



# MITCHELL-LAMA RESIDENTS COALITION

Vol. 17, Issue 2  
June 2012

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

## ***IPN tenants suffer setback on J-51; plan appeal to higher court***

In a stunning setback for tenants of Independence Plaza North, a former Mitchell-Lama development whose owner opted out of the program in 2004, the Appellate Division of the New York Supreme Court overturned the Court's previous decision granting rent stabilization status to the complex.

That earlier decision, in August 2010, was based in part on the fact that the owner, even after withdrawing from ML, continued to receive tax benefits under New York City's J-51 program, which requires stabilization as a condition of the benefits.

On April 3, the Appellate Division, in *Denza v. Independence Plaza Assoc.*, unanimously supported the contention of the corporate owner, Laurence Gluck's Independence Plaza Associates, that even though IPN continued to receive J-51 benefits, the complex was not covered by rent stabilization at the time the benefits began (in 1998), and therefore the stabilization requirement did not apply.

In other words, because ML establishes its own controls, ML developments were technically exempt from rent stabilization. According to the decision, since IPN "sought and obtained J-51 benefits while it was subject to the Private Housing Finance Law... the Rent Stabilization Law

did not become applicable to it by virtue of those payments."

Only if the owner had sought and obtained J-51 benefits after withdrawing from ML, the AD held, would rent stabilization apply.

On a related issue, the AD noted, with seeming approval, that the owner eventually repaid the tax benefits he received after exiting ML, although benefits received between 1998 and 2004 were never repaid. (The earlier Court decision, by Justice Marcy S. Friedman, derided as a "legal fiction" that repayment meant that the City "retroactively terminated" the benefits--in effect that IPN should be treated as if it had never received such benefits in the first place.)

The AD also held that Gluck's ongoing receipt of benefits after withdrawing from ML was not his fault, but rather the result of a bureaucratic mistake. The City's Department of Finances had mistakenly neglected to "adjust IPN's tax liability." "The erroneous continuation of the tax benefits after Mitchell-Lama coverage ended," the AD held, "which were refunded in full, with interest, did not cause the buildings to take on a new form of rent

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## **Island House to exit M-L under deal with residents on prices**

Island House, a Mitchell-Lama complex on Roosevelt Island, is slated to exit the program under a deal that will enable existing tenants to either buy their units at below market rate prices, or continue renting under a system of rent regulations.

According to a release by Assembly member Micah Kellner, residents will be able to purchase their apartments at around thirty-five percent of the market price. Tenants choosing to continue renting may do so for the next thirty years, with rents regulated under a program modeled after rent stabilization.

The state's Housing and Community renewal agency will oversee the property to insure landlord compliance with the terms of the deal, dubbed the "Affordability Plan."

David Hirschhorn, the General Partner of the ownership group, will contribute \$9.6 million to improvements and reserves. He will also pay \$4.5 million in transfer fees to the Roosevelt Island Operating Corporation.

In exchange, tax equivalency payments for non-market rate units will remain low during the thirty-year affordability period. After that, such payments will

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

## **GENERAL MEMBERSHIP MEETING SATURDAY, June 23, 2012**

**Time: 9:30 a.m. – 12:30 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

# Families face renewed homelessness as City ends rental subsidy program

April Fool's day this year was no joke for some 8,000 formerly homeless individuals and families who were cut off from their city-sponsored rental subsidies. On the first of that month, New York City's Advantage rental subsidy program was terminated; the Department of Human Services had earlier announced that it would no longer sign new leases.

The program, begun two years ago as a replacement for a previous program, was designed to help individuals living in temporary homeless shelters, and other working poor, become self-sufficient by residing in regular housing while working at least 20 hours a week for the first year and 35 hours a week for the second year, in each case earning at least minimum wage. Advantage also provided job training, and offered other types of social work assistance.

In the case of clients too disabled

to work, the program required them to be receiving some type of disability benefit. The amount of rental assistance depended on income and household size. Clients were required to pay 30 percent of their income towards the rental during the first year, and 40 percent during the second.

A report on WNYC said that clients were told they would be able to transition to the federal Section 8 program, which also pays a subsidy for rents above 30 percent of income. That promise, however, was never realized.

The City blames cutbacks from New York State for the curtailment, but the State argues that it needed to close a budget deficit.

The Legal Aid Society has lost a lawsuit and an appeal seeking to force the City to continue the subsidy. Another appeal is now pending.

## Island House to exit Mitchell-Lama under deal with residents on prices

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"phase into a market level tax payment."

During this period, apartment owners seeking to sell will be limited in their asking prices. In addition, they will be required to "pay a significant portion of their profit back to the building," along with a one percent fee to RIOC.

The offering portion of the deal must still be submitted to the New York State Attorney General for acceptance.

Graham Cannon, chairman of the Island House Tenants Association, supported the deal. "We are delighted with this outcome," he said. He also acknowledged the efforts of Assemblymember Kellner and Councilmember Jessica Lappin.

In a related development, the owner of Roosevelt Island's Westview complex gave notice of his intention to exit M-L, but left open the possibility of negotiating with residents.

## UPCOMING EVENTS

### GENERAL MEMBERSHIP

**Saturday, June 23, 2012**

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9:30 a.m. - 12:30 p.m.  
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**Main item: elections for board**

**Voting restricted to paid-up dues members**

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

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

## Mitchell-Lama Residents Coalition, Inc.

### Officers

Co-chairs:	Jackie Peters Ed Rosner Margo Tunstall
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Treasurer:	Carmen Ithier
Recording Sec'y:	Sonja Maxwell
Corresponding Sec'y:	Katy Bordonaro

### MLRC NEWSLETTER STAFF

Editor:	Ed Rosner
Assistant editors:	Katy Bordonaro Margo Tunstall
Editorial coordinator:	Nathan Weber

Circulation: 5,000

Articles, letters, and photographs are welcome. Send to MLRC, P.O. Box 20414, Park West, New York, NY 10025

Fax (212)864-8165  
Voice mail: (212) 465-2619  
E-mail: [information@mitchell-lama.org](mailto:information@mitchell-lama.org)

### JOIN THE MITCHELL-LAMA RESIDENTS COALITION

2012

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

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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!**

# City's M-L conversion plan will undermine affordable housing, hurt taxpayers: CU4ML

*Position statement by CU4ML submitted to HPD, HDC and NYS Attorney General, May 12, 2012*

Over the past year, city agencies HPD and HDC have created and promoted a plan to encourage conversion of Mitchell-Lama (ML) cooperatives to Housing Development Fund Corporations (HDFC) through the combination of an HPD rule change and a financing scheme devised by HDC.

Cooperators United for Mitchell-Lama (CU4ML) views the proposed conversion of any ML cooperative to HDFC organization through Article XI of the PHFL as detrimental to all the major parties involved, including most importantly:

Current cooperators who remain in residence;

The cooperative as limited-equity housing for a diverse community of residents;

Would-be cooperators on the waiting lists;

New York City and its taxpayers, who have subsidized and would continue to subsidize the cooperatives by abatement of the municipal real estate tax.

## Windfall for a few

Only a thin slice of New Yorkers would benefit from such a conversion, namely, current shareholders who move out immediately following conversion either by selling their apartments at prices much higher than ML equity or by passing them to their children, who thereby acquire the (now much higher-priced) apartments with no payment to the corporation. A windfall profit for such families is the principal driver of the attempts to privatize ML cooperatives, and it is inescapable that exactly the same people would reap that windfall by conversion through Article XI as through privatization.

On March 29, 2012, the shareholders of Cadman Towers, a moderate- and middle-income ML cooperative in Brooklyn, were offered a "restructuring plan" designed by HDC that would withdraw Cadman Towers from the ML Program and reconstitute it as an HDF Corporation under PHFL Article XI. In the plan, the lowest post-conversion apartment sale price is projected as three to ten times greater than the highest price of any ML cooperative apartment in New York City. This kind of loss of ML housing does not match the purpose of PHFL Article XI. Article XI establishes Housing Development Fund corporations to enable seriously deteriorating housing to be converted to habitable, well-managed housing affordable for low-income households, families with incomes well below Area Median Income (AMI).

HPD's Article XI conversion regulation §3-14(i)(15), adopted in December, 2011, indicates that a simple majority of current shareholders would be required to

vote approval of restructuring before it can be effected. To be consistent with all other such votes in Mitchell-Lama cooperatives, this conversion would have to require a two-thirds majority vote for shareholder approval.

## Shareholders unprotected by Martin Act

A major deficiency of such "restructuring" conversions would be the failure to require a Martin Act-mandated disclosure review by the State Attorney General's Office (AGO) to protect current shareholders and future purchasers. There is also no provision to ensure that shareholders would be allowed an opportunity to comment on the plan prior to the vote. Relative to privatization, the process of conversion to HDFC is treated casually, even though it is an equally drastic change in the organization of the cooperative and the price of its apartments' shares.

The shareholders will be told that the conversion will enable the cooperative to afford major capital improvements without burdensome charges (maintenance or assessments) to shareholders or loss of affordability of their homes. In the example plan (for Cadman Towers), a loan and a grant from HDC would provide almost all of the support for Major Capital Improvements (MCIs). Flip taxes paid by new shareholders would also provide funds for that purpose, but actually only a small and variable fraction of the amounts needed.

## Charges and tax increases

Other financial needs would be met by a 17.8 percent increase in maintenance charges, to be borne by continuing (and new) shareholders for the foreseeable future. Most of the increase would be needed to compensate for the elimination of over-income surcharges, which currently account for 11.4 percent of Cadman's income from shareholders, when cooperators are charged the increased base maintenance regardless of household income.

Shareholders would be misled about transfer taxes as a cost of conversion. The City and State tax agencies have ruled repeatedly that conversion of a ML cooperative to a cooperative that allows far higher apartment prices represents a taxable property transfer because it results in a significant change in the benefits of ownership. The Cadman shareholders would not be told that the Real Property and Real Estate Transfer Taxes of NYC and NYS, respectively, would be imposed. No mention of these taxes appears in the plan. These taxes should be disclosed as a sizeable cost of the process of conversion

before the shareholders are asked to vote on acceptability of the plan.

The restructuring plan for Cadman Towers is not straightforward. It misrepresents the reason for withdrawal from ML, the true net value of apartment flip taxes, and the severely reduced affordability of the housing and diversity of the community.

The restructuring plan implies that eligibility for HDC financial assistance requires withdrawal from the ML Program. Through the ML Preservation Program, a ML development may obtain a grant of several million dollars for major capital improvements and/or refinance its mortgages with minimal impact on monthly charges. Withdrawing from ML has not been a condition of eligibility for such help; on the contrary, one condition is that "... owners and/or cooperative corporations are required to keep their buildings within the Mitchell-Lama Program."

## Insufficient revenues

The true, net value of flip taxes would provide very little support for the HDC funding of major repairs. The 30 percent "transfer tax" (better known as "flip tax") to be levied on apartment sales is purported to benefit the HDFC cooperative by providing funds for major capital improvements (MCIs). However, enhancement of the cooperative's revenues sufficient for this purpose is illusory. The net value of annual flip tax revenue should be calculated as flip tax revenue projected minus revenues lost as a consequence of conversion.

For Cadman Towers, the major annual revenue losses would be shareholder surcharges (\$450,221 in 2011) and excess equity paid by purchasers as First Sales Assessments (\$164,149 in 2011), a total of \$614,370 in 2011. Thus: net annual flip tax = gross flip tax (\$858,246) minus lost surcharges minus lost excess equity net annual flip tax = \$858,246 minus \$450,221 minus \$164,149 = \$243,876

This amount would not contribute a significant proportion of the millions needed for MCIs. Gross revenue would vary from year to year and cooperative to cooperative, depending on the number of sales and the prices of apartments — speculative values that are certain to fluctuate widely. In the example plan for Cadman Towers, the projected net revenue coop is only 28.4 percent of the gross revenue and only 8.5 percent (30 percent of 28.4 percent) of the sale price. As a source of funds for MCIs, this yield from flip taxes would be so inadequate that the restructuring scheme is pointless.

Both affordability of the housing and diversity of the resident communities would be greatly reduced. The generally accepted

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## Lindsay Park joins with Hess to switch from oil to natural gas

**L**indsay Park, a 2702-unit Mitchell-Lama cooperative in Brooklyn's Williamsburg neighborhood, reached an agreement with Hess, the giant energy company, to convert ten boilers from the standard No. 6 heating oil to natural gas, a cleaner-burning fuel. Hess will oversee management of the effort and provide turnkey funding, thereby eliminating the need for bank financing, according to a statement by the oil company.

The arrangement is designed to enable Lindsay Park, built in the mid-1960s, to meet the City's 2011 regulations requiring buildings to switch from heavy fuel to fuel with a lower sulphur content.

The cooperative will reportedly take advantage of \$227,000 in incentive grants from the New York

State Energy Research and Development Authority, and a \$200,000 rebate from National Grid, the firm that owns the grid providing power to New York other states in the northeast, for installation of natural gas piping.

Upon completion, the conversion of the 40-year-old boilers is expected to reduce the cooperative's energy costs by around 30 percent after five years, presumably without additional upfront capital expenditures.

The co-op has been successful over the past few years in securing grants for new weatherized windows, motion-activated lighting in common areas, clean duct-work in bathrooms and kitchens, replacement of hot water pipes, new elevators and other improvements.

## Court system ends policy of selling tenant 'blacklists' to screening firms

**L**andlords and real estate agents who have been able to peruse electronic lists of people who have, for whatever reason, appeared in housing court will no longer be able to do so as of June 12 this year. Such lists, widely known as blacklists, have been used by owners for years to refuse to rent to those people, fearing that they might be too knowledgeable about tenant rights and, therefore, may bring suit.

The lists were purchased by screening companies which, in turn, sold them to landlords and agents to filter out "undesirable" tenants, regardless of what the issues were. The lists do not specify the reasons the people were in court, what they have or have not done, or whether the tenants sued the landlord or the landlord sued the tenants.

## HUD fines Co-op City \$85,000 on pet issue

**R**iverBay Corp., the managing agency for Co-op City, was fined more than \$85,000 in May by HUD for denying two clinically depressed residents the right to keep pets in their apartments. One of the residents was advised by his doctor that a pet would help in his treatment. A HUD administrative law judge found that Riverbay's action violated the federal Fair Housing Act.

## High Court rejects owner's plea to rule on city's rent regs

**T**enants in New York City and throughout the country may well have heaved a collective sigh of relief in April, as the US Supreme Court rejected a request from an Upper West Side landlord to rule on his assertion that all rent regulations were unconstitutional.

On April 23rd, the conservative-dominated Court, without comment, declined to consider the case, brought by the landlord, James Harmon, who had seen his case summarily dismissed twice before in lower courts. The Supreme Court's rejection ends the appeals process.

Harmon owns a six-story building on West 76th Street, in which three of the units are rent-stabilized. He and his wife live in the building as well. His legal argument was that any form of rent regulation amounts to an unconstitutional "taking" of his residence. In an earlier interview reported in Bloomberg News, he stated: "The Constitution gives us the right to decide who will live in our own home and under what terms." However, the issue was not Harmon's "home," which consists of only the units he inhabits. The other apartments are the homes, or residences, of the tenants.

He and his real estate and right-wing supporters, such as the Pacific Legal Foundation, also argued that rent stabilization and, by extension, all other forms of rent regulation, force property owners to "subsidize" tenants.

Although the Court did not comment, as is its custom, rent stabilization and rent control have nothing to do with subsidies; their purpose is to prevent rent gouging in a time of a severe shortage of affordable housing.

## Developments dues paid from 2010-2011

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

**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 Parkside Development	West Village Houses
	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.

# Meeters & greeters: MLRC event draws residents, local reps to community luncheon



Local pols and residents gathered at the State Office Building on 125th Street on May 5 to meet each other, taste delicious food, and discuss common issues. Hosted by the Mitchell-Lama Residents Coalition, the latest Meet and Greet gathering attracted ML cooperators and renters as well as affordable housing activists.

In addition to providing an opportunity for discussion of the MLRC legislative agenda for this year, the luncheon honored two outstanding members. Long-time Executive Board member **Marie Howse** from Fordham Towers in the Bronx was honored as the first executive board emerita. Well-loved for generously sharing her home-made food at our meetings and celebrations, Miss Howse has been a tireless fund-raiser for the MLRC, while also serving as a particular champion of young people in her development and neighborhood. Former Assemblymember **Michael Benjamin** presented her with plaque of appreciation from the MLRC.

The second tribute was in memory of our late financial secretary, **Bernice Lorde** (1931-2010). This year's Meet & Greet was a wonderful opportunity to remember Miss Lorde, her contributions to RNA Houses where she lived, her service in her neighborhood, her devotion to the MLRC, and her impact on the lives of so many MLRC Executive Board Members.

We were very pleased to be joined by **Manhattan Borough President Scott Stringer**, a long-time friend of MLRC; **State Senator Bill Perkins**, a strong supporter of Mitchell-Lama; **City Councilmember Gale Brewer**, who provides space for the Executive Board meetings; **Councilmember Margaret Chin**, who represents IPN, a key former ML building in downtown Manhattan; **Councilmember Jessica Lappin**, who represents Roosevelt Island with four historic ML developments; and special representative from Governor Cuomo, **Jeffrey Margolies, Assistant Commissioner for Intergovernmental Affairs**. Housing advocates also attended: **Emily Goldstein**, Tenants & Neighbors, and **Tom Waters**, Community Service Society. **Ricardo Gotla**, President of the Board of Tenants & Neighbors, was the official photographer for the event.

--Katy Bordonaro



## London Terrace in Chelsea asks to withdraw from J-51 program

**L**ondon Terrace, the giant housing complex in Manhattan's Chelsea district, is seeking to withdraw from the city's J-51 tax abatement program by claiming that the State's rent regulation laws have become too confusing.

Like Stuyvesant Town and Peter Cooper Village, London Terrace had received tax benefits under J-51, which requires recipients to keep rents under stabilization or an equivalent rent regulation scheme. Several years ago, in a landmark decision, *Roberts v. Tishman Speyer Properties LP*, the NY Court of Appeals held that Stuytown and Peter Cooper had to keep rents regulated.

A lower court has since rejected the London Terrace request.

The lawyer for London Terrace, Richard M. Goldstein of Proskauer

Rose LLP, told the appeals court that the Roberts decision had sowed confusion into the state's rent laws, and that his client "is entitled to know what the rent laws are." Presumably, the Roberts decision did not clarify certain issues, such as the appropriate statute of limitations, how rents are to be calculated, and how to bring class allegations.

Goldstein had argued that if London Terrace had known it would have to re-regulate previously deregulated apartments after receiving the tax benefits, it would never have enrolled in the program.

The City has refused the complex's request to withdraw from J-51. "Once you're in, you're in. And landlords know this," Assistant Corporation Counsel Joshua Wolf told the court.

## NAHT conference in D.C. to feature tenant organizing, landlord harassment

**T**he 2012 Save Our Homes conference of the National Alliance of HUD Tenants will take place June 24 to 26 in Washington, D.C.

The conference will feature more than 20 tenant-led workshop sessions, meetings with top HUD officials, and a lobby day. Workshops include those on building strong tenant associations, fighting management harassment, how the federal budget crisis threatens

housing programs, responding to expiring HUD contracts, replacing substandard management, sustaining resident-controlled ownership, joining with the Occupy movement to tax the 1%, and building a global movement for housing as a human right. For more information, call 617-267-2949 or visit [www.vsaveourhomes.org](http://www.vsaveourhomes.org).

## IPN tenants suffer setback on J-51; plan appeal to higher court

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regulation."

Expressing strong disagreement with the AD's ruling were several elected representatives, including NYS Senator Daniel Squadron, US Representative Jerrold Nadler, Manhattan Borough President Scott Stringer, NYS Senator Thomas Duane, and City Councilwoman Margaret Chin, all of whom spoke at a press conference several days after the ruling. Julie Menin, chairwoman of Community Board 1, as also supported the tenants in their appeals process.

Squadron said that "J-51 is not just meant to provide a tax break — it's meant to ensure the kind of affordability and stability that I.P.N. has long provided and that makes New York the

vibrant and diverse place it is today."

In a separate statement, Council Speaker Christine Quinn said "IPN received more than \$90,000 in tax abatements under the J-51 program, which requires that landlords who elect to participate comply with rent stabilization laws." She added that landlords "like Laurence Gluck and Stellar Management who elect to participate in J-51 understand this tradeoff and should not be permitted to break their obligations under J-51 prematurely, whether as a result of exiting Mitchell Lama or otherwise."

The tenants' organization, IPNTA, has vowed to seek permission to appeal this decision to a higher court.

## Albany bills seek City Council authority over membership on Rent Guidelines Board

**L**egislation to provide the City Council with authority to approve or disapprove of the mayor's appointments to the Rent Guidelines Board, introduced Assemblymember Brian Kavanagh and State Senator Daniel Squadron in March, has received the backing of several tenants rights organizations in the city. The legislation (S741A/A6394B) also has the support of City Council Speaker Christine C. Quinn.

The bills would also change the requirements for appointments to the RGB, the agency that sets rents under the rent stabilization law. According to Squadron, the legislation would bring "necessary checks and balances to the system and make the appointment process more democratic." Membership on the RGB currently consists of two people appointed to represent tenants, two appointed to represent owners, and five appointed to represent the general public.

Among the changes to the present system in the bill are provisions that "make more New Yorkers eligible to serve as public members and ensure that diversified views are represented on the RGB by including new professions among those qualified for appointment," Squadron said.

At present, qualifications for appointment to the board require experience in finance, economics or housing. Under the legislation, qualification would expand to include experience in public service, philanthropy, social services, urban planning, architecture, social sciences, finance, economics or housing.

The legislation would also endow the City Council—and the legislatures of Nassau, Westchester and Rockland County—with the authority to oversee all appointees of the RGB and remove them for cause. In New York City, this would effectively undercut the mayor's authority, who opposes the legislation.

Opposition has also come from real estate interests, including the Rent Stabilization Association. In a statement to the media, Jack Freund, a vice president of the RSA, called the legislation "a catastrophic idea. It would be the death knell for private rental housing in New York. There would be zero increases forever. I certainly hope the bill doesn't go anywhere."

In contrast, Stefan Ringel, spokesman for City Councilman Jumaane Williams, said the current makeup of the RGB "fails to reflect the interests of real people. It seems like no matter what the economic condition is, the rent goes up."

## MLRC treasurer earns MSW

Congratulations to Carmen Ithier, MLRC's treasurer, on earning her MSW from New York University on May 17, 2012.

# Recent recession increased cost burden on low-income tenants

**N**ew research from the Carsey Institute at the University of New Hampshire shows that the rental market tightened during the recent recession, with consequences that disproportionately affected tenant households.

Comparing data from the 2007 and 2010 American Community Survey, released by the U.S. Commerce Department, the research found that by 2010, thirty-eight percent of homeowners with a mortgage and fifteen percent of homeowners with no mortgage faced a housing cost burden, rates comparable to 2007.

However, in 2010, the incidence of housing cost burdens rose more sharply among renter households, from forty-six percent to forty-nine percent. Renters are considered cost-burdened when spending more than thirty percent of their income on rent and utilities.

By 2010, more renters were experiencing a housing cost burden across the entirety of the United States, across all regions and in both urban and rural communities. While renters in the west were most likely to face a cost burden by 2010 (fifty-two percent), the incidence of housing cost burden rose most rapidly in the south during the recession years. Across the South, forty-four percent of renters faced a housing cost burden in 2007, and this rose to nearly forty-eight percent by 2010, a 3.8 percentage point change.

While renters in rural areas were the least likely to face a housing cost burden in both 2007 and 2010, the number of cost-burdened renters rose steeply in rural communities during the recession, by 4.3 percentage points.

In suburban areas and central cities, the incidence of cost burden among renters rose more modestly, by 3.4 and 2.9 percentage points, respectively.

Despite the rapid rise of cost burdened renters in rural communities, renters in central cities remain the most likely to face a housing cost burden. By 2010, over half of all renters were cost burdened in central cities.

The research also explores housing cost burdens across age groups and income groups. Renters under age twenty-five were most often cost burdened (sixty percent) in 2010. Renter households earning less than \$20,000 were most likely to face a cost burden in both 2007 and 2010. However, sharp increases in the number of cost-burdened renters occurred among renter households

earning between \$20,000 and \$50,000, with the proportion of cost burdened renters in this income category rising more than six percentage points.

According to the study's author, the modest increase in cost burdens among renter households earning below \$20,000 (less than one percentage point) indicates the effectiveness and importance of housing programs. Without the existence of such programs, low income households would have fared much worse during the recession.

*This is a slightly edited version of an article that originally appeared in the June 1, 2012 newsletter of the National Low Income Housing Coalition. It is reprinted here with permission.*

## Date set for M-L task force confab

**M**anhattan Borough President Scott Stringer is convening his Mitchell-Lama Task Force for a meeting on Tuesday, June 26.

NYC Department of Housing Preservation & Development Mathew W. Wambua will be the featured speaker. Contact Stephen Corson for more information: [scorson@manhattanbp.org](mailto:scorson@manhattanbp.org)

## History, analysis of J-51 now accessible online

**A** well-written history and analysis of New York City's J-51 program, prepared by the Community Service Society of New York, is now available online at <http://www.cssny.org/userimages/downloads/>

Among the report's conclusions is this: "The J-51 tax expenditure program is an extraordinarily expensive program. The enormous growth in its cost over the past decade is not resulting in improvements to many more apartments. There has been an increase of only 7.4 percent in the sum of exempt and abated apartments from 2001 to 2011, and the declining value of abatements suggests that each apartment may be receiving a smaller amount of improvement. Expenses have ballooned by more than 100 percent, after inflation, over ten years for a roughly constant amount of benefit."

"The program's affordability targeting is also only indirect, which undoubtedly results in a large share of its benefits going to unaffordable apartments."

## Residents in five former ML developments now facing high rent increases

**H**ear the joke about the lawyer who wasn't there?

Actually, it's no joke at all, especially for the tenants in a former Mitchell-Lama building who negotiated an agreement with their landlord without benefit of counsel. Until very recently, they were facing the threat of unlimited rent increases as the agreement comes to an end and the units revert to free market. Because the development, Metro North Riverview/River Crossing, was built after 1973, it was not required to be placed under rent stabilization. At latest report, fortunately, the LAP agreement was extended for this year, but at a significant rent increase.

Since leaving ML, Metro North--along with several others, including Roosevelt Island, Riverside Park Community (3333 Broadway), Schomburg Plaza, and Upaca Terrace--has been sold twice. The current owner, Urban American Management, tripled the debt burden in one year, a debt now held by Fannie Mae.

At the time of the initial sale (around 2005), the new owners, most likely concerned about growing tenant militancy and vociferous political involvement in other former ML buildings (such as Independence Plaza North), agreed to work out a "deal" with the residents. With no lawyer present at Metro North, the tenants agreed to participate in a Landlord Assistance Program (LAP), under which the landlord would modify rent increases. However, such modifications were onerous: rents have risen seven percent every year. Over the six years of the agreement, that amounted to more than a 42 percent hike!

Some of the low-income tenants, in this building and in the others, were able to receive federal Section 8 vouchers, although now many may lose their vouchers as a result of rising income and decreases in family composition.

So far, State Assemblyman Robert Rodriguez and Manhattan Borough President Scott Stringer have been assisting the tenants, who report some progress, including, as noted above, a one-year LAP extension, although again at a seven percent rent increase. Hopefully, other local representatives will pay attention to the plight of these residents and bring whatever pressure they can to keep their homes affordable.

The lesson of this story is that, when it comes to serious negotiations with landlords opting out of Mitchell-Lama, residents should make every effort to secure competent counsel, even if it means additional fund raising. Without such assistance, tenants place themselves solely at the mercy of owners whose interest in affordability, to say the least, is non-existent.

# City's M-L conversion plan will undermine affordable housing, hurt taxpayers: CU4ML

*Continued from page 3*

meaning of "affordable housing" in 2012 is housing that consumes no more than 30 percent of household income. The annual cost of housing for the vast majority of ML cooperators is base maintenance charges (which include payments on the cooperative's mortgages) plus utilities if not included in maintenance.

Initial ML equity ("apartment price") is typically five- to seven-fold lower than market rate for comparable housing, and was (and still is) paid off by most of today's ML cooperators upon or shortly after entry into occupancy. Today, the annual cost of a two-bedroom+ apartment at Cadman Towers is \$10,092, which is 30 percent of \$33,640, the annual income needed to afford the apartment. Assuming (as in the plan) that the new shareholder of that apartment after conversion would need to borrow 90 percent of the equity, the annual cost of that same apartment would become \$11,880 (maintenance) plus \$14,964 (personal mortgage payment) = \$26,844.

## Three-fold loss of affordability

Consequently, the annual household income needed to afford this same apartment would become \$89,640, an increase of nearly three-fold — a three-fold loss of affordability, for this and every other Cadman apartment. Narrowing affordability would exclude large sections of working New Yorkers from eligibility for cooperative housing currently in ML.

In addition, removing cooperatives from the ML Program would eliminate the mandatory waiting lists organized, under ML rules, by random lotteries. The waiting lists have ensured non-discriminatory sales policies and preserved diversity of the resident communities. Loss of these waiting lists would enable discriminatory sales practices in housing developments that today are the

most open, integrated moderate- and middle-income communities in the United States. We believe that HPD and HDC have a responsibility to protect not just affordability, but also diversity in housing under their supervision. To eliminate ML cooperatives through any path, whether privatization or Article XI HDFC, is to fail to meet that responsibility.

Mitchell-Lama cooperatives are such desirable housing that they have not accommodated the flood of eligible applicants. A lottery system was instituted to place applicants on waiting lists, which have moved slowly for the simple reason that people don't move out. Consequently, many applicants have waited eight years or more to be allocated a ML apartment in the expectation that secure and affordable ML cooperative apartments would eventually become available. Conversion to HDFC would eliminate the waiting lists, which would be a regrettable breach of faith with the public.

## Undeserved reward for some

The Shelter Rent paid by Mitchell-Lama cooperatives in lieu of real estate taxes is 4.5 to 5.5 times lower than ordinary real estate tax in NYC. For a coop such as Cadman Towers, shelter rent is about \$400,000 per year, whereas real estate tax would be more than \$2 million.

The difference constitutes a sizeable subsidy that was justifiable as long as Cadman, like the other ML cooperatives, served the "public purpose" for which the Program was established by the PHFL, namely, rehabilitating and rejuvenating neighborhoods by providing housing affordable for moderate- and middle-income New Yorkers, including people with incomes below AMI. Converting a ML cooperative to a development that excludes those people would remove that justification, and profit-taking by ML cooperators upon move-out would be an

indefensible and undeserved reward for having enjoyed the subsidy for decades.

According to the HDC plan, Cadman apartments that are today affordable for families whose income is below AMI would become affordable only for households with incomes above AMI. If this proves typical of ML-to-HDFC conversions, then one projected consequence would be a significant loss of housing affordable for current and would-be cooperators, and for all New Yorkers in similar occupations as these people.

It is the considered opinion of CU4ML that the conversion of any Mitchell-Lama cooperative to a Housing Development Fund Company through Article XI would be contrary to the interests of current cooperators and applicants on waiting lists, as well as to almost all the people of New York. Except for continuing the real estate tax abatement, the scheme proposed for the conversion of ML cooperatives to unaffordable HDFC cooperatives differs very little from privatization of the ML cooperatives. It shares the most undesirable features of privatization: it drastically reduces affordability and diversity, provides only a fraction of the cost of major capital improvements, and is intentionally short-sighted, with a high net flip tax available to the cooperative for only one generation of apartment sales.

CU4ML finds that there is no defensible reason to effect such conversions and views them as impractical, pointless, and unfair to New York and New Yorkers. We also hold that these conversions would be an abuse of Article XI, which serves a different, and valuable, purpose from that which would be accomplished by ML-to-HDFC conversions. We urge that plans for converting ML cooperatives to HDFC cooperatives be abandoned and that the recent amendment to the ML rules [3-14(i)(15)] allowing such conversions be rescinded.

## Queens, Brooklyn mega-developments place affordable housing on back burner

Large-scale luxury development projects in Brooklyn and Queens, which won over skeptical residents with a promise of affordable housing, are moving ahead--but with the affordable housing component put on the back burner.

A report in the Wall Street Journal found that the housing units "have been pushed back for years behind other portions of the multibillion-dollar projects, as the boom-era visions are proving to be difficult to see through in a slowly recovering economy." This is the situation in Willets Point,

Queens, and the Atlantic Yards in Brooklyn.

The Willets Point project will hold off on the housing component until 2025, well after a hotel and large retail center are up and running. At Atlantic Yards, the developer, Forest City Ratner Cos., which had held out the prospect of low- and middle-income housing by 2016, is now complaining about "higher than expected costs and an inclement market." However, they have announced plans to begin this year with a first building containing 175 below-market rate apartments.

## NYC may publish online edition of Green Book

New York City may publish a new online edition of its famed Green Book, a compendium of municipal agencies, addresses and phone numbers, along with a multitude of historical facts about the city.

The book has not been updated since the 2008-9 edition. No decision has been made as to the exact date the online version will be available, or whether access to it will be free or at a charge.