



# MITCHELL-LAMA RESIDENTS COALITION

Vol. 14, Issue 4  
December 2009

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

## Lobbying Effectively for Affordable Housing

### **MLRC holds tenant lobby months in neighborhoods: January and February**

**T**he Mitchell-Lama Residents Coalition is pleased to announce a joint initiative: “Tenant Lobby Days in the Neighborhood” with the PIE Campaign Coalition (see page 7). We are focusing our attention on personal contact as a housing organization, reaching out in our neighborhoods to our State, City, and Federal legislative leaders.

We need YOU to become a tenant activist (if you aren’t already) by participating in our “Lobbying in the Neighborhoods.” We look forward to having additional Mitchell-Lama community members join us in visiting their representatives now and throughout the year. January

and February 2010 are our designated months for lobbying.

Sign up as a legislative captain and/or participant starting now or at the January 30, 2010 General Membership meeting. Call voice mail: 212-465-2619.

MLRC has a legislative agenda, lobby packet, paper work, and additional items available for this campaign. Please refer to page three of this newsletter for the MLRC Legislative Agenda.

Looking forward to your input and participation.

**HAPPY  
NEW YEAR!**

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

**GENERAL MEMBERSHIP MEETING**

**SATURDAY, January 30, 2010**

**Time: 10:00 a.m. – 12:00 p.m.**

**(Refreshments at 10:00 a.m.)**

Pick-a-Prize fundraising auction will take place at end of meeting. Tickets: \$3, \$5, and \$10. Prizes and surprises! Come join the fun!

PLACE: Musicians Union Local 802  
322 West 48<sup>th</sup> Street (near 8<sup>th</sup> Avenue) Ground Floor, “Club Room”

TRAINS: No. 1, train to 50<sup>th</sup> St. and 7<sup>th</sup> Ave.; Q,W trains to 49<sup>th</sup> St. and Broadway; E train to 50<sup>th</sup> St. and 8<sup>th</sup> Ave.

### **DHCR nixes “minimum” rent increase for R-S tenants under six years**

**By Sue Sussman  
Central Park Gardens tenant leader**

**T**enants in buildings that have been removed from the Mitchell-Lama program less than six years ago will not have to pay a “minimum” increase that the Rent Guidelines Board (RGB) had established for people occupying their rent-stabilized apartments for at least six years, and whose rents are under \$1,000.

The State’s Division of Housing and Community Renewal made this decision after hearing arguments by Ellen Davidson, an attorney with the Legal Aid Society.

The RGB’s imposed “minimum,” established two years ago, often amounted to a huge percentage increase in rent.

Technically, the decision specifies that the minimum does not apply to buildings that have been rent-stabilized for under six years, regardless of the amount of rent, or of how long the tenant has lived there. This would include Mitchell-Lama buildings removed from the program less than six years ago.

The decision was won for a tenant in Columbus House (95 West 95<sup>th</sup> Street) but applies citywide. The decision can be read at <http://save-ml.org/files/No%206%20year%20application%20for%20MLs.pdf>

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

# MLRC MEMBERSHIP

Representing the Mitchell-Lama Community

**W**e would like to thank you for your membership and are grateful for your loyalty to our organization. Without your membership we would not have an organization.

Do you remember when moving into an affordable Mitchell-Lama neighborhood was a dream? We built our neighborhoods. Worked hard and played by the rules. For many of us that dream has turned into a nightmare.

For the coming year, we plan to step up our efforts, conduct workshops, and expand our out-reach efforts. We cannot do this alone or without your continued generous financial support.

### During the past year, we

- Lobbied and visited, in Albany and in our neighborhoods, congressional and legislative representatives urging that they support legislation that will enable us to keep our homes affordable and to stay in our neighborhoods.
- Filed an amicus curiae (friend of the court brief), in support of the tenants in the Stuyvesant Town/Peter Cooper Village J-51 Case, that resulted in a landmark decision by New York's highest court that apartments in buildings receiving J-51 Tax benefits must be rent regulated.
- Joined other organizations as a united front to fight against privatization/buyout and for the full repeal of vacancy decontrol and for the enactment of legislation that will place all former Mitchell-Lama buildings regardless of when built, under rent stabilization.

Your generous support will enable us to continue the fight and keep you informed. Please fill out the Membership Form and return to the Mitchell-Lama Residents Coalition, PO Box 20414, New York, NY 10025.

Again, thank you. --Executive Board, Mitchell-Lama Residents Coalition

## MEMBERSHIP FORM 2010

New Member \_\_\_\_\_ Renewal \_\_\_\_\_ Donation \_\_\_\_\_ Check \_\_\_\_\_ Cash \_\_\_\_\_

NAME OF DEVELOPMENT: \_\_\_\_\_

YOUR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ Apt. # \_\_\_\_\_ City, State, Zip \_\_\_\_\_

DAY TELE #: \_\_\_\_\_ EVENING TELE #: \_\_\_\_\_

FAX: \_\_\_\_\_ EMAIL: \_\_\_\_\_

MITCHELL-LAMA: Current: Co-op \_\_\_\_\_ Rental \_\_\_\_\_

MITCHELL-LAMA: Former: Co-op \_\_\_\_\_ Rental \_\_\_\_\_

MITCHELL-LAMA: Advocate \_\_\_\_\_

PLEASE GIVE US THE NAME OF THE PRESIDENT OF YOUR TENANT'S ASSOCIATION OR THE PRESIDENT OF THE BOARD OF DIRECTORS:

PRESIDENT'S NAME: \_\_\_\_\_ TELE #: \_\_\_\_\_

### 2010 ANNUAL DUES

Individual Dues: **\$15.00 per year** or \$ \_\_\_\_\_ Donation

Development Dues: 25 cents per apt. or (\$30.00 Minimum; \$125.00 Maximum). (Indicate on your check Individual or Development dues).

Please make your check payable to the Mitchell-Lama Residents Coalition. Mail to the address below along with this form.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

NOTE: Checks are deposited once a month.

MAIL TO: **MITCHELL-LAMA RESIDENTS COALITION, INC.**  
**P.O. Box 20414, New York, NY 10025**

## UPCOMING EVENTS

### GENERAL MEMBERSHIP

**Saturday**  
**January 30, 2010**  
10:00 a.m. - Noon  
Musicians Union Local 802  
322 West 48th Street  
NYC

### EXECUTIVE BOARD Meetings, 2010\*

**January 9**  
**February 13**  
**March 13**  
**April 10**  
**May 8**  
**June 12**

10:00 a.m. - Noon

\*Executive Board Meetings are held at RNA House, 150-160 West 96th Street (between Columbus and Amsterdam).  
*All dates are subject to revision. Please call the voice mail to confirm (212) 465-2619.*

### Mitchell-Lama Residents Coalition, Inc.

**Co-chairs:** Jackie Peters  
Ed Rosner  
Margo Tunstall

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Fax (212)864-8165  
Voice Mail: (212) 465-2619  
cptchairs@gmail.com

# MLRC's Legislative Agenda

December 2009

**F**ollowing are the key items in the Mitchell-Lama Residents Coalition legislative agenda:

- 1) Support passage of a revised Stewart-Cousins//Rosenthal Bill which would place all buildings formerly under Mitchell-Lama, regardless of when built (that is, either before or after January 1, 1974), into rent stabilization without a "unique or peculiar circumstances" rent increase.
- 2) Support the Moratorium on privatization of Mitchell-Lama co-ops and buy-outs of Mitchell-Lama rentals through December 31, 2010. (Bill No. S2171/A6706)
- 3) Support the repeal of vacancy decontrol (Bill No. #A02005)
- 4) Support the Reform of the Rent Guidelines Board by changing the composition to three tenant members, three landlord members and three public members, and require local legislative approval of all appointments.
- 5) Support the repeal of the Urstadt Law, which will allow local legislative bodies like the NYC Council to restore Home Rule by passing local laws on rents and evictions (Bill No. A1688).

## Starrett City residents benefit from refinancing agreement

A report on New York 1 concerning the Starrett City development is good news for residents. The report noted that New York State's housing commissioner agreed to the financing arrangements that will retain the complex's affordability for the next three decades. The arrangement was made possible by legislation passed earlier this year.

Structurally, the agreement allows the Brooklyn complex to stay within the Mitchell-Lama program, a notable accomplishment in light of the loss of numerous M-L developments, both cooperative and tenant-based, to buyouts throughout the city.

Under the agreement, the landlords will give around \$40 million for repairs, according to the New York 1 report.

New York State had blocked the proposed sale of Starrett City, which at the time called for a price of \$1.3 billion. That amount may well have rendered the complex unaffordable, the report said.

--The news report appeared on New York 1 at [http://ny1.com/7-brooklyn-news-content/top\\_stories/110602/](http://ny1.com/7-brooklyn-news-content/top_stories/110602/)

## Time to get involved!

The MLRC invites members to join any one of the committees listed below. Please call MLRC voice mail at 212-465-2619. Leave your name, phone number, and the specific committee you are interested in joining. Committee chairs will notify you of meeting dates and times.

**Event committee:** Plans, organizes and implements all special events (holiday luncheons, annual breakfast, workshops, etc.).

**Fund raising committee:** Organizes and implements fund raising events.

**Legislative/lobbying committee:** Develops the MLRC legislative agenda and organizes lobbying activities.

**Membership committee:** Provides timely updates and main-

tains membership lists. Also distributes welcome packages to new members.

**Newsletter committee:** Manages publication, distribution, and prompt website posting of the MLRC newsletter.

**Public relations/outreach committee:** Recommends activities and events for MLRC participation. Monitors and encourages mutually beneficial relations with other ML organizations.

**Co-op committee:** Alerts MLRC executive board of co-op issues (resident and development concerns) and relevant pending legislation.

**Rental committee:** Alerts MLRC executive board of rental (resident and development concerns) and relevant pending legislation.

## Coney Island's Luna Park to receive \$21 million in repair funds; will remain in M-L program

**I**n exchange for retaining Luna Park co-op housing in the Mitchell-Lama program for at least 20 years, the board of the 1600-unit development will receive \$21 million for critical structural repairs.

Announcement of the deal was made by Congressman Jerrold Nadler, Brooklyn Borough President Marty Markowitz, State Senator Diane Savino, Assemblyman Alec Brook-Krasny, and Councilman Domenic Recchia. Word of the agreement appeared on the *Room Eight: New York Politics* website.

Funding includes \$15 million from the New York City Department of Housing Preservation and Development, reportedly the largest City grant ever given to a Mitchell-Lama.

"I am extremely pleased that Luna Park will remain in the Mitchell-Lama program for 20 years and continue to be an important bastion of affordable housing for residents in my district," said Nadler.

Markowitz noted that Brooklyn is "proud home to everyone from everywhere" and we must use every tool there is to ensure it stays that way—and it's why we must continue to beat the drum and keep up the mantra of affordable forever."

Savino commented that she was "happy to have secured funding for much needed repairs."

Brook-Krasny said "Luna Park has made the right choice on all counts, and this continued partnership with New York City is going to be beneficial to all of us. We can all hope that more developments will go the way of Luna Park and continue to stay in the Mitchell-Lama program."

"People who have lived in Brooklyn their whole lives deserve to stay here," said Recchia, "and it's housing like Luna Park that allows that to happen."

## **CU4ML: How HPD can improve protections for tenants undergoing privatization**

Following is an abridged and edited version of a briefing memo, prepared by Cooperators United for Mitchell Lama (CU4ML), for the City Council Committee on Housing and Buildings, Oversight Hearings on Mitchell Lama Housing, December 15, 2009. The full memo is available in PDF form at <http://cu4ml.org/resources.html>.

### **1. HPD is to be commended for its initiative in adopting excellent new rules on privatization.**

These rules now spell out the sequence and details of the necessary votes in the privatization process in a very precise way. This will insure that hundreds of thousands of dollars of corporate funds are not wasted by Boards intent on privatizing, when an insufficient proportion of the cooperators is interested in buying out of the Mitchell-Lama program; will guaranty the integrity of the voting process through an independent election company; and will continue the democratic decision-making process, through the clarification of the one-vote-per-apartment rule in votes on dissolution.

### **2. HPD should propose and adopt rules to prevent entrenched board power in Mitchell-Lama co-ops**

Allowing Board members to hold office for twenty-five or thirty years permits the power of these individuals to become entrenched, which is inimical to the democratic process in publicly assisted housing. The rules should include term limits of six to eight consecutive years; prohibit the use of proxies in the election of directors; but permit absentee ballots for residents who cannot attend the meeting in person.

### **3. HPD can insure the integrity of waiting lists by requiring that the name and numerical position of the person on the waiting list for each project be placed on-line.**

The Inspector General's report found, in twelve cases, "the waiting list number assigned to individuals who had been removed from the external waiting list . . . were reassigned to persons who were either not on any list or who had been on the internal lists," even though "[n]ew applications should have been placed at the end of the external waiting list" (p. 34).

### **4. HPD should intervene when a board violates the law or the corporation's by-laws**

When, for example a corporation's by-laws require the annual meeting for the election of directors to be held in October and the board postpones the meeting for four months, rather than saying that there is nothing they can do, HPD can contact the board and say it is required to hold the meeting as provided in the by-laws. Frequently a strong reminder by HPD will be sufficient to prevent the violation.

### **5. HPD should establish an independent grievance procedure so that when complaints are received by HPD they are documented, followed up, and resolved.**

### **6. HPD can encourage transparency in operations by establishing procedures that require housing companies to disseminate important information from HPD to shareholders.**

### **7. HPD should adopt rules regarding community room use for co-ops as it has for rentals**

Section 3-17(d) of the HPD Rules provide that, in the case of rental projects, the housing company "shall not unreasonably withhold permission for use of the development's community space from its residents." No such regulation, however, was adopted for co-ops.

*(Continued on page 5)*

## **Become a Foster Parent!**

*Share your home and open your heart at*

### **HARLEM DOWLING WEST SIDE CENTER FOR CHILDREN AND FAMILIES**

*Call for information:*

**(212) 749-3656 ext 3017**

**(646) 210-4011**

*Contact person: Carmen Ithier*

## **Dues-Paid Developments**

MLRC strength comes from you, the membership. Support the Coalition's educational, advocacy and outreach programs with your membership dollars.

**Individual Membership: \$15**  
**Development - 15 cents per apt. (\$30 minimum;**  
**\$125 maximum)**

Donations above the membership dues are welcome.

### **These developments are 2010 dues-paid members of the Mitchell-Lama Residents Coalition**

Bethune Towers	Promenade Apartments
Castleton Park	RNA House
Central Park Gardens	Riverbend Housing
Clayton Apartments.	River Terrace
Coalition to Save Affordable Housing of Co-op City	River View Towers
Dennis Lane Apartments	Ryerson Towers
1199 Housing	Concerned Tenants of Sea Park East
Esplanade Gardens	Starrett City Tenants Association
Jefferson Towers	St. James Towers
Lincoln Amsterdam House	Tivoli Towers
Masaryk Towers Tenant Association	Tower West
Meadow Manor	Village East Towers
Michelangelo Apartments	Washington Park SE Apartments
109th St. Senior Citizen Plaza	West View Neighbors Association
Parkside Development	West Village Houses
Pratt Towers	Woodstock Terrance Mutual Housing

If your development has not received an invoice, please call the MLRC Voice Mail: (212) 465-2619. Leave the name and address of the President of your Tenants Association, Board of Directors, or Treasurer and an invoice will be mailed.

# Recent rulings boost M-L tenant positions

## J-51 apartments must be rent-regulated

On October 22, 2009, the Court of Appeals, which is New York's highest court, ruled that apartments in Stuyvesant Town and Peter Cooper Village were subject to rent stabilization because the owners were receiving a J-51 tax abatement. The MLRC filed an amicus curiae (friend of the court) brief in support of the tenants, by Seth Miller, of Collins, Dobkin & Miller, whose arguments prevailed. The court's decision supports the central claim in the Independence Plaza J-51 cases that former Mitchell Lama apartments in buildings that received a J-51 tax abatement must be rent regulated. The state's Department of Housing and Community Renewal is expected to issue a decision about IPN's [Independence Plaza North, a former ML development] rent stabilization status in January, 2010. -- Edmund Rosner

\* \* \*

## Exiting M-L is no 'unique' justification for rent increase

Justice Alice Schlesinger, in NY State Supreme Court, ruled on November 25, 2009, that New York State's Department of Housing and Community Renewal's regulation, adopted in November 2007, is valid. In other words, leaving the Mitchell Lama program is not by itself a unique or peculiar circumstance entitling an owner to a rent increase under the Emergency Tenant Protection Act (ETPA). An owner may apply for a unique or peculiar circumstances rent increase upon leaving the program only if the circumstances warrant it, but he or she has no right to such an increase merely by exiting the program. It should be noted that if a building is getting J-51 tax benefits, as with high income decontrol, unique or peculiar circumstances rent increases are unavailable. -- Edmund Rosner

## CU4ML Advice to HPD (Continued from page 4)

### VIII. HPD Should not "Grandfather in" former less-protective rules

In connection with the rule changes on privatization that HPD has adopted, permission to companies that embarked on the privatization process (before the adoption of the rule changes) to be "grandfathered in" under the old rules, was and is unnecessary. Grandfathering under the HPD rules has meant that the residents of projects already embarked on privatization have been left unprotected in significant ways.

In the case of East Midtown Plaza, for example, significant amounts of corporate funds have been spent on privatization without the shareholder approval that would have been required if grandfathering of the old rules had not been allowed.

## Attention all members:

Please cut out or copy the following letter and send to State Senator John Sampson, 409 Legislative Office Building, Albany, N.Y. 12247, and to State Assemblyman Sheldon Silver, LOB 932, Albany, NY 12248. Be sure to fill in the blanks:

Dear \_\_\_\_\_

I am writing to urge you to support S3326 (A9230), the bill that would extend rent stabilization to all Mitchell-Lama and project-based Section 8 buildings when they leave their subsidy programs. This is the only bill that provides ongoing rent regulation coverage for post-1973 buildings that were already removed from the Mitchell-Lama program. As New York continues to lose affordable housing, this legislation is crucial to protect low- and moderate-income New Yorkers throughout the state.

Sincerely,

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

# 'Eyes & Ears' confab with HUD in planning stage

By Judy Montanez  
MLRC & NAHT Board Member

Plans are underway for the New York and New Jersey "Eyes & Ears" conference, to be held with officials of the federal department of Housing and Urban Development. The conference is expected to take place within the next few months.

Coordinated by the New York National Alliance for HUD Tenants (NAHT) Eyes & Ears ad hoc committee, the conference gives tenant leaders the opportunity to speak with HUD officials regarding HUD residents' concerns.

Members of the Committee include Rick Leung, NAHT Region 2 VP East; Leonene Crawford, NAHT Region 2 VP North; Judy Montanez, NY NAHT Board Member; and New York and New Jersey tenant organizers.

Carol Galante, HUD's deputy assistant secretary for multi-family housing, has agreed to attend, accompanied by regional staff.

Residents of both MLRC's co-op and rental units who would like to be on the mailing list, or who wish to submit issues of concern, are invited to e-mail [region2naht@gmail.com](mailto:region2naht@gmail.com). Please include your name, phone number, development name, and list of your building's issues.

### Special thanks for extra donations

The following members have made donations in addition to their annual membership. Their generosity aids the Coalition in the struggle to preserve the Mitchell-Lama program and affordable housing.

- Oscar Arrington Concourse Village
- George Diaz Independence Huse
- Virginia Donnelly Advocate
- Martin Feuerman Cadman Plaza
- Julian Gaa RNA House
- James R. James Cadman Plaza
- Catherine Morris Riverbend
- Syviah I. Pagouda Advocate
- Jacquelyn Peters Metro North
- Ivy Pinnock Riverview Towers
- Elsbeth Reimann Rupert Houses
- Helen Rosenthal Advocate
- Bettie G. Thomas Promenade
- Tivoli Towers Tenant Association
- Margaret Tucker Coney Island Site 1A
- Alice Wojciechowski RNA House

# Tenants' Attorney Blasts HPD, Landlords on J-51

Following is the testimony of Seth A. Miller, attorney for several tenant organizations, before the NYC Council Committee on Housing and Buildings, Oversight Hearings on Mitchell Lama Housing, December 15, 2009

By Seth A. Miller

On behalf of the Mitchell Lama Residents Coalition, I wish to extend my thanks to Chairman Dilan and to the members of the Committee for permitting me to give some brief testimony on the subject of HPD's failure to enforce the J-51 ordinance as it applies to Mitchell Lama developments.

On June 27, 2003, Glenn Gardens, a Mitchell Lama development with 266 units, exited the Mitchell Lama program while continuing to receive J-51 benefits. On June 28, 2004, Independence Plaza North, a Mitchell Lama development with over 1,300 units, exited the program with J-51 benefits in place. Despite the J-51 benefits, all of the apartments in these developments were privatized.

Because these developments had received federal subsidies, the poorest tenants were given vouchers from the federal government, under which the tenants paid 30 percent of their income for rent, and the vouchers paid the difference between the tenant's payment and new free market rents approved by HPD. For example, two-bedroom apartments at Independence Plaza, which used to rent for just over \$1,000, now rented for around \$3,500, with the lion's share of the rent being paid by the federal government.

## Landlords received millions in overcharges

As of now, the landlords of these developments have received tens of millions of dollars from the federal government in overcharges, and hundreds of millions more from tenants who should have been rent stabilized all along, under the J-51 program.

On June 25, 2004, West Village Houses, a complex of 419 Mitchell Lama apartments, exited the M-L program while continuing to receive j-51 benefits. Rather than simply require that the premises be made rent stabilized as required by law, the City negotiated a cooperative conversion plan under which the sponsor was given close to \$19 million in reduced mortgage payments on its first mortgage; a freeze against all increases in real estate taxes for twelve years, and a partial waiver of all interest payments on its second mortgage.

What did the federal government get in exchange for the tens of millions of dollars in voucher money spend at Independence Plaza and Glenn Gardens? What did the City get in exchange for the tens of millions of dollars in subsidies paid in connection with the co-op conversion at West Village Houses?

The answer: Nothing at all.

The Tenants would have been better off if HPD simply enforced the law and required that these developments be registered as rent stabilized upon privatization.

## Tenants living under threat of eviction

At Independence Plaza and Glenn Gardens, only a fraction of the tenants got vouchers. Those tenants have lived under the threat of eviction if their incomes go up. This includes situations where elderly tenants cannot have relatives move in with them to provide care. At IPN, those tenants who didn't get vouchers were promised temporary rent protection, but even that promise was broken. At West Village Houses, tenants who could not afford to buy their apartments received only temporary protection, only postponing the time when the tenants could be evicted.

HPD completely failed in its responsibility to enforce the J-51 ordinance in these developments. While these developments

were still in the Mitchell Lama program, every tenant was required to get renewal leases, and every lease was required to give the tenant notice that the building was receiving J-51 benefits. HPD took no action to make sure the leases contained these notices, despite the fact that it has the power to approve leases in advance and the power to remove managing agents, among other powers.

When it came time for these developments to apply for the right to go private, HPD should have required that every apartment be registered as rent stabilized, as it clearly had the power to do under its regulations.

Why didn't HPD do its job, when it could have saved thousands of affordable apartments and hundreds of millions of dollars in needless taxpayer expenditures? We don't know.

One possible explanation can be found in the condescending and disrespectful treatment HPD gave the tenants at IPN in connection with this issue. I represent those tenants. We found out about the J-51 several months after IPN went private. As soon as we wrote to the landlord, HPD began to hold a series of private meetings, attended by the commissioner himself, with the landlord's attorneys. The tenants were given no notice of these private meetings, and offered no opportunity to be heard.

As a result of this unseemly private lobbying, HPD "revoked" the j-51 benefits received at IPN since it went private. The revocation of benefits does not, according to HPD's regulations, deregulate the rent stabilized apartments at the development, which became stabilized because the benefits had continued for nearly two years after privatization. But the revocation of benefits was clearly done as a private favor to the landlord, who lobbied hard for it.

Why should well-connected landlords be able to meet privately with high HPD officials to discuss business that has an impact on tenants, without giving the tenants an equal chance to participate?

## City Council should demand enforcement of its laws

We believe that the City Council should demand consistent and reliable enforcement of its ordinances, including the J-51 ordinance.

In addition, we recommend that the Council reform the ordinances under which HPD derives its supervisory authority over Mitchell Lama housing to:

1) Make enforcement of the regulatory requirements of the J-51 ordinance mandatory, not discretionary, and reviewable by the courts;

2) Provide for penalties against landlords who fail to register their J-51 assisted apartments as stabilized.

3) Require that the City collect the ten dollar apartment fee for registering stabilized apartments, including J-51 assisted apartments, and promptly commence tax foreclosure proceedings against noncompliant landlords;

4) Bar landlords from communicating privately with HPD concerning any aspect of the privatization of Mitchell Lama developments, the setting of rents for privatized developments, and, in all types of buildings, the continued receipt of J-51 benefits.

Thank you for the opportunity to address the Committee.

# P.I.E. campaigners, HPD meet on protections for Mitchell-Lama

By Emily Goldstein  
*Subsidized Housing Organizer  
 Tenants and Neighbors*

Members of the Mitchell-Lama P.I.E. campaign, an effort to protect and enhance the Mitchell-Lama program, held a productive meeting on November 23rd with staff at New York City's Housing Preservation and Development (HPD) agency.

PIE stands for *Protection for tenants*, especially after leaving Mitchell-Lama; *Incentives for owners to stay in the program*; and *Enforcement of the law to keep more developments in the program for a longer period of time*.

Campaign members presented our legislative platform, with particular emphasis on the importance of the Rosenthal/Stewart-Cousins bill, which would extend rent stabilization both to post-73 Mitchell-Lama's upon buyouts, and to project-based Section 8 buildings that opt-out of their contracts. It would also apply retroactively to protect tenants in buildings that have already left Mitchell-Lama.

Participants at the meeting also agreed to explore possible legislative changes that would provide HPD, and New York State's Department of Housing and Community Renewal, with

more discretionary authority to prevent Mitchell-Lama owners from buying out in certain circumstances. Currently the regulatory agencies have much greater discretion to reject sales of Mitchell-Lama buildings than they have to reject buyouts.

Finally, HPD and the P.I.E. campaign members discussed how we might take advantage of the current economic climate and downturn in the housing market to recapture Mitchell-Lama buildings that bought out over the past few years as affordable housing.

While it is unlikely that the P.I.E. campaign and HPD will agree on every issue, this first meeting since Rafael Cestero took over as Commissioner of the agency revealed common ground on several policy issues, and we agreed to continue working together towards the goal of preserving the city's remaining Mitchell-Lama housing.

*Additional information on the P.I.E. campaign is available at <http://www.save-ml.org/modules.php?name=News&file=article&sid=140>*

## Sub-Metering decision by PSC hailed as victory for tenants

*The following article was submitted by Paul H. Curtis, Director of Community Relations, Assembly Member Micah Z. Kellner*

The NYS Public Service Commission has just issued a decision in the sub-metering cases at Frawley Plaza, Metro North, Roosevelt Landings, and KNW Apartments. We have yet to see the final order itself, but the outlines of the decision are as follows:

1. The petitions on behalf of tenants for a rehearing of the sub-metering orders were granted, and the Commission rejected the owners' contention that the petitions were untimely.
2. The temporary stays on sub-metering which had been granted in February were made permanent.
3. The owners will be allowed to request permission to sub-meter again only after meeting conditions, including:
  - A process to obtain input from tenants and all parties to the cases;
  - A showing that as a whole, tenants are held harmless from sub-metering, though some may pay more and others less based on usage;
  - No sub-metering of heat without commitment to completion of energy efficiency measures in NYSEDA program;
  - Installation of thermostats;
  - No "deeming" of charges for electric service to be "added rent;"
  - Compliance with HEFPA;
  - Education of tenants regarding energy efficiency and HEFPA rights.

This decision represents a substantial victory in our efforts to reform the sub-metering process and secure tenant protections. However, much more work will need to be done to ensure that these protections are genuinely included in any plan the owners

bring back to the PSC, as well as to reform electrical sub-metering in New York more generally.

*NOTE: The Commission's decision, when issued, may be obtained at [www.dps.state.ny.us](http://www.dps.state.ny.us). Enter Case number in the "Search for Case/Matter Number" box. Commission orders may also be obtained from Commission's files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223; (518-474-2500).*

*CASE 08-E-0836 – Petition of Frawley Plaza, LLC to submeter electricity at 1295 Fifth Avenue, 1309 Fifth Avenue and 1660 Madison Avenue, New York, New York, located in the territory of Consolidated Edison Company of New York, Inc.*

*CASE 08-E-0837 – Petition of Metro North Owners, LLC, to submeter electricity at 1940-1966 First Avenue and 420 102nd Street, New York, New York, located in the territory of Consolidated Edison Company of New York, Inc.*

*CASE 08-E-0838 – Petition of North Town Roosevelt, LLC, to submeter electricity at 510-580 Main Street, Roosevelt Island, New York, located in the territory of Consolidated Edison Company of New York, Inc.*

*CASE 08-E-0839 – Petition of KNW Apartments, LLC, to submeter electricity at 1890 Lexington Avenue and 1990 Lexington Avenue, New York, New York, located in the territory of Consolidated Edison Company of New York, Inc.*

***MLRC note: our city, state, and federal elected officials actively supported us in this fight.***

# NAHT calls for action on making affordable housing a legal right

**N**AHT NY Board Members Judy Montanez, Rick Leung and Lonene Crawford are asking all NY tenants to contact their Congressional and City Council Representatives to tell them it is imperative that they support and sponsor the US International Covenant on Economic, Social and Cultural Rights (ICESCR) Treaty & H.Res. 416. The signing of this Treaty will establish by law that every human being has a right to affordable and decent housing. However, this will not happen if we, the people, do not act NOW and call our representatives.

Following is an article on the topic that appeared in the National Law Center on Homelessness and Poverty (NLCHP). It is reprinted here with permission from the Center, 1411 K Street, NW, Suite 1400, Washington, DC 20005, [www.nlchp.org](http://www.nlchp.org). Contact: [nlchp@nlchp.org](mailto:nlchp@nlchp.org).

## The Economic & Social Rights Treaty Ratification

**S**igned by Pres. Jimmy Carter in 1977, and transmitted to the Senate in 1978, the International Covenant on Economic, Social and Cultural Rights (Economic & Social Rights Treaty) has not yet been ratified. With a new administration, ratification of this treaty is an important step in developing a base for human rights legislation. Originally adopted in 1966, the Economic & Social Rights Treaty defines the right to work, the right to social security, as well as the rights to food, housing, health and education as fundamental human rights. Thus far 159 nations have ratified the treaty, with six additional countries (including the U.S.) being unratified signatories.

The U.S. is the only major first world country that has not ratified the Economic & Social Rights Treaty. All of the U.S.'s major allies, including the entire European Union and G8 nations, have ratified it. If the new administration is serious about sending a message to the world that the U.S. is interested in a fresh era of diplomacy, and respect for human rights, ratifying the Treaty is a good first step.

### Impetus for progressive legislation

However, not only will ratification show an interest in supporting human rights, it can also serve as a powerful groundwork for passing future progressive, human rights-based policy. In the human rights framework, every right creates a corresponding duty on the part of the government to respect, protect, and fulfill the right. By ratifying the Treaty, the

Administration and Congress will be building a strong legal and policy basis for the legislation they are interested in adopting.

For example, in the human rights framework, the right to housing consists of seven elements: Security of Tenure; Availability of Services, Materials and Infrastructure; Accessibility; Habitability; Location; and Cultural Adequacy. The government can choose how it will implement the right, whether through spending on public housing and section 8 voucher programs; by creating incentives for private development of affordable housing such as inclusionary zoning or the Low Income Housing Tax Credit; through market regulation such as rent control; or by other means. So the government retains control over how the right is met, but the Treaty provides a basis for ensuring that the policies are based on the basic rights and needs of the people.

NLCHP is petitioning law and policy makers to try and enlist their support for getting the Economic and Social Rights treaty ratified.

### Action Steps

Contact your Senator and ask them to support ratification of the Economic & Social Rights Treaty. Also ask them to contact Sen. Kerry (MA), the Chair of the Foreign Relations Committee, to bring the treaty to a vote in the Committee.

Contact your Representatives and ask them to co-sponsor H.Res. 416, calling for the Senate to ratify all outstanding human rights treaties, including the Economic & Social Rights Treaty.

Conduct a local campaign to get your city or county to endorse the principles of the Economic & Social Rights Treaty and transmit that support to your Senators and Representatives.

H.Res. 416 - International Human and Civil Rights Resolution expresses the sense of the House of Representatives that the United States should become an international human rights leader by ratifying and implementing certain core international conventions.

On May 7, 2009, Rep. John Lewis (D-GA) reintroduced H. Res. 416 (formerly H. Res. 1169) in the 110th Congress. This resolution calls on the United States to ratify and implement fundamental international conventions. NLCHP supports this resolution as a step toward ratifying the Economic & Social Rights Treaty.

*For More Information see*

*<http://wiki.nlchp.org/pages/viewpage.action?pageId=6652046>;  
and <http://wiki.nlchp.org/display/Manual/ICESCR+Treaty+Ratification>*

## DHCR loses two top affordable housing officials

**D**eborah VanAmerongen, a commissioner of the NYS Department of Housing and Community Renewal, is leaving her post January 15, 2010, to take a job at the law firm Nixon Peabody. Priscilla Almodovar, CEO of the Housing Finance Agency, is also leaving her post.

These two outstanding individuals will be sorely missed as they encouraged positive tenant relationships and worked wonders in the field of housing.

It was under VanAmerongen's leadership that favorable DHCR tenant regulation changes took place regarding the pre-1974 Mitchell-Lama's "unique or peculiar" rent increases many landlords were seeking.