



# MITCHELL-LAMA RESIDENTS COALITION

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

## ***Stuy-town, Peter Cooper Village tenants win \$147 million from former corporate owners***

In a long-awaited settlement between tenants of Stuyvesant Town and Peter Cooper Village and the former corporate owners of those family-oriented housing complexes, the tenants will receive at least \$146.85 million, according to Alexander Schmidt of Wolf Haldenstein, the plaintiffs' lead attorney.

The settlement was filed with Justice Richard B. Lowe, III, the Chief Justice of the Appellate Term, First Department. The agreement requires final court approval. A hearing on final approval is scheduled for April 9, 2013.

The settlement brings to a finale a case brought originally in 2007. In *Roberts v Tishman Speyer*, the court eventually ruled that the owners were illegally charging free market rents while securing tax benefits under New York City's J-51 program, which mandates that the receipt of such benefits requires units to be placed under rent stabilization.

The amount of the settlement includes rent overcharges from several time periods.

According to a tenants' attorney, "the \$146.85 million amount could significantly increase in the future because

the settlement sets future rents based on a 'Preferential Rent' formula that will save tenants at least another ten to twenty million dollars, and potentially more than a hundred million, over the next eight years. The exact amount of future rent savings under the formula will depend on future rental market conditions and tenant turnover rates."

In a statement, the attorney said "The settlement also continues rent stabilization through June 2020 for each of the 4,311 formerly decontrolled Stuyvesant Town and Peter Cooper Village apartments at issue in the suit. June 2020 is when the residential complexes' New York City J-51 tax benefits expire."

Beyond the money, many rents will be rolled back. However, not all tenants will benefit from reduced rents. Under the agreement, the rents for some apartments will rise by up to several hundred dollars a month, based on a set of formulas used by the parties to ascertain the legal rent for each unit. Some tenants therefore are still likely to pay upwards of \$4,000 for a two-bedroom unit, well beyond the means of most lower-, moderate- and even middle-income families.

## **IPN tenants lose final round in J-51 battle to keep rents stabilized**

Tenants at Independence Plaza North, a former Mitchell-Lama complex in Tribeca, lost their final round in a years-long battle to roll back market rate rents in the complex and place all units under rent stabilization.

The coup came in an October decision by the New York Court of Appeals, the state's highest court, to refuse to consider an appeal by the tenants' attorneys. That decision reinforced a previous decision by a lower court.

Over the years, tenants had argued that the free market rents were illegal, because the owner, Laurence Gluck of Stellar Management, had been acquiring tax benefits under New York City's J-51 program.

The law requires that receipt of tax benefits under the program must be accompanied by placing all apartments under rent stabilization. The law further requires the owner to inform the tenants of the quid pro quo. Gluck had done neither.

In August 2010, NYS Supreme Court Justice Marcy S. Friedman had ruled in favor of the tenants. That ruling was consistent with other high profile J-51 cases such as *Roberts v Tishman Speyer*, and later London Terrace in Manhattan.

Appeals and counter-appeals followed, with the final effort by tenants rejected on October 30.

Fortunately, the ruling will not affect an underlying contract between the tenants and owner, which mandates that rents remain at a stabilized level (plus three percent over three years) for various apartments. It also does not affect tenants receiving vouchers.

**Strengthen MLRC  
Join today (use form on page 2)**

### **GENERAL MEMBERSHIP MEETING SATURDAY, January 26, 2013**

**Time: 10:00 a.m. – 1:00 p.m.**  
*(Refreshments at 10:00 a.m.)*

**CONTACT:** [information@mitchell-lama.org](mailto:information@mitchell-lama.org)

**PLACE:** Musicians Union Local 802  
322 West 48<sup>th</sup> Street (near 8<sup>th</sup> Avenue) Ground Floor, "Club Room"

**TRAINS:** No. 1, train to 50<sup>th</sup> St. and 7<sup>th</sup> Ave.; Q,W trains to 49<sup>th</sup> St. and Broadway; E train to 50<sup>th</sup> St. and 8<sup>th</sup> Ave.

Mitchell-Lama Residents Coalition  
P.O. Box 20414  
Park West Station  
New York, New York 10025

# Luxury co-ops and condos here pay far lower tax rates than average

Many luxury cooperatives and condominiums in New York City pay a much smaller percent of their worth in real estate taxes than much lower-priced units, according to a recent expose in the New York Times.

For example, at 15 Central Park West, where the average selling price is more than \$20 million, the tax fee is \$332 per square foot, yet the average tax charge for that area is \$7,813. Other examples abound.

The reason for the discrepancy is that taxes are levied based on a decades-old law that bases taxes on a calculated value of the building's units, rather than the real value, or purchase price. The tax value is calculated by relating the luxury apartments to "comparable" apartments in ordinary rental buildings, which tend to pay at a lower rate.

Why doesn't the city use other high end luxury units to compare? Because truly comparable apartments selling for \$20 million and up are extremely rare. The nonpartisan Independent Budget Office says that as a result, the city valuation for condos and co-ops is down around eighty percent of what it could get if it used comparable sales prices.

The old law was enacted because many of the coops and condos still had rent regulated apartments, which kept rents from rising at the market rate. In effect, the owners were given a substantial tax break.

Another factor keeping the tax rate low is the use of the 421A program, under which luxury builders get a tax break if they provide some affordable units within the development or elsewhere.

## Urge publicly funded legal counsel for low-income tenants in housing court

A call for publicly-funded legal services to all low-income residents in housing court, similar to the practice in criminal cases, was advocated recently in an op-ed piece in the New York Times by Matthew Desmond, an assistant professor of sociology at Harvard. Absent such legal aid, consequences are often horrific, Desmond wrote:

"Evicted families experience long stretches of homelessness, with kids bouncing between shelters or abandoned houses.

"Sociological research affirms what anyone who teaches poor children knows: that residential instability is the enemy of school success. Evicted families end up in bad housing in bad neighborhoods because most landlords turn them away. Months and even years after being evicted, people experience more material hardship and higher levels of depression than peers who avoided eviction. Psychologists have identified eviction as a risk factor for suicide."

### JOIN THE MITCHELL-LAMA RESIDENTS COALITION 2013

INDIVIDUAL \$15.00 per year and DEVELOPMENT 25 cents per apartment (\$30 Minimum; \$125 Maximum)

Name \_\_\_\_\_

Address \_\_\_\_\_ Apt. \_\_\_\_\_

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

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

Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Current ML: Co-op \_\_\_\_\_ Rental \_\_\_\_\_

Former ML: Co-op \_\_\_\_\_ Rental \_\_\_\_\_

Development \_\_\_\_\_ Renewal \_\_\_\_\_ New Member \_\_\_\_\_

President's Name: \_\_\_\_\_

Donations *in addition to dues* are welcome.

NOTE: Checks are deposited once a month.

Mail to: MLRC, PO Box 20414, Park West Finance Station, New York, N.Y. 10025

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

## UPCOMING EVENTS

### GENERAL MEMBERSHIP

Saturday, January 26, 2013

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10:00 a.m. - 1:00 p.m.

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**Raffles: \$2.00**

Prizes include photo scanner, yankee candles, wen hair products

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**Musicians Union, 322 W. 48 St., between 8th & 9th Aves**

For more information, e-mail: [information@mitchell-lama.org](mailto:information@mitchell-lama.org)

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E-mail: [information@mitchell-lama.org](mailto:information@mitchell-lama.org)

# MLRC joins call to help neighbors in Rockaways and Howard Beach

November 9, 2012

The Honorable Andrew M. Cuomo  
The Honorable Mayor Michael R. Bloomberg

Dear Governor Cuomo and Mayor Bloomberg:

We write first to thank you for your dedication to the constituents of this City and your support in addressing the unprecedented crisis of Hurricane Sandy. While there has been an incredible outpouring of help and attention to our friends and neighbors struggling throughout the five boroughs, we have learned in recent days that constituents of Queens in the Rockaways and Howard Beach, home to approximately 80,000 people, continue to live without vital necessities. As we continue to hear stories from the Rockaways and Howard Beach, we are particularly concerned that residents in this area will be without power for a minimum of the next three weeks, including the Thanksgiving holiday.

As concerned citizens of New York City and neighbors to those worst affected by the storm, the groups who have signed below would like to know the steps being taken to address these areas and, more importantly, to offer our assistance as you and your agencies increase emergency efforts. Below please find recommendations from Colonel John Hoffman, National Center for Food Protection and Defense, University of Minnesota, and Michael D. McDonald, Chairman of the Global Resilience Initiatives.

Colonel Hoffman and Chairman McDonald currently coordinate more than 3,000 local volunteers on the ground under the group New York Resilience System, a group that most recently delivered 25,000 body warmers from FEMA on November 9, 2012. Both are volunteers with extensive military and emergency training and have dedicated much of their time to assisting New York City in this time of need.

From our current communication with those in the field, we have assessed that thousands of Rockaways residents do not have access to the following resources:

- electricity
- reliable food or nutrition
- fuel
- supplemental generators
- means of evacuation (cars

destroyed; no buses or public transportation)

- reliable cell service
- batteries
- security
- physicians and medicine

In public housing towers, people have resorted to using gas cooking stoves to stay warm, risking asphyxiation in the higher levels of the towers. In addition, in parts of Far Rockaway and Hamilton Beach there is insufficient access to FEMA, Red Cross, and military assistance networks.

The most urgent requests are for systematic access to:

- food and drinking water
- fuel
- generators
- evacuation transport for those who want to leave
- solid communications (trucks with bull horns, handheld radios, charging stations for cell phones, and printed materials distributed door to door)
- hastily formed networks for WIFI, WIMAX, and uplinks
- heaters
- batteries
- lights in high-risk areas (looting, rapes, and gang warfare are factors now.)
- Community and volunteer-run warming and life-support stations (called "Red Horse" teams by the US Air Force)
- sump pumps
- medical supplies
- sanitation supplies
- hygiene supplies

What now exists is insufficient to meet the demands of the current crisis. While we laud the volunteer groups and current government staff who are providing emergency support day and night, we urge City and State officials to request far more assistance from all levels of government in order to save lives over the next 48 hours and over the next three weeks. We urge government services to coordinate with the private sector and volunteers to prevent tragedy, and we commit ourselves to supporting you in your efforts to secure the safety of our fellow New Yorkers.

Sincerely,

(Partial list):  
Mitchell-Lama Residents Coalition  
Greater NYC for Change  
Manhattan Young Democrats  
Transit Forward  
Brooklyn Movement Center  
Voterbook  
(Pending): Working Families Party  
Village Independent Democrats  
CAAAY  
Brooklyn for Barack

## Questions and answers on Mitchell-Lama

Tenants and cooperators are welcome to submit questions to: [information@mitchell-lama.org](mailto:information@mitchell-lama.org)

**Q:** Given all the battles between landlords and tenants in Mitchell-Lama buildings, why did the owners get into the program in the first place?

**A:** Landlords received extremely valuable vacant land at a fraction of their market cost. They also obtained government-subsidized mortgages, and a guaranteed profit on their investment. These benefits were accompanied by a low tax obligation. And the owners were given the option of withdrawing after twenty years, if they decided that, at that point, they could make more profit in the private market. The government's motive was to encourage the owners to construct affordable buildings in low-income areas of the city.

**Q:** What happens if a Mitchell-Lama landlord wants to shut its community room?

**A:** New York City requires that all M-L buildings maintain a community room for tenants' use. (The law is N.Y. Comp. Codes R. & Regs. tit. 9, § 1711-5.6) Buildings constructed before January 1, 1974 that exit the program will be subject to rent stabilization, which also requires that owners retain all previous services, including recreational facilities.

# MLRC

wishes all  
cooperators and tenants

Happy  
holidays  
and a safe  
new year

## E. Midtown Plaza victory: AG must ok all privatization plans

Residents of Mitchell-Lama cooperatives seeking to leave the program must now submit their offering plan to the attorney general's office for a review prior to conversion to a private sector entity, as required under the Martin Act.

Advocates of affordable housing say the requirement, reinforced in a ruling by the New York Court of Appeals on November 19, will go a long way towards informing shareholders of the risks and benefits of any proposed privatization.

The ruling, in *East Midtown Plaza Housing Company, Inc. v. Cuomo*, also required that the votes on whether to withdraw from ML must be counted on a per-apartment rather than a per-share basis. This provision, akin to the general democratic principle of voting by person rather than asset or property ownership, was a victory for occupants of smaller apartments, because the 746-unit cooperative, located in six buildings in Manhattan, had allocated ownership shares by size: the larger the apartment, the more the shares.

In 2004, shareholders had voted to exit the ML program; Because the votes were counted on a per-share basis, the 2004 proposal achieved the requisite two-thirds supermajority for passage; but if the votes had been counted on a

per-apartment basis, the proposal did not garner sufficient votes for privatization.

Advocates of withdrawal resubmitted their plan in 2008, which attempted to effect the privatization through a technical amendment to East Midtown's certificate of incorporation. A second vote was held the following year, resulting in the same outcome as the original 2004 vote: the proposal would have been approved if the votes were tallied using a one-vote-per-share rule, but not if counted under a one-vote-per-household formula as directed by the certificate of incorporation and HPD.

Following that vote, East Midtown filed a proposed second amendment to the offering plan with the Attorney General. This amendment sought to declare the privatization plan "effective," stating that the 2008 plan had been adopted by "the affirmative vote of at least two thirds of the outstanding shares of East Midtown by counting one vote per share." The Attorney General refused to accept the amendment.

The court held that the Martin Act regulates the offer, and that the attorney general is responsible "for implementing and enforcing the Martin Act, which grants both regulatory and remedial powers aimed at detecting, preventing and stopping fraudulent securities practices."

## City, state and federal guarantees to keep Co-op City affordable

A combination of loan insurance and guarantees from the federal, state and city governments will enable Co-op City to renovate and preserve itself as a middle-income Bronx enclave.

According to statements released in November by Gov. Andrew H. Cuomo, Mayor Michael R. Bloomberg, and HUD Secretary Shaun Donovan, the respective governments will jointly insure or guarantee a loan of \$621.5 million made by Wells Fargo bank, which will refinance Co-op City's current debt at historically low rates.

The refinancing will be used to preserve around 165,000 affordable apartments. As result of the low refinancing rates, the agreement should save the complex and its residents more than \$150 million under the fourteen years remaining in the current loan term and guard against increases in future loans, according to Alan Weiner, manager of Wells Fargo Multifamily Capital.

Co-op City, the state's largest Mitchell-Lama complex, opened in 1968. It sits on 330 acres along the Hutchinson River.

## Protecting tenants displaced by Sandy and future hurricanes

Recommendations to protect the rights of tenants who were adversely affected by Hurricane Sandy, and by extension by future destructive hurricanes, were distributed in November by Tenants & Neighbors, a statewide organization.

Among the recommendations were:

The state's warranty of habitability must continue, and information on applying for rent reductions made available.

A timetable for repairs should be provided to tenants.

Information on applying for Decreased Services status should be made available.

Landlords should be prevented by the government from profiteering by charging excessive rents to displaced tenants.

Landlord harassment and/or evictions of rent stabilized tenants must be prevented.

Only legal rents must be charged to displaced rent-stabilized tenants, regardless of any FEMA assistance to the tenant.

All safeguards in regulated

units must apply to displaced tenants housed in such units.

A standard short-term lease shall be provided for all displaced tenants housed in regulated units, with rents registered at the state's HCR, which should monitor the situation in those apartments.

Affordability and income eligibility should continue in M-L and project-based Section 8 buildings.

No evictions based on non-primary residences shall be brought against any temporarily displaced tenant.

The 20 percent vacancy bonus should not be included in the rent of a displaced tenant who moves into a vacant unit.

Landlords making repairs should first seek all available public funding before passing along the cost to their tenants.

No rent increases for M-L tenants due to repairs in their buildings.

Public rehab funds should prioritize public housing, subsidized housing, rent-regulated housing, supportive housing and public shelters.

## Developments dues paid from 2010-2011

**Individual Membership: \$15 per year**  
**Development: 25 cents per apt. (\$30 minimum; \$125 maximum)**

Donations above the membership dues are welcome.

### These developments are dues-paid members of the Mitchell-Lama Residents Coalition through Dec. 31, 2011

Bethune Towers	Pratt Towers
Castleton Park	Promenade Apartments
Central Park Gardens	RNA House
Clayton Apartments	Riverbend Housing
Coalition to Save Affordable Housing of Co-op City	River Terrace
Concourse Village	River View Towers
Dennis Lane Apartments	Ryerson Towers
1199 Housing	Concerned Tenants of Sea Park East
Esplanade Gardens	Starrett City Tenants Association
Jefferson Towers	St. James Towers
Lincoln Amsterdam House	Strykers Bay Co-op
Lindville Housing	Tivoli Towers
Manhattan Plaza	Tower West
Masaryk Towers Tenant Association	Village East Towers
Meadow Manor	Washington Park SE Apartments
Michangelo Apartments	Washington Square SE Apartments
109th St. Senior Citizen Plaza	West View Neighbors Association
158th St. & Riverside Dr. Housing Co	West Village Houses
Parkside Development	Woodstock Terrace Mutual Housing

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

## After Sandy, who is responsible for apartment repairs and rent?

In the wake of Hurricane Sandy, both landlords and tenants in New York have been wondering what their rights and responsibilities are when buildings are severely affected by natural forces outside their control. The New York Law Journal recently considered this question, and asked Damon Howard, a partner at Ephron-Mandel & Howard, to provide some legal guideposts for resolution. Following is a summary of his analysis, focusing on New York State's warranty of habitability law.

The warranty--that premises, including common areas, be kept in a condition not detrimental to health or safety--remains in effect for all rental units in the state, excluding condos, even after the storm. The effects of the hurricane--flooding, lack of elevators and other essential

services, power outages, etc.--do constitute a breach of the warranty by the landlord. Although the law "does not require the premises to be in perfect condition," the owner "may be responsible for breach of the warranty of habitability even if the landlord took precautions to protect against damages."

In a 1980 case (*McGuinness v. Jakubiak*), a severe rainstorm in the city flooded an apartment, as a result of a defective roof. The court provided partial summary judgment against the landlord. In a similar case the year before (*McBride v. 218 E. 70 Street Assocs.*), a tenant's "below grade" apartment was flooded in a raging storm. Even though neither the tenant nor the landlord caused the flooding, the court held in favor of the tenant.

In spite of these rulings, there are

limitations on the enforcement of the warranty. For example, the owner must have been informed that repairs are necessary, and tenants have to provide reasonable access to the owner to make those repairs.

Also, tenants who want to make repairs themselves and charge the owner may do so only if the owner fails to take action in due course. Further, a breach of the warranty of habitability by the landlord does not give the tenant the right to cancel the lease. Although there are occasions where rent can be reduced due to lack of services, tenants cannot claim payment for personal injuries, and are limited in their efforts to secure payment for damage to personal property.

## Shrinking supply of low cost rentals in U.S.

The following excerpt is reprinted with permission from the Harvard Joint Center for Housing Studies, "The State of the Nation's Housing 2012," [www.jchs.harvard.edu](http://www.jchs.harvard.edu). All rights reserved.

The housing bust and Great Recession helped to swell the ranks of low-income renters in the 2000s, increasing the already intense competition for a diminishing supply of low-cost units.

According to the [U.S. Commerce Department's] American Community Survey, the number of renters earning \$15,000 or less (in real terms) grew by 2.2 million between 2001 and 2010. The number of rental units that were both adequate and affordable to these households, however, declined by 470,000 over this period. As a result, the gap between the supply of and demand for these units widened

In 2001, 8.1 million low-income renters competed for 5.7 million affordable units, leaving a gap of 2.4 million units. By 2010, the shortfall had more than doubled to 5.1 million units. Moreover, of these affordable units, more than 40 percent were occupied by higher-income renters.

Data from the [Commerce Department's] American Housing Survey reveal the range of forces that work to deplete the affordable rental inventory. Nearly three of ten units renting for less than \$400 in 1999 were lost from the stock a decade later. Demolitions and other permanent removals claimed nearly 12 percent of the stock, but conversions to seasonal use and temporary removals also contributed to the decline. And contrary to popular wisdom, the filtering of properties from higher to lower rents over time has not replenished the supply. In fact, losses

due to rising rents are a major drain on the low-cost inventory: for every two units that moved down to the low-cost category between 1999 and 2009, three moved up to higher rent levels. As a result, 8.7 percent of the low-cost rental stock was upgraded to higher rents on net over the decade.

Meanwhile, most new construction adds units at the upper end of the market, with the median monthly asking rent for newly completed apartments exceeding \$1,000 each year in 2006–11. The median would be even higher if not for the substantial share of multifamily construction assisted by the federal Low Income Housing Tax Credit program in recent years. [Emphasis added.] By comparison, the rent affordable (at 30 percent of income) to a renter household with the median income of \$30,700 in 2010 is just \$770 per month. To someone earning \$15,000 a year (the full-time equivalent of the federal minimum wage), an affordable rent would be \$375 per month. Stepped-up efforts to preserve the existing low-cost rental stock will therefore be necessary to help meet rapidly growing demand among low-income households.

Barring a dramatic bounceback in homeownership, renter household growth should remain strong for some time. In the near term, larger shares of younger households are opting to rent while foreclosures are forcing many older households out of homeownership and into the rental market. But even as the economic recovery gains

traction and homeownership rates level off, rental demand should get a boost from higher household formations among the echo boomers.

With demand growing strongly, multifamily construction should increase in many metropolitan markets. The exceptions may be metros with stubbornly high vacancy rates, many of which are located in states hit hard by the foreclosure crisis.

But capital must be available to support this new construction. Lending by banks and life insurance companies has begun to pick up, but federal sources still guarantee a large majority of new loans. If the federal government pulls back from the multifamily market, private lending will have to increase substantially to support this important segment of the housing market.

Tighter rental markets make it increasingly difficult for lower income households to find affordable housing. With rents on most newly constructed units well out of reach, the recent jump in multifamily production will do little to alleviate the shortage. Instead, public subsidies are needed to close the gap between what low-income households can afford to pay for rent and what it costs to develop decent housing. At present, the Low Income Housing Tax Credit program is the primary means of adding to the affordable housing stock, but reaching lowest income renters will take deeper subsidies than this program currently provides.

## Medicare enrollment extended for people affected by Sandy

The Center for Medicaid and Medicare Service (CMS) granted an extension for people who need more time to change Medicare plans due to Hurricane Sandy. Call 1-800-MEDICARE (1-800-633-4227) if you need more time. Fall open enrollment for Medicare was supposed to run from Oct. 15 to Dec. 7, 2012.

According to CMS, you should apply by the end of a given month to begin coverage for the following month (e.g.: an application submitted at any point in December will take effect January 1). Although there is an extension, you should make changes as soon as possible so that you receive the coverage you need.

During the extended open enrollment period, you can change from Original Medicare (Part A & B) to a Medicare Advantage Plan (Part C); change from an Advantage Plan back to Original Medicare; change Advantage Plans; or change your Prescription Drug Plan (Part D).

Here are some Medicare quick facts:

**Part A:** hospital insurance (including hospital visits and nursing home care).

**Part B:** medical insurance (including doctor's visits and preventive care).

Part A & B are provided through the government and referred to as "Original Medicare." Most people have this type of Medicare, but some choose to take Medicare through Part C instead.

**Part C:** the Medicare Advantage Program (like an HMO or PPO) is provided by private insurance companies. Part C plans cover services provided under Original Medicare, but the rules, costs, and coverage may be different. Additional benefits may include vision, hearing, or dental coverage. Most Part C plans include prescription drug coverage.

**Part D:** This is the Medicare Prescription Drug Program, which is provided by private companies. You will likely want Part D if you have Part A & B and you need prescription drug coverage. You may also want Part D if your Part C plan doesn't cover prescriptions.

Medicare Supplemental Insurance ("Medigap") plans are provided by private companies and they cover the gaps in Original Medicare.

### Resources

Here are some helpful resources for those who have questions regarding medicare:

Government medicare information: [www.medicare.gov](http://www.medicare.gov), or call 1-800-MEDICARE for information, to find plans, and to join/change plans.

Health Insurance Information Counseling and Assistance Program (HICAP): The NYC Department for the Aging provides free counseling on Medicare, EPIC (a program for people with a low-income that helps pay Part D premiums), Medicaid, and managed care. Call 212-442-1382.

The Medicare Rights Center is a non-profit agency that can answer your questions about Medicare and Part D plans. Call 1-800-333-4114 or go to [medicarerights.org](http://medicarerights.org).

Insurance plans have representatives who can answer your questions about that specific plan.

Upcoming important dates:

January 1- March 31, 2013:

General Enrollment Period for Medicare Part A & Part B. If you did not enroll in Medicare when you initially became eligible for it, you can sign up during this time.

January 1 - February 14, 2013: Medicare Advantage Disenrollment Period. You can switch from an Advantage Program to Original Medicare.

Further, according to a recent article in the New York Law Journal, to recover damages, plaintiffs must have had a specific contractual arrangement with the utility.

## Chief NY State judge's panel seeks increase in pro bono service

A task force of New York State's judiciary system recommended that lawyers be required to perform at least fifty hours of pro bono service, more than double the current requirement of twenty hours.

Appointed by Chief Judge Jonathan Lippman, the Task force to Expand Access to Legal Services said in a November report that the unaffordability of competent counsel results in more than 2.3 million low income people a year having no representation in disputes with landlords, banks, insurers and health care providers. Further, as dire as the situation had been, it became worse after Hurricane Sandy.

Throughout the state, only about twenty percent, or one in five, indigent people who need pro bono services are able to obtain them, the task force said.

In addition to doing fifty hours of pro bono work, lawyers should be required to report such work when re-registering every two years, the report said.

New York State currently provides the judiciary with \$15 million annually for civil legal services. That figure should be increased to \$40 million, the report said.

## Tenant wins 'source-of-income' discrimination case

Two major apartment rental brokers in Manhattan were found guilty of discriminating against an individual with AIDS because his income came from an AIDS support unit of the city's Department of Social Services.

Federal Judge Samuel Conti ruled in December that Manhattan Apartments Inc., and Abba Realty were violating the law by refusing to rent an apartment to the plaintiff, Keith Short, after discovering that he was receiving benefits. In 2008, the City Council added "legal source of income" to the human rights law.

In 2010, when Short was seeking an apartment, he visited Abba's Brooklyn offices but was told by a staff member that "those apartments are not available for people on program. They are only for people who are working people." Short had a similar experience at Manhattan Apartments.

According to the plaintiff's attorneys, this may be the first case to go to trial since the human rights law was amended. Most other cases have been settled out of court or resolved on motions to dismiss, the attorney said.

Short was awarded \$10,000 from each defendant. His fellow plaintiff, the Fair Housing Justice Center was awarded \$2,500 from each defendant.

## Public utilities not liable for damages caused by Sandy

Public utilities like Con Edison and Long Island Power Authority cannot be held liable for power outages caused by Hurricane Sandy because they have not been found guilty of willful misconduct or gross negligence.

## Seek disclosure of donors, funds from NYS 'social welfare' groups

Business and trade groups, labor unions, and even some tenant organizations may have to disclose the names of their contributors and the amounts each gave for political activities in New York State next year, if a proposal by the state's attorney general becomes law.

Subject to hearings through March 6, the proposal by AG Eric Schneiderman would require all "social welfare" organizations, specifically tax-exempt 501(c)(4) groups, to disclose the names of the individuals providing at least \$100 to the groups for "election related activities," including those that "express election advocacy or election targeted issue advocacy" as well as transfers of funds, assets, or services to groups for "supporting or engaging in express election advocacy or election targeted issue advocacy by the recipient or a third party."

The disclosure regulations would apply to any social welfare nonprofit that spends at least \$10,000 a year for political activities.

Included among the "election related activities" would be any and all communications that urge people to vote, oppose, support, elect, defeat or reject candidates, parties or political positions. Such communications would include advertisements in the media, mass or robotic telephone calls, and printed materials exceeding five thousand copies, among others.

Information to be disclosed, in addition to the names and amounts of

the donors, would include, for each election-related expenditure, the dates the funds were provided, the names and addresses of the politicians who receive the expenditures, and a "clear description of the expenditure and its purpose, including support for or opposition to a candidate, political party, referendum or other question put before the voters in an election."

After disclosure, the information from the groups would be posted on the attorney general's website.

According to findings last August by Pro-Publica, a public interest journalism site, "More money. . . is being spent on TV advertising in the presidential race by social welfare nonprofits, known as 501(c)(4)s for their

section of the tax code, than by any other type of independent group" including political PACs.

Pro-Publica said that "dozens of these groups do little or nothing to justify the subsidies they receive from taxpayers. Instead, they are pouring much of their resources, directly or indirectly, into political races at the local, state and federal level." Pro-Publica was speaking primarily of conservative 501(c)(4) organizations, such as the American Future Fund and the Center for Individual Freedom. However, the AG's recommendations, if they became law, would apply to all social welfare groups, regardless of political orientation.

## Local lobbying efforts needed to fight for affordable housing

It is time to reach out to your elected officials and strengthen your relationships with them. Many changes are now taking place regarding affordable housing and we must stay in the forefront by "whispering in their ears," articulating our current responses to the future affordability of housing in New York.

The legislative aides to our elected officials are very important in these relationships. MLRC is asking you and your tenant associations to meet with them.

Such meetings can be organized in various ways. These include stopping by the office and introducing yourself; inviting them

to your own meeting, or schedule a meeting with them in their office; stopping by occasionally to drop off some newsletters or share pertinent information on your housing complex.

We must impress upon our representatives our concerns about the difficulties low- and moderate-income New Yorkers are having with affordability in housing, and about all the other housing issues relevant to your own developments.

We cannot stress enough how important it is to get involved with your community board, political clubs, and organizations like MLRC to advocate for housing.

## CU4ML urges M-L cooperators to fight elimination of waiting lists

A new rule at the city's Housing and Preservation Department would allow for the elimination of Mitchell-Lama cooperative waiting lists. For those who are still on the lists, you have an opportunity to oppose this elimination by signing a petition organized by Cooperators United for Mitchell-Lama (CU4ML).

The rule is as follows: "(15) Notwithstanding anything to the contrary contained in this subdivision, if a mutual housing company intends to transfer the property to a housing development fund company (organized pursuant to Article XI of the Private Housing Finance Law) that will enter into a thirty-year regulatory agreement with HPD, a vote of the shareholders of such mutual housing company to authorize such transfer shall take place only after such mutual housing company has submitted an exemption application to the office of the Attorney General of the State of New York. Such transfer shall

be approved by a majority of the dwelling units in such mutual housing company. Each such dwelling unit shall be entitled to one vote regardless of the number of shares allocated to such dwelling unit, the number of shareholders holding such shares, or the provisions regarding voting in such mutual housing company's certificate of incorporation or by-laws."

A full explanation of the rule, in clear, non-legalistic language, is available at: [http://www.cu4ml.org/resource\\_docs/Article\\_XI\\_Conversion\\_info.pdf](http://www.cu4ml.org/resource_docs/Article_XI_Conversion_info.pdf)

In a recent statement, CU4ML said that "To allow such a radical change in the nature of these developments with no rules in place that assure full disclosure of risk and only a majority vote is a set-up for disaster."

Petitions can be printed, signed and mailed directly to CU4ML, c/o UHAB, 120 Wall Street, 20th Fl., New York, NY 10005).

## Funding delays shut Consumer energy voice

Residents in New York lost a major energy advocate recently, with the announcement by the Public Utility Law Project that it will shut its doors because of a debilitating delay in its promised state funding.

The PULP, which has represented the interests of low- and moderate-income resident in the state for around thirty years, notified the state's public Service Commission that it would no longer file testimony in a case involving a utility--the National Grid--which is seeking a rate rise.

Although PULP had been promised over a half million dollars in the state's 2012 budget, the advocate group has not received a penny because the Department of State had not yet approved the allocation. According to press reports, numerous other nonprofit organizations have complained of similar delays.

# Yes, GUNS kill people! Stop the insanity now

**H**ours before twenty children were tragically killed in Connecticut, a man attacked twenty-two school children in China. None of those kids died.

Why? The man in China had only a knife.

Guns kill people. Now's the time to say it--and to promise ourselves that we will keep saying it until there is action.

Instead of signing a petition, sign a new year's promise to yourself and kids in your community: "I will call the White House and Congress once a month until common-sense gun legislation is passed." Copy this website to your browser to sign: [http://act.boldprogressives.org/survey/survey\\_gunpromise/?akid=11456.234374.eXaU7n&rd=1&source=subj-obamaimg&t=3](http://act.boldprogressives.org/survey/survey_gunpromise/?akid=11456.234374.eXaU7n&rd=1&source=subj-obamaimg&t=3)

In a moving speech, President Obama declared, "These tragedies must end." But every time our country faces a gun atrocity like Newtown or Tucson or

Aurora, change never arrives.

That's because the big gun manufacturers fund the National Rifle Association, which spends millions frightening Congress into inaction (even though over seventy percent of NRA members support new gun laws).

The kids in Newtown died because they didn't have the muscle in Washington that the NRA had.

This time, regular Americans need to flex our muscle and do things differently. Pass this email to Democrats and Republicans you know, friends in rural and urban communities, and even gun owners.

We must make a solemn promise together: to fight back and not go away until we win common-sense gun legislation. Go to the website above to make that promise and be a part of the solution to these tragic killings.

Thanks for caring about our country. And please pass this on.

## A letter to DHCR on owner harassment

**Q**uestion: Why does a landlord harass his tenants? Answer: because he can.

I have lived in my building for 18 years without incident. In November 2010 the building was bought by a landlord with a reputation for defaulting on buildings and harassing tenants. Major building-wide construction began in January 2011 to turn stabilized apartments into luxury rentals. Since then, the "quiet enjoyment of my home" has been stolen from me.

I am now in Supreme Court spending thousands of dollars fighting a baseless lawsuit. In addition, construction workers breached my wall from an adjacent apartment. An owner's representative pounded on my door, as if it was an emergency, and offered me money to leave my home.

I have seen rats in the hallways and witnessed countless incidents of hazardous and unhealthy construction practices. I am not the only one. I have spent hours documenting such incidents and assisting other tenants in my building as they go through similar treatment.

I assumed that we could just document these incidents, bring them to the DHCR's attention and help would be on the way. What I've sadly learned while researching this is that a system that is supposed to protect tenants appears to empower landlords. The current penalties for violations are so absurdly low that it's worth it for developers like my landlord to try whatever it takes to drive rent stabilized tenants from their homes.

I have also learned about tenants in similar situations that have been going on for years. A friend of mine whose job required frequent travel found herself in court over primary tenancy. After she won the case, she asked the owner's lawyer why they'd taken her to court. He told her "It's a numbers game. We know that we'll get some people out, so it makes it worth it."

The HCR needs to up the ante so landlords cannot engage in this kind of behavior with such impunity. A \$1,000 violation is nothing to the current crop of developers in this city. They need to be afraid that they will lose a great deal more so they don't even think about harassing tenants.

There is a 75 year old woman who is being harassed in my building. This woman was one of the pioneers of this neighborhood who was here when it wasn't as safe as it is now. She and others moved into this neighborhood and toughed it out; all the while helping to make it a wonderful neighborhood to live in; thus making it worth obscene luxury apartment rental rates that they are now charging for these homes.

As others urge you to strengthen the rent stabilization laws, I am urging you to bring harassment within HCR to a state level and to impose much more severe penalties to landlords who harass tenants.

1. Ensure that any landlord who is found to be guilty of harassing a tenant will be required to pay that tenant's legal fees regardless of whether it's in their

## Boards, management, and bylaws reviewed by ML coops, rental developments

**D**o you know the last time your management company was evaluated by your board of directors? Is a copy of the findings available for review? Do you even know the name of the company that manages your development?

These were some of the questions and issues explored on Saturday, October 27th, when MLRC hosted discussions for both cooperatives and rental developments. The sessions were part of MLRC's outreach efforts.

### Boards and management

Among other issues aired were more oversight from the board of directors regarding management's performance.

Also included were such topics as the length of the management contract, management's track record, and even such basics as how much they are paid per year, how many staffers they supervise, and the name of the general manager.

Finances were another issue discussed at the meeting. For example, residents were told that they should receive a yearly development financial statement from the company.

Electing boards that are fair and responsive to the needs of the entire development, rather than to a chosen few, generated lively responses.

Attendees commented on boards' lack of providing timely information to the residents on various issues affecting the development.

### Bylaws

Also discussed were development bylaws that have never been changed, and bylaws that should have term limits. Information was presented on establishing a bylaws committee with the approval of the supervisory agency. Most important, shareholders should familiarize themselves with the content of their development's bylaws.

Do you know what your rights are? It sounds like a simple question, but it was learned at the meeting that some boards use retaliation as a method to silence other board members. How can this be stopped?

Join us at our next general membership meeting on Saturday, January 26, 2013 and bring with you a copy of your development's bylaws.

lease or not.

2. Impose a fine of no less than \$40,000 for each violation and award that money to the tenants. This would not only stop the landlord from taking advantage of lower income tenants, but would empower a rent stabilized tenant with finances to fight against further abuses.

I urge you to take this into consideration as more and more affordable housing becomes more scarce in this city that is known for being a melting pot. --Nancy Margarill, Acting Secretary, Hotel Windmere Tenants Association