MITCHELL-LAMA RESIDENTS COALITION

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WEBSITE: www.mitchell-lama.org

Court: coop boards can evict tenants over disruptive behavior

A cooperator at 61 Jane Street in Manhattan was ordered in May to vacate her apartment after months of battles with the cooperative's board of directors.

Handed down by New York State Supreme Court Justice Jeffrey K. Oing on May 10, the order cited the "business judgment rule," a common-law doctrine under which courts defer to the decisions made by boards of directors, so long as those decisions are made in good faith, are in the interest of the cooperative as a whole, and are within the scope of their authority.

The order, which included a "warrant of ejectment" (essentially an eviction notice), discounted the leaseholder's argument that the court was obligated to undertake a judicial review of the evidence "in determining whether the tenant's alleged conduct is objectionable." Such judicial reviews, specified under the state's Real Property Actions and Proceedings Law, are required in traditional landlord-tenant disputes, not in disputes involving cooperators.

According to the decision, conflicts between the leaseholder and the board dated at least to 2009, when the board "began receiving complaints" about the tenant, initially relating to her dog-walking business, which she operated out of her apartment. Other complaints related to disputes with the maintenance staff over chemicals used to clean the building.

Allegations of "disturbances in the lobby" by the leaseholder--including one where she "physically and verbally accosted the doorman"-- were additional complaints.

In July of last year, she "insisted on sleeping on the lobby couch 'in protest' of the building," the order noted. Although she was repeatedly asked to leave the lobby, she stayed there until 6:10 a.m.

The order goes on to detail that she "allegedly screamed at residents and staff, or blocked residents' egress from the elevator." Still other allegations entailed behaving erratically and holding a knife in the lobby.

The board voted unanimously to terminate her lease in December, 2010, after an open meeting attended by the leaseholderand her attorney.

Judge Oing noted that the board met its fiduciary duty in voting "to terminate petitioner's tenancy as a result of almost a year's worth of disruptive and disturbing conduct."

MLRC executive board elections on June 18

The MLRC is holding its annual Executive Board Elections on Saturday, June 18, 2011, at our General Membership Meeting.

Eleven (11) positions are open. We will be accepting nominations from the floor. All nominees, and all voting members, must be current dues paying members.

'Meet and Greet' our elected officials this fall

Stay tuned for MLRC's "Meet and Greet" activities starting in fall 2011. We will be inviting elected officials and residents to a series of socials.

Borough by borough we will strengthen our relationships with our elected officials and advocate for affordable housing and maintaining the affordablity of Mitchell Lamas.

Strengthen MLRC
Join today (use form on page 2)

GENERAL MEMBERSHIP MEETING
SATURDAY, JUNE 18, 2011

Time: 10:00 a.m. – 12 noon
(Refreshments at 10:00 a.m.)

PLACE: Musicians Union Local 802
322 West 48th Street (near 8th Avenue) Ground Floor, "Club Room"
TRAINS: No. 1, train to 50th St. and 7th Ave.; Q,W trains to 49th St. and Broadway; E train to 50th St. and 8th Ave.

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

IPN tenants wage rent battles on three legal fronts

Tenants at Independence Plaza North, a former Mitchell-Lama complex that was taken out of the program several years ago by mega-landlord Laurence Gluck, are waging legal battles on three fronts. A clear victory was won by tenants in one case, although the court ruling that granted the tenants' motion may well be appealed by the owner. Tenants are convinced the appeal will fail.

On August 30, 2010, Judge Marcy S. Friedman of the state's Supreme Court ruled that the tenants were illegally overcharged by the owner, who had been receiving benefits under the city's J-51 tax abatement program. Benefits accrued to Gluck both before and after he exited M-L.

The law requires landlords who receive the benefits to keep rents at a stabilized level, which Gluck neglected to do. It also requires the owner to inform the tenants that he is receiving the benefits, which he also did not do.

The owner had argued that because he has since returned some of the tax benefits, the apartments should be released from the state's Rent Stabilization guidelines. However seemingly spurious, this argument was supported by the city's department of Housing Preservation and Development, and the state's Division of Housing and Community Renewal. Judge Friedman dismissed their contentions, ruling that "each plaintiff's apartment is subject to rent stabilization until that apartment is vacated by the tenant. . . ."

If the landlord neglects to "perfect" his appeal by June 13 (a legal procedure), the tenants will file a motion to dismiss the appeal.

In a second case, which has been joined by the federal government, the plaintiff argues that the landlord illegally received inflated federal payments under the Section 8 voucher program. That program requires the government to pay the difference in rent between 30 percent of a tenants income, and the legal rent.

The government argues that the legal rent, as Judge Friedman ruled, is a stabilized rent, not a free market rent. Which means that the government has been paying Gluck much more than it should have. Tenants have estimated the overpayments to reach as high as $100 million or more. Gluck argues that the payments were not over the legal limit.

In May, Judge Shira A. Scheindlin of the United States District Court (Southern District) ruled, in direct conflict with the ruling of Judge Friedman, that the IPN apartments were correctly removed from rent stabilization, and that therefore they were were legally free market, not regulated. (This ruling, however, does not invalidate Friedman's decision in the previous case.) An appeal to Scheindlin's ruling is expected.

In a third case, IPN tenants filed a suit on behalf of ten market-rate tenants who entered their apartments after April 2006, arguing that they should be charged stabilized rather than market rents. Gluck has until June 6 to file a motion to dismiss the lawsuit.

JOIN THE MITCHELL-LAMA RESIDENTS COALITION
2011
INDIVIDUAL $15.00 per year and DEVELOPMENT 25 cents per apartment
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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, June 18, 2011

10:00 a.m. - Noon

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

A 50/50 raffle will be held as part of our membership drive.

EXECUTIVE BOARD Meetings, 2011

10 a.m. to Noon

June 4, 2011

The Executive Board meetings will be held at 563 Columbus Ave., NYC (corner of 87th Street).

Please call the voice mail to confirm (212) 465-2619.

Mitchell-Lama Residents Coalition, Inc.

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Crime pays--or would, under bill introduced by Senator Young

By Seth Miller
Collins, Dobkin & Miller LLP

The following was sent to all members of the NYS Senate and NYS Assembly on May 3rd. References to legal decisions have been removed for easier reading.

The Mitchell Lama Residents Coalition opposes S 4117 A, on the grounds that it *rewards lawbreaking*, encourages landlords to engage in ever riskier and ever less justifiable evasions of the rent regulatory laws, encourages the public to view the requirements of the rent regulatory laws as having less force than other kinds of laws, and creates uncertainty about whether landlords will be relieved from other clear legal obligations that are imposed by current law.

It also deprives the public of the rent regulated housing that has been the *quid pro quo* for receipt of J-51 benefits since the 1950s, and threatens the immediate deregulation of literally hundreds of thousands of presently rent regulated affordable housing units, rendering them permanently unaffordable to ordinary New Yorkers.

Bill would nullify rent regulations

Although the bill's sponsors describe the bill as aimed at providing landlords with "relief" from unexpected consequences arising from the Court of Appeals' decision in Roberts v. Tishman Speyer Properties, the bill would in actual fact totally gut and nullify the rent-regulatory obligations associated with the receipt of J-51 benefits, for all assisted apartments, including hundreds of thousands of apartments that were never before threatened with deregulation.

This is because the Roberts decision affected only those buildings that would have had rent regulated apartments even if they never received J-51 benefits, while the bill contemplates the deregulation of apartments that became or become stabilized only because of the receipt of J-51 benefits.

Ever since its enactment in 1955, the J-51 program has had, as its core purpose, the use of public subsidies to fund improvements to regulated apartments, in exchange for a commitment that such apartments remain affordable.

According to the 1955 Legislative Annual, the original purpose of the program was as follows: it is believed that, in as much as new housing is not being produced at a fast enough pace to provide decent, safe and sanitary homes for lower income families, some provisions must be made to encourage owners to alter and improve salvageable buildings.

From the earliest days of the program, owners who sought to use J-51 benefits to fund work that would result in deregulation were held to be ineligible for benefits.

J-51 is for affordable, not luxury, housing

The focus of the program has always remained upon the same basic purpose: "to increase the supply of moderate rental housing with satisfactory standards."

For this reason, the J-51 Ordinance contains numerous rules that are designed, with varying degrees of success, to eliminate the incentive for owners to use J-51 benefits for luxury housing: for example, the limitation on the amount of the total assessed valuation of the building that will receive an exemption, and the geographic limitations applying special requirements to certain areas in Manhattan such as a "minimum tax zone" and a "tax abatement exclusion zone."

The principal means by which the J-51 program has prevented the use of public funds to subsidize unregulated luxury housing and the displacement that goes with it, has been the mandate, unchanged before and after the advent of "luxury" deregulation, that every single apartment in a building receiving J-51 assistance remain rent regulated at least throughout the tax benefit period and, if the tenants are not notified

'windfall to landlords would go far beyond limiting potential liability for overcharges'

of the receipt of J-51 benefits, that they remain regulated until they vacate.

These laws and regulations were on the books before 1993 and they remain on the books today. They were the law throughout the time when landlords were heedlessly deregulating apartments in J-51 assisted buildings.

They include Rent Stabilization Law §26-504 (c), which required at the time and still requires that all of the "dwelling units in a building or structure receiving benefits" be made rent stabilized; NYC Admin. Code §11-243 (i) (1), which required and still requires that "the benefits of this section shall not apply . . . to any existing dwelling [defined as 'a class A multiple dwelling or a building'] which is not subject to the provisions of the . . . city rent stabilization law;" and HPD's regulations at 28 RCNY §5-03(f)(1), which required and still requires that "for at least so long as a building is receiving the benefits of the Act . . . all dwelling units in buildings or structures converted, altered or improved shall be subject to rent regulation pursuant to: . . . the Rent Stabilization Law of 1969."

Under these laws, the public has spent billions of dollars and under current law is entitled, in exchange, to insist that hundreds of thousands of apartments remain rent regulated.

Specifically, according to the "Annual Report on Tax Expenditures" prepared by the New York City Department of Finance for fiscal year 2011, "[i]n FY 2011, the J-51 program provided 20,758 exemptions and 151,957 abatements to approximately 750,000 apartments. The exempt assessed value of these properties was $1,208.4 million."

Owners reaped $billions in exemptions

According to the same report for fiscal year 2010, "[i]In FY 2010, the J-51 program provided 19,981 exemptions and 141,890 abatements to 724,971 apartments. The exempt assessed value of these properties was $1,192.7 million." The report for fiscal year 2009 states: "[i]n FY 2009, the J-51 program provided 15,093 exemptions and 137,386 abatements to 723,811 apartments. The exempt value of these properties was $1,156.8 million." Similar numbers have been reported for prior years.

(These reports, and the ones for the years going back to 1998, are accessible at the following web address: http://www.nyc.gov/html/dof/html/pub/pub_reports_other_tax.shtml.)

The bill, as amended, would permit the owner of every apartment that is now rent regulated because of the J-51 program to waive J-51 benefits and thereby deregulate the apartment.

These apartments are not just the previously and unlawfully deregulated apartments in otherwise-rent-stabilized buildings that were at issue in Roberts. They include, as well, apartments in buildings (such as buildings built after January 1, 1974) that only became rent regulated because of the receipt of tax benefits, and the hundreds of thousands of not-yet-deregulated apartments in buildings such as Stuyvesant Town that have now become exempt from deregulation but that are not in any way the source of any potential monetary liability to landlords.

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Cuomo supports rent regulations; Young bill would zap tenant victories

Two recent developments in Albany may herald a showdown on New York City's rent protections.

Governor Andrew Cuomo finally came out in May in support of extending the regulations, after having been silent on the issue since his campaign for office. Earlier, upstate Republican-Conservative Senator Catherine Young (from Olean, a city in Cattaraugus County), who heads the Senate's housing, construction and community development committee, has introduced a bill which is likely to be used as a bargaining chip to weaken whatever regulations are eventually passed (in July). Specifically, the Young bill (S4117-A) would reverse the recent court victories won by tenants in Stuyvesant Town, Peter Cooper Village, Independence Plaza and elsewhere. (See article, page 3.)

In May, the governor issued a video in which he said "There is no doubt that affordable housing is a building block of a strong community and a strong economy." He went on to say that to allow the rent regulation laws to expire would be "a crisis for our state." What we need to do, he continued, is to strengthen rent regulations.

At the start of the month, Young introduced a bill in the Senate to reverse, retroactively, the decision in Roberts v. Tishman Speyer properties, in which the Court ruled that landlords who received J-51 tax benefits must keep their apartments under rent stabilization, even if they later pay back the money illegally obtained.

Among other things, the bill "provides the opportunity for property owners to repay to the city of New York the amount of the J-51 benefits, plus interest, that they would have received from the city and to waive the amount of future benefits to which they would otherwise be entitled. The return and waiver of these benefits would remove the basis for subjecting these housing accommodations to rent regulation based on the application of the interpretation of the state Division of Housing and community Renewal ('DHCR')."

Although it is all but guaranteed that the state's Assembly, controlled by Democrats, will dismiss the bill, Republicans may use it as a "bargaining chip" in negotiations with the Governor & Assembly Speaker over the extension of the current rent laws.

Owners here may face harsher penalties on bedbug infestation

Landlords in the city may face harsher penalties for neglecting to deal effectively with bedbugs.

In May, city officials said they would start to issue abatement orders from the Health Department that impose harsher penalties than those levied by the Buildings Deparment.

Officials can also set landlord guidelines for pest control strategies, and can demand that owners apply those guidelines to buildings they own that are near the infected building.

Noncompliance may result in fines or even liens on their properties.

In spite of the concern that the infestation will harm the city's tourism--bedbugs have been reported in hotels, retail establishments, and movie theaters, among other places--health officials say the critters do not pose any significant danger to the population. The usual effects of bedbug bites are itching and related stress.

At present, tenants who complain that their landlords are shirking their responsibility with regard to the infestation can sue in Housing court.

In a related move, the City Council established a new online bedbug portal, which provides information on prevention, elimination, health issues and other aspects of the problem. The portal is available at http://www.nyc.gov/html/doh/bedbugs/html/home/home.shtml

Financial education, organizing, held key to effective M-L shareholder action

By Sonja Maxwell and Natalie Williams

Mitchell-Lama cooperative shareholders need to educate themselves on key financial issues, as well as to organize floor by floor and building by building, in order to forge themselves into an effective force when dealing with management or any threat to the continuation of their development, such as privatization.

At a co-op workshop at a recent MLRC general membership meeting, key financial concerns were explained as those that address the development's taxes, staff salaries, management overhead, water, and electricity. Each of these factors relates to the unit's carrying charges.

Shareholders were encouraged to network with other developments to take action on such potential threats as privatization efforts and any decision to borrow money without shareholder approval.

They were told they had the right to a yearly financial statement on the development, which goes into detail on how the funds are spent. In addition, they were encouraged to insist on meetings with management and the board of directors to discuss issues on a timely basis.

"Continue to outreach to our local legislators by visiting them in our neighborhoods and with trips to Albany," said one of the attendees at the meeting. "Ask representatives of HCR, HPD and HDC to speak to us regarding our issues."

Future workshop topics will include organizing a shareholders association, knowing your development's bylaws, asking the right questions, and shareholder rights and responsibilities. Other topics will center on dealing with entrenched boards of directors and managment, and keeping abreast of legislation pending in Albany.

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

Letter to the governor:

No more brinkmanship on tenant protections

*The following message, prepared by the NY**C** **chapter of the National Lawyers Guild**, was sent to Governor Cuomo on May 27, 2011. Signatories include MLRC, Met Council, Tenants & Neighbors and around 50 other organizations.*

On June 15th – less than three weeks from now – New York's rent protection laws will expire.

For decades it has been the practice of the city's powerful real estate lobby and their allies in Albany to stall renewal of these vital tenant protections until they are in a position to force midnight concessions – concessions that have come at a substantial cost to affordable housing.

Landlords' Sword of Damocles

Their strategy has been to hold the imminent lapse of the rent laws, like the Sword of Damocles, over the heads of nearly two million tenants residing in over one million rent regulated apartments. Legislators--fearful that a lapse of these protections will expose their constituents to massive rent hikes and displacement--have been forced to cave in to eleventh hour dictates. This recurring brinksmanship not only leads to poor policy choices; it is a cynical abuse of the democratic process. The historic pattern of manipulation is clear and consistent:

In 1993, on the eve of expiration, the governor entered the Senate Chamber at 11:57PM to enact a three day extender. During this brief period income tests were imposed on tenants for the first time along with vacancy decontrol provisions which would eventually lead to the loss of over 200,000 affordable apartments in New York City and the surrounding counties.

The primary beneficiaries of these amendments have been the exceptionally well off owners of already profitable buildings with high rent rolls. In addition to these changes, protections against owners who fail to timely register their rents were gutted, and overly generous increases for individual apartment improvements (which had been found to be excessive in a DHCR study) were locked in by statute.

In 1997, one of the most bitter legislative battles of the latter half of the 20th century resulted in a four day lapse of the laws beginning at midnight on June 15th. During that period the real estate industry was able to achieve a virtual doubling of vacancy allowances along with a special longevity rent increase; the elimination of nieces, nephews, uncles and aunts from succession rights; a lowering of income thresholds for deregulation; a gutting of the "four year rule," giving landlords a virtual license to continue overcharging any tenant who had been overcharged for four years or more; along with a number of other industry friendly concessions.

In 2003, according to Common Cause, the real estate industry pumped millions of dollars into the effort to dismantle rent and eviction protections. Following a series of one-day extender bills, the laws were again allowed to lapse. Just before dawn on June 20th the State Senate voted to renew the laws with a package of further concessions to the real estate industry and then left for the summer.

Faced with taking the Senate bill or allowing a permanent lapse, the Assembly was forced to capitulate. Again, the real estate industry gained by holding these bills hostage. And again, the tenants lost.

The ability of New York City to strengthen its rent laws, already restricted by the Urstadt law of 1971, was completely choked off; landlords were given the right to abolish preferential rent arrangements upon lease renewals in one fell swoop causing tens of thousands of apartments to face sharp increases; and the rules governing deregulation were further extended.

Owners seek to wreck tenant protections

There are obvious reasons behind these end-game tactics. For years, scores of legislators have benefited from millions of dollars in campaign donations from the city's real estate industry. Many of these legislators lack a single rent regulated apartment in their districts. They have no stake in the consequences of wrecking tenant protections for New York City and the surrounding counties. The support they give to the gradual demise of rent and eviction protections suggests that the industry has gotten a rather large return on its investment.

This destructive disconnect between the exercise of power and public accountability has had malignant consequences for housing policy. What have these "reforms" produced? In recent years New York City has experienced its worst housing affordability crisis in modern memory.

In 1970 the average tenant household devoted 20 percent of their income to rent. Today the average household pays over 31 percent of their income in rent. About one in four city tenants now devote over half their incomes to rent. Overcrowding rates have nearly doubled since 1975.

Record levels of homelessness

By 2010 homelessness approached record levels. The number of New Yorkers sleeping in city shelters surpassed thirty six thousand each night, including nearly fifteen thousand children. At the same time – during the greatest economic downturn since the Great Depression – owners of rent stabilized buildings have experienced steadily growing returns.

According to the New York City Rent Guidelines Board, while trillions of dollars were disappearing from the American economy in 2008-2009, net operating incomes of rent stabilized buildings actually rose by 5.8%. Repeated studies by the City's Rent Guidelines Board have shown that owners have effectively been immunized against rising costs and net operating incomes have expanded over the four decades of rent stabilization.

In sum, the concessions repeatedly engineered by the real estate industry's brinksmanship have been destructive to sound housing policy and constitute a serious attack on the democratic process.

In light of the foregoing, we call upon you, as governor, to use the full powers of your office to achieve a timely renewal and strengthening of the rent laws which face expiration on June 15th. We call upon you to directly and boldly challenge all who would hold the democratic process hostage with brinksmanship and midnight manipulations.

Memorial service for Bernice Lorde to be held in September

A memorial service for Bernice Lorde, a long time Mitchell-Lama resident and active member of the MLRC, will be held in September.

Bernice died in July 2010. For the exact date, time and place of the service, please check the MLRC voice mail (212) 465-2619, or the MLRC website: http://www.mitchell-lama.org/

Tenants rights: an alternative ideal of citizenship

By Roberta Gold
Visiting Assistant Professor of History, Fordham Unversity

The Ownership Society" is a phrase we associate with George W. Bush, but concerted government efforts to promote homeownership in the United States date back to the mid-twentieth century.

In that period, federal agencies and private business teamed up to make single-family, owner-occupied housing the American norm. In turn, the home-owner assumed the role of normative, or "solid," citizen. But all that is solid melts into air. *New York City's tenant movement, which spoke for the rights of renters not owners, posed a direct rebuttal to the nation's prevailing postwar ideology.*

Organized tenant struggle in New York began in 1904 with a rent strike on the Lower East Side. In that strike, as in several that followed in the next two decades, immigrants and children of immigrants formed the backbone of the movement. The socialist ideas that many of them embraced fortified their sense of entitlement to decent housing in a prosperous country. But these early struggles won few lasting gains.

Great Depression sparks militancy

The 1930s and early 1940s, however, marked a watershed. In housing as in labor, the Great Depression sparked growing militancy. New York's Communist cadre could be seen on the streets blocking evictions of tenants in arrears. And tenants who could actually pay rent gained rare leverage on what was usually a landlord's market. Local tenant councils proliferated. Often they shared personnel and resources with labor organizations.

This grassroots strength plus New Deal politics brought two significant victories for tenants. The first was public housing, authorized by New York State legislation in 1934. Public housing had become a leading plank for Progressive Era reform veterans, labor unions and New Deal liberals because it meant that the state would finally take responsibility for the dearth of affordable housing. New York's pioneering program would pave the way for other cities', and eventually the federal government's, public housing efforts.

The second victory was rent control. In 1941 the escalating world war persuaded President Roosevelt to impose price caps in cities with defense plants. New York tenants then engaged in their own war, a political one, to have those caps applied to Gotham's rents. In November, 1943, they prevailed.

But these housing protections, and the beliefs that supported them, would come into direct conflict with the nation's postwar ideology. Peacetime ushered in what historian Lizabeth Cohen calls a "national civil religion" of consumerism, preached fervently in both public and private sector pulpits.[1]

The first commandment was, "Thou Shalt Own Thy Home."

The political economy of homeownership

It is important to recognize that this ideal did not just happen; it was instituted by federal agencies working hand-in-glove with the realty and banking industries. Both the 1944 GI Bill and the 1949 Housing Act authorized federal insurance for banks offering home mortgages that required little money down. The new mortgage system and Levittown production techniques made private suburban housing suddenly affordable: in many cases it became cheaper to buy than to rent. The new policies would make the U.S. a nation of homeowners. Between 1940 and 1960, the country's homeownership rate leaped from 44 to 62 percent.[2]

The postwar suburban ideal worked symbiotically with the growing anti-Communist crusade, which held that private property was the essence of freedom. William Levitt himself said, "No man who owns his own house and lot can be a communist."[3] New homeowners latched onto this equation, claiming the mantle of legitimate citizenship based on their status as property owners.

Clash of renter and owner

In New York City, with its high rate of tenancy and its heritage of tenant activism, the clash between renter and owner agendas resulted in an atypical draw. Local tenants, through massive organizing, hung onto rent control when the rest of country lost it in 1950. But the new rent law gave Albany, rather than downstate, control of rates. Public housing officials started evicting Communists from the projects.

The nationwide wave of red-baiting and union-purging weakened the local left that had formerly undergirded tenant politics, and no citywide tenant organization survived the forties. As owners and developers moved to reconquer their old turf, tenants were hard-pressed merely to defend public housing and rent control.

They would be caught off guard by the next initiatives of propertied interests.

The signature postwar development initiative in cities became known as Urban Renewal. Under this banner, federal monies bought and bull-dozed working-class city neighborhoods so they could be rebuilt for richer (and often whiter) people. Put differently, at the very time when federal agencies were subsidizing the creation of mostly middle-class suburbs, they were also subsidizing the destruction of blue-collar city neighborhoods. (Indeed, both policies sprang from the same law, the 1949 Housing Act.)

Rallying against neighborhood destruction

New Yorkers rallied against such redevelopment in many neighborhoods: East Tremont, Harlem, Yorkville and Chelsea to name a few.[4] These fights, while rarely successful, were important for challenging the sanctity of property rights and owner prerogative.

Tenants' ability to tackle that precept squarely was surely a result of circumstance, but was also an intellectual inheritance of the left: many of the neighborhood protest leaders were Communists, former Communists or fellow travelers. They claimed a right to stay because of the community ties they had formed as renters, not owners. (The late tenant leader Esther Rand added, "Landlords are not the lords of the land; they are the scum of the earth.")

Urban Renewal catalyzed the formation of a new coalition, Metropolitan Council on Housing, in 1959. Many of Met Council's founders were erstwhile leaders of the neighborhood struggles against redevelopment: Jane Benedict in Yorkville, Bill Stanley in Harlem, Frances Goldin and Esther Rand on the Lower East Side, Jane Wood in Chelsea, and so forth.

Rising from the ashes

Thus Met Council rose from the ashes–or rubble–of anti-urban renewal actions. In the wake of local failure, these leaders sought to rebuild citywide tenant strength. Their work would include continuing to defend rent control, lobbying for more public housing, and helping individuals and building councils navigate the housing laws and courts.

While such advocacy helped thousands of New Yorkers win a measure of security, it was largely rearguard action in an era of blue-collar atrophy. And it did little to stem two particular tenant scourges: ongoing redevelopment of affordable neighborhoods, and abysmal maintenance,

(*Continued on page 7)*

Tenants rights: an alternative ideal of citizenship

(Continued from page 6)

especially in the ghettoes and barrios.

These conditions dovetailed with radical political impulses of the late 1960s to produce the squatter wave of 1970, a bold frontal assault on private property rights that recalled the Communist move-backs of yore.

Taking over warehoused buildings

The local Black Panthers and the Young Lords paved the way with take-overs of abandoned apartment buildings and ill-managed public facilities in the late sixties. But the squatter wave "proper" involved buildings that were anything but abandoned; they were being warehoused for profitable redevelopment.

The action started in May, 1970, when a Met Council member in Morningside Heights, with allies in the student left and radical groups of color, moved a low-income black family into an apartment that Columbia University was warehousing. Next an independent cadre of young Latino organizers broke into city-owned buildings in the Upper West Side Urban Renewal Area. Within weeks they had installed 150 needy families.

Takeovers of warehoused buildings followed on the Lower East Side, Chelsea, and elsewhere, often supported by seasoned Met Council organizers. As in the early twentieth century, immigrants – mostly Spanish-speaking by now–played a central role. And as in the early post-war redevelopment struggles, squatters rebutted the ideology of property rights with different legitimators drawn from the tenant experience: community membership, neighborhood history, and sweat, as many of them fixed up the dilapidated units where they intended to remain. Some squats succeeded and some failed, depending on who owned the buildings. City and private owners backed off from several demolition plans.

The 1970 squatter wave inspired innovative city programs to help tenants in delinquent buildings take charge legally and form low-equity co-ops. (The popular TIL, or Tenant Interim Lease, program, was a legacy.) These programs have spelled stability for thousands of low income New Yorkers, yet they contain an irony: they empowered tenants precisely by helping them to take title to their homes – and thus cease being tenants at all.

Thus the co-op programs reinscribed the privileges of ownership that had been tenants' bane all along. Notwithstanding the meaningful help these programs extended to vulnerable people, they were also a sign of tenants' dwindling ability to protect themselves as tenants.

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1. Lizabeth Cohen, *A Consumre's Republic: The Politics of Mass Consumption in Postwar America* (New York, Alfred A. Knopf, 2003), p. 127

2. Ibid., p. 123

3. Eric Larabee, "The Six Thousand Homes that Levitt Built," *Harpers*, September 1948, p. 84

4. Technically speaking, the East Tremont battle involved not "urban renewal" but a federally subsidized highway project that had a similarly devastating effect on the social fabric of the neighborhood.

Lawlor quits as state's housing chief after Cuomo installs own appointee

Barely a year after being appointed head of New York State's Homes and Community Renewal agency by former Governor David Paterson, Brian Lawlor resigned in June. According to media reports, Lawlor quit after being demoted by Governor Andrew Cuomo, who named his own appointee, former Brooklyn Assemblyman Darrell Towns, as commissioner. (See article this page).

In addition to his position as comissioner, Lawlor headed "nyhomes," an agency which included the state's finance and mortgage units.

For years prior to his appointment by Paterson, Lawlor had held other high level positions within DHCR. His most recent responsibilities included efforts to promote affordable housing while reducing costs.

A Capitol News report cited sources as saying that Lawlor might seek a housing position in New Orleans.

Wambua, Towns head gov't housing agencies

Mathew M. Wambua, formerly the executive vice president of New York City's Housing Development Corporation, was named chief of the city's HPD in April. In February, Darrell Towns, an Assemblyman, was named head of the state's Housing and Community Renewal (formerly DHCR).

Wambua, 40, born in Kenya, replaces Rafael E. Cestero, who will accept a position with L & M Development partners, a private developer specializing in affordable housing.

Wambua has served in the Bloomberg Administration, and has taught commercial real estate finance at NYU. He holds degrees from the University of California, Berkeley, and Harvard.

Towns' new responsibilities will include heading the Housing Finance Agency and the State of New York Mortgage Agency.

Towns has represented the 54th Assembly District since 1992. During his tenure in the New York State Legislature, he spearheaded the ANCHOR Program, which helped bolster commercial revitalization in residential communities throughout the boroughs of New York City and support the increase of newly constructed housing developments.

He currently chairs the New York State Assembly Standing Committee on Banks and the New York State Black, Puerto Rican/Hispanic and Asian Legislative Caucus.

Senior centers spared axe at least for a year

To the delight of hundreds of older New Yorkers, 105 senior citizen centers slated to close for budgetary reasons were spared the ax in March, at least for a year.

An agreement between Governor Cuomo and the legislature restored $25 million, which the state contributes to federal financing, known as Title XX, for the centers.

Seniors themselves had been active in organizing to prevent the shutdowns. In lower Manhattan, for example, members of the Caring Community Center, located in Independence Plaza North, secured several hundred signatures on a petition to halt the cutbacks.

Some of the centers provide hot meals as well as a variety of classes in such areas as computer instruction, physical exercises, and arts and crafts.

Crime pays--or would, under bill introduced by Senator Young

(Continued from page 3)

It is impossible to overstate the magnitude of the unearned windfall that would be given to landlords under this bill, or the devastation that would threaten the hundreds of thousands of tenants who are now protected because of the J-51 program.

Making regulation an illusion

The rent regulatory obligation that is the principal thing the public is supposed to receive in exchange for spending billions of dollars on J-51 benefits would become an illusion. In those buildings that are solely regulated because of J-51 benefits, any tenant who succeeds in challenging an illegal rent would find the rules change on the landlord's mere say-so, simply by means of the repayment of J-51 benefits.

There would no longer be any meaningful consequence if the landlord refuses to register the rents, refuses to notify the tenants of the receipt of benefits, refuses to provide renewal leases or refuses to make repairs. No matter what the landlord might have done, and no mater what he or she might have been found guilty of doing, all he or she would have to do is write a check, and the tenant's rights would instantly disappear.

This windfall goes far beyond limiting landlords' potential liability for overcharges under [the] Roberts [decision]. By holding that apartments in J-51 assisted buildings cannot be deregulated, Roberts extended a shield of protection around hundreds of thousands of working-class tenants who now pay affordable rents and who would otherwise be targeted for harassment, threats and baseless eviction proceedings.

Roberts took away a significant part of the incentive that has driven owners to resort to illegal tactics to obtain vacancies. The elimination of that incentive did not, by itself, cost any landlord any money.

Nevertheless, the bill's sponsors now wish to paint a fresh target on the backs of these tenants. The stated rationale of

> ***'owners began deregulating before there was ever any legal authority supporting it'***

the bill does not apply to these categories of housing. No-one can seriously argue that the owners of buildings and developments such as Independence Plaza North (IPN), that are regulated only because of the receipt of J-51 benefits, had any expectation under existing law that they would be exempt from rent regulation. Perhaps that is the reason why Laurence Gluck, the owner of IPN, when confronted with the fact that the development was receiving J-51 benefits, a fact he had been keeping secret from the tenants and from regulatory authorities for years, acted exactly as you would expect someone to act when caught red-handed.

He attempted to cover up the receipt of benefits, arranging in private meetings

> ***'. . .existing law already places enormous obstacles in the path of tenants seeking to recover overcharges'***

with City officials to waive them, while falsely telling the tenants and the courts that he never got them in the first instance.

He knew, as every landlord receiving benefits should know, that the *quid pro quo* is rent regulation.

Even if the bill were one that fit within its stated rationale, it would still be an insult to the American ideal of the rule of law. The Roberts case was decided one and a half years ago, and, notwithstanding the predictions of the real estate industry, the world has not come to an end. The same landlords who have asked the legislature to relieve them from overcharge liabilities have claimed, in court proceedings that are ongoing, that they have no liability to worry about.

They have come to court armed with all of the protection they might reasonably want, since existing law already places enormous obstacles in the path of tenants seeking to recover overcharges. If there were any truth to their claims of having relied on DHCR regulations as a basis for deregulation, then they would be able to use that argument to avoid having to pay treble damages.

As numerous owners have pointed out in their court filings, they are presumptively entitled to charge rents based on the inflated and often illegally deregulated rents they were charging four years before they were sued. This presumption is overcome only when there has been a showing of fraud. Surely the legislature does not wish to give its imprimatur to fraud. The rationale of the bill is based upon a myth. It was never legal to deregulate apartments in J-51 assisted buildings. As noted above, the pre-1993 law that required that "all" apartments in J-51 assisted buildings remain regulated was never changed.

As the Court of Appeals said in Roberts, the plain meaning of the statutory language indicates that J-51 assisted apartments are exempt from deregulation, an obvious conclusion when the deregulation statute is read together with the laws and regulations governing the J-51 program. DHCR's initial reaction to the 1993 deregulation statute was to hold that all assisted apartments were required to remain regulated.

The sponsors' contention that landlords began deregulating apartments in J-51 buildings in reliance upon binding DHCR rulings, is also a myth. The sponsors admit that "the deregulation of those apartments occurred since 1993." It was not until 1996 that DHCR issued a private, non-binding opinion letter approving of the deregulation of any J-51 assisted units, and there is no evidence that anyone but a few insiders knew about it.

It was not until December 2000 that DHCR adopted regulations that would explicitly permit deregulation in J-51 assisted buildings, and they were described at the time as a change in the law. After their adoption there were still two contradictory sets of regulations on the books, those of HPD (requiring that "all" apartments remain regulated) and those of DHCR.

In the face of what was still an uncertain legal picture, owners plunged heedlessly

> ***'Roberts took away a significant part of the incentive that has driven owners to resort to illegal tactics* to obtain vacancies.'**

into deregulation, without ever seeking a court ruling on the issue. As the sponsors admit, they began deregulating apartments before there was ever any legal authority supporting it.Now the owners who took that risk are seeking a legislative bailout.

Their request should be denied. If they get a bailout they will expect, based on experience, to be relieved of the consequences of ever more risky challenges to the obligations imposed by the rent laws. They should not be rewarded for having disregarded their clear legal obligations.

MLRC to co-host street fair on Columbus Ave, June 19

The Mitchell-Lama Residents Coalition, in conjunction with the West Side Crime Prevention Program, is sponsoring a block fair on June 19, between 86th and 96th Streets, Manhattan, from 11 a.m. to 6 p.m. Look for the MLRC table.