
MITCHELL-LAMA RESIDENTS COALITION

Vol. 10, Issue 4
January 2005

FAX (212)864-8165

WEBSITE: www.mitchell-lama.org

Keep Milk and Housing Affordable!

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GENERAL MEMBERSHIP MEETING

SATURDAY, January 22, 2005

**Time: 10:00 a.m. - 12:00 p.m.
(Refreshments at 10:00 a.m.)**

Countee Cullen Regional Library

104 West 136 Street (around the corner from the Schomburg Library)
No. 2,3 train to 135th St., (or) M1, M2, M7, or 102 bus to 135 Street

Invited Guests:

**John Crotty, NYC Housing Development Corporation
State Senators, David Patterson and Jose Serrano, Jr. ; State
Assemblymen, Keith Wright and Adam Clayton Powell IV; City
Councilmen, Philip Reed, Bill Perkins, and Robert Jackson**

TENANT LOBBY
DAY

APRIL 12, 2005

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

Senate Minority Vows to Address Unfinished Business

Citing the need for legislative reform, Senate Democratic Leader David A. Paterson said the 2004 Session would be remembered, not for its accomplishments, but for its dysfunction and ineffectiveness.

In comments delivered earlier this year, Senator Paterson noted that reforming Medicaid, increasing the minimum wage, equitable distribution of public school aid, and providing homeowners with property tax relief have been and will continue to be priorities in the upcoming year. Pledging to keep fighting for these issues, he said, "The Senate Minority has proposed and will continue to propose new and innovative ideas to cure some of the most significant problems plaguing our great state. But unless we enact real legislative reform, important legislation will remain bogged down by gridlock."

Among proposals offered by the Senate Minority is a plan for Medicaid reform that both preserves access to health care and translates into significant savings for the taxpayers of New York. Senator Paterson also reaffirmed his conference's commitment to reforming the "antiquated and draconian" Rockefeller Drug laws.

Characterizing the state of affordable housing as having reached a "crisis stage," Senator Paterson proposed the "Housing Capital Program," which would be the first major affordable housing initiative enacted in New York State since 1955. He also called for increased funding to the Mitchell Lama Housing Project Repair Fund.

Other legislative initiatives include increasing the minimum wage, promoting small businesses, and protecting localities from having to bear the brunt of the state's fiscal deficits.

"There is still time to address these important issues. We need only to exert some political will and focus on what is truly important to the people of New York State."

UPCOMING EVENTS

GENERAL MEMBERSHIP

Saturday, January 22, 2005

10:00 am - Noon
Countee Cullen Library
104 West 136th Street
NYC

Saturday, March 19, 2005
TBA

*EXECUTIVE BOARD Meetings

TBA
Saturday, February 12, 2005
10:00 a.m. - Noon
Saturday, March 5, 2005
10:00 a.m. - Noon

Tenant Lobby Day

April 12, 2005

*Executive Board meetings are held at **RNA House**, 150-160 West 96th Street between Columbus and Amsterdam Aves., NYC

All dates are subject to revision. Please call the voice mail to confirm (212) 465-2619.

JOIN THE MITCHELL-LAMA RESIDENTS COALITION, INC.

INDIVIDUAL \$10.00 per year DEVELOPMENT 15 cents per apt.

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Fax _____ E-mail _____

Development _____ Check: Renewal ___ New Member ___

Mail to: MLRC, P.O. Box 20414, Park West Finance Station, N.Y., N.Y. 10025

MLRC fights for you and your right to affordable housing!

Mitchell-Lama Residents Coalition, Inc.

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Jackie Peters

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The Westgate Suit Progresses: Pre-1974 Mitchell-Lamas at Stake

By Sue Susman

The Westgate Tenants' Association and New York State's Division of Housing and Community Renewal have begun their appeal to New York's highest court in the case officially called *Matter of KSLM-Columbus Apartments v. New York State Division of Housing and Community Renewal*. They're appealing the Appellate Division statement that just leaving Mitchell-Lama and going into rent stabilization is a "unique and peculiar circumstance" supporting a landlord's request for a steep increase in the starting rent for rent stabilization. That provision comes from the 1974 Emergency Tenant Protection Act, which the court held applies to all pre-1974 Mitchell-Lama buildings, even those built before the 1969 Rent Stabilization Law.

So far, twenty-eight tenants groups, led by the Mitchell Lama Residents Coalition and Tenants & Neighbors, are filing one brief as "friends of the court," written by Emery Celli Brinckerhoff & Abady; and a group of organizations concerned with policy issues for low-income people are filing another, written by Legal Services of New York and the Community Service Society, with the help of Patterson, Belknap, Webb & Tyler.

We are hoping that many tenants will come to up Albany (we'll arrange transportation!) some time in the spring to attend the hearing. The judges need to know we care!

Another Building Out of Mitchell-Lama

By Sue Susman

On January 7th, 2004, Central Park Gardens, at 50 West 97th Street, joined the involuntary exodus from Mitchell-Lama. Fortunately, because it was built before 1974, it is now in rent stabilization. Unfortunately, we are facing many of the problems that other former Mitchell-Lamas face.

First the good news. Because Central Park Gardens (CPG) was under the supervision of the state's Division of Housing and Community Renewal (instead of under the city's Department of Housing Preservation and Development), the landlord's capital improvement fund (collected from our rents over the years) could go into an escrow account for building work required over the next five years. While the landlord claimed only \$270,000 was needed, we hired an engineer who described \$5 million of necessary work. Taken by this discrepancy, DHCR did its own inspection, and ended up ordering \$1.4 million - for the first time in history ordering the landlord to put more money into the escrow account than it had in the capital improvement fund. Moral: If your building is state-supervised, hire an engineer licensed and insured in New York State. It's worth it: that \$1.4 million worth of work cannot be added to our rents later.

And with the help of our lawyer, Carol Ule, and some pressure from our state assembly member Daniel O'Donnell, we ensured that all but 6 of the many vacancies would be filled by Mitchell-Lama tenants, while those 6 of the better apartments are available for internal transfers. DHCR has agreed to stay on the case for

the next six months to ensure that this goes according to plan.

Now the less-good news.

Community Room - New York City regulation 9 NYCRR Section 1711-5.6 requires that all limited profit housing have a community room:

(1) The indoor space shall include a community room, coat rooms, a compact kitchen, including a sink, refrigerator, range, cabinets and a serving counter, opening on and adjoining this room; and a smaller room. Adequate miscellaneous and chair storage spaces shall be included within each community room. Two toilet rooms, one for men and the other for women, are required. The community space should be well lighted, heated and ventilated

(The regulation goes on and is worth reading in detail.)

Happily for those going into rent stabilization, the law requires the landlord to maintain all existing services, and these "include, but are not limited to: repairs, maintenance, the furnishing of light, heat, hot and cold water, elevator services, janitorial services, the removal of refuse, and ancillary services such as garage and *recreational facilities*." <http://www.housingnyc.com/html/resources/dhcr/dhcr3.html> [emphasis added].

So while our new landlord, Laurence Gluck (also owner of Independence Plaza North), would like to make our large, if not elegant, Community Room into professional rental offices, we are entitled to a Community Room that accommodates the tenants' association

and other tenant activities. DHCR has ruled that is true even if the landlord had closed the community room to tenants for a few years prior to leaving Mitchell-Lama. But we are going to have to fight out (before the Office of Rent Administration) where the community room will be.

Garage: We also have to fight about what will happen to our garage costs. DHCR's rule is "For garage spaces rented upon dissolution, the parking charge under Mitchell-Lama will be continued, and then increased upon renewal of the apartment lease based on applicable guidelines. For garages spaces initially rented after dissolution, the initial charge will be at market rates, but renewal increases will be limited to applicable guidelines." <http://www.dhcr.state.ny.us/ohm/ohm.htm#faqbuyouts>.

While the landlord persuaded the company that leases the garage into signing a more expensive contract on the basis that all spaces were going to market rate, we have the law on our side.

If you're facing anything similar, make sure at least 60 days before the buyout that the garage honors the legal requirement that a tenant must wait only 30 days to get a space (if it's occupied by a non-tenant). That will keep the existing tenants at reasonable rates.

And of course, the tenants' association has to stay strong and united to monitor all of this and to try to preserve the wonderful community engendered by being in Mitchell-Lama.

BUILDING BRIEFS JUNE 2005

The following DHCR developments are facing rent increase preliminary applications within the next six months.

CAANAN HOUSE, Manhattan	CREEK BEND HEIGHTS, Hamburg
CLAREMONT GARDENS, Ossining	CARNES MCKINNEY, Bronx
ST. SIMONS FOUND, Poughkeepsie	MEADOWS, New Hartford
UPAKA 1 AND 2, Manhattan	PARK DRIVE MANOR, Rome
WOODROW WILSON, Amsterdam	RUTLAND ROAD, Brooklyn
CHATHAM GARDENS, Rochester	TWIN PARKS NE 2, Bronx (Detail is sparse due to holiday hiatus.)

Section 8: For the third straight year, Congress increased the annual appropriation -- 12.7 billion in 2003; 14.5 billion in 2004; and 14.8 billion for 2005. The program has increased \$3.5 billion (or 30 percent) since 2001. Many mea culpas are in order from Louise Sanchez.

What happened in the elections? Bush was clearly the victor, but without the mandate claimed by Bush and his minions. If the vote in Ohio had changed by 60,000, the winner there would have been Kerry.

This column: For approximately two years, this column, in addition to housing detail, has included political, literary, and historic references. Nobody objected; indeed, what comment was received was highly appreciative. What follows is a summary of post-election views. Read it; check it out; submit your comments.

Bush's Record a Disaster for Workers and Their Families: President Bush's record on the economy is one of the worst in our history.

1. President Bush will be the first president since Herbert Hoover to end his term in office having lost rather than created jobs; almost 1.2 million private-sector jobs have been lost since January 2001.

2. Nearly 15 million American workers are unemployed or under-employed or have given up looking for work.

3. One-third of the President's tax cuts have gone to the wealthiest 1% of Americans; more of the tax burden has been shifted from the rich to the middle-class families.

4. The President promised that his massive tax for the rich would create more than two million jobs within a year after they took effect. Bush, however, fell far short of that promise; less than 300,000 jobs were created.

5. The U.S. recorded its highest ever trade deficit in 2003 -- \$489.9 billion.

6. Nearly 36 million Americans are now living below the poverty line. Last year, the ranks of the poor increased by 1.3 million. Some 4.3 million Americans have fallen into poverty since 2000.

7. Real income has been falling for the middle class; 2003 was the worst year for wage growth in the past 5 years. Working families have experienced a 1.2 percent decrease per year in the median family income between 2000 and 2002, but corporate profits grew by 25 percent in 2003.

8. President Bush has not supported an increase in the minimum wage, now \$5.15 an hour. If the minimum wage had grown at the same rate as CEO pay since 1990, it would have been \$14.40 in 2002. The 6.8 million people in the workforce are still poor.

9. The number of Americans without health insurance has increased by more than 5 million under President Bush and is

now estimated to be a total of more than 45 million.

10. The average family premium for health insurance has increased by more than \$2,700 since 2000.

11. Nine million children are without health insurance coverage in the U.S.

12. Each year more than 18,000 Americans die prematurely as a direct result of not having access to proper medical care.

13. College tuition at public colleges increased by 14% last year. Some 400,000 qualified high-school graduates will not pursue a full-time, four-year degree because of an inability to pay.

14. We are far removed from "leaving no child behind"; the National Education Association estimates that \$322 billion is required to update schools if all children are to benefit from safe, well-built classrooms with modern technology. Schools are so overcrowded that 1 student in 3 must use portable classrooms.

15. Teachers in 19 states have seen their salaries decline in the past few years; nearly 30% of teachers quit within three years.

16. Working-class families are finding good preschools even more difficult to find and afford; Head Start is serving only 3 out of 5 eligible children.

17. On average, America's schools are 40 years old. One of three schools has at least one building in need of major repair or replacement; repairing or replacing these schools would generate tens of thousands of good-paying jobs.

18. Only 1 in 2 workers is now covered by a pension in their workplaces.

19. In 2002, corporate CEOs made an average of 182 times what their workers were paid, nearly seven times greater than the 1982 ratio of 42-1.

For accounting/advocacy assistance, contact the Mitchell-Lama Residents Coalition (MLRC) -- (212) 465-2619.

This column is by Robert Woolis.

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: \$10
Development - 15 cents per apt. (\$25 minimum;
\$100 maximum)**

Donations above the membership dues are welcome.

These developments are 2004 dues-paid members of the Mitchell-Lama Residents Coalition

Atlanta Plaza
Bay Towers
Bethune Towers
Central Park Gardens
Clayton Apts
Columbus House
Coalition to Save Affordable Housing (Coop City)
Court Plaza
Dennis Lane
1199 Housing
Esplanade
Fordham Towers
Independence House
Independence Plaza
Island House

Jefferson Towers
Knickerbocker Plaza
Lionel Hampton
Manhattan Plaza
Masaryk Towers
New Amsterdam House
Parkside Development Inc.
Phipps Plaza East
Pratt Towers
Promenade Apts.
Riverbend Housing
River Terrace
River View Terrace
RNA House
Robert Fulton Terrace

Ryerson Towers
St. James Place
Second Atlantic Terminal
Sea Park East
Skyview Towers
Tilden Towers
Trinity House
Village East Towers
West Side Manor
West Village Houses
Westview Apartments

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.

Cadman's Faulty Towers

From the Brooklyn Courier

Several weeks after residents of a city-subsidized residential co-op in Brooklyn Heights voted against privatizing their two-building complex, the group's board of directors declared the vote non-binding. Cadman Towers at 101 Clarke Street and 10 Clinton Street was built in 1973 as a part of the city's Mitchell-Lama program to give low- and middle-income residents affordable housing.

Under the city program, residents who lived within income guidelines pay a small down payment for shares in the co-op buildings and then pay small monthly maintenance fees without having to pay property taxes. However, when the Mitchell-Lama program was instituted, partly to encourage developers, the city put in a stipulation that after 20 years the complexes could privatize. With real estate prices rising ever higher in Brooklyn Heights, many of the residents want to privatize to sell their apartments. However, a majority of the shareholders in the 431-unit complex voted last month not to privatize.

"There are people who don't want to move. Some of us are no longer young and are comfortable," said Geraldine Gross, who has lived in Cadman Towers with her husband since it was built. "If we privatize, the equity goes up, meaning the maintenance will go up. We would also have to pay property taxes, which we don't pay now, and would have to get a mortgage from a bank at a higher rate," she added.

Gross said she currently pays about \$600 a month for her one-bedroom apartment, and her husband, a retired real estate broker, said the apartment could sell for as much as \$300,000 on the open market. Besides being comfortable in her apartment, Gross said that she also has ethical concerns if the complex were to privatize, as there is currently a long list of middle-income residents who want to get into the complex. "Everything would go up and it would be very expensive and impossible for middle-income people to come into the building," she said.

Gross said the board of directors tried before to privatize as early as 1993 without asking shareholders for their opinion. However, it was not economically feasible at that time, she said. Gross, a member of the Committee to Preserve Cadman Towers, said after the recent shareholder vote and board declaring it invalid, her committee hired a lawyer. However, a judge decided in the board's favor because under the Cadman Towers bylaws, the board has authority over finance-related matters, Gross said. Instead, the board created a feasibility committee to study privatizing the complex, but the committee is composed of shareholders and board members, which is also against the bylaws, she said.

Gross said there are nine members on the board of directors, with two against privatizing the complex. Elections for board members are held every year, but they are staggered, so not every board member is up for election every year, she said. Board President John Brown refused comment. Other calls to the Cadman Towers management company were not returned.

Julie Walpert, assistant commissioner of housing supervision for the city's Department of Housing Preservation and Development (HPD), said for Mitchell-Lama buildings to privatize a two-thirds majority vote of co-op shareholders is required. Then the co-ops could be sold at market rates, but full taxes are also expected at that point, she said.

With many Mitchell-Lama buildings now able to privatize because they were built over 20 years ago, the Bloomberg administration has been putting several offers forward to shareholders that would keep the buildings under city jurisdiction. Walpert said this includes HPD and its sister agency, the Housing Development Corporation, offering refinancing at very good rates as well as grants of \$1 million for repairs with the only stipulation being shareholders agree to stay in the Mitchell-Lama program another 15 years.

As for the Cadman Towers vote, Walpert said it is a shareholder issue and is not in HPD's jurisdiction to get involved. Meanwhile, Gross said it is important that Brooklyn Heights not become completely gentrified. "In areas like Red Hook, where people of limited means can live, everything is being gentrified and where are ordinary people supposed to live?" said Gross. "That isn't right. We can't just be a city for luxury houses."

DEMOCRATIC VICTORIES PAVE THE WAY FOR REFORM

A Message from the New York State Senate Campaign Committee

There is a general consensus that Albany is broken and that the New York State government, known for corruption and complacency, is in desperate need of reform. This year, the voters overwhelmingly agreed. November 2nd was a banner day for the New York State Senate Democrats, who have been leading the charge to reform Albany. The State Senate Democrats, guided by newly elected Democratic leader Senator David Paterson, picked up a record three seats (and are still waiting for the final ballot count on a fourth), driving home the message to reform the state Legislature, and significantly closing the Republican Majority's seven seat lead.

Since 1939, the Republican Conference has maintained its right wing dominance over the State Senate. One way they have been able to accomplish this is by upholding the inequitable Rules of the Senate, Rules that actually safeguard their incumbencies rather than resist them. Senate Rules should empower rank and file legislators, strengthen the committee process, and change the way in which the Senate considers the budget. But instead, the Senate Rules allow for Majority Leader Joe Bruno to decide which bills should be brought to the floor, for Legislators to vote on bills even if they are absent from legislative session, and for Majority members to be the only ones allowed to hold public hearings.

Until recently, these undemocratic practices had gone underreported by the media and undetected by the public. But, over the past several years, outlets like the *New York Times* and the Brennan Center for Justice began steadily exposing the dysfunction that riddled the New York State Legislature. Gradually, the idea of a system that continued to ignore the rights of New Yorkers became unacceptable.

Albany's dysfunction finally hit a nerve – so much so that Republican incumbents, some who had served in office for decades, went back to their constituents calling themselves reformers and proposing plans for reform. But this time, the public was not fooled by the Republican's political maneuvers that were just Band-Aid responses to the major abscess that the Brennan Center for Justice called "the most dysfunctional Legislature in the nation." Senator Paterson and his Democratic Conference knew that it was time for true Democratic reformers to unseat the tenured politicians who only voted for change when their seats were at risk.

Joe Bruno tried desperately to hang on to his Republican majority by recruiting disloyal Democrats to run in Democratic primaries but pledge their allegiance to him and to the Republican Party. But with the steadfast leadership of the Senate Democrats, the voters rejected Joe Bruno and his conservative anti-NYC agenda.

During the general election, the Democratic candidates continued to hammer home the message that efforts to protect tenants rights, to provide better health care to New Yorkers, and to fix our public schools would go unheard until Albany was fixed. The first step towards fixing Albany was to let legislators know that the public was paying attention.

In the seat vacated by Guy Velella, Democrat Jeffrey Klein beat both John Fleming and Stephen Kaufman with 51% of the vote. In the Bronx/East Harlem district, Democrat Jose M. Serrano beat 26-year incumbent Olga Mendez with 81% of the vote. In Syracuse, Democrat David Valesky beat both 20-year incumbent Nancy Lorraine Hoffman and Thomas Dadey in a heavily contested race with 45% of the vote. And in the Staten Island/Brooklyn district, Democrat Diane Savino beat Al Curtis with 63% of the vote, filling the seat of Democratic Senator Seymour Lachman who stepped down at the end of 2004.

In the Yonkers/Greenburgh area of Westchester, the winner is still undetermined. 9-term Republican incumbent Senator Nick Spano holds a mere 58 vote lead over Westchester County legislator Democrat Andrea Stewart-Cousins despite the fact that he outspent her nearly 3-1. In a recount and court battle that has lasted longer than the 2000 Florida recount for President, lawyers for Andrea Stewart-Cousins continue to argue for the legitimacy of several hundred provisional ballots across the district.

Regardless of the final outcome in the Stewart-Cousins race, one thing is abundantly clear – the people of New York are unwilling to accept a state legislature that is unresponsive to the needs of all New Yorkers and they are calling for Albany's reform.

Stay tuned by going to dsc.net for the most up-to-date information.



Mitchell-Lama executive board members attended Annual Tenants and Neighbors meeting in November.

Sorry...Our November 2004, fund raising pictures will be available March newsletter.

LIVING CONDITIONS Warranty of Habitability

Tenants are entitled to a livable, safe and sanitary apartment. Lease provisions inconsistent with this right are illegal. Failure to provide heat or hot water on a regular basis or to rid an apartment of insect infestation are examples of a violation of this warranty. This warranty also applies to a building's public areas and to cooperative apartments (Real Property Law P. 235-b).

If a landlord breaches the warranty, the tenant may sue for a rent reduction. The tenant may also withhold rent, but in response, the landlord may sue the tenant for non-payment of rent. In such a case, the tenant may counter sue for breach of the warranty.

Rent reduction may be ordered if a court finds that the landlord violated the Warranty of Habitability. The reduction is computed by subtracting from the actual rent the estimated value of the apartment without the essential services.

Tenants who withhold rent to induce landlords to make repairs should be sure to reserve the rent; that is, they should not spend it. If they do not hang on to the rent money, they may face eviction even though they prove there has been a breach of the warranty of habitability. This is because the value of the breach usually does not totally cancel out the rent obligation and because the court will probably require the tenant to pay the difference immediately upon determining how rent should be reduced.

For example, suppose that the tenant withholds monthly rent of \$450; the landlord sues to evict; the court values the proven breach of the warrant of habitability at 10% for each of the three months that the condition existed, or \$135. If the tenant is not prepared to pay the difference between the rent owed and the rent reduction allowed ($\$450 - \$135 = \$315$), then the court could issue an order and warrant of eviction and a monthly judgment in the reduced amount (i.e., for \$315).

The Warranty is not automatically breached if a building's condition violates a statute, regulation or provision of the law. Conversely, the fact that a building or apartment has not been inspected or cited by a governmental authority does not mean there is no violation of the warranty. A judge makes the final determination as to whether or not the landlord had violated the Warranty of Habitability, if the rent should be reduced and the amount, if any, the rent should be reduced.

TENANTS' RIGHTS

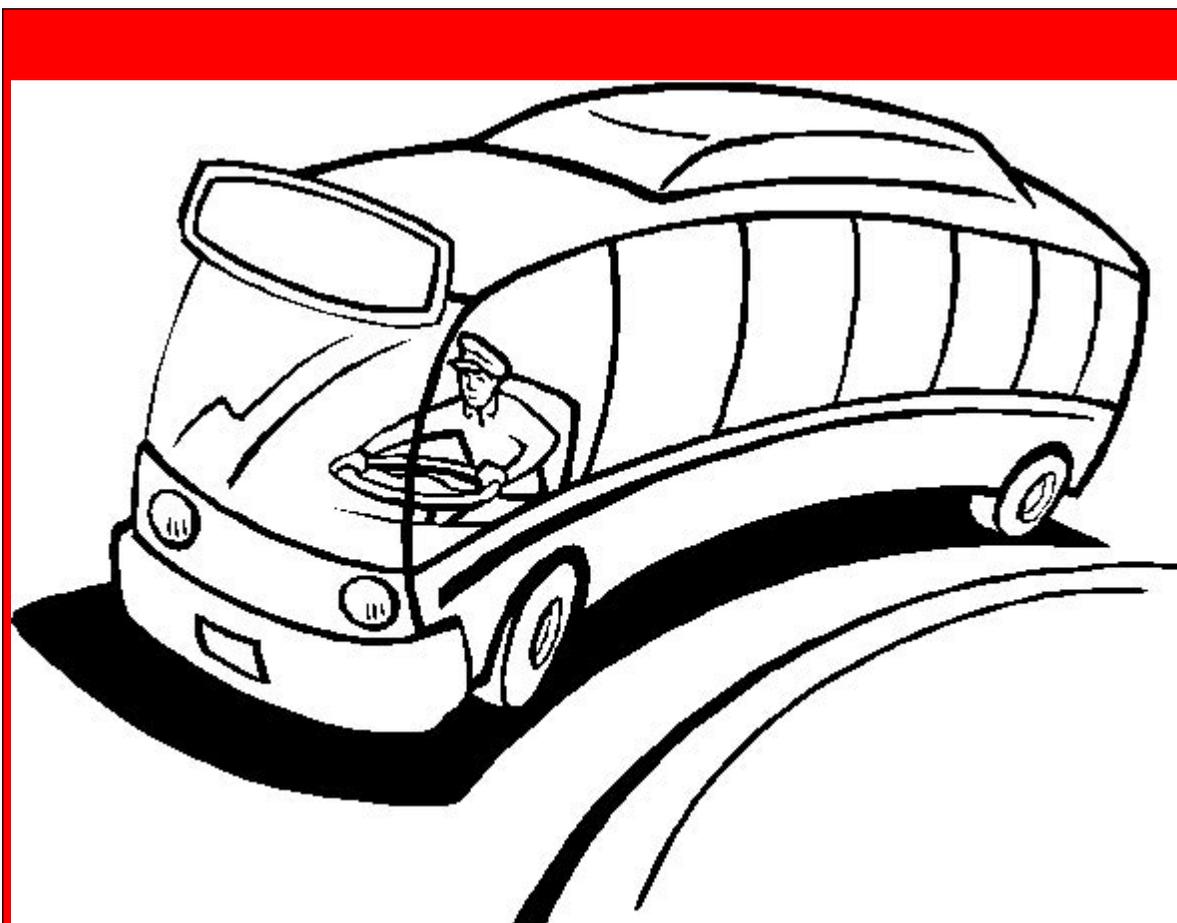
In New York, tenants' rights are protected by a variety of federal, state, and local laws -- The Multiple Residence Law, Real Property Law, and New York State Uniform Fire Prevention and Building Code (NYSUFPBC).

SAVE OUR HOMES!

SIGN UP FOR ALBANY

Tenant Lobby Trip, Tuesday, April 12, 2005

Talk to your legislators.



Call the MLRC

Voice mail 212-465-2619

Round-trip bus fare - \$10.00

Organize 25 people or more,
and a bus will stop at your development.

NYC departure 7:00 a.m.

Albany departure 3:30 p.m.