



# MITCHELL-LAMA RESIDENTS COALITION

Vol. 7, issue 4

FAX (718) 792-2340 WEBSITE: [www.mitchell-lama.org](http://www.mitchell-lama.org)

December 2001

## GENERAL MEMBERSHIP MEETING

### SATURDAY, December 15, 2001

TIME: 10:00 a.m. - 12:00 p.m. (Refreshments at 10:00 a.m.)

Countee Cullen Regional Library

104 West 136th Street (around the corner from the Schomburg Library)

No. 2,3 train to 135th Street, (or) M1, M2, M7, or 102 bus to 135th St.

## Invited Speakers:

Congressman, Charles Rangel

State Senator, David Paterson

State Assemblyperson, Keith Wright

City Councilperson, Bill Perkins

## Saving Affordable Housing

By C. Virginia Fields

Forty-six years ago two New York State legislators, a Manhattan Republican (State Senator Macneil Mitchell) and a Brooklyn Democrat (State Assemblyman Alfred Lama) sponsored legislation creating the largest subsidized middle-income affordable housing within the United States — Mitchell-Lama.

In a span of twenty years, a total of 426 developments were built with over 105,000 apartments. Of the 426 developments, 261 are located in New York City! In Manhattan, we have 90 developments with 46,735 apartments, almost 45% of all the apartments built statewide! That was in the 1960s and 1970s, periods of racial unrest, economic recession and a shortage of affordable housing.

In 2001, is it any different? Somewhat, but not much. The two major differences are the government's priority in supporting affordable housing and the lack of large assemblages of useable land.

Much of what we see today — the developments along Columbus Avenue, Amsterdam Avenue, in the West 80s and 90s, on the Upper West Side, and the developments in the Lower East Side and East and Central Harlem — was built during a time of urban strife and major economic and social blight. Government was willing and able to come together and through eminent domain clear vast tracts of land to begin the plan to build affordable housing. Government was willing and able to put into place a financing plan that would entice private developers to building affordable housing by providing long-term subsidies in exchange for commitments to keep the housing affordable for a fixed period of time.

Housing production has steadily declined since the 1960s, when the majority of these Mitchell-Lama developments were built. But as the affordable housing supply has decreased, demand for housing has increased.

In contrast to other eastern cities, New York City's population has grown over the past two decades. And many of the government time-limited subsidies are expiring or have expired, as witnessed by the buyout applications of several Mitchell-Lama developments in Manhattan.

It was news of these buyout announcements that spurred my office in 1998 to co-convene with State Assemblyman Vito Lopez, chair of the assembly housing committee, a public hearing on the "future of Mitchell-Lama." Out of that public hearing, my office established the Mitchell-Lama Task Force that has continually met since its inception on a monthly basis. The Task Force works on issues such as the following:

- Delaying buyouts;
- Lobbying to pass legislation to protect both current and future residents of Mitchell-Lama developments;
- Working with the labor unions to preserve affordable housing;
- Questioning local and state government on their oversight roles; and
- Working with elected officials and city, state and federal governments to put the development of affordable housing back on the political agenda.

New York City, in general, and Manhattan, in particular, face a growing risk of becoming home to only the very rich and the very poor. Government-sponsored housing development programs and the red-hot real estate market have resulted in a situation where most of the housing constructed in New York City is either market rate luxury or heavily subsidized low-income housing. The incomes of middle-income New Yorkers make them ineligible for the subsidized affordable housing while market-rate housing in Manhattan is beyond their means.

Although moderate- and middle-income New Yorkers do not face the barriers equivalent to those faced by low- and no-income

Continued on page 2

**MLRC**

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Park West Finance Station  
New York, N.Y. 10025

**Continued from page 1: Saving Affordable Housing**

New Yorkers, their housing options are extremely limited. These families are faced with two choices: Pay more than they can comfortably afford for housing or leave the city altogether.

New York City has an interest in retaining its middle-income population. They are the backbone of the city's private and public sector economies. Now more than ever, we need to be able to retain employers to rebuild after September 11 and build upon the economic regeneration of the late 1990s. Private sector employers, in turn, need employees to provide back-office and low-level managerial and professional support. The high cost of housing in New York City is undoubtedly one factor considered by corporations as they decide whether to remain in or relocate to New York City.

There are no easy solutions to increasing the supply of housing that is affordable to middle-income New Yorkers. Any remedy must involve all levels of government and the nonprofit and private sectors. The elements of an affordable housing strategy of the size of the Mitchell-Lama program should include the following:

- Reducing housing construction costs by providing developers with sites at minimal acquisition costs and modifying regulatory and zoning constraints restricting affordable housing development.

- Taking a look at underutilized manufacturing districts and brownfields.

- Building upon existing programs that provide low-interest financing and capital subsidies for housing development and making them flexible enough to foster the development of affordable housing while filling the greatest need.

- Expanding incentives and opportunities for the private sector to invest in affordable housing.

- Renewing a commitment to preserving and upgrading the physical and economic viability of the existing housing stock

- We should look at creating a New York City Housing Trust Fund to provide flexible subsidy to affordable housing development. Both in combination with and independent of other government assistance. Possible sources to capitalize this trust fund could include:

- Dedicating property tax revenue realized in Mitchell-Lama developments as they leave the program.

- Setting aside a portion of revenue from the sale of tax liens on residential property.

- Dedicating excess mortgage recording tax revenue to affordable housing development.

- Investing HFA reserve funds.
- Recycling government housing loans as renewable funds.

- And before September 11, debt backed by tax revenue in the privatization of the World Trade Center or corporate franchise taxes.

I have given you some of my thoughts on how we as government, politicians, private sector, housing advocates, and academics can accomplish in 2001 what one Democrat and one Republican accomplished in 1955.

(This address was the keynote address delivered November 17 before the New York Real Estate Forum Finance Conference at the Steven L. Newman Real Estate Institute. Robert Woolis and James Garat also addressed the group.)

**Borough of Manhattan  
President, C. Virginia Fields**

**NOTICE**

\*Elections for Mitchell Lama Executive Board Members Planned for June General Membership Meeting. Applications and Announcements Will be Published in March Issue of this Newsletter.

\* Membership must be in effect 80 days to vote.

**NOTICE**

Join Today  
the Mitchell Lama Residents Coalition  
\*New By-Laws will be Reviewed and Voted on  
March 2002  
General Membership Meeting

\* Membership must be in effect 80 days to vote.

**JOIN THE MITCHELL-LAMA RESIDENTS COALITION, INC.**

**2002**

INDIVIDUAL \$5.00 Per year - DEVELOPMENT 10 cents Per Apt. (\$25 Minimum; \$100Maximum)

Name \_\_\_\_\_

Address \_\_\_\_\_ Apt # \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Evening Phone \_\_\_\_\_ Day Phone \_\_\_\_\_

Development \_\_\_\_\_ Check: Renewal \_\_\_\_\_ New Member \_\_\_\_\_

Mail to: MLRC P.O. Box 20414, Park West Finance Station, NYC, N.Y. 10025

***MLRC Fights for you and your right to affordable housing!***

**UPCOMING  
EVENTS**

**MEETINGS  
GENERAL  
MEMBERSHIP**

Saturday, December 15  
10:00 a.m. - noon

**Countee Cullen Regional Library**  
104 West 136th Street

**EXECUTIVE BOARD**

Saturday: January 12, 2002  
10:00 am - noon

Saturday: February, 23 2002  
10:00 am - noon

Saturday: March 9, 2002  
10:00am - noon

**Albany Tenant Lobby Day**  
Tuesday, April 9, 2002

*Meetings are held at  
Columbus House, 95 West 95th St.  
corner of Columbus Ave.*

*\* All dates are subject to revision. Please call the voice mail to confirm (212) 465-2619.*

**Mitchell-Lama Residents  
Coalition, Inc.**

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Louise Sanchez  
Robert Woolis

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Voice Mail: (212) 465-2619

## YOUR CO-OP CASTLE

By Bernice Lorde

Every person's home is their castle. Kings protected their castles with drawbridges and moats. But you as a shareholder have a more modern means of protection — homeowner's insurance. Statistics show large numbers of shareholders do not have homeowner's insurance to protect their interests. (Insurance is also available for renters.) Could it be many people are unfamiliar with this type of insurance, do not feel it is necessary, or think it is too expensive? If you identify with any of the foregoing, here are some facts that may change your mind.

First and foremost, the co-op's insurance protects the development's buildings, only. It does not cover damage to your unit whether such damage is caused by burst pipes, roof leaks, overflow of a neighbor's bathtub, a leaky air-conditioner, water, or fire. You, as the shareholder, are totally responsible for repairing, replacing, or restoring items damaged in your unit — wet carpeting, tile, wood floors (that have to be taken up and replaced), wallpaper, painting, damage to your clothing, furniture, television set, etc. Just imagine one of the aforementioned horrors is visited upon you!

Another risk of not having homeowner's insurance — suppose you are the one who causes damage to another shareholder's unit. How will homeowner's insurance protect you?

Here is a brief overview of the basic coverage provided in a unitholder's contract at relatively inexpensive cost.

•**PERSONAL PROPERTY/CONTENTS:** Coverage will provide funds to replace personal property, including furniture, rugs, TVs, stereos, clothes, and items usually found in a unit. Jewelry, furs, and antiques must be insured separately.

•**IMPROVEMENTS/ALTERATIONS:** Coverage provides funds to restore your unit — kitchen cabinets, built-in wall units, wall-to-wall carpeting, wallpaper, paints, bathroom fixtures, tile and wood flooring. Other improvements may also be covered.

•**ADDITIONAL LIVING EXPENSES:** If you have a claim, coverage is provided in the event you have to live elsewhere temporarily (hotel, motel, etc.) because your unit was made uninhabitable due to severe damage.

•**PERSONAL/FAMILY LIABILITY:** Coverage protects you and family members against lawsuits in the event of injury to other persons or you damage another shareholder's unit.

•**LOSS ASSESSMENT:** Should your development have inadequate insurance to cover property damage, or a liability lawsuit and all shareholders are assessed, your assessment amount will be covered.

To obtain homeowner's insurance, contact a licensed insurance broker to discuss the coverage amount that best suits your needs. Be sure to ask any questions you have and make certain your coverage provides replacement at today's cost, not what you paid for an item five years ago. Annual premiums for basic coverage may range from \$150 to \$250 depending upon the coverage amount you select. Naturally, the higher the coverage amount you select, the higher the premium cost.

Hopefully, you will give serious thought to protecting your "co-op castle."

### HOUSING LANGUAGE: ...COMMON ABBREVIATIONS

**HPD:** New York City Housing Preservation Department

**DHCR:** New York State Department of Housing and  
Community Renewal

**HUD:** U. S. Department of Housing and Urban  
Development

**SCRIE:** Senior Citizen Rent Increase Exemption

**SCHE:** Senior Citizen Homeowner Exemption

### New York City Heating Regulations

New York City's heating law applies from October 1 through May 31. The law requires landlords to maintain temperatures of at least 68 degrees Fahrenheit indoors between the hours of 6 a.m. and 10 p.m. when the outdoor temperatures is below 55 degrees. Between 10 p.m. and 6 a.m., when the temperature is below 40 degrees, indoor temperatures must be maintained at 55 degrees.

*To report heating violations, called the Central Complaint Bureau at  
(212) 960 - 4800*

**Save the Date:  
Tuesday  
April 9, 2002**

**MLRC  
ANNUAL ALBANY  
LOBBYING TRIP**

**JOIN US**

## BUILDING BRIEFS

**The following DHCR developments are facing rent increase preliminary applications within the next six months.**

COMMUTER HOUSING, Queens	SPA APARTMENTS, Clifton Springs
DUTCHER HOUSE, Pawling	BROOKDALE HOSPITAL, Queens
ELECTCHESTER 5, Queens	DENTON GREEN, N. Hempstead
KENNEDY PLAZA, Utica	FULTON PARK PLAZA, Brooklyn
PINNACLE PLACE, Rochester	LAFAYETTE BOYNTON, Bronx
SOUTH MALL TOWERS, Albany	PARK REGENT APTS., Port Chester
CATHEDRAL PARKWAY, Manhattan	McGRAW HOUSE, Ithaca
CLINTON PLAZA, Syracuse	PEEKSKILL PLAZA, Peekskill
ELI PARK 1, Binghampton	TRUMP VILLAGE III, Queens
ELI PARK 2, Binghampton	UNITY PARK 2, Niagara Falls
MIDTOWN MANOR, Rochester	UPACA 7, Manhattan
OCEAN TOWERS, Brooklyn	

**New Appointee:** We don't know who will be replacing Commissioner OTIS JONES. Otis is retiring come December 31, 2001. Happy New Year. The position is one of patronage.

**West Side Manor:** LEFRAK, the owner and manager, has now made it very clear that the announced buyout will occur on or around June 2002. Immediately after the buyout, LEFRAK will initiate a suit calculated to deny Rent Stabilization for projects, buying out, with occupancy dates prior to December 31, 1973. Everyone must keep an eye on this happening. This is a danger alert.

**Recent Rent Increase Conference:** The big issues are energy and insurance, the latter a result of the Twin Towers debacle. In the past, contrary to Coalition contention, supervisory agencies always increased utility charges, supposedly reacting to market volatility. Now people at the agencies are reckoning that maybe the Coalition was correct in its insistence that utility prices are falling significantly. As to insurance, the would-be pundits are declaring increases in the 30-80% range. This is crass speculation. Nobody yet knows how the federal government will react to offset the insurance losses. Agencies are distributing worst-case scenarios, to protect backsides.

For accounting/advocacy assistance, contact the Mitchell-Lama Residents Coalition (MLRC) — (212) 465-2619.

This column is by Robert Woolis.

## Changes in Annual Income-Affidavit Procedure

The letter cited below is typical of responses that HPD has been sending to Mitchell-Lama residents who have raised questions concerning the income affidavit debacle that occurred this year.

"Your letter to Mayor Giuliani regarding the income verification for City Mitchell-Lama developments has been referred to me for review and response.

"HPD is in the process of revising our income verification process to coincide with the State Mitchell-Lama developments. We have already been in contact with the Division of Housing and Community Renewal to identify vendors who may be used to computerize the information on the income affidavits. The Department of Taxation and Finance has also been contacted to supply HPD with a listing in the future of those income affidavits that have a discrepancy.

"The income affidavits for the year 2001 will reflect the changes in the procedure and only those households that have discrepancies identified by the Department of Taxation and Finance will be audited." Thank you for your interest. If you have any additional questions or need further information, please call me at (212) 863-6502."

*This letter was signed by Elaine Smith, Operations Director, HPD. Updates will be published in the MLRC Newsletter. The 2001 procedure seems to be destined to become part of the dustbins of history.*

**MLRC Website:**

[www.mitchell-lama.org](http://www.mitchell-lama.org)

## Homesteaders Federal Credit Union Offers Individual Development Accounts

Individual Development Accounts (IDAs) are savings accounts that provide incentives to assist low- and moderate-income members to save long term and build assets. At the completion of a savings period, members with IDAs receive matching funds for each dollar they deposit into their account.

The credit union will match your savings \$1 for every \$1 saved up to \$1,000. So, if you save \$1,000 you will be matched \$1,000 for a total of \$2,000. IDA money must be utilized for specific purposes such as starting or improving a business, education or training or home ownership opportunities. The savings period is a minimum of one year with up to 40 months to save \$1,000 in order to be eligible for matching funds. There are income restrictions and participation in three educational seminars is required.

The program is made possible through a grant from the National Federation of Community Development Credit Unions. Limited accounts available to date. Call Raquel Cabassa at 212-479-3302 to receive an application.

Income Guidelines (at or below the following\*)

Size of Household	Maximum Income
1	\$31,450
2	\$35,950
3	\$40,450
4	\$44,950
5	\$48,550
6	\$52,750

\* 80% of Median Income Based on HUD Guidelines

## Dues-Paid Developments

MLRC strength comes from you, the membership. Support the Coalition's educational, advocacy and outreach programs with your membership dollars.

**Individual Membership: -\$5**

**Development - 10 cents per apt. (\$25 minimum; \$100 maximum)**

Donations above the membership dues are welcome.

**These developments are 2001 dues-paid members of the Mitchell-Lama Residents Coalition**

Bay Towers (Queens)	Leader House (Manhattan)
Bethune Towers (Manhattan)	Lionel Hampton (Manhattan)
Candia House (Bronx)	Manhattan Plaza (Manhattan)
Castleton Park (Staten Island)	Masaryk Towers (Manhattan)
Central Park Gardens (Manhattan)	Middagh (Brooklyn)
Charlotte Lake (Rochester)	Plymouth Gardens (Rochester)
Cherry Hill (Syracuse)	Pratt Towers (Brooklyn)
Clinton Plaza (Syracuse)	Promenade Apartments (Bronx)
Columbus House (Manhattan)	Riveredge (Manhattan)
Concourse Village (Bronx)	R.N.A. House (Manhattan)
Co-op City (Bronx)	Ryerson Towers (Brooklyn)
Cooper-Gramercy (Manhattan)	Sea Park East (Brooklyn)
Court Plaza (Queens)	Second Atlantic (Brooklyn)
Dennis Lane (Bronx)	Skyview Towers (Queens)
1199 Plaza (Manhattan)	Sterr House (Manhattan)
Esplanade Gardens (Manhattan)	Strykers Bay (Manhattan)
Evergreen Gardens (Bronx)	Tower West (Manhattan)
Fordham Towers (Bronx)	Town House West (Manhattan)
Genesee Gateway (Rochester)	Townsend Towers (Syracuse)
Glenn Gardens (Manhattan)	Twin Park South (Bronx)
Harrison House (Syracuse)	Valley Vista (Syracuse)
Independence Plaza (Manhattan)	West Village Houses (Manhattan)
Island House (Roosevelt Island)	Westside Manor (Manhattan)
Jefferson Towers (Manhattan)	Westview (Roosevelt Island)
Kennedy Square (Syracuse)	
Lakeview (Manhattan)	

If your development has not received an invoice, please call the MLRC Voice Mail: (212) 465-2619. Leave the name of the President of your Tenants Association, Board of Directors, or Treasurer and an invoice will be mailed.

## EDITORIAL

**What's Happening to Rent Increases?**

Larger rent increases for the past two years have been the rule. On the basis of volatility and single-dimension speculation, HUD, HPD, and DHCR have rationalized rent increases. These increases have been driven by uncertain fuel oil and electric energy markets. To these items, there is now added the factor of insurance increases resulting from the Twin Towers debacle.

Way back in January, the U.S. Energy Commission projected that fuel oil prices would level off and in all probability would drop substantially. The same applies, to a lesser extent, to electric energy. These projections were indeed borne out by the passage of time. What will be happening to insurance costs is not known at this time, thereby, creating an atmosphere of uncertainty and wild speculation. Insurance brokers now utter the mantra, "Increases of 30 to 80 percent may be assumed." This elongated range is grist for the supervisory agency's mill.

The agencies deal with the cited items in black and white terms, seemingly acting only to protect their backsides. The assumption of worst-case scenarios is neither realistic nor representative of good budget making. Of course, decisions are impossible to modify.

Rents are not being adequately contained, and times are becoming more difficult for Mitchell-Lama residents. The Coalition, as usual, is available to discuss remedies.

**JOYOUS HOLIDAYS  
AND  
HAPPY NEW YEAR**

**Co-op Bylaws**

Basically, co-op bylaws should contain the following provisions:

## Article I - Meeting of Shareholders:

1. Annual Meeting
2. Special Meetings
3. Waiver of Mailing of Notice
4. Quorum
5. Voting
6. Inspectors of Election
7. Consent of Shareholders
8. Order of Business

## Article II - Directors:

1. Qualification and Number
2. Election and Term
3. Vacancies
4. Resignation and Removal
5. Meetings
6. Annual Budget
7. Duties and Powers
8. House Rules
9. Executive Committee
10. Admissions Committee
11. Other Committees
12. Contracts/Transactions of Corporation
13. Compensation
14. Distributions

## Article III - Officers:

1. Election and Removal
2. Qualifications and Vacancies
3. President and Vice President
4. Secretary
5. Treasurer
6. Salaries

## Article IV - Indemnification, Directors/Officers

## Article V - Proprietary Leases:

1. Form
2. Assignment
3. Accompanying Shares
4. Re-grouping of Space
5. Allocation of Shares to Additional Space
6. Fees on Assignment
7. Lost Proprietary Leases

## Article VI - Capital Shares:

1. Capital Shares
2. Certificates of Issuance
3. Transfer
4. Units of Issuance
5. Fees on Transfer
6. Corporation's Lien
7. Lost Stock Certificates
8. Legend on Shares Certificate
9. No Preemptive Right

## Article VII - Seal:

1. Form

## Article VIII - Checks, Notes, etc.:

1. Signatures on Checks
2. Signatures on Notes and Bonds
3. Safe Deposit Boxes
4. Securities

## Article IX - Sales, Lease, Demolition or Disposition of Property:

1. Sales, Lease, Demolition or Disposition of Property

## Article X - Amendments:

1. By the Shareholders
2. By the Directors
3. General

## Article XI - Fiscal Year:

1. Fiscal Year

## Article XII - Reports:

1. Annual Reports
2. Tax Deduction Statement

## Article XIII - Miscellaneous:

1. Operation of the Property
2. Reserves
3. Special Assessments
4. Default Provisions
5. Attorney's Fees
6. Patronage Refunds

## New York Real Estate Forum Finance Conference:

### Issues of Middle Income Housing In NYC

By Katy Bordanaro

The Steven L. Neuman Real Estate Institute devoted its 2001 New York Real Estate Forum Finance Conference to issues of Middle-Income Housing in New York City this fall. The second day of the four-day conference was entitled "Learning from Mitchell-Lama: Government Financing of Large-Scale Middle-income Housing Programs." Many members of the Mitchell-Lama community attended the session which featured 18 speakers, including a keynote address by Manhattan Borough President, C. Virginia Fields and presentations by Bob Woolis, Co-chair of the MLRC, and James Garst, Board member of the Mitchell-Lama Council (the Mitchell-Lama co-operatives' group). The rest of the presenters were lawyers, financiers, managers, and government officials. Mitchell-Lama Co-chair Louise Sanchez attended but was disappointed that tenants did not have the opportunity to ask questions. By policy the Neuman Institute does not include a question & answer period in its conferences.

Thanks to Lee Chong, Director of Land-use and Housing for the Manhattan Borough President, the event was publicized to the Mitchell-Lama Task Force and thus many tenants were able to attend and hear about our housing from the perspective of the regulators and the owners. The attendees appreciated the gracious hospitality of the Institute.

The conclusions from the first day of the conference surprised some attendees: 1. The city's future depends on its ability to keep and

**The City's future depends on its ability to keep and attract middle-income people.**

attract middle-income people. 2. The city's housing for people with incomes as high as \$110,00-140,000 is inadequate. This astounding fact does not even address the problems for housing with lower income levels. 3. There is a debate between financiers and developers over strategies for achieving affordability. Some people think government subsidies are necessary, others don't. 4. Providing more housing for middle-income families is an issue of quantity and quality.

Speakers from the tenant point of view asked the business community to find more creative solutions to the housing crisis. They pointed out that Mitchell-Lama housing is a valuable resource for the entire city. Fields floated the idea of a NYC Housing Trust Fund which would provide flexible sources of money. She also pledged to meet with the mayor-elect to discuss housing.

Al Walsh, familiar to many Mitchell-Lama residents as lawyer to the developers, spoke about the history of Mitchell-Lama housing. He reviewed how changes in tax depreciation rules of the IRS first encouraged the construction of Mitchell-Lama housing and then, after the rules changed in 1986, encouraged the move towards buy-outs. The Mitchell-Lama community should follow up on his remarks and see if we can think of new ways to use the tax system to encourage owners to remain in the program.

Stephen Shane, another real estate lawyer, observed that the existing Mitchell-Lama housing is a scarce resource in our society. By implication, he challenged everyone to protect that resource. He did suggest putting a human face on the residents of Mitchell-Lama housing. We need to think of ways of showing government and owners who are the people living in Mitchell-Lama housing. How many teachers, policeman, civil servants live in each development, for example?

Ruth Lerner, now managing director of Waterside Plaza and formerly assistant commissioner of HPD, underscored the value of the Mitchell-Lama properties. The average Mitchell-Lama apartment costs \$12,000 to build. To replace it will cost \$200,000. Since government paid 95% of the costs of each Mitchell-Lama development, the government needs to think of the value of what it invested and the efficacy of undoing its original program. Lerner went on to point out that Mitchell-Lama housing was envisioned as a temporary housing measure. People would move in, stay a few years, and then move on. The truth of the matter is that there is nowhere for Mitchell-Lama residents to move to. All the speakers spoke about the housing crisis and acknowledged that tenants are stuck in place because of it. The other factor is that we came to our communities, built them up, and now we want to live where we raised our families and constructed our lives.

These are just the highlights from a few of the speakers but they give an idea of the day's proceedings. Tenants are going to review the information and develop an action plan based on the best ideas presented. If the talks produce action the conference certainly achieved its goal!

# Renovating Without Permission

## By Jay Romano

Most residential leases in New York City — for both regulated and non-regulated apartments — contain a provision that prohibits a tenant from making any “alteration, decoration, additions or improvements” to an apartment without the landlord’s written consent. Some leases are even more specific, prohibiting tenants from installing “any paneling, flooring, built-in decorations, partitions, railings” or from painting or wallpapering the apartment without first getting the landlord’s written consent.

Despite the seemingly clear language, however, landlord-tenant lawyers say it is becoming increasingly unclear as to when violating such a clause may be grounds for eviction.

“It has astonished me that what had been a fairly clear provision in a standard lease has now become quite murky,” said Sherwin Belkin, a Manhattan lawyer who represents landlords. “It seems that the courts have been saying that while some alterations do constitute a violation of the lease clause, others don’t, and that even when there is a violation of the lease, some violations may be grounds for eviction while others may not.”

Mr. Belkin and other lawyers said that the court decisions do not clearly favor either tenants or landlords, and do not differentiate between regulated and nonregulated leases, but have made the situation so vague that it is difficult for a lawyer to counsel a client on what the law expects.

“Frankly, the case law seems to be all over the place,” Mr. Belkin said. “and both landlords and tenants can cite cases that are in their favor.” He explained that there appear to be some general parameters that landlord-tenant lawyers — and their clients — can glean from the decisions that have been handed down in the last 10 or 15 years.

“Some courts have indicated that nonsubstantial violations of a lease clause prohibiting alterations do not really constitute a violation of the lease,” Mr. Belkin said, pointing out that in a 1998 case a Manhattan appeals court ruled that a tenant’s replacement of a 27-year-old stove with a new one was “merely a technical violation of the no-alterations clause” as opposed to a “significant violation of a substantial obligation” of the lease.

At the other end of the spectrum, he said, are a number of cases in which it is fairly clear that the tenant violated the no-alterations clause. In a 1998 case, for example, a Manhattan appeals court ruled that a tenant who had reconstructed the kitchen and

bathroom by removing the kitchen ceiling, replacing the cabinets and appliances and replacing the bathroom plumbing and fixtures had substantially breached the lease and could be evicted.

Between those two cases, however, are a wide range of differences on what type of alteration constitutes a substantial violation of the lease and what doesn’t.

Colleen F. McGuire, a tenant lawyer in Manhattan, said that in a Manhattan appellate court decision in 2000, the court found that since the tenant’s apartment fixtures had fallen into disrepair, and since the tenant’s requests for repairs over a three-year period had been ignored, the tenant’s repair and replacement of rotted walls and ceilings and defective electric outlets was not a violation of the no-alterations clause that would warrant eviction.

In another case decided last year, Ms. McGuire said, an appeals court ruled that a tenant’s replacement of defective kitchen cabinets and a sink, after the landlord had refused to repair them, did not constitute a substantial breach of the lease.

At the same time, she said, there are other cases in which similar behavior was viewed differently by the courts.

“I know of one case where the tenants who threw the old cabinets out on the street and installed new ones ended up getting evicted,” Ms. McGuire said. She added, however, that just because a tenant has done something that would constitute a substantial breach of the lease does not by itself mean that the tenant can automatically be evicted.

For example, Ms. McGuire said, in most cases a landlord who believes a tenant has violated the lease must give the tenant 10 days to cure the violation before trying to terminate the lease. So if a tenant has built a partition wall in an apartment and the landlord finds out about it, the landlord must give that tenant 10 days to remove the wall and restore the apartment to its previous condition before starting an action to terminate the lease.

And even in cases where a tenant has failed to cure a violation within the appropriate time — a court ultimately rules in favor of the landlord — the law requires the landlord to give the tenant another 10 days to cure the violation after the judgment has been granted.

For example, Ms. McGuire said, in a 1997 Manhattan case, an appeals court ruled that a tenant who had replaced all kitchen and bathroom

appliances had committed a substantial violation of the lease and could be evicted. The court gave the tenant 10 days to remove the new appliances and replace them with the old ones.

“But what was left unsaid is how you get the old appliances back,” Ms. McGuire said. And if the tenant cannot cure the violation in the 10-day period, the eviction can proceed.

“That’s why I tell clients who want to make alterations to their apartment to always get the written consent of the landlord,” she said.

Many alterations, even those that may constitute a substantial violation of the no-alteration clause, can ultimately be cured by the tenant. Wallpaper, for example, can usually be removed without damaging the underlying surface.

Even partition walls can be removed or reinstalled. And appliances installed by a tenant can always be replaced with the original ones, provided the tenant had the foresight to keep them.

Just because a tenant has a right to cure a no-alteration clause violation, however, does not mean the tenant can perform alterations with impunity. “Curing can be quite costly,” said David Ng, a Manhattan tenant’s lawyer.

Mr. Ng said that in addition to the cost of removing the alteration and restoring the apartment to its original condition — and the expense of hiring a lawyer to defend an eviction action — a tenant who has violated a lease provision runs the risk of being ordered to pay the landlord’s legal fees.

“Just because a tenant has avoided being evicted by curing the violation doesn’t mean he’s the prevailing party,” Mr. Ng said. “And if the landlord is technically the prevailing party, there’s a good possibility that the court will award the landlord his attorney fees.”

Mr. Ng said that there have been cases in which the courts have awarded legal fees to a landlord even after finding that a tenant’s violation of the lease was not significant enough to warrant eviction. And, he said, there is always the possibility that a tenant’s attempt to cure a violation could itself be the subject of litigation.

“The landlord can take you back to court and say you never really restored the apartment to its original condition,” Mr. Ng said. “And that can be costly too.”

*The New York Times, Real Estate Section, Sunday, November 25, 2001.*

## Kitchen & Bathroom Vent Cleaning: Environmental Cleaning Systems

### By Steve Wolfson

During the past nine years that I have been involved in the indoor air quality business I have cleaned thousands of vents. Most building managers are diligent in having a professional service clean vents on a regular basis. Vents are important to insure the quality of the air that we breathe. This takes on even more importance when we realize the most of us spend 90% of our time indoors. Over the last two decades there has been a push to make buildings more airtight to save on heating and air-conditioning costs. Making a building airtight places more emphasis on keeping this trapped indoor air cleaner. This is especially important for residents with allergies. Trapped dirt and dust can act as allergy triggers. If there is dirt in your vents, there is dirt in your lungs.

#### Vent Checkup

“Vent”, according to Webster’s Dictionary, is an opening for escape. Therefore, clogged vents cannot operate as designed. This can lead from bad aromas throughout a building, to bug infestation or even in extreme cases may cause Sick Building Syndrome.

If the fans on the roof are not working, then there is no hope that the vents will be able to do their job properly. Building personnel should check the operation of these fans on a weekly basis.

An environmental cleaning company will inspect the top floor kitchen and bathroom vents in high-rise buildings. The examination is done by removing the vent covers in the kitchens and bathrooms and inspecting for dirt, dust and debris. It would probably be a good idea for the manager or superintendent of the building to escort the cleaning company on their inspection. This way there

is independent confirmation of the cleaning company’s report.

If dirt, dust or debris is found on the top floor, then you can be sure that your building can use a good cleaning. This is not a costly or difficult job when done by trained technicians. The proper procedure is to start at the top floor, remove the vent covers in the kitchens and bathrooms, then, an industrial cleaning machine (we use the best, a HEPA System with rotary brushes and vacuum) is inserted into the shaft and all residue is accumulated into the machine. The actual vent cover is thoroughly cleaned and replaced. Any dirt, dust or residue not absorbed into the machine falls down the shaft and as the cleaning company works their way down the shaft, what has fallen down the shaft is picked up. This is not a costly operation, but one that can drastically improve the quality of air within your building. With the cost to inspect and find out if there is a problem being free, you have nothing to lose and everything to gain...fresh clean air to breathe.

Steve Wolfson is President of Environmental Cleaning Systems, Inc. ECS provides a variety of indoor environmental services, installs and maintains compactors, chutes and hopper doors. Steam America, another division of ECS, cleans carpets, upholstery and does graffiti removal. ECS national headquarters is in Valley Stream, New York with offices in Pennsylvania and New Jersey. You can reach Mr. Wolfson at 1-888-Cleanair (1-888-253-2724) or [www.ecs-cleanair.com](http://www.ecs-cleanair.com).

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# Food Is Not the Enemy

By Jeffrey Steingarten

Do you remember that food scare a few years ago when everybody was in a twist about the dangers of eating raw shellfish? I was having dinner around that time with an athletic friend, a captain of industry, who showed up proudly wrapped in bandages and slings. He had earned these by crashing into a large shrub on the slopes of Aspen. He needed help turning the pages of his menu. And then he refused to share my lavish platter of cold, plump, briny, crisp and succulent oysters. "Raw shellfish," he gulped. "Don't you read the papers?"

In the days that followed, I tracked down the facts. The Food and Drug Administration had done a risk assessment study and discovered that one out of every 2,000 servings of raw mollusks is likely to make you sick. But you can expect to suffer a substantial injury in very 250 days of skiing, especially if you include gondola crashes and pains that blossom after the hapless skier returns home. So it turns out that a day of skiing is eight times more dangerous than a delicious plate of raw oysters. It was then that I decided to give up skiing so that I could eat oysters to my heart's content.

Nobody would recommend a nonchalant attitude toward food safety. I have eaten raw chicken only twice and that was in Japan, with peanut sauce, because everybody else was doing it. But you would think from reading the newspapers lately that eating is the leading cause of death. I knew something was out of joint less than a month ago when several major papers reported as news that foodborne illnesses cause 325,000 hospitalizations and 5,000 deaths a year: these statistics are three years old. They were published in the fall of 1999 in *Emerging Infectious Diseases*, a peer-reviewed journal of the federal Centers for Disease Control.

The real news was that the number of food-linked fatalities is only half of what had previously been thought. The newspaper headlines should have read, "Only Half of Americans Previously Feared Food-Dead Truly Are."

Scare stories about the dangers of eating are typically inspired by two groups. First are government agencies and nongovernmental organizations whose attempts to keep us ever vigilant toward dangers of food can sometimes goad us into needless panic. More fundamental are the dark forces of anhedonia, phobia and hypochondria — that vast, joyless, middle-of-the-road conspiracy that tirelessly toils to deprive the rest of us of the spiritual and earthly pleasures of good and ample eating.

A few years ago these forces caused a huge number of people to report themselves as lactose-intolerant, a condition that clinical studies at Massachusetts General Hospital and elsewhere have found to be extremely rare. I wonder how they will manifest themselves this year?

We have survived countless alarmist reports about nutri-

tion over the past decade or so, and are stronger for getting past them. Now we know that salt is harmful to only a small part of the population. We know that consuming bushels of fruits and vegetables does not reduce the risk of colon cancer. That drinking alcohol lessens the risk of having a heart attack. That white sugar does not cause hyperactivity in children. That cholesterol accounts for perhaps less than one-quarter of all heart attacks. That eating large amounts of unsaturated fats does not lead to cancer or heart disease. That chocolate does not cause acne or migraines.

The moral of this story is that we are omnivores, and that it is best to eat a little of everything. I have for years maintained two simple yet scientific measures of our progress as eaters.

One is the Cephalopod Index, or C.I., which is based on our national per capita consumption of squid, cuttlefish and octopus — not too long ago only the stuff of nightmares among Anglo-American eaters. Well, our C.I. has jumped more than a hundredfold in the past 30 years! I'll bet that calamari has practically replaced apple pie as the most ubiquitous item on American menus.

Second is the S.I., or SnackWell's Index, which is based on the annual per capita sales of that line of nonfat (but not unfattening) cookies, and tells us how many American have become and remain nutritional nincompoops. The

popping of the SnackWell's bubble rivals that of the Nasdaq. And restaurants report that their customers have become more relaxed about new foods. This is all very good news, though not the stuff of headlines.

We are the first society in human history in which gluttony is economically an option for probably half the population. And we may be the first whose appetites are not held in check by religious dietary laws. Without a fear of food in some form, some may think we would be in grave danger of running completely amok.

Perhaps this is why the government keeps trying to take away my Camembert. The Food and Drug Administration has launched a campaign against raw-milk cheeses, but the agency's statistics show that there is much less danger in eating such cheeses than eating, say, a plate of smoked fish. Yet as you can observe every weekend, the entire West Side of Manhattan is allowed to act as though ingesting smoked sturgeon were risk-free.

Even if eating raw-milk cheese were fully as dangerous as skiing, shouldn't I be allowed to choose the risk I am willing to bear? If we allow people the right to pursue happiness by skiing, then let me pursue mine by enjoying a pungent Langres or a potent livarot, a brie de Melun or a snowy chaource.

*Jeffrey Steingarten is a food critic of Vogue Magazine and author of "The Man Who Ate Everything." His article was an Op-Ed Page selection in The New York Times.*

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