

# WESTVIEW TASKFORCE Inc.

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P.O. Box 289 • Roosevelt Island • New York 10044

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**Counsel**

Phillip Groner Esq.

**Attorneys**

Gallet Dreyner & Berkey LLP

**Accountants**

Jeff Resnick & Company LLP

May 30, 2008

Hon. Deborah VanAmerongen, Commissioner  
Division Of Housing and Community Renewal  
25 Beaver Street  
New York, NY 10004

**Re: Westview UDC-68 Budget Rent Determination  
Request For 90-Day Extension**

Dear Commissioner VanAmerongen;

This is to request a 90-Day extension in connection with the Budget Rent Determination Hearing pursuant to NYS Code 1728-1.1 (a). DHCR must assure that tenants are afforded participation in the administrative process through access to information and opportunity to comment.

As we believe you are aware, a petition for 88% rent increase filed by the Owners is currently under consideration by DHCR. We are especially troubled that DHCR's own projections reflect a 75% rent increase and a notice to such effect distributed to tenants. As Westview's rents are notably already the highest in the New York State (NYS) Mitchell-Lama program, if even a fraction of these increases are implemented, many of Westview's 361 low and middle income families (more than 1,000 residents) **will lose their homes.**

We wish you to know that about 140 families in Westview are below the AMI (Average Median Income). Many are on fixed incomes and more than a few are presently unemployed. Any resulting rent increase will have an adverse effect on these tenants.

DHCR is quite familiar with Westview's situation. Its many years of bankruptcy layered with years of mismanagement and neglect has turned Westview into New York State's most wasteful and cost inefficient building according to DHCR's own records. Between 1999 and 2003 Westview Taskforce (WTI) proposed time and again a number of efficiency initiatives that would reduce expenses, but such proposals were dismissed by DHCR and Owners.

**Extremely Urgent!**

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In 2004 DHCR and RIOCR welcomed a Mitchell Lama dissolution orchestrated by outside real estate developers, even though such buyout failed to engage tenants and did not fund the building's rehabilitation. Tenants stood alone against this threat.

In 2006, working to save our homes and solidify a future on Roosevelt Island, tenants negotiated a buyout Agreement directly with the Owners that: (a) completely funded all necessary repairs; (b) created affordable first-time home ownership opportunities consistent with tenant's means; (c) protected rents for life consistent with rent stabilization guidelines; (d) introduced cost efficiency initiatives that contained and even reduced building maintenance costs; and (e) set long term maximum household income restrictions for future tenants consistent with GDP guidelines.

In April 2007, the Agreement that we saw as saving our homes was blocked by the new Spitzer-led DHCR/RIOCR Administration, claiming that the \$182/SF purchase price was excessive and that provisions for future tenants should be enhanced. In response, the Owners terminated the Agreement, completely disengaged from Westview, and in January 2008 unilaterally petitioned for this staggering and unprecedented rent increase.

The present housing crisis cannot be resolved by endless rent hikes leading to the wholesale displacement of tenants. This crisis can be alleviated only through discussions with the Owners and DHCR in connection with renewal of a buyout plan that takes into consideration each group's concerns. We believe that significant progress has been made with DHCR with respect to provisions for future tenants. During a recent emergency meeting with Charles Lucido and David Hirschhorn (representing the Owners) we heard that Westview's controlling partner, The Irene Diamond Trust, would be contacted by the managing partners and asked to re-engage with tenants. This change would present a welcome opportunity to move forward without the threat of constructive mass evictions.

In connection with the Budget Rent Determination (BRD) process, an adequate response requires time and resources. First we must engage Accountants. The accountants who assisted WTI during the 2003 BRD advised us they were unavailable. Resnick & Company LLC, who assisted WTI in 2001 and also performed seven-year budget projections for WTI at RIOCR's request, confirmed only a few days ago that they were available, but their fees would now be \$8,000. We request that DHCR review and approve such fees.

Beyond the independent analysis of budget data, our accountants previously uncovered, through multiple audits of Housing Company books and records, a pattern of mis-classification of expenses, material mis-statement of expenses and other irregularities. Engagement of an accounting firm is overwhelmingly important. The 90-Day extension is required so that Accountants can perform their job.

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In addition to retaining Accountants, we plan to retain Energy and Efficiency consultants to demonstrate and recommend ways to make the building more efficient and cost effective.

Thus, we should be able to minimize rent increases and the displacement of tenants. New York State regulations specifically provide that DHCR analysis “shall review opportunities to reduce projected expenditures including inter alia, achieving cost efficiencies in ongoing expenses items” (1728-1.2(a)(2)(ii)). In 2001 and again in 2003, our consultants presented to the Owners and DHCR reports that showed how a few inexpensive steps would result in significant continuous annual savings, as well as considerable rebates from NYS Energy Research Development Agency. Tenants also proposed that individual meters be installed. According to the experts, if our proposals were implemented, total energy costs would be slashed by 40%. Regrettably, such opportunities were ignored. The 90-day extension is needed so that our Energy and Efficiency Consultants can perform their job.

Another opportunity to reduce cost expenditures is refinancing of the mortgage. Currently, mortgage payments at very high interest rates make up about 25% of the total rent. We believe that refinancing can substantially reduce costs while also generating funds for repairs. Potentially, this would eliminate the need for replacement fund contributions (more than \$1.2M) requested by the Owners. WTI plans to explore such opportunity with financial institutions over the next 90 days.

Perhaps we should take this opportunity to point out another method to reduce costs that has been overlooked. These are the RIOC payments. Adding direct payments and lost commercial revenues, RIOC charges make up about 8% of rent. With RIOC’s improved financial condition, it is essential to discuss with them the opportunity to reduce such burden. Westview Taskforce plans to commence such discussions and the 90-Day extension is important.

Tenants also need to investigate lost revenue the building incurred as a result of management changes in 2004. Additionally, Tenants wish to examine the disappearance or inappropriate use of \$752,000 paid by the tenants in 2003/04 to refurbish the building’s elevators. It is apparent that the work was never done. The 90-Day extension is crucial here.

Considering all of the foregoing and, most important that our homes are at stake, we request that the Budget Rent Determination hearing be postponed until September. We wish you to remember that we are all volunteers and our time and resources are limited. The 90-day extension we seek is absolutely necessary to avoid a calamity of unprecedented proportions. The building presently has more than \$1M in cash reserves (was \$500,000 in 1999). Net Monthly Operating Income was \$320,362 in March 2008. There is no apparent or dire need for an infusion of cash over the next few months.

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We believe and hope that the extension will enable the tenants, the Owners and DHCR to make significant progress in connection with a resurfacing buyout plan that would save our homes and avoid major displacements. The extension will also provide the tenants with adequate time and opportunity to prepare a thorough and comprehensive response and, thus, reduce the full negative impact on tenants in the event discussions with the Owners and DHCR are unproductive.

Regulations set a minimum comment period, not maximum, as project circumstances warrant. Moreover, subject to 1728-1.1(b) **the Commissioner has the specific authority to postpone a hearing date.** Indeed, in the 2001 BRD and again in 2003 BRD process our requests for such extensions were favorably considered.

Finally, we ask that DHCR instruct the Housing Company to release current financials for October 2007 through May 2008 including Monthly Income/Expense reports as these are a critical component of the tenants response to the owners proposed rent increase. After several requests these documents still have not been released.

Our objective is to protect all of the tenants in connection with the preservation of their homes in Westview. Considering the circumstances, a new buyout path is the only permanent viable solution. The BRD path, as presently proposed and dated, defeats our opportunity to pursue an effective arrangement and threatens both the short and long term welfare of every Westview resident.

We ask that you recognize the critical nature of this request to participate through access of information and sufficient opportunity to comment, and reschedule the Westview BRD hearing until September accordingly. We also request a meeting with you to continue discussions soonest possible.

Thank you for your attention and cooperation in this urgent matter.

Sincerely,

Johan Marfey  
Co-Chair

Opher Pail  
Co-Chair

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CC:

Honorable David A Patterson, Governor  
David Cabrera, Deputy Commissioner  
Richmond McCurnin, Assistant Commissioner  
John Francois, Housing Management Bureau  
Robert Damico, Director Housing Management Bureau  
Vincent Giammarino, Director Housing Audits and Accounts Bureau  
Micah Kellner, New York State Assembly Member  
Jessica Lappin, New York City Council Member  
Jose Serrano, New York State Senator  
Robert M. Abrahams, Esq., Irene Diamond Fund  
Charles Lucido, Esq.  
David Hirschhorn, Esq.  
Chad Marlow, Esq.  
David Berkey, Esq.

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