METROPOLITAN COUNCIL ON HOUSING
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Tenant Inquilino

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PERIODICAL

State's Top Court Strikes Down Stuy-Town Decontrol
Tenants Wonder What's Next?

The state Court of Appeals handed tenants a major victory on Oct. 22, when it ruled that the owners of Stuyvesant Town/Peter Cooper Village could not deregulate apartments while taking tax breaks for renovating rent-stabilized apartments.

The court held 4-2 that buildings receiving tax benefits under the city's J-51 program must remain rent-stabilized. Tishman-Speyer, which bought the complex in 2006, may be liable for $200 million in rent overcharges.

About 4,400 apartments in the complex have been deregulated, according to the Stuyvesant Town and Peter Cooper Village Tenants Association. Citywide, the Citizens Housing and Planning Council estimated in March that more than 8,000 buildings with about 350,000 units were receiving J-51 exemptions or abatements.

No one knows how many of those have been deregulated, as the state Division of Housing and Community Renewal does not keep such records. Earlier this year, in a survey of buildings considered "predatory equity"—purchased by owners whose business model requires driving out rent-stabilized tenants—the Association for Neighborhood and Housing Development identified 27,708 units that receive J-51 benefits. But many of those are in neighborhoods where landlords have not brought rents to the $2,000 needed for deregulation, ANHD director Benjamin Dulchin notes.

The ruling may be a fatal blow to Tishman-Speyer's business model. The firm bought the complex in 2006 for a record $5.4 billion. It expected to profit on the deal by driving out longtime tenants and deregulating rents, but has not been able to do that fast enough.

The decision leaves several questions open. How much will tenants be reimbursed for rent overcharges, and how can they collect that money? What will be the new rents for tenants whose apartments were illegally deregulated? How will the decision be applied to other buildings that decontrolled apartments while taking J-51 benefits?

Tenant attorney Seth A. Miller addresses those issues below.

—Steven Wishnia

The Legal Impact of *Roberts v. Tishman Speyer Properties, L.P.*

By Seth A. Miller

On Oct. 22, the Court of Appeals struck down the efforts of the Pataki administration and the Bloomberg administration to assist in the illegal deregulation of apartments in buildings receiving assistance under the J-51 tax abatement program.

The case, *Roberts v. Tishman Speyer Properties, L.P.* is a class action brought by tenants of illegally deregulated apartments in Stuyvesant Town and Peter Cooper Village for recognition that their apartments remain rent stabilized and to recover overcharges. The Court held that, since the development received J-51 benefits during the plaintiffs' tenancies, their apartments could not be deregulated.

This decision puts a stop to some of the practices by the state and city governments to assist in the deregulation of apartments in buildings that get J-51 tax benefits.

Prior to the advent of deregulation under the "Rent Regulation Reform Act" of 1993, the city's J-51 ordinance and the regulations of its Department of Housing Preservation and Development said, in plain English, that every apartment in an assisted building must remain rent-regulated the whole time the building gets tax benefits, and even longer—until the tenant vacates—if the tenant doesn't get notice in the lease that the apartment can be deregulated when the benefits end.

The original 1993 deregulation statute said that J-51 units are exempt from deregulation. Originally the state Division of Housing and Community Renewal issued an opinion letter saying that this means what it says: Landlords that get J-51 benefits can't deregulate apartments. In late 1996, DHCR turned around and issued an opinion saying that the exemption doesn't apply to buildings like the ones in Stuyvesant

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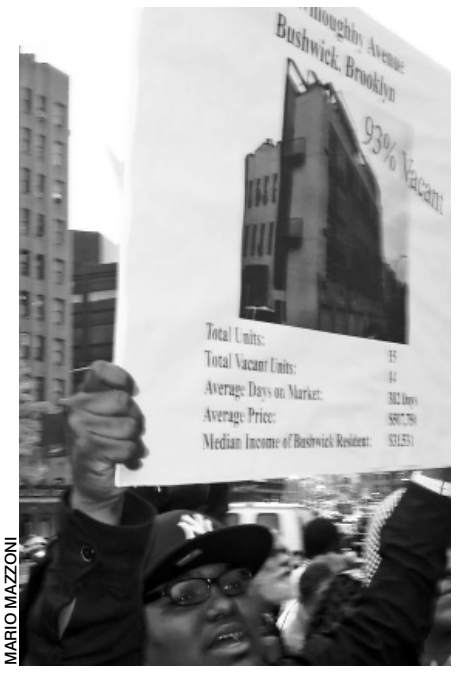
Coalition Finds 600 Vacant Condo Buildings;
Demands that City Convert Them into Low-Income Housing

By Alexa Kasdan

At a rally and press conference on Oct. 27, 150 members of the Right to the City-NYC coalition launched a campaign to convert unsold condominiums and stalled construction sites into housing for low-income people. The group released preliminary data from a survey that found more than 600 vacant condominium buildings in six neighborhoods around the city, including several areas with largely low-income residents.



MARIO MAZZONI

The group, an alliance of grassroots organizations, spent three months canvassing 298 census tracts in nine community districts in the city. The survey identified 126 vacant condominium buildings in Brooklyn's Community District 2 (Downtown Brooklyn-Fort Greene); 116 on the Lower East Side (Manhattan CD3); 108 in Bushwick (Brooklyn CD4); 99 in Harlem (Manhattan CDs 9. 10, and 11); 99 in the South Bronx (Bronx CDs 1 and 3); and 59 in Greenwich Village and Chelsea (Manhattan CD4).

RTTC members highlighted the rapid development of luxury condominiums in their neighborhoods over the last several years while the number of units that are affordable for low-income families has decreased precipitously.

"Thousands of units of vacant luxury condos are scattered throughout low-income communities in New York City," said Earline Fisher, a member of Community Voices Heard and RTTC. "We find it totally unacceptable that people are sleeping on the same streets that are lined with empty housing. We are here today to demand that Mayor Bloomberg and the City Council convert these condos into housing that is truly and permanently affordable to low-income people."

Over the next several months, RTTC will be working to provide secondary data about the buildings, including vacancy rates, average price of units, owners, and foreclosure status.

"Right to the City is working to document the full picture of empty condos and stalled construction in low-income communities," said RTTC coordinator David Dodge.

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INSIDE THIS ISSUE!

Homeless Shelters Reach Capacity

By Alex Kane

Herberth Rodriguez was about 17 years old when he was evicted from his Bronx apartment after his mother died in 2006. After briefly living with family, he became homeless.

"I didn't know whether to go to the shelter. I was always in the streets, not knowing what to do," Rodriguez said.

Now 20 years old, he has finally entered the shelter system. However, according to a recent study released by the Coalition for the Homeless, he may not have a roof over his head for much longer. The report, published on Oct. 4, is sounding the alarm over a "capacity crunch" in the municipal shelter system, particularly for single adults. As hundreds more homeless people enter the shelter system during the cold winter months, the city may run out of beds.

Rodriguez, who has been staying at emergency shelters throughout the city for almost two months, misses his partner and their one-year-old twins, who are currently living with their mother in a cramped apartment.

"[Being in the shelter] hurts, it's very stressful and depressing," Rodriguez said.

According to the report, so far this year there has been a 7 percent increase in the number of homeless adults in shelters, the largest increase since the 2001 recession.

Patrick Markee, a senior policy analyst at the coalition for the Homeless, points to the convergence of rising unemployment, increasing evictions from apartments, and the lack of affordable low-income housing in the city as the key causes of the crisis.

The potential for the city running out of shelter beds comes as the total homeless shelter population has hit nearly 40,000—its highest mark since the Great Depression, according to the Coalition for the Homeless.

Mario Mazzoni, an organizer with Met Council on Housing, blames New York City's emphasis on for-profit housing for the shortage of affordable housing.

"As long as profit is the driving motive behind housing policy, you're going to have a crisis of this proportion," Mazzoni said.

With virtually all beds currently occupied, advocates worry that the municipal shelter system will soon be pushed to the brink. On the night of Oct. 26, there were only five available beds left for homeless single men and a dozen vacant beds for homeless single women, according to Markee.

Since a landmark 1981 decision by the New York State Supreme Court and two subsequent court rulings, it is illegal for the city to deny anyone who is homeless the right to shelter.

Despite these numbers, Department of Homeless Services Commissioner Robert V. Hess has brushed off the report, saying that as the coalition "continues to cry 'fire,'" the municipal shelter system is "effectively meeting the needs" of homeless New Yorkers. DHS insists that it will continue to house the homeless successfully and that no one will be turned away from shelters.

However, Markee doubts that DHS will be able to weather the crisis if it continues to follow the same old policies.

"The failure really lies at the feet of the Bloomberg administration," he said.

While the coalition has been talking with the Bloomberg administration and DHS about expanding shelter capacity since early this year, its calls have gone unheeded. Advocates are also trying to reverse a four-year-old policy that no longer gives the homeless priority when applying for Section 8 vouchers or public housing.

DHS cites Advantage NY, a rental subsidy program that lasts for only two years, as a success in the fight against homelessness, and the department refuses to budge on its current Section 8 policies.

"Although Section 8 is a valuable resource, it is not the answer to the immediate needs [of] sheltering families and individuals during times of high demand," said Heather Janik, a press secretary for DHS, in an e-mail.

But Sophia Bryant, a formerly homeless disabled nurse who is a member of the activist organization Picture the Homeless, thinks the shelter system is failing to meet the needs of the homeless.

"All they have to do is put the money where it's going to do the most good. And it's not going to do good in the shelters," said Bryant, who currently lives in an apartment in the Bronx. "You're warehousing people, and you're warehousing buildings. You have the empty buildings, and you have the people. Put them together, and stop playing."

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- √ the fight to preserve Section 8 and Mitchell-Lama housing
- √ the fight for home rule
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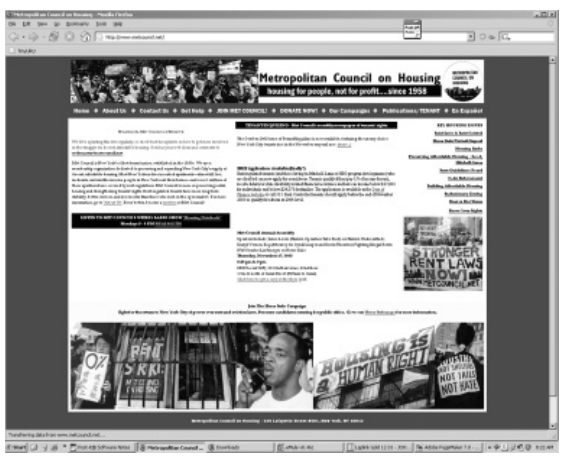

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EL INQUILINO HISPANO

La corte estatal más alta anula el descontrol en Stuy-Town; los inquilinos se preguntan, "¿y luego qué?"

La Corte de Apelaciones estatal dio una victoria importante a los inquilinos el 22 de octubre, cuando decidió que los dueños de Stuyvesant Town/Peter Cooper Village no podían descontrolar apartamentos mientras recibían reducciones de impuestos por la renovación de apartamentos de alquiler estabilizado.

La corte sostuvo en una votación de 4 a 2 que los edificios que reciben beneficios impositivos en el programa municipal J-51 tienen que seguir siendo de alquiler estabilizado. Tishman-Speyer, que compró la urbanización en 2006, puede ser responsable por $200 millones en cobros excesivos.

Se han descontrolado alrededor de 4,400 apartamentos en la urbanización, según la Asociación de Inquilinos de Stuyvesant Town y Peter Cooper Village. El Consejo de Ciudadanos de Vivienda y Planificación (Citizens Housing and Planning Council) estimó en marzo que en toda la ciudad, más de 8,000 edificios con alrededor de 350,000 unidades recibían exenciones o reducciones J-51.

Nadie sabe cuántos han sido descontrolados, ya que la División de Vivienda y Renovación Comunitaria (Division of Housing and Community Renewal, DHCR) estatal no lleva la cuenta. Anteriormente en este año, en una encuesta de edificios considerados de "capital rapaz" (recientemente comprados por propietarios cuyo modelo de negocios supone el desalojo de inquilinos de alquiler estabilizado), la Asociación por el Desarrollo de Vecindarios y Vivienda (Association for Neighborhood and Housing Development, ANHD) encontró 27,708 unidades que reciben beneficios J-51. Sin embargo, muchas están en vecindarios donde los alquileres a la tasa del mercado no han alcanzado los $2,000 necesarios para la desregulación, señala el director de ANHD, Benjamin Dulchin.

La decisión puede resultar un golpe mortal al modelo de negocios de Tishman-Speyer. En 2006, la compañía compró el grupo de edificios por la cantidad récord de $5.4 mil millones, con la esperanza de realizar ganancias del negocio al desalojar a los inquilinos y descontrolar los alquileres, pero no ha sido capaz de lograrlo bastante rápido.

La decisión deja varias preguntas sin respuesta. ¿Cuánto se les reembolsará a los inquilinos por los cobros excesivos, y cómo pueden cobrar el dinero? ¿En cuánto serán establecidos los nuevos alquileres de los inquilinos cuyos apartamentos eran ilegalmente descontrolados? ¿Cómo se aplicará la decisión a otros edificios que descontrolaron alquileres mientras recibían beneficios J-51?

El abogado de inquilinos Seth A. Miller trata estas preguntas a continuación.

—Steven Wishnia
Traducido por Lightning Translations

El impacto legal de *Roberts v. Tishman Speyer Properties, L.P.*

Por Seth A. Miller
Traducido por Lightning Translations

El 22 de octubre, la Corte de Apelaciones declaró ilegales los esfuerzos de los gobiernos de Pataki y Bloomberg para ayudar al descontrol ilegal de apartamentos en edificios que reciben asistencia del programa de reducciones de impuestos J-51.

El caso, *Roberts v. Tishman Speyer Properties L.P.,* es una acción de clase entablada por inquilinos de apartamentos ilegalmente descontrolados en Stuyvesant Town y Peter Cooper Village, con el fin de lograr el reconocimiento para que sus apartamentos sigan siendo de alquiler estabilizado, y para recuperar los cobros excesivos. La Corte falló que no se podía descontrolar sus apartamentos, ya que la urbanización recibió beneficios J-51 durante las tenencias de los demandantes.

Esta decisión pone fin a algunas de las prácticas de los gobiernos estatal y municipal para ayudar al descontrol de apartamentos en edificios que reciben beneficios impositivos J-51.

Antes de la llegada del descontrol

pasa a la página 4

Los Ajustes de la "Junta de Regulación de Renta" de la Ciudad de Nueva York (Orden No. 41)

Para los contratos de apartamentos de Renta Estabilizada que comienzan el 1ro. de octubre de 2009 hasta el 30 de septiembre de 2010.

Tipo de Contrato		*Renta Legal Actual*	*Contrato de 1 Año*	*Contrato de 2 Años*
Renovación del Contrato	Todos	casero abastece la calefacción	3%	6%
		inquilino paga la calefacción	2.5%	5%
	salvo donde el último contrato del apartamento vacío se firmó 6 o más años atrás y la renta es menos de $1,000	casero abastece la calefacción	30	60
		inquilino paga la calefacción	25	50
Contratos para Apartamentos Vacíos	Más de $500	Incrementos por desocupación cobrados en los últimos 8 años	17%	20%
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, más un 17%	0.6% por el número de años desde el último incremento por estar vacío, más el 20%
	Menos de $300	Incrementos por desocupación cobrados en los últimos 8 años	17% + $100	20% + $100
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, +17% + $100	0.6% por el número de años desde el último incremento por estar vacío, + 20% + $100
	Renta de $300 a $500	Incrementos por desocupación cobrados en los últimos 8 años	17% o $100, lo que sea mayor	20% o $100, lo que sea mayor
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, mas 17%, o $100, lo que sea mayor	0.6% por el número de años desde el último incremento por estar vacío, mas 20%, o $100, lo que sea mayor

Renovación de Contrato
Los caseros tienen que ofrecer a los inquilinos de renta estabilizada una renovación de contrato dentro de 90 a 120 días antes de que venza su contrato actual. La renovación de contrato tiene que mantener los mismos términos y condiciones que el contrato que vencerá, excepto cuando refleje un cambio en la ley. Una vez que se haya recibido el ofrecimiento de renovación, los inquilinos tienen 60 días para aceptarlo y escoger si van a renovar el contrato por uno o dos años. El propietario tiene que devolver la copia firmada y fechada al inquilino dentro de 30 días. La nueva renta no entrará en vigencia hasta que empiece el nuevo contrato, o cuando el propietario devuelva la copia firmada (lo que suceda después). Ofrecimientos retrasados: si el casero ofrece la renovación tarde (menos de 90 días antes de que venza el contrato actual), el contrato puede empezar, a la opción del inquilino, o en la fecha que hubiera empezado si se hubiera hecho un ofrecimiento a tiempo, o en el primer pago de renta fechada 90 días después de la fecha del ofrecimiento del contrato. Las pautas de renta usadas para la renovación no pueden ser mayores que los incrementos de la RGB vigentes en la fecha en que el contrato debía empezar (si se lo hubiera ofrecido a tiempo). El inquilino no tiene que pagar el nuevo aumento de renta hasta 90 días después de que se haya hecho el ofrecimiento.

Asignación de Subarriendo
Los caseros podrán cobrar un aumento de 10 por ciento durante el término de subarriendo que comience durante este período de las pautas.

Programa de Exención de Incrementos de Renta para las Personas de Mayor Edad Las personas de mayor edad con renta estabilizada (y los que viven en apartamentos de renta controlada, Mitchell-Lama y cooperativas de dividendos limitados), con 62 años o más, y cuyos ingresos familiares disponibles al año sean de $27,000 o menos (para 2006) y que paguen (o enfrenten un aumento de renta que les haría pagar) un tercio o más de tal ingreso en renta pueden ser elegibles para una congelación de renta. Solicite a: NYC Dept of the Aging, SCRIE Unit, 2 Lafayette St., NY, NY 10007 o llame al 311 o visite su sitio Web, nyc.gov/html/dfta/html/scrie_sp/scrie_sp.shtml.

Programa de Exención de Incrementos de Renta para Minusválidos
Inquilinos con renta regulada que reciben ayuda económica elegible relacionada con discapacidad, que tengan ingresos de $17,580 o menos para individuales y $25,212 o menos para una pareja y enfrenten rentas iguales o más de un tercio de sus ingresos pueden ser elegibles para un congelamiento de renta. Solicite a: NYC Dept. of Finance, DRIE Exemptions, 59 Maiden Lane - 20th floor, New York, NY 10038. Llame al 311 para una solicitud o vaya al sitio Web en www.nyc.gov/html/dof/html/property/property_tax_reduc_drie.shtml

Las unidades desvanes
Los aumentos legalizados para unidades de desván son un 3 por ciento por un contrato de un año y 6 por ciento por dos años. No se permiten incrementos para las unidades de desván vacías.

Hoteles y SROs
4.5% para todas categorías, sin embargo, 0% cuando menos de un 85% de las unidades sean ocupadas por inquilinos permanentes de renta regulada.

Exceso de cobro
Los inquilinos deben estar al tanto de que muchos caseros se aprovecharán de las complejidades de estas pautas y concesiones adicionales, además del poco conocimiento de los inquilinos del historial de renta de sus apartamentos, para cobrar una renta ilegal. Los inquilinos pueden impugnar los aumentos de renta sin autorización en las cortes o al presentar una impugnación con la agencia estatal de vivienda, la División de Vivienda y Renovación Comunitaria (Division of Housing and Community Renewal, DHCR). El primer paso en el proceso es ponerse en contacto con la DHCR para ver el registro oficial del historial de renta. Vaya a www.dhcr.state.ny.us o llame al 718-739-6400 y pida un historial de renta detallado. Luego, hable con un abogado o defensor experto antes de seguir.

Para las pautas previas, llame a la RGB al 212-385-2934 o vaya al www.housingnyc.com

Impacto legal

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en la "Ley de Reforma de la Regulación de Alquileres" de 1993, la ordenanza municipal J-51 y las normas del Departamento de Preservación y Desarrollo de Vivienda (Department of Housing Preservation and Development, HPD) municipal establecieron en un inglés claro y sencillo que cada apartamento en un edificio beneficiado debe seguir siendo de alquiler controlado durante todo el tiempo que el edificio reciba los beneficios impositivos, y por aun más tiempo (hasta que el inquilino se mude) si no se da al inquilino un aviso en el contrato de que se puede descontrolar el apartamento al terminarse los beneficios.

El estatuto original de desregulación de 1993 establecía que las unidades J-51 están exentas del descontrol. Al principio, la División de Vivienda y Renovación Comunitaria (Division of Housing and Community Renewal, DHCR) estatal emitió una carta de opinión que dijo que esto significa lo que dice: los caseros que reciben beneficios J-51 no pueden descontrolar apartamentos. Hacia el fin de 1996, la DHCR dio marcha atrás y emitió una opinión que dijo que la exención no aplica a edificios como los de Stuyvesant Town que habrían sido de alquiler estabilizado aun si nunca recibieran beneficios J-51. Como ya sabemos, este consejo fue erróneo según la ley. Después, en diciembre de 2000, la DHCR emitió una norma que aprobó esta interpretación ilegal.

Mientras tanto, la ordenanza de J-51 y las normas de HPD no cambiaron. Ellos seguían diciendo que cada apartamento en un edificio que recibió beneficios debe seguir siendo controlado. Aunque representantes de los caseros han dicho a la prensa que "confiaron" en la distorsión de la ley por parte de la DHCR, fue una confianza selectiva. Durante todo el tiempo, hubo leyes igualmente autorizadas que contradecían la posición de la DHCR.

La ley no cambió, pero bajo Bloomberg, HPD rehusó hacer cumplir la ley como había sido escrita. En las urbanizaciones como Stuyvesant Town, HPD permitió a los caseros devolver beneficios J-51 en proporción a la cantidad de apartamentos descontrolados. En las urbanizaciones Mitchell-Lama que enfrentaron privatización, como Glenn Gardens, West Village Houses e Independence Plaza, HPD permitió que las urbanizaciones salieran del programa sin exigir que todos los apartamentos se registraran como estabilizados, a pesar de que los beneficios J-51 estaban vigentes.

En West Village Houses, la ciudad utilizó millones de dólares de los contribuyentes para subvencionar la transformación de la urbanización en una cooperativa "asequible". En Glenn Gardens e Independence Plaza, HPD endosó "investigaciones de alquileres" que establecieron los alquileres casi en niveles de la tasa del mercado, con el propósito de arreglárselas para que los contribuyentes federales pagaran decenas de millones de dólares en subvenciones de vales para proteger solamente a los inquilinos más pobres. En estos casos, HPD hubiera podido otorgar mejores protecciones que hubieran cubierto a más inquilinos sin gastar diez centavos en subvenciones, si sencillamente hubiera hecho cumplirse la ley J-51 tal y como fue escrita, y hubiera forzado al casero a tratar a los inquilinos como personas con alquiler estabilizado cuando las urbanizaciones se privatizaran.

Según el caso Roberts, ahora muchos inquilinos tienen una oportunidad para recuperar el estado de alquiler estabilizado que sus caseros, con la ayuda de los gobiernos estatales y municipales, les trataron de quitar.

¿A quién afecta la decisión?

La decisión de la corte sirve como un recordatorio a los inquilinos para averiguar si sus edificios reciben beneficios J-51, aun si el caso no tratara específicamente la categoría precisa del edificio donde viven. Cada apartamento en edificios que ahora reciben beneficios J-51, salvo cooperativas y condominios, debe regirse por alguna forma de control de alquileres. (Para determinar si un edificio recibía o recibe beneficios J-51, visita el sitio Web www.nyc.gov/html/dof/html/property/property_tax_reduc_j_51.shtml. Para hacer esta búsqueda, es necesario saber el número de la cuadra y solar de su edificio, que se puede conseguir en http://a836-acris.nyc.gov/Scripts/Coverpage.dll/index.)

Todo inquilino que se mudó a un edificio con el estado de un inquilino supuestamente descontrolado puede ser, al cambio, de alquiler estabilizado, si (a) el edificio actualmente recibe beneficios J-51, o (b) el edificio recibía beneficios J-51 durante la tenencia del inquilino actual y el inquilino no recibió ningún aviso, en el primer contrato y todas las renovaciones de contrato, de que el apartamento podía ser descontrolado cuando los beneficios vencieran.

Además, un inquilino de alquiler estabilizado puede ser exento del descontrol a causa de altos alquileres y altos ingresos si (a) el edificio actualmente recibe beneficios J-51, o (b) el edificio recibía beneficios J-51 durante la tenencia del inquilino actual y el inquilino no recibió ningún aviso, en el primer contrato y todas las renovaciones de contrato, de que el apartamento podía ser descontrolado cuando los beneficios vencieran.

Una vez que un inquilino tiene el alquiler estabilizado porque él o ella pertenece a una de estas categorías, el apartamento sigue siendo estabilizado aun si el edificio se convierte en un condominio o una cooperativa. Sin embargo, si el edificio se convirtió en una cooperativa o un condominio antes de que el inquilino empezara la tenencia, el inquilino no puede tener el alquiler estabilizado.

Los inquilinos que podrían pertenecer a estas categorías pero han dejado sus apartamentos supuestamente descontrolados también se ven afectados: si se mudaron hace menos de cuatro años, pueden entablar una demanda por cargos excesivos. Sin embargo, es improbable que alguna vez puedan recuperar el derecho a la tenencia.

Sólo los inquilinos que vivían en el edificio durante el tiempo que se recibieron los beneficios J-51 pueden beneficiarse. Si el edificio recibió beneficios pero éstos vencieron antes de que el inquilino actual empezara la tenencia, es improbable que el inquilino actual pueda beneficiarse (o al menos no podría beneficiarse sin una reñida lucha legal).

¿Cómo se establecerán los alquileres?

La decisión Roberts deja muchas cuestiones pendientes, y ésta es la principal.

El alquiler legal para inquilinos afectados será al menos el alquiler pagado cuatro años atrás, y este alquiler se considerará estabilizado, aun si es de más de $2,000. Sin embargo, los abogados de inquilinos aseverarán que el alquiler debe establecerse en un nivel aun más bajo, ya que esta situación puede corresponder con una excepción de la "regla de cuatro años", que normalmente establece los alquileres en la cantidad pagada cuatro años atrás. El argumento es que se debe hacer una excepción porque en algunos casos el alquiler de cuatro años atrás será claramente el producto del descontrol ilegal del apartamento. Los abogados también propondrán que se adjudique una indemnización de daños por triplicado. Probablemente, la decisión de las cortes se fundará en el crédito que se pueda dar a la aseveración de los caseros de que éstos tenían el derecho a apoyarse en la opinión de la DHCR (que ahora se ha declarado ilegal) mientras una autoridad contraria

pasa a la página 5

No se quede helado: ¡ORGANIZESE!

La ley requiere que su casero proporciona calefacción y agua caliente a las temperaturas siguientes, desde el 1ro de octubre hasta el 31 de mayo:

Desde las 6 a.m. hasta las 10 p.m.: Si la temperatura afuera es de menos de 55 grados, la temperatura adentro debe ser al menos de 68 grados en todo el apartamento.

Desde las 10 p.m. hasta las 6 a.m.: Si la temperatura afuera es de menos de 40 grados, la temperatura adentro debe ser al menos de 55 grados en todo el apartamento.

Se tiene que proporcionar agua caliente a un mínimo de 120 grados en el grifo las 24 horas del día, todo el año.

Si su casero no mantiene estas temperaturas mínimas, usted debe:

- Comenzar una "Acción HP" (HP Action) en la Corte de Vivienda. Pida una inspección por orden de la corte y una Orden de Corrección (Order to Correct)
- Llamar al Buro Central de Quejas (Central Control Bureau) de la ciudad de Nueva York al 311 inmediatamente, para documentar la violación del casero. Llame repetidamente. Se supone que un inspector vendrá eventualmente, aunque a veces no lo haga.
- Exhortar a los otros inquilinos en el edificio a llamar al Central Complaint. Todos deben llamar repetidamente, al menos una vez al día, todos los días en que tengan problemas con la calefacción.
- Comprar un buen termómetro para afuera y adentro, para documentar las fechas exactas, las horas, y las temperaturas, tanto afuera como adentro, mientras tenga problemas con la calefacción. Esta documentación es su evidencia
- Llamar a la División de Vivienda y Renovación Comunal del Estado de Nueva York (DHCR, por sus siglas en ingles) al (718) 739-6400, y pedir que le envíen el formulario de Queja de Calefacción y Agua Caliente. Llene el formulario y consigue la participación de todos los inquilinos en su edificio que pueden firmarlo. Reclame una orden para restaurar la calefacción y el agua caliente, y que se reduzcan y congelen (¡disculpe lo de "congelen"!) todas las rentas.
- Necesitarán una fuerte asociación de inquilinos para obligar al casero a proporcionar calefacción y agua caliente. Escriban y llamen al casero para demandar reparaciones y aceite. Prepárense para una huelga de renta (sobre todo con asesoría legal)—de relámpago si es necesario.

Las leyes sobre la calefacción establecen también:

- Que el Departamento de Reparaciones de Emergencia de la ciudad le proporcione la calefacción si el casero no lo hace. (No se siente en un bloque de hielo—otra vez, ¡disculpe!—mientras espere que lo haga.)
- Una multa de $250 to $500 al casero por cada día que se produzca la violación. (Pero la verdad es que la Corte de Vivienda raras veces impone las multas, y menos aun las cobra).
- Una multa de $1,000 al casero si algún aparato de control automático se instala en la caldera para mantener la temperatura por debajo del mínimo legal.
- Si el tanque de combustible de la caldera está vacío, los inquilinos tienen el derecho de comprar su propio combustible después de haber pasado 24 horas sin calefacción y también sin obtener ninguna respuesta del casero. Esto no se aplica si la caldera está rota y necesita tanto reparación como combustible.

¡Cuidado! ¡proteja su dinero! Si los inquilinos deciden comprar el combustible, hay que seguir los procedimientos legales cuidadosamente. Consiga la ayuda y el consejo de un organizador de inquilinos. La existencia de leyes de calefacción y agua caliente vigentes no garantiza que el gobierno las implemente. No se quede helado por esperar que la ciudad o el estado actúe. ¡Organízese!

Bloomberg Buys Third Term

By Steven Wishnia

Mayor Michael Bloomberg's top campaign strategist, Bradley Tusk, previously worked for Rod Blagojevich and Lehman Brothers.

That should tell you a lot. After ramming legislation through the City Council and then spending more than $100 million to get a third term, the Mayor relied on a strategist who learned his trade working for the vain and venal deposed Illinois governor and a collapsed Wall Street titan considered arrogant even by the erstwhile Masters of the Universe.

Bloomberg built a machine that combined Chicago-style political muscle with Wall Street billions. Labor unions and nonprofit groups could get on the bandwagon and enjoy a share of the pie, or they could fight a quixotic campaign and be out in the cold for the next four years. Meanwhile, he blanketed the city with campaign ads and peppered voters with robocalls. He would have spent less money if he'd simply bought an iPod nano for each of the 557,000 people who voted for him.

The mayor's supporters made much of his supposed "incorruptibility." Bloomberg was so rich, they believed, that he didn't have to hustle for special interests, cutting petty side deals that rendered the city government dysfunctional.

Instead, Bloomberg would run the city like a corporation, like a CEO. That carried the aura of "competence"—but it ignored the reality of corporate governance. Corporations are run for the profit of those at the top. Bloomberg has certainly done that well. In his eight years as mayor, his personal fortune almost quadrupled, from $4.5 billion to $17 billion.

Meanwhile, under Bloomberg's tenure, the city has lost a net of 190,000 apartments affordable to people who make less than $37,000 a year—42 percent of New Yorkers, according to the Furman Center for Real Estate and Urban Policy at New York University.

The mayor has often touted his plans to "create or preserve" 165,000 units of affordable housing, but his definition of "affordable" is often merely "below market rate." As of October, the city had built about 35,000 units and preserved 59,000. Of the housing slated to be built, 21 percent is designated "middle-income"—defined as between $85,080 and $192,032 for a family of four.

As for the units counted as preserved, says Met Council organizer Mario Mazzoni, "the majority of apartments Bloomberg is taking credit for were already affordable housing, already receiving subsidy. The landlords extorted the city for more money, threatening to turn them into market-rate housing."

For example, when the owner of Independence Plaza North in Tribeca took the complex out of the Mitchell-Lama middle-income program, the Bloomberg administration brokered a deal that let vacant apartments go to market rate and the poorest tenants receive federal Section 8 subsidies. It quietly let the landlord "retroactively" repay tax benefits that required all apartments to be rent-stabilized.

"To Bloomberg, it is better to have the federal taxpayer pay for vouchers that protect only the poorest tenants, while the landlord gets market rents, than for the city to actually enforce a law that mandates affordable rents for everyone," says lawyer Seth Miller, whose firm represents tenants in the complex.

Some of Bloomberg's statements on housing issues reached Marie Antoinette levels of callousness. At a Working Families Party forum in July, he declared that the 25,000 people evicted every year didn't know how to "manage their budgets," and that the reason homelessness had reached record levels was because his administration had made city shelters "more attractive."

Democratic candidate Bill Thompson came far closer than people expected, taking 46 percent of the vote to Bloomberg's 51 percent, but he failed to ignite popular anger about the mayor's policies. Talk to anyone on the street or subway, and you'll likely find them irate about record housing costs. The subway fare has gone up four times under Bloomberg, but it still seems as if half the lines are out of service on weekends. Unemployment in the city has passed 10 percent, the highest since 1993. Hundreds of small businesses are folding, replaced by upscale bars or empty storefronts.

On the other hand, if Thompson had spoken out more forcefully, would anyone have heard him? The city's three daily newspapers, owned by neocon real-estate speculator Mort Zuckerman, right-wing billionaire Rupert Murdoch, and the indelibly establishmentarian Sulzberger family, all treated Bloomberg's re-election as inevitable. In the tabloids, coverage of the mayoral race was buried well below Yankee fans getting the team's logo shaved into their hair.

Bloomberg was vulnerable, but he was able to get away with it by projecting an aura of invincibility. President Obama wouldn't even endorse Thompson by name. City Council Speaker Christine Quinn enabled Bloomberg's third-term law, and then refused to endorse Thompson until the last minute . Several key labor unions sat on their hands.

The City Council races, where grass-roots organizing can trump advertising dollars, may be more encouraging. Several Democrats who'd backed Bloomberg on term limits lost in the primary. The new Councilmembers include Jumaane Williams of Flatbush, formerly an organizer for Tenants & Neighbors, and Daniel Dromm of Jackson Heights, an openly gay union activist.

Impacto legal

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todavía era vigente.

Estos ajustes de alquiler no se harán automáticamente. Para conseguir un ajuste de alquiler, el inquilino tendrá que entablar una queja de cobro excesivo o una demanda legal, o unirse a una demanda ya en marcha.

¿Qué debería hacer yo?

Los inquilinos de Stuyvesant Town y Peter Cooper Village tienen la opción de considerarse parte de la acción de clase que ya está en marcha, y no tienen que hacer nada para ejercitar esta opción. El tribunal inferior decidirá pronto si el caso Roberts puede continuar como una acción de clase. Si la respuesta es "sí", es posible que los inquilinos en estas urbanizaciones se conviertan en miembros de la clase automáticamente, pero deberán revisar la decisión para asegurarse de que pertenecen a la clase.

Todos los demás tendrán que decidir entre entablar quejas de cobros excesivos en la DHCR o ir a la corte. No hay nada que pueda remplazar los consejos de un abogado en torno a esta decisión, ya que los gastos, el desenlace más probable y los beneficios de las varias opciones son distintos en cada caso. Generalmente, entablar una queja en la DHCR es una buena opción solamente en los casos más claros, y sólo cuando la única meta es establecer el alquiler en el mismo nivel que de cuatro años atrás.

Los inquilinos que no toman ninguna acción corren el riesgo de que su alquiler se establezca en una suma más alta de lo que hubieran podido lograr, y de nunca poder recuperar parte de los cobros excesivos. De todos modos, todavía es posible que tengan que enfrentar el problema si en alguna ocasión el casero trata de desalojarlos como inquilinos supuestamente de libre mercado.

Seth A. Miller es abogado en Collins, Dobkin & Miller LLP, que representa a la asociación de inquilinos de Independence Plaza y los inquilinos de West Village Houses.

Don't Freeze—Organize!

The law requires your landlord provide heat and hot water at the following levels from October 1 through May 31:

From 6 am to 10 pm: If the outside temperature falls below 55 degrees, the inside temperature must be at least 68 degrees everywhere in your apartment.

From 10 pm to 6 am: If the outside temperature falls below 40 degrees, the inside temperature must be at least 55 degrees everywhere in your apartment.

Hot water at a minimum 120 degrees at the tap must be provided 24 hours a day, year round.

If your landlord does not maintain those minimum temperatures, you should:

- Start an "HP action" in Housing Court. Ask for a court-ordered inspection and an Order to Correct.
- Call the New York City Central Complaints Bureau at 311 immediately to record the landlord's violation. Call repeatedly. An inspector should eventually come, although sometimes they don't.
- Get other tenants in your building to call Central Complaint. Everybody should call repeatedly, at least once every day the condition is not corrected.
- Buy a good indoor/outdoor thermometer and keep a chart of the exact dates, times, and temperature readings, inside and out, so long as the condition is not corrected. The chart is your evidence.
- Call the New York State Division of Housing and Community Renewal at (718) 739-6400 and ask them to send you their Heat and Hot Water complaint form.
- Get as many other apartments as possible in your building to sign on, demanding an order restoring heat and hot water, and a reduction and freeze (pardon the expression!) in all the rents.

You'll need a strong tenant association to force the landlord to provide heat and hot water. Write and call the landlord and demand repairs or fuel.

Prepare to go on rent strike—but get legal advice first.

The heat laws also provide for:

- The city's Emergency Repair Department to supply your heat if the landlord does not. (Try waiting for this one!)
- A $250 to $500 a day fine to the landlord for every day of violation. (But the Housing Court rarely imposes these fines, let alone collects them.)
- A $1,000 fine to the landlord if an automatic control device is put on the boiler to keep the temperature below the lawful minimum.

If your boiler's fuel tank is empty, tenants have the right to buy their own fuel after 24 hours of no heat and no response from the landlord. But this provision does not apply if the boiler is broken and needs both repairs and fuel.

Caution! Protect your money! If you decide to buy fuel, you must follow special lawful procedures very carefully. You should get help and advice from a tenant organizer.

Because the heat and hot water laws are in the law books does not mean they are enforced by government. Don't freeze to death waiting for the city or state to act. Organize!

Vacant Condos

continued from 1

"Right now, the city is not sufficiently documenting this problem, so this research fills an important gap in the existing data."

City Council Speaker Christine Quinn and the city Department of Housing Preservation and Development have already allocated $20 million to convert some condos into moderate-income housing through the Housing Asset Renewal Program (HARP), a pilot program. RTTC believes that while HARP is a good start, its current form is not sufficient to ease the housing crisis facing low-income New Yorkers.

The program will give developers who meet certain criteria up to $50,000 per unit to sell vacant condos as "affordable" housing, or $75,000 for each one rented. Buyers qualify if they make less than 165 percent of the metropolitan-area median annual income ($88,605 for a single person, $126,720 for a family of four); renters qualify if they make less than 130 percent ($68,810 for a single person, $99,840 for a family of four). The units would revert to market rate in 30 years.

"HARP is a step in the right direction, but it will not create housing that is really affordable to a low-income person like me," said Jill Reaves, a member of New York City AIDS Housing Network/ V.O.C.A.L. and RTTC-NYC. "A individual that is making up to $69,000 a year is eligible for HARP. I don't make that kind of money. That does not sound affordable to me."

A studio apartment in the program could rent for up to $1,720 a month and still be defined as "affordable" based on 30 percent of the tenant's income.

Right to the City-NYC is asking the Mayor, Speaker Quinn and HPD to reform HARP by ensuring that the units converted through this program are made permanently affordable for very low-income people.

"HARP, as it is now designed, does not address the issue of those that are really in need of affordable housing such as homeless people and people on fixed incomes," said Rob Robinson, a member of Picture the Homeless and RTTC. "The city should be creative and bold with converting these properties so they can really help solve the housing crisis."

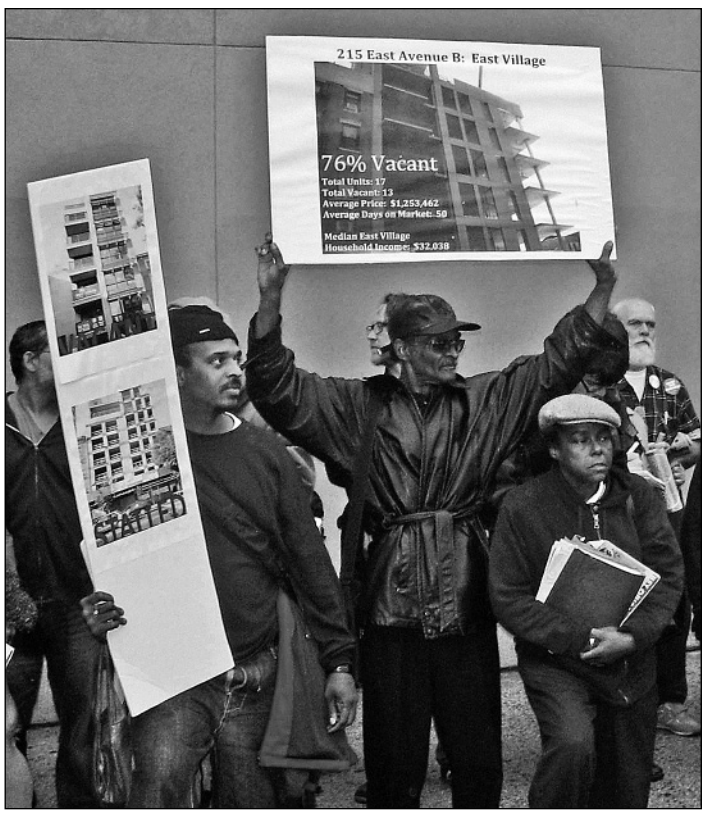
Right to the City says it prioritized converting vacant condos into affordable housing because such a policy would immediately improve the lives of low-income people. The alliance includes: CAAAV/ Chinatown Tenants Union, the Center for Social Inclusion, Community Development Project, Urban Justice Center, Community Voices Heard, FIERCE, Families United for Racial and Economic Equality (FUREE), Jews for Racial and Economic Justice, Make the Road New York, Mothers on the Move, NYC Aids Housing Network/ V.O.C.A.L. NY-Users Union, Picture the Homeless, Red Hook Initiative, Teachers Unite, and West Harlem Environmental Action.

Alexa Kasdan is director of research and policy at the Urban Justice Center's Community Development Project, a "resource organization" for Right to the City.

Complaint Numbers

To reach the Department of Housing, Preservation and Development's Central Complaints hotline, call 311.

Also call 311 to reach the Department of Buildings and other city agencies.



MARIO MAZZONI

Right to the City-NYC members display photos of vacant condos around the city — with the purchase price of units contrasted with the median income of households in the mostly low-income neighborhoods where they are located.

NYC Rent Guidelines Board Adjustments
(Order No. 41)

for Rent Stabilized Leases commencing Oct. 1, 2009 through Sept. 30, 2010

Order No. 40, covering leases commencing prior to October 1, 2009, is available at http://www.metcouncil.net/campaigns/RGB.htm

Lease Type	Current Legal Rent		One-year Lease	Two-year Lease
Renewal Leases	All...	landlord supplies heat	3%	6%
		tenant pays for heat	2.5%	5%
	Except where last vacancy lease was 6 or more years ago and rent is below $1000	landlord supplies heat	$30	$60
		tenant pays for heat	$25	$50
Vacancy leases	More than $500	Vacancy allowance charged within last 8 years	17%	20%
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17%	0.6% times number of years since last vacancy allowance, plus 20%
	Less than $300	Vacancy allowance charged within last 8 years	17% plus $100	20% plus $100
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17% plus $100	0.6% times number of years since last vacancy allowance, plus 20% plus $100
	Rent $300 to $500	Vacancy allowance charged within last 8 years	17% *or* $100, whichever is greater	20% *or* $100, whichever is greater
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 17%, *or* $100, whichever is greater	0.6% times number of years since last vacancy allowance, plus 20%, *or* $100, whichever is greater

Renewal Leases
Landlords must offer a rent-stabilized tenant a renewal lease 90 to 120 days before the expiration of the current lease. The renewal lease must keep the same terms and conditions as the expiring lease, except when reflecting a change in the law. Once the renewal offer is received, the tenant has 60 days to accept it and choose whether to renew the lease for one or two years. The owner must return the signed and dated copy to the tenant in 30 days. The new rent does not go into effect until the start of the new lease term, or when the owner returns the signed copy (whichever is later).

Late offers: If the owner offers the renewal late (fewer than 90 days before the expiration of the current lease), the lease term can begin, at the tenant's option, either on the date it would have begun had a timely offer been made, or on the first rent payment date 90 days after the date of the lease offer. The rent guidelines used for the renewal can be no greater than the RGB increases in effect on the date the lease should have begun (if timely offered). The tenant does not have to pay the new rent increase until 90 days after the offer was made.

Sublease Allowance
Landlords can charge a 10 percent increase during the term of a sublease that commences during this guideline period.

Senior Citizen Rent Increase Exemption Program Rent-stabilized seniors (and those living in rent-controlled, Mitchell-Lama, and limited equity coop apartments), 62 or older, whose disposable annual household income is $29,000 or less (for 2007 tax year) and who pay (or face a rent increase that would cause them to pay) one-third or more of that income in rent may be eligible for a rent freeze. *Apply to:* NYC Dept. for the Aging, SCRIE Unit, 2 Lafayette St., NY, NY 10007 or call 311 or visit their Web site, *www.nyc.gov/html/dfta/html/scrie/scrie.shtml.*

Disability Rent Increase Exemption Program
Rent-regulated tenants receiving eligible disability-related financial assistance who have incomes of $18,396 or less for individuals and $26,460 or less for a couple and are facing rents equal to more than one-third of their income may be eligible for a rent freeze. *Apply to:* NYC Dept. of Finance, DRIE Exemptions, 59 Maiden Lane, 20th floor, New York, NY 10038. Call 311 for an application or go to the Web site at *www.nyc.gov/html/dof/html//property/property_tax_reduc_drie.shtml.*

Loft Units
Legalized loft-unit increases are 3 percent for a one-year lease and 6 percent for two years. No vacancy allowance is permitted on vacant lofts.

Hotels and SROs
4.5% for all categories, however, 0% when fewer than 85% of units are occupied by permanent, rent-regulated tenants.

Rent Overcharges
Tenants should be aware that many landlords will exploit the complexities of these guidelines and bonuses—and the tenant's unfamiliarity with the apartment's rent history—to charge an illegal rent. Tenants can challenge unauthorized rent increases through the courts or by filing a challenge with the state housing agency, the Division of Housing and Community Renewal (DHCR). The first step in the process is to contact the DHCR to see the official record of the rent history. Go to *www.dhcr.state.ny.us* or call (718) 739-6400 and ask for a detailed rent history. Then speak to a knowledgeable advocate or a lawyer before proceeding.

For previous guidelines, call the RGB at (212) 385-2934 or go to www.housingnyc.com.

An Atlantic Yards Endgame?

By Daniel Goldstein

The struggle against developer Forest City Ratner's Atlantic Yards proposal just entered its seventh year, and an endgame appears to be in sight. Three lawsuits are challenging various aspects of the project and the Empire State Development Corporation's (ESDC) oversight of it, and the state's highest court is expected to rule on one of them soon. All of the suits raise issues of great concern to the tenants of New York City.

Developer Bruce Ratner has until the end of next month to have the ESDC issue a $700 million tax-exempt bond for the project's basketball arena. If he does not meet this deadline, imposed by the Internal Revenue Service, he'll lose the tax exemption, and that expense could prove fatal to the entire project. The *Wall Street Journal* reported recently that getting the arena bond issued, which includes obtaining an investment-grade credit rating and getting the bond insured, is proving to be a "tough shot."

From the beginning the hot-button issue with Atlantic Yards has been New York State's abuse of eminent domain to seize properties on the 22-acre site, which includes homes, businesses, city streets and an MTA-owned railyard in Prospect Heights, Brooklyn, and give them to Ratner for the developer's own benefit and enrichment. In August 2008, nine of the property owners and rent-stabilized tenants who would lose their apartments filed a lawsuit (*Goldstein et al. v. NY Urban Development Corporation*) challenging the state's eminent-domain effort. They lost in the Appellate Division (where all eminent-domain challenges are required to originate), but this past June the state's high court, the Court of Appeals, agreed to take their appeal. The case was argued in Albany on October 14. (Video of the 50-minute argument can be viewed at: www.dddb.net/eminentdomain)

TRACY COLLINS

Protesters against the Atlantic Yards development march through Brooklyn on Oct. 17.

The suit's main argument is that the use of eminent domain violates the state's constitution, because the land would not be seized for a public use. It also contends that according to Article 18, Section 6 of the Constitution, housing built in subsidized "blight clearance" projects must be restricted to "persons of low income." Atlantic Yards is subsidized by the state, and is designated as a "blight clearance" project (a bogus designation, as it would be built on top of some of the most expensive real estate in New York City), yet it would be primarily composed of market-

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Stuy-Town

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would have been rent-stabilized even if they never got J-51 benefits. As we now know, that advice was wrong on the law. Then in December 2000, DHCR issued a regulation adopting this illegal interpretation.

Meanwhile, the J-51 ordinance, and HPD's regulations, didn't change. They continued to say that every apartment in a building getting benefits must remain regulated. Although landlord representatives have told the press that they "relied" on DHCR's bending the law, this was selective reliance. The whole time, there was equally authoritative law contradicting DHCR's position.

The law didn't change, but, under Bloomberg, HPD refused to enforce the law as written. In developments like Stuyvesant Town, HPD permitted landlords to return J-51 benefits in proportion to the number of deregulated apartments. In Mitchell-Lama developments facing privatization, such as Glenn Gardens, West Village Houses, and Independence Plaza, HPD permitted the developments to leave the program without requiring all of the apartments to be registered as rent stabilized, even though J-51 benefits were in place.

At West Village Houses, the city used millions of dollars in taxpayer funds to subsidize the conversion of the development into an "affordable" cooperative. At Glenn Gardens and Independence Plaza, HPD signed off on "rent studies" that set the rents at near-market levels for purposes of having federal taxpayers pay tens of millions of dollars to subsidize vouchers to protect only the poorest tenants. In these cases, HPD could have given better protection, affecting more tenants, without spending a dime on subsidies, if it simply enforced the J-51 law as written and forced the landlord to treat the tenants as rent-stabilized when the developments were privatized.

Under the *Roberts* case, many tenants now have an opportunity to regain the rent-stabilized status that their landlords, assisted by the city and state governments, tried to take away.

Who is affected?

The decision serves as a reminder to tenants to check to see whether their buildings receive J-51 benefits, even if the *Roberts* case did not specifically deal with the exact category of building they live in. Every apartment in buildings that now receive J-51 benefits, except co-ops and condos, must be governed by some form of rent regulation. (To find out whether a building received or receives J-51 benefits, go to_www.nyc.gov/html/dof/html/property/property_tax_reduc_j_51.shtml. Searching will require that you know the block and lot number for your building, which you can get at http://a836-acris.nyc.gov/Scripts/Coverpage.dll/index.)

Any tenant that moved into a building as a supposedly deregulated tenant might instead be rent-stabilized, if either (a) the building is now getting J-51 benefits, or (b) the building used to get J-51 benefits during the tenancy of the current tenant, and the tenant did not get notice, in the first lease and in every renewal, saying that the apartment can be deregulated when the benefits expire.

In addition, a stabilized tenant might be exempt from high-income deregulation under the same circumstances.

Once a tenant is rent-stabilized because he or she is in one of these categories, the apartment remains stabilized even if the building goes condo or co-op. If the building went co-op or condo before the tenant takes occupancy, though, the tenant cannot be rent-stabilized.

Tenants who would be in these categories but who have left their supposedly deregulated apartments are affected too: If they left less than four years ago, they can sue for overcharges. It is doubtful, however, that they could ever regain possession.

Only tenants who were in occupancy at the time when J-51 benefits were received can benefit. If the building got benefits but they expired before the current tenant took occupancy, it is doubtful that the current tenant can benefit (at least not without a lot of legal wrangling).

How will the rents be set?

The Roberts decision leaves many issues undecided, and this is the main one.

At a minimum, the legal rent for affected tenants will be the rent paid four years ago, and that rent will be considered a stabilized rent, even if it is above $2,000. Tenant attorneys will be arguing that the rent should be set even lower, however, since this situation might fit within an exception to the "four-year rule," the rule that normally sets rents at the amount paid four years ago. The argument is that an exception should be made because the rent four years ago will in some cases clearly be the product of the illegal deregulation of the apartment. Tenant attorneys will also be arguing for an award of treble damages. The courts will probably decide that issue based on whether they give credence to the landlords' argument that they had the right to rely on DHCR's opinion, which has now been found illegal, while contrary authority was still on the books.

These rent adjustments will not be made automatically. To get a rent adjustment, a tenant will have to file an overcharge complaint, bring a lawsuit, or join a lawsuit in progress.

What should tenants do?

Tenants in Stuyvesant Town and Peter Cooper Village have the option of considering themselves to be part of the class action that is now in progress, and they do not need to do anything to exercise that option. The lower court will now decide whether the *Roberts* case can proceed as a class action. If the answer is "yes," then tenants in those developments will probably be in the class by default, but they should check any decision to make sure they are in the class.

Everyone else will need to decide whether to file overcharge complaints with DHCR, or go to court. There is no substitute for speaking to a lawyer about this decision, since the costs, likely outcome, and benefits of different options are different in every case. Generally, filing a complaint with DHCR is only a good option for the clearest cases, and only where the only goal is to set the rent at the rent from four years ago.

Tenants who take no action at all risk having their rent permanently set at a higher amount than they could have gotten and never being able to recover some of their overcharges. They may also be forced to deal with the issue anyway, if the landlord ever tries to evict them as supposedly free-market tenants.

Seth A. Miller is an attorney with Collins, Dobkin & Miller LLP, which represents the Independence Plaza tenants' association and the renters at West Village Houses.

Atlantic Yards

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rate and luxury housing.

A decision is expected sometime before, or shortly after, Thanksgiving. If the plaintiffs win, the project is dead, as Ratner needs the land under their homes and businesses to construct it.

Two new lawsuits were filed in October. Either could doom Ratner's project.

On Oct. 13, the Straphangers Campaign, State Senator Velmanette Montgomery, Assemblymembers Jim Brennan and Joan Millman, City Councilmember Letitia James, and Develop Don't Destroy Brooklyn (DDDB) sued the Metropolitan Transportation Authority, under the 2005 Public Authorities Accountability Act (PAAA). That suit alleges that the MTA violated the PAAA last June when it approved a new agreement for Ratner's purchase of the 8.5-acre Vanderbilt Rail Yard portion of the site.

Ratner had agreed to pay $100 million at closing for a property the MTA appraised at $214.5 million in 2005. Under the June 2009 agreement, he would put down $20 million up front and pay the remaining $80 million over 22 years at a low 6.5 percent interest rate. The lawsuit, seeking to annul that new deal, charges that the "MTA agreed to finance 80 percent of [Ratner's] purchase of the Yard at a generous 6.5 percent interest rate, while [Cleveland-based parent company] Forest City Enterprises had a junk-bond rating."

The MTA, in its haste to strike a new lowball agreement with Ratner, also failed to provide an independent appraisal of the valuable railyard and failed to pursue a competitive process. The PAAA, enacted in part to prohibit sweetheart deals of this kind, clearly requires those two actions for property dispositions such as this one.

On Oct. 19, DDDB and 19 other community groups sued the ESDC and Ratner to annul the state agency's reapproval of Atlantic Yards project on Sept. 17. That suit raises three claims: that the state should have undertaken a Supplemental Environmental Impact Statement; that the state has illegally abandoned the underlying purpose of the project—the removal of the alleged "blight"; and that the ESDC Board illegally authorized a side agreement, which makes the promised "affordable" housing contingent on public subsidies. That contradicts the project's governing document, which requires affordable housing regardless of the availability of subsidies.

It has been left to grass-roots community groups and block associations, funded by bake sales and walkathons, to hold New York's most powerful public authorities—the MTA and the ESDC—accountable.

Whether they will succeed will become clearer in the coming months.

Daniel Goldstein, a Prospect Heights resident, is lead plaintiff in the suit challenging the state's use of eminent domain and a co-founder of Develop Don't Destroy Brooklyn.

Massive MBR Increase Riles Rent-Controlled Tenants

With the state housing agency proposing a 12.9 percent increase in the Maximum Base Rent factor, rent-controlled tenants turned out at a Nov. 6 hearing in Manhattan, claiming that the change would enable unfair increases to their rents.

"While the MBR ensures landlords *at least* an 8.5% return, it totally fails to protect tenants," rent-controlled tenant Tom Siracuse testified. Th e MBR formula, he said, was "flawed at its inception," as it takes into account landlord costs, but generally not landlord income.

The state Division of Housing and Community Renewal sets the MBR factor every two years. The amount of the increase determines the maximum legal rent for rent-controlled apartments. Landlords are allowed to raise rents by 7.5 percent a year—the "maximum collectible rent"—until they reach the MBR.

Leon Klein, a rent-controlled tenant, pointed out in his testimony that 1981 was the last time the Rent Guidelines Board voted to increase rent-stabilized rents by as much as what many rent-controlled tenants face every year. After decades of these increases, many rent-controlled tenants now pay higher rents than rent-stabilized neighbors in the same buildings who moved in more recently.

"Perversely, as the value of buildings rises, which is largely caused by the increase in rents from vacancy decontrol, taxes increase and these increases force rent-controlled rents to go up," Siracuse continued. "Why should rent- controlled tenants bear the brunt of a speculative real-estate market?"

Rent-controlled tenants, he said, have the lowest median incomes of all renters in private housing, and half of them pay more than one-third of their income for rent, according to the federal Housing and Vacancy Survey for the city—yet they face much larger annual increases than rent-stabilized tenants. As the only apartments under rent control are those occupied by the same household since 1971, most tenants are elderly people on fixed incomes.

"You are dealing with elderly tenants whose incomes are dependent on pensions and investments that have decreased during an economic crisis not experienced since the Great Depression," Klein testified. "At a time when these vulnerable tenants face this economic crisis, DHCR is proposing a 12.9 percent increase, the highest in six years!"

Both Siracuse and Klein urged the DHCR to change the formula used to determine the MBR increase—or to ask the state Legislature to do so. Housing advocates have been demanding this for decades.

— Mario Mazzoni and Steven Wishnia

WHERE TO GO FOR HELP

LOWER EAST SIDE BRANCH at
Cooper Square Committee
61 E. 4th St. (btwn. 2nd Ave. & Bowery)
Tuesdays ..... 6:30 pm

CHELSEA COALITION ON HOUSING
Covers 14th St. to 30th St., 5th Ave. to the Hudson River.
322 W. 17th St. (basement), 212-CH3-0544
Thursdays ..... 7:30 pm

GOLES (Good Old Lower East Side)
171 Avenue B (between 10 and 11 St.)
by appointments only except for emergencies. 212-533-2541.

HOUSING COMMITTEE OF RENA
Covers 135th St. to 165th St. from Riverside Dr. to St. Nicholas Ave.
537 W. 156th St.
Thursdays..... 8 pm

MIRABAL SISTERS
618 W. 142nd St., 212-234-3002
Saturdays..... 1 - 4 pm

PRATT AREA COMMUNITY COUNCIL
201 DeKalb Ave., Brooklyn,
718-522-2613 ext. 24
3rd Wednesday ..... 6 pm

VILLAGE INDEPENDENT DEMOCRATS
26 Perry St. (basement), 212-741-2994
Wednesdays ..... 6 pm

WEST SIDE TENANTS UNION
4 W. 76 St.
Tuesday & Wednesday ..... 6-7 pm

HOUSING CONSERVATION COORDINATORS
777 10 Ave.; 212-541-5996
Mondays.....7-9 pm

NEIGHBORS HELPING NEIGHBORS
Covers Sunset Park and surrounding neighborhoods
443 39 St., Ste. 202, Brooklyn
By appointment only. 718-686-7946, ext. 10

NYC TENANTS RIGHTS CLINIC
305 Broadway (Corner of Duane), Suite 201, 212-571-4080
Tuesdays.....4:30-7:30pm

QUEENS COMMUNITY HOUSE
Forest Hills Community Center,
10825 62nd Dr., Forest Hills
(718) 592-5757, ext. 280
Mondays and Wednesdays ... 9:30-11 am

QUEENS COMMUNITY HOUSE
Pomonok Community Center,
6709 Kissena Blvd., Flushing
(718) 591-6060
Fridays ..... 10 am-12 pm

METROPOLITAN COUNCIL ON HOUSING

Met Council is a citywide tenant union.

Our phones are open to the public
Mondays, Wednesdays & Fridays from 1:30 to 5 p.m.

We can briefly answer your questions, help you with organizing or refer you to other help.

212-979-0611

Join Met Council

Membership: Individual, $25 per year; Low-income, $15 per year; family (voluntary: 2 sharing an apartment), $30 per year. Supporting, $40 per year. Sustaining, min. of $100 per year (indicate amount of pledge). For affiliation of community or tenant organizations, large buildings, trade unions, etc. call 212-979-6238.

My apartment ❑ controlled ❑ stabilized ❑ unregulated ❑ other_____

❑ I am interested in volunteering my time to Met Council. Please call me to schedule times and duties. I can ❑ counsel tenants, ❑ do office work, ❑ lobby public officials, ❑ attend rallies/ protests.

Name

Address *Apt. No.*

City *State* *Zip*

Home Phone Number *Email*

Send your check or money order with this form to:
Metropolitan Council on Housing, 339 Lafayette St., NY, NY 10012