.

Attorneys' Fees

"The general rule is that in Article 78 proceedings, the prevailing party may not collect [attorneys' fees] from the loser unless an award is authorized by agreement between the parties or by statute or by court rule" (*Dechbery v Cassano*, 157 AD3d 499 [1st Dept 2018], citing *Matter of A.G. Ship Maintenance Corp. v Lezak*, 69 NY2d 1 [1986]). As there is nothing in the record demonstrating that an award of attorneys' fees was agreed upon between the parties or is otherwise

authorized by statute or court rule, the court declines to grant attorneys' fees to either petitioners-plaintiffs or T&N and Met Council.

Amicus Curiae

"Amicus curiae has been defined as one who, as a stander by, when a judge is in doubt or mistaken in a matter of law, may inform the court" (*New York State Senator Kruger v Bloomberg*, 1 Misc.3d 192 [Sup Ct., NY County 2003]; citing *Kemp v Rubin*, 187 Misc. 707 [Sup Ct., Queens County 1946] [internal markings omitted]). "[T]he function of an amicus curiae is to call the court's attention to law or facts or circumstances in a matter that might otherwise escape its consideration; it is a privilege and not a right; he is not a party, and cannot assume the functions of a party; he must accept the case before the court with issues made by the parties, and may not control the litigation" (*id.*). The Court of Appeals has established, by way of 22 NYCRR 500.23(a), that "[a] motion for amicus curiae relief shall demonstrate that the parties are not capable of a full and adequate presentation and that proposed amici could remedy this deficiency; proposed amici could identify law or arguments that might otherwise escape the Court's consideration; or the proposed brief otherwise would be of assistance to the Court."

The court finds that the Manhattan Institute demonstrated that its unique perspective was of assistance to the court in determining the merits of the instant action. Therefore, MI's motion for leave to file *amicus curiae* brief is granted over respondent-defendant's objection. The court has considered the arguments raised therein and does not find that MI's brief requires a different result or decision than the court has rendered herein.

Conclusion and Order

Accordingly, it is hereby

ORDERED that Manhattan Institute's motion for leave to file an *amicus curiae* brief (Motion Sequence 005) is granted;

ORDERED that petitioners-plaintiffs' motion to grant their Article 78 petition and enter a declaratory judgment is denied (Motion Sequence 001); and it is further

ORDERED that petitioners-plaintiffs' motion to annul Order No. 58 is denied (Motion Sequence 001); and it is further

ORDERED that petitioners-plaintiffs' motion for an order declaring Order No. 58 unlawful is denied (Motion Sequence 001); and it is further

ORDERED that petitioners-plaintiffs' motion for an order remanding this matter to respondent-defendant for reconsideration of Order No. 58 is denied (Motion Sequence 001); and it is further

ORDERED that petitioners-plaintiffs' motion for attorneys' fees is denied (Motion Sequence 001); and it is further

ORDERED that the remainder of the relief sought in petitioners-plaintiffs' petition is denied (Motion Sequence 001); and it is further

ORDERED that respondent-defendant's cross-motion to dismiss petitioners-plaintiffs' claims for declaratory relief is granted (Motion Sequence 001); and it is further

ORDERED that T&N and Met Council's motion to dismiss the case in its entirety is granted in accordance with this decision and order (Motion Sequence 002); and it is further

ORDERED that T&N and Met Council's motion for attorneys' fees is denied; and it is further

ORDERED that the petition is dismissed in its entirety; and it is further

ORDERED that the petitioners-plaintiffs are directed to serve a copy of this decision and order with notice of entry within twenty days upon all parties and upon the Clerk of the General Clerk's Office, who is directed to enter judgment accordingly; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

This constitutes the decision and order of the court.

11/25/2026
DATE

BRENDAN T. KENTRY, J.S.C.

CHECK ONE:	[X]	CASE DISPOSED		[ ]	NON-FINAL DISPOSITION		
	[ ]	GRANTED	[ ] DENIED	[X]	GRANTED IN PART	[ ]	OTHER
APPLICATION:	[ ]	SETTLE ORDER		[ ]	SUBMIT ORDER		
CHECK IF APPROPRIATE:	[ ]	INCLUDES TRANSFER/REASSIGN		[ ]	FIDUCIARY APPOINTMENT	[ ]	REFERENCE