

Conditional Rent Strike Resolution

WHEREAS the present owners of Westview (“Owners”) have petitioned the New York State Division of Housing and Community Renewal (“DHCR”) to approve a substantial rent increase at Westview; and

WHEREAS, due to the inefficient and wasteful manner in which Westview has been operated for decades, the building’s rents are among the highest, if not the highest, in the entire New York State Mitchell-Lama program; and

WHEREAS an increase in Westview’s current rents would constitute a *de facto* withdrawal of Westview from the Mitchell-Lama program; to wit, Westview would cease to provide the affordable, middle income housing required under the Mitchell-Lama program; and

WHEREAS, to the extent there is a disparity between the income Westview generates and the building’s expenses, that disparity is solely attributable to the Owners’ unwillingness to abide by their legal obligations under the Mitchell-Lama law; and

WHEREAS if it were not for the Owners’ refusal to meet their legal obligation to operate Westview as efficiently as possible – rather than operating it to maximize its sales value to a third-party –the Owners, even under their own skewed economic analysis of the building’s finances, would have no basis for seeking a rent increase; and

WHEREAS the New York State Inspector General has found that DHCR was aware of, complicit in and failed to respond to the Owners’ unlawful conduct that produced Westview’s alleged revenue shortfall; and

WHEREAS DHCR’s past willingness to overlook the Owners’ unlawful conduct has produced a reasonable doubt among Westview’s tenants as to whether DHCR is presently willing to strictly enforce the provisions of the Mitchell-Lama law that protect Westview’s tenants and preserve Westview’s affordability; therefore,

IT IS HEREBY RESOLVED that Westview’s tenants, through their official tenants association, Westview Taskforce, Inc. (“WTI”), calls on DHCR to refrain from acting on the Owners’ rent increase application until after it has considered, resolved and reported its decisions on the following issues raised by WTI during the budget and rent determination process. DHCR’s reported decisions should be released publicly, in written form, in a manner that fully and separately explains the basis for each decision and explains how each decision is consistent with applicable Mitchell-Lama law and principles of legal equity:

- (1) With respect to the Owners’ unlawful warehousing of Westview apartments from 2004 to 2007, the Owners’ should be required to personally reimburse Westview for the \$1,000,000 in lost revenue they caused, in clear violation of Title 9 of the New York Codes, Rules and Regulations § 1728-1.2(a)(2), in an attempt to personally enrich themselves by increasing Westview’s value prior to its proposed sale to The Sheldrake Organization.

- (2) With respect to the Owners' ongoing, unlawful failure to minimize Westview's electric cost by implementing cost-effective energy efficiencies, the Owners' cost projections should be reduced to reflect the \$1,000,000+ annual cost savings they could easily have secured, and still can secure, if they implement efficiencies such as sub-metering, which they are legally required by Title 9 of the New York Codes, Rules and Regulations § 1728-1.2(a)(2)(ii).
- (3) With respect to the Owners' failure to use \$752,000 in specifically earmarked funds to modernize Westview's elevators, the Owners' request for funds to make the same upgrades that were funded through a 2003 rent increase should be stricken from their projected costs for 2009-2010 and the Owners should be required to personally and immediately pay for the elevator improvements that they improperly failed to make.
- (4) With respect to the Owners' refinancing of Westview's mortgage, Owners must reduce Westview's expenses by refinancing Westview's current mortgage as recommended by WTI's Accountants. If Owners refuse to do so, in violation of Title 9 of the New York Codes, Rules and Regulations § 1728-1.2(a)(2)(i)'s requirements, the savings that could have been secured should be deducted from the projected expenses for Westview for 2009-2010.
- (5) With respect to the \$4,000,000 Westview may produce as a result of its failed sale to the Sheldrake Organization, if the Owners' prevail in the case of R.I. Island House LLC v. North Town Phase II Houses, Inc. and are permitted to retain the \$4,000,000 in Westview sales contract extension payments, those funds should be considered revenue produced by Westview and be applied against Westview's anticipated future expenses (for 2009-2010.)

BE IT FURTHER RESOLVED that if (A) the aforementioned questions are not considered, resolved and reported in the manner detailed above and/or the resolution thereof is inconsistent with the relevant facts and/or does not adhere to a reasonable interpretation of applicable law, and (B) a rent increase is approved by DHCR, WTI will hold an emergency membership meeting to vote on a rent strike of an indeterminate length by Westview's tenants. Insofar as the Owners have established a pattern of disregarding Mitchell-Lama laws that protect the welfare of Westview's tenants, and DHCR has previously demonstrated a lack of enthusiasm for enforcing said Mitchell-Lama laws, WTI has regretfully concluded that a rent strike provides the only method by which Westview's tenants can protect their homes until such time as they are afforded the full protections of the laws of the State of New York to which they are entitled.