



# MITCHELL-LAMA RESIDENTS COALITION

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

## ***Biden's affordable housing plan: restarting federal programs, more funding for nonprofits, curbing FHA sales to investors***

In its first major [announcement](#) addressing the dearth of affordable housing in the nation, the Biden Administration in September listed a series of steps that it plans to undertake immediately.

The plan includes, among other initiatives, increasing funding to state housing offices by restarting cooperating programs among various federal agencies, emphasizing the sale of government-insured properties to individuals instead of large investors, and increasing the Low Income Housing Tax Credit Investment Cap.

Following is an edited version of the White House announcement.

- Relaunching the partnership between the Department of Treasury's Federal Financing Bank and the Department of Housing and Urban Development Risk Sharing Program [terminated by the Trump Administration] in order to enable eligible state housing finance agencies to provide low-cost capital for affordable housing development.

- Raising Fannie Mae's and Freddie Mac's equity cap for the Low-Income Housing Tax Credit, the largest federal program for the construction and rehabilitation of affordable rental housing.

- Making more funding available to Community Development Finance Institutions and non-profit housing groups for

affordable housing production under the Capital Magnet Fund.

- Make more single-family homes available to individuals, families, and non-profit organizations – rather than large investors – by prioritizing homeownership and limiting the sale to large investors of certain FHA-insured and HUD-owned properties,

- Relaunching the Federal Financing Bank and HUD Risk Sharing Program: To expand the supply of affordable multifamily rental housing. Treasury and HUD have finalized an agreement to restart the Federal Financing Bank's support of HUD's Risk Sharing program, which was suspended in 2019.

- Increasing Fannie Mae and Freddie Mac's Low-Income Housing Tax Credit Investment Cap from \$1 billion per year to \$1.7 billion.

- Prioritizing Homeownership in the Sale of FHA-Insured Properties

- Promoting the Sale of Distressed HUD Properties to Non-Profits

- Improving Outreach to Non-Profits for Real Estate Owned Sales

- Exploring Federal Levers to Partner with States and Local Governments to Reduce Exclusionary Zoning.

*(Continued on page 8)*

## **Co-op voting rights bill promoted at M-L Zoom meet**

The bill to protect and enhance the voting rights of Mitchell Lama co-op residents, formally known as A7272, was strongly supported by several state representatives at a meeting held jointly in September by four groups of M-L resident organizations. The Zoom meeting was also attended by 120 residents.

Essentially, the bill, which was passed in June by both the state assembly and senate and is now awaiting the governor's signature, guarantees secret ballots during elections for board members or actions related to privatization, and imposes a strict limit on when such plans can be re-offered.

Such actions include motions to dissolve the mutual housing company, authorizing a feasibility study for a M-L co-op to go private, offering a plan to go private--known as red herrings or black books--or submitting any document "offered in place of an offering plan as permitted by the attorney general."

The bill further guarantees that shareholder elections to the board shall be conducted by secret ballot, either as cast at the voting site or by absentee ballot. Companies must mail such ballots to shareholders who request them at their primary residence.

Further, shareholders who may be behind in their payments cannot be prevented from being a candidate for service on the board, unless the amount of arrears is more than two months of the monthly maintenance charge.

Regarding financing of feasibility studies,

*(Continued on page 8)*

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

**MLRC**  
**General Membership Meeting**  
**October 16, 2021 at 10 a.m.**

**Note: During the Covid-19 pandemic, the meeting will be held online via Zoom.**

**Members will be informed by regular mail**

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

Mitchell-Lama Residents Coalition  
PO Box 20414  
Park West Station  
New York, NY 10025

## New senior housing, built by women's firm, opens in Bronx with all units affordable

An apartment building consisting of one hundred fourteen units--all affordable and all set aside for seniors--was formally opened in Bronx at the end of September, at 1490 Southern Boulevard in a ribbon cutting ceremony.

The ceremony was occasioned by the fact that the building was constructed by a women-owned business enterprise (WBE) in collaboration with the JASA (Jewish Association for Services to the Aged). The construction company is Type A Real Estate Advisors.

The Bronx development is the first of six projects within a plan announced by Mayor Bill de Blasio to promote both women-owned companies and affordable housing.

Tenancy in the new building will be limited to households earning up to 50% AMI.

Thirty percent of the apartments will be set aside for formerly homeless older adults. One apartment will house a superintendent.

JASA, a large manager of senior housing, will manage the building and will provide onsite staff to facilitate the health and social service needs of the residents.

Bernheimer Architects, an award winning architectural firm, led the design team.

In a press release announcing the ceremony, HPD said that "In addition to the 114 affordable homes, the building features amenities such as 3,600 square feet of community and social service space for residents, a large 2nd floor garden for passive recreation, a fitness center, laundry facilities, and a 2,500 square-foot landscaped and furnished terrace with inspiring city views."

## City to receive \$15 million to combat youth homelessness

New York City will receive \$15 million from HUD to develop a system to end youth homelessness, the federal agency announced in September.

The award is part of a series of grants for the purpose, delivered to thirty-three rural and urban areas throughout the country.

Grants will fund "a wide range of housing programs including rapid rehousing, permanent supportive housing, transitional housing, and host homes," according to a HUD announcement.

"The COVID-19 pandemic has exacerbated nearly every crisis in our society, including the crisis of youth homelessness," said Secretary Marcia L. Fudge. "Our society is judged by how

we treat the most vulnerable among us. We have a responsibility in our nation to care for all our children and with this funding, HUD is taking steps to make sure that every child under our care has a safe place to call home."

Technically known as the Youth Homelessness Demonstration Program, it was developed by HUD in cooperation with the departments of Health and Human Services, Education, and the U.S. Interagency Council on Homelessness.

The communities involved will coordinate with youth advisory boards, child welfare agencies, and other community partners "to create a comprehensive community plan to end youth homelessness," the announcement said.

## UPCOMING EVENTS

### MLRC General Membership Meeting

October 16, 2021, 10 a.m.

**Note: During the Covid-19 pandemic, the meeting will be held online via Zoom**

**Members will be informed by regular mail**

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

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## JOIN THE MITCHELL-LAMA RESIDENTS COALITION 2021

INDIVIDUAL: \$15 per year; DEVELOPMENT: 25 cents per apt  
(\$30 Minimum; \$125 Maximum)

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_

Evening phone \_\_\_\_\_ Day phone \_\_\_\_\_

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

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

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

Development \_\_\_\_\_

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, NY 10025

## Study: Apartments in M-L developments often stay vacant beyond allowable time

In the face of a crushing lack of affordable apartments in the city, the department of Housing Preservation and Development has allowed hundreds of Mitchell Lama apartments to remain vacant for more than the permissible one hundred and twenty days--some as long as a year, and a few for more than three years.

These are among the findings of a new report conducted by the New York State Comptroller's office during the summer.

In the report, the Comptroller notes that HPD is not only required to fill vacancies within one hundred twenty days, but to explain in writing for any delay beyond that time, and to provide a "plan of action" to resolve whatever problem was causing the delays. In many cases, the Comptroller said, the agency fails in these obligations.

Following is a slightly edited copy of the published report, which covered the calendar year 2019 and HPD's actions through March 12, 2021.

### Key Findings

- HPD does not adequately monitor developments to ensure their compliance with the requirements of its 2017 Directive [which establishes the 120-day rule].
- Despite the scarcity of affordable housing, vacant apartments were generally not filled within the 120-day time frame, with 1,286 apartments taking, on average, 222 days to fill, including 214 that remained vacant for a year or longer.
- As of December 31, 2019, seventy-eight developments reported 670 vacancies, 371 (fifty-five percent) of which had been vacant for over one hundred twenty days, including 111 apartments vacant for over a year and eight apartments vacant for more than three years.
- We estimate that protracted delays in filling apartments cost the developments about \$9.1 million in unrealized income as of December 2019.
- Of a sample of forty-nine vacancies from the December 31, 2019 quarterly reports, twenty were still vacant as of February 9, 2021, including four three-bedroom apartments in the Bronx, each with a monthly rent of less than \$2,000.
- At one development – Lindsay Park in Brooklyn – fifteen apartments

had been vacant for as long as thirty years.

- HPD does not enforce the requirement for developments to submit plans of action for apartments vacant for over 120 days, nor does it have evidence that it follows up with developments for status updates.

- Developments' quarterly vacancy reports are not submitted to HPD in an analysis-friendly format, which compromises their value as a monitoring tool.

### Key Recommendations

- Obtain and analyze the vacancy reports to identify developments that consistently have delays in filling their vacant apartments, and work with these developments to identify issues and improve performance.

- Improve monitoring of developments with vacancies greater than 120 days and ensure they provide a plan of action to fill the apartments, and follow up with developments to ensure compliance with the plan.

## \$400 million in back rent distributed to landlords

COVID-related emergency rent assistance had amounted to nearly \$400 million by mid-September, according to an announcement by New York State Gov. Kathy Hochul's office. The funds will go directly to landlords.

As of September 15, tenants who earn between 80 and 120 percent of the area's median income became available for the assistance from the Emergency Rental Assistance Program. This represented a change from the prior policy, which focused on lower-income tenants, namely those earning at or below 80 percent.

The governor's announcement amounted to a response to complaints from both tenants and landlords that the state was lethargic in distributing the \$2.7 billion funds in the program.

ERAP provides funds for rent and utility arrears for up to a year, plus an additional three months for "prospective rent." An eviction moratorium passed in September, which protects tenants through mid-January 2022, allows for additional funding from the program.

The governor had earlier announced the state would dedicate \$1 million for marketing and outreach efforts to alert residents of the program.

## Alicka Ampry-Samuel, Bklyn Councilwoman, to head NY HUD Office

Alicka Ampry-Samuel, a councilwoman representing sections of Brooklyn's Bedford-Stuyvesant, Ocean Hill-Brownsville, East Flatbush, and Crown Heights communities, and a former senior advisor to NYCHA, will become the new head of HUD's Brooklyn office.



Having grown up in a NYCHA project in

Brownsville, she went on to earn a Juris Doctor degree from CUNY School of Law. She most recently served as chair of the City Council's public housing committee.

Her background includes community organizing, managing a human rights portfolio for the US Embassy in Accra, and serving as chief of staff to a NYS assemblywoman, among other activities.

She will take charge during a period of some turmoil in NYCHA, with reports--and lawsuits--about the authority's dilapidated apartments, a recent indictment of nine contractors for allegedly bribing NYCHA superintendents, and the lead paint cover-up scandal, which has resulted in the authority being placed under federal monitorship.

The New York office of HUD has jurisdiction over housing authorities throughout the state and in New Jersey.

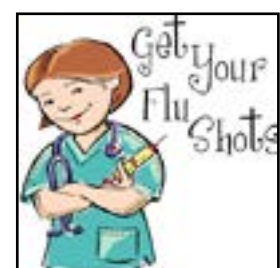
Her appointment was promoted largely by Charles Schumer, the majority leader of the US Senate.

### Anita Laremont to head CPC

In a concurrent move, Mayor Bill de Blasio appointed **Anita Laremont** as chair of the City Planning Commission and director of the Department of City Planning. She succeeds Marisa Lago, who was tapped by the Biden Administration for a post at the US Commerce Department.

Laremont had served as the department's executive director since 2018, four years after her appointment as general counsel.

Her background includes service as a partner at the law firm Harris Beach and general counsel of the Empire State Development Corporation.



## Owners lose once again in effort to oust anti-eviction law

Landlords suffered yet another defeat this fall in their effort to declare New York State's eviction moratorium invalid, as the US Court of Appeals for the Second Circuit dismissed a lawsuit by five New York landlords against the state's amended moratorium, known as the [Housing Stability and Tenant Protection Act](#).

The law bars owners from refusing to rent to tenants based on the tenant's history in housing court, and prevents them from evicting or otherwise penalizing tenants who voice complaints about conditions in the building, among other prohibitions.

The state legislature had amended the moratorium law after the US Supreme Court found one aspect--not the entire law--unconstitutional.

That aspect pertained to a tenant's requirement to merely declare financial hardship, rather than having to provide evidence in court.

The amended law allows a landlord to challenge the tenant's declaration in housing court.

To the owners, this change was insignificant. They immediately filed a new suit, which has since been dismissed by the US Court of Appeals for the Second Circuit.

In previous lawsuits, the owners had argued that the law unconstitutionally deprived them of their property rights.

In one such case, Federal Court Judge Kenneth Karas found that the owners' complaints were without merit, that is, that they failed to demonstrate that the law caused them substantial impairment or harm.

In the three previous lawsuits against the pro-tenant reforms, all judges found that the laws were well with the constitutional powers of the legislature to enact them.

Overseas report:

## Berliners approve referendum for city expropriation of housing

Soaring rents and the resulting gentrification and displacement are not confined to the United States. In Berlin, the severity of the rental situation has become so severe that, in September, Berlin residents heavily approved a referendum that, if enacted into law, would require the municipal government to purchase around three thousand buildings comprising around 240,000 homes, and keep them under public ownership.

The referendum, resulting from years of organizing, passed by a margin of 56 percent to 39 percent, according to [Common Dreams](#), an online progressive news source.

The battle for public ownership of

the buildings, however, is not over, because the referendum is non-binding--the city government still has to pass a law to legalize it.

As such, "fierce opposition is expected and organizers will likely need to put sustained pressure on Berlin's elected officials in order to ensure the city passes a law that turns the plan into reality," according to a campaign spokesperson.

"For years, Berlin's rental market has been going berserk," the campaign noted, adding that wages have not kept pace. "That is why more and more people are affected by displacement. . . . We seek to end the rental insanity."

## NYC ousts Harlem men's shelter owner

Aguila, Inc., an organization that operates a shelter for homeless men on West 110th Street in Harlem, will be removed from the hotel by the city's Department of Homeless Services for safety and health concerns, according to an article in [City Limits](#).

The nonprofit had once been one of the largest operators of the shelters in the city, managing some forty facilities open to homeless single

adults and families.

The building on West 110th Street is owned by the Podolsky family--infamous for harassing Single Room Occupancy tenants, mostly rent-controlled, out of their apartments for high rent renovation.

Although Aguila will be out, the Harlem shelter itself may still be operated by another provider.

## Nearly half of NYC tenants find rent burdensome

Almost half of New York City's tenants are paying more than the standard thirty percent of their income on rent, and an additional fifth either can't pay their rent in full or at all.

In a study released by Propertynest in August, 45.4 percent of tenants reported that they have to pay between thirty-one and fifty percent of what they earn to the landlord. An additional quarter have to pay even more, that is, between fifty-one and seventy-five percent of their earnings, to afford shelter.

Authors of the survey noted that "Allocating more than 30% of income towards rent automatically increases the vulnerability of renters, especially if they live paycheck to paycheck."

Further, "Female respondents also edged out men when it came to paying more than 75% of their income to rent and those who could not pay in full."



## MLRC Developments

These developments are members of the  
Mitchell-Lama Residents Coalition

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

Donations above membership dues are welcome

Adee Towers	Assn
Amalgamated Warbasse	Meadow Manor
Arverne Apartments	Michelangelo Apartments
Bethune Towers	109th St. Senior Citizens Plaza
Castleton Park	158th St & Riverside Dr. Housing
Central Park Gardens	Parkside Development
Clayton Apartments	Pratt Towers
Coalition to save Affordable Housing of Co-op City	Promenade Apartments
Concerned Tenants of Sea Park East, Inc.	RNA House
Concourse Village	Riverbend Housing
Dennis Lane Apartments	River Terrace
1199 Housing	River View Towers
Esplanade Gardens	Rosedale Gardens Co-op
Franklin Plaza	Ryerson Towers
Independence House	Starrett City Tenants Assn
Tenants Assn	St. James Towers
Independence Plaza North	Strykers Bay Co-op
Inwood Towers	Tivoli Towers
Jefferson Towers	Tower West
Knickerbocker Plaza	Village East Towers
Linden Plaza	Washington Park SE Apts
Lindsay Park	Washington Square SE Apts
Lindville Housing	Westgate Tenants Assn
Lincoln Amsterdam House	Westgate
Manhattan Plaza	Westview Apartments
Marcus Garvey Village	West View Neighbors Assn
Masaryk Towers Tenants	West Village Houses

**Battle over privatization**

# The East Midtown Plaza Story

by Jay Hauben

**E**ast Midtown Plaza is a 748-unit Mitchell-Lama cooperative comprised of six buildings between First and Second avenues and 23rd to 25th streets. It has balconies and exterior walkways and there is a landscaped plaza linking the buildings, creating an urban park. Construction of all buildings was completed in 1974,

Since the 1990s, its cooperators have been in an almost constant battle over privatization.

One way or another the anti-privatization cooperators have been able to defeat privatization efforts in 2002, 2006, 2009 and 2012. The latest effort to privatize started in 2016 when a vote to fund a new feasibility study passed. It was followed in 2019 when a vote to fund a draft of an offering plan also passed.

**New red herring**

The most recent step in this process occurred on December 18, 2020 when the board released a draft of a 506-page red herring--a formal plan, or offering, to convert to private ownership. This motivated a group of EMP cooperators to organize to keep the complex in the Mitchell-Lama program. They started to meet to take on the challenge, and then sought help from Cooperators United for Mitchell-Lama (CU4ML). The pro-Mitchell-Lama cooperators named their group EMP4ML.

They discovered that a New York State law, the Martin Act, requires the Attorney General (AG)'s office to ensure that cooperators are informed of the benefits of being in the Mitchell-Lama program, and all the risks involved in the change from a Mitchell-Lama to a private co-op.

The law also requires the AG's office to safeguard the cooperators from fraud and deception. And it gives cooperators four months to document for the AG's office what they find wrong with the red herring.

After all EMP4ML members read the red herring, they sent letters to the AG's office arguing that the offering plan's financial projects were stale, highly speculative and did not take into account likely market changes due to the pandemic.

They also pointed out that EMP is far from a luxury building and requires multiple repairs and updates. It is doubtful, they said, that EMP apartments can yield the projected sales prices in the red

herring based on sales on more contemporary luxury apartments with numerous amenities.

While the red herring projected success of the private co-op for one year, the EMP4ML cooperators pointed out the need for longer range budget projections. They cited the Southbridge co-op economic disaster which was not apparent until five years after that development's privatization.

They also contacted their local elected officials to intervene on their behalf and help them get a fair hearing by the AG's office.

**Attorney General's rejection**

On April 30, 2021, the AG's office rejected the red herring. Scrutinizing the red herring, the AG also considered submissions from the defenders of the Mitchell-Lama program documenting errors, efforts at deception, and inadequate descriptions of serious risks when a co-op leaves the program and becomes private.

The AG's office sent the development's board a twenty-page letter documenting what it called 133 "deficiencies" in the board's red herring. The elected officials let the EMP4ML know about the deficiency letters.

Will the AG's office reconsider its rejection? Perhaps, but only if the Board corrects all deceptions and weaknesses in describing the real economic risks to each cooperator if EMP goes private. For example, the AG's office found that the EMP Board's red herring did not tell the cooperators that if EMP goes private, carrying charges can only stay affordable for a period of time.

After this small victory, the EMP4ML cooperators discovered that there were copies of the red herring booklet still lying around in the building mail areas. Although the rules require that the Board prove it has delivered a copy to every cooperator to ensure all cooperators have a chance to read it and comment, the EMP4ML cooperators sent the AG evidence that not all cooperators were served with a copy. After investigating, the AG found that the Board indeed failed to provide service to all cooperators. The AG then ordered the EMP Board to start the process over by serving copies to all cooperators and giving them four months to comment.

As of this writing (2021), the chal-

lenge is not over. The EMP4ML cooperators know that 250 cooperators will need either to vote NO or to abstain if the privatization is to be defeated again. They have begun to plan ways of helping their fellow and sister pro-M-L cooperators to stay strong while winning over those who now might not be sure. Having worked together and gotten this far, they are continuing the fight with increased optimism.

**Eviction protection tips for tenants**

**A**lthough the New York State legislature extended the eviction moratorium until mid-January, tenants still need to follow certain procedures to comply with the law.

The first step is to complete an eviction protection form, which is available online at <https://www.eviction-freeny.org/en/>

However, it is important to stress that the form itself does not prevent landlords from suing. Tenants who are sued will get notices from both the landlord and the court, along with a court date. At the hearing, a judge will decide the case.

Incidentally, tenants who have not already submitted a hardship declaration form should apply for the Emergency Rental Assistance Program to receive up to twelve months of back rent and utilities.

If your case comes to court, you will need to show proof that you have experienced financial difficulties during the pandemic. Therefore, as suggested by the online news source The City, it is advisable to collect such items as paycheck stubs, unemployment receipts or records, various bills, and so forth.

If you do not have an attorney, you may be eligible for the city's Right to Counsel program, depending on your income. You will need to earn less than two hundred percent of the federal poverty amount, which is \$43,920 for a family of three.

In any event, it is important to keep in mind that the moratorium does not absolve tenants of the obligation to pay rent. It merely allows more time to do so.

More information and assistance may be available from Tenants and Neighbors at (212) 608-4320 or by email at [questions@tandn.org](mailto:questions@tandn.org)

## As NYC's storefront abandonments spread, is commercial rent regulation on the horizon?

**W**ill commercial rent regulation ever become a reality in New York City? According to a report on WNYC, the City Council's committee addressing the financial plight of small businesses in the pandemic is considering just that potential remedy, as neighborhood after neighborhood experiences escalating vacancies in storefronts, both the traditional Mom and Pop variety and the more recent chains, including supermarkets.

### Causes of the blight

The most current cause of the abandonments, of course, is the pandemic, as customers either sequestered themselves or refused to enter small enclosed spaces.

But for about two or three years prior to the outbreak of Covid-19, neighborhoods like the Upper West Side, stretches of east midtown in Manhattan, and various areas of Brooklyn began to experience what some have called a "commercial desert," abandonment caused primarily by ever-escalating rents.

Councilman Stephen Levin, who represents a wide swath of Brooklyn including Fulton Ferry, Greenpoint, Williamsburg, Boerum Hill and others, introduced legislation seeking commercial rent regulation about two years ago.

"We want to be able to have a just recovery," he said on the radio broadcast. "Not just to the property owners, but also to the small businesses."

Levin noted that commercial owners can reap enormous financial benefits from evicting traditional stores, ranging from bodegas to shoe stores to small supermarkets, by offering the space to mega-corporations, such as banks.

Ironically, so far as banks are concerned, a combination of the pandemic and the increasing prevalence of online and mobile banking is causing the financial institutions themselves to shutter their storefronts.

A prime example is Capital One. As far back as February 2020, when the Covid-19 pandemic was in its earliest stages, the banking giant announced plans, which have since been realized, to close dozens of stores throughout the country, including in New York City. If enough other banks follow suit, the landlords who evicted the small store owners in the hope of enticing high-paying bank tenants may well have won a Pyrrhic victory.

Still, the issue of commercial rent regulation is generating increasing attention, especially, and predictably, among building owners.

### Landlords' response

James Whelan, the president of the Real Estate Board of New York, warned that the imposition of rent regulations would hurt small businesses. "Enacting commercial rent control even as taxes and other costs continue to rise," he said, "would only lead to more vacant storefronts by incentivizing owners to avoid deals with small businesses and pop-up tenants and instead wait for larger, more established tenants."

That argument is similar to the real estate lobby's long opposition to residential rent regulations. Owner associations have historically argued that such regulation would hurt tenants, because it would force owners to abandon their properties, thereby exacerbating a housing shortage.

Such a scenario, however, has never occurred. When abandonment was indeed rife in areas of the Bronx and Manhattan's Lower East Side during the 1970's, for example, the proximate cause was an epidemic of arson, where building owners, according to community activists, sought to benefit from both insurance and the absence of controls on newly constructed buildings. According to the [Bronx River Alliance](#), "The media made it sound like the residential kids were interested in arson and how nefarious they were. But the landlords who paid for their buildings to get torched were never the topic of discussion. There were virtually no consequences for this since landlords did not have to fix the buildings. They could simply take the money and walk away."

### Co-op opposition?

But traditional landlords are not the only opponents to commercial rent controls. According to the WNYC broadcast, some co-ops and condos who offset their costs by renting to small businesses may also resist regulation, fearing a reduction in their income. Many shops in such buildings have also vacated.

In any event, the concept is rapidly gaining traction, at least in the political arena. For example, the Levin bill, which has twenty-four sponsors, was the topic of a bitter dispute at the Council in September. And Councilwoman Helen Rosenthal of the Upper West Side has offered her own proposal that would provide a ten percent limit on commercial rent increases for the first year.

Both proposals, if not others, are likely to become increasingly public, so long as the blight of storefront vacancies continues.

## Q & A on Mitchell-Lama

By Dov Treiman, managing partner,  
Adam Leitman Bailey, P.C.

Reprinted from *CooperatorNews New York*

**Q:** I have lived in a Mitchell-Lama co-op since 1992 and never received a copy of the complete house rules. I have been assaulted by a neighbor's husband; he is not a tenant on record yet lives here and is a very dangerous person. Does the Department of Housing Preservation and Development (HPD) investigate the background for all family members before granting approval? And is the resident required to show his income to HPD?

**A:** "In a Mitchell-Lama cooperative, HPD does not do background checks on family members at any time.

It is entirely up to the cooperative board to determine what kinds of background checks they do and do not want to do before processing purchase applications. Since cooperatives are actually landlord-tenant relationships (appearances to the contrary notwithstanding), the new laws passed in 2019 severely constrict the fees that Mitchell-Lama cooperatives can charge for these checks.

While few boards did background checks on family members even before these laws, the \$20 limitation on fees the board can charge makes such checks prohibitively expensive, especially in a Mitchell-Lama development, where there are serious restrictions on how expensive the facility can be and how much money the board can gather for its needs.

### Household income reports

Annually, each Mitchell-Lama cooperator must report to the board the total household income for those who are living in the apartment. Failure to do so can result in serious increases to the maintenance fees the board charges for the apartment, sometimes pentuple what the normal maintenance is.

Failure to report these sums accurately is grounds for evicting a cooperator, although the Housing Court usually allows late filings to correct matters. However, fraudulent filings are generally not forgiven.

Although the reader did not ask, readers should also want to know that  
(Continued on page 8)



## Affordable housing news from around the nation

### National: Covid-caused rent arrears surpass \$16.8 billion, threatening mass evictions

A review of census data by National Equity Atlas found that of the first week of August 2021, more than six million households, or around fifteen percent of all renters, were behind in their rent, and are thus in danger of imminent eviction, largely because of economic dislocations caused by the Covid-19 pandemic. The amount of arrears jumped to nearly seventeen billion dollars.

Of these households (which include nearly seven million children), more than 830,000 are in New York State, primarily in New York City. Although a Supreme Court ruling in August declared a key section of the state's eviction moratorium unconstitutional, in September the legislature amended the act to meet the objection, and extended the moratorium to January 15, 2022. After losing several of their court cases, the owners sued again, alleging the amended law was still unconstitutional. That suit was dismissed in late September by the US Court of Appeals for the Second Circuit.

### National: House Committee bill includes \$ billions for vouchers, public housing

The House Financial Services Committee in September introduced an infrastructure and economic recovery package that includes \$90 billion for rental assistance, including \$75 billion for Housing Choice Vouchers and \$15 billion for Project-Based Rental Assistance, along with \$80 billion to preserve public housing. As of this writing, the bill has not been passed.

### Denver: Five-year plan to address homelessness

After a year of public hearings, the Denver government has released a five-year plan to address homelessness in the city. Among the goals are creating and preserving seven thousand homes; preserving 950 lower-income rentals; ending veteran homelessness; reducing eviction filings by twenty-five percent; addressing gentrification through prioritizing affordable housing for those in danger of being forced out by new developments; and increasing homeownership among lower-income people, especially Black, Indigenous, and other people of color.

### Boston: City bans evictions after SCOTUS ruling

Boston has banned all evictions in the city for the foreseeable future. The ban was

announced days after the Supreme Court invalidated the national eviction moratorium imposed by the Center for Disease Control. Along with the ban, the city announced a five million dollar fund for small homeowners facing foreclosure. The eviction ban was hailed by epidemiologists, who have argued that evictions can spread Covid-19 because evicted tenants often move in with relatives or friends in tight quarters, or into crowded shelters.

### San Jose: Proposal to allow low-cost housing near churches

City officials are proposing a plan to allow developers to build affordable housing near houses of worship and other places where people congregate, such as theaters and private lodges, many of which abut large empty spaces like parking lots and grassy fields. One local megachurch is already preparing to develop 258 affordable apartments for seniors and low-income families.

### Austin: In gentrifying areas, a new 'right to stay' and 'right to return'

The city council has agreed to work with a developer to construct hundreds of affordable homes and other mixed use projects, in keeping with a relatively new "Right to Stay" and "Right to Return" policy, which helps low- and moderate-income residents in a gentrifying neighborhood find affordable places to stay, and grants displaced families preference for newly developed affordable units.

### Baltimore: Tenants can apply for a one-time security grant

Low-income residents who find it difficult if not impossible to pay a security deposit when trying to rent an apartment are now eligible for a one-time grant of up to \$2,000. The actual amount of each grant will vary based on income. Funds will be set aside from the city's Affordable Housing Trust Fund to finance the new program.

### Oakland: Owners charged \$3.9 million for housing violations

Two landlords who rented sixty apartments entirely to low-income tenants, those who lack citizenship status, or those who were not fluent in English, were fined \$3.9 million for maintaining their units in dilapidated and unsafe conditions. The owners, Baljit Singh Mann and Surinder Mann, were found guilty of violating tenants rights. The city attorney said they had rented only to tenants who were far less likely to complain.

## Local Housing Briefs

### Queensbridge HA tenants sue authority over deterioration

A group of tenants at Queensbridge Houses, a housing authority complex, filed a suit in Queens County Civil Court in August, alleging failure to make repairs for major health threatening violations, such as mold in various rooms, walls that are crumbling, and vermin. Queens Legal Services is representing the twelve tenants.

### Planning Commission nixes multi-building development near Brooklyn Botanic Gardens

A thirty-four story multi-tower development planned by the Continuum Company for construction next to the Brooklyn Botanic Gardens was voted down by the NYC Planning Department in August. Opposition to the proposal, which would have included half of the nearly 1,600 apartments as affordable, came from community residents, who argued that the scale was way beyond the character of the neighborhood, and by the Botanic Garden. In her decision, former Planning Commissioner Marisa Lago said that the mega development was "Not only inappropriate for this location, but [would] also cast extensive shadows over the Brooklyn Botanic Gardens' greenhouses and conservatories' unique, sunlight sensitive receptors." The developer said it would proceed to build 500 market-rate condominiums on the site.

### Last holdout tenant on Upper East Side thwarts mega-developer's plans

The last tenant in a six-story building on East 86th Street has so far been successful in his struggle to remain, thwarting a mega-developer from demolishing it and constructing what most likely will be more luxury housing. According to the online news source Patch, the tenant, Greg Marshall, has lived in his studio apartment for twenty years. The developer, Extell, who had paid nearly eleven million dollars to buy the building, is largely responsible for sparking the "billionaires row" in midtown and luxury buildings on the Upper East Side. So far, the state's Division of Homes and Community Renewal supported Marshall.

### NYCHA tenants died from Covid far more often than general population

Although public housing residents comprise only four percent of the New York's population, they accounted for seven percent of Covid-19 deaths across the city between the end of March 2020 and the end of June 2021. But overall, according to city health officials, the number of Covid cases--not deaths--in NYCHA developments during the same time period "was comparable to numbers seen across the city."

## Two Black colleges receive \$5.5 million to create centers of housing excellence

The U.S. Department of Housing and Urban Development (HUD) will award a total of \$5.5 million to two historically Black colleges and universities (HBCUs) to create Centers of Excellence for housing and economic development research.

The institutions are Howard University and Texas Southern University.

"HUD is proud to forge new partnerships with academia to build on research and innovation that will better inform the housing and community development needs of historically underserved communities," said HUD Secretary Marcia L.

Fudge. "We look forward to the advancements and contributions Howard University and Texas Southern University—both esteemed HBCUs—will make using these grants."

The grants will be used to conduct research on housing and economic development programs, particularly in underserved communities.

To receive the grants, the universities submitted proposals to prepare reports on housing, community, and economic development in underserved communities that can serve as national, local, or regional benchmarks.

## ANHD: Tenants win less than three percent of harassment cases

During the past five years, New York City's housing court records examined by the Association for Neighborhood and Housing Development found that of more than seven thousand cases related to landlord harassment, only 2.3 percent resulted in favor of tenants.

In a newly released fact sheet, the organization said that from 2016 through mid-2021, "there were 7,126 cases involving harassment in residential properties in NYC." Those cases, the group said, represent only one half of one percent of the total number of cases in housing court (more than 1.4 million).

By comparison, more than two-thirds of all the cases, which totaled nearly a million, were for eviction.

"Harassment claims take a long

time to litigate," said Rachel Nager, Esq., a tenant attorney and Senior Staff Attorney for Communities Resist. "And so few cases have a favorable outcome for tenants. Some attorneys may believe that bringing a harassment case is not worth it."

In testimony before the City Council, the organization said that "To truly hold bad landlords accountable, we need stronger oversight, enforcement, and mechanisms to disincentivize and penalize harassment. We need housing court judges to properly interpret and apply tenant harassment law in housing court. We also need programs like CONH to be as strong as possible, and that means expanding which buildings are subject to the program and making it work better for tenants."

## Spivey re-elected chair of state housing finance agencies council

Scott Spivey and Margaret Salazar, respectively executive directors of Mississippi's and Oregon's state housing bureaus, were re-elected as Chair and Vice Chair of the The National Council of State Housing Agencies in September.

The Council coordinates state housing finance agencies, which provide funding for purchasing, developing, and rehabilitating affordable homes for low- and middle-income households.

Joaquín Alto of the Wisconsin Housing and Economic Development Authority, was newly elected to the office of Secretary Treasurer.

Re-elected directors are:

Jennifer Ho, Minnesota Housing; Chrystal Kornega, MassHousing; and Ralph Perrey, Tennessee Housing Dev. Agency.

## Biden's affordable housing plan: Restarting federal programs, more funding for nonprofits

*(Continued from page 1)*

Support for the White House plan came quickly from the National Council of State Housing Agencies, especially concerning restarting the federal risk sharing program.

In a statement the Council noted that "The Treasury/HUD/HFA risk-sharing partnership financed more than 25,000 units of affordable rental apartments that otherwise wouldn't have been built or preserved, while reducing risk and generating revenue for the federal government, over several years before being terminated by the prior administration. Restarting the program will enable state HFAs to serve smaller developments, rural areas, and other essential projects that conventional financing does not."

## Co-op voting rights bill promoted at M-L Zoom meeting

*(Continued from page 1)*

offering plans, the bill prevents the company from using any money from its operating budget. And if any such plan fails to secure the required percentage of positive votes, new plans or even feasibility studies cannot be offered until five years have passed.

Other provisions of the bill require that board meetings shall be held at least six times a year, open to shareholders and residents (except for executive sessions); and all votes shall be filed with the commissioner of the supervising agency and available to the public.

The effect of the bill, when it becomes law, will most likely sharply curtail the outflow of M-L cooperatives into private hands. At the M-L zoom meeting, NYS Senator Brian Kavanagh said he had written directly to the governor requesting that she sign the bill.

And NYS Assemblywoman Linda Rosenthal, who had introduced the bill, noted that residents should expect "fierce opposition to signing the bill," from cooperators who want to go private and from real estate lobbyists.

The meeting was coordinated by MLRC, Cooperators United for Mitchell Lama, Brooklyn Mitchell Lama Task Force, and Mitchell-Lama United.

## Q & A on Mitchell-Lama

*(Continued from page 6)*

dangerously assaultive apartment occupants, whether they are family members or not, can be grounds for eviction. Frequently under such circumstances, the actual cooperator is permitted to remain in the apartment provided the dangerous person is excluded.

If the dangerous person then comes back and it can be shown that the cooperator was tolerating the return, the eviction will proceed.

Although the reader did not ask, the reader should also want to know that dangerously assaultive apartment occupants, whether they are family members or not, can be grounds for eviction. Frequently under such circumstances, the actual cooperator is permitted to remain in the apartment provided the dangerous person is excluded.

Readers may wish to know that while this answer deals with Mitchell-Lama cooperatives, privately funded cooperatives without governmental supervision can once again charge higher fees for background checks, but no more than is required to reimburse the cooperative for the actual expense."