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VIA PRIORITY MAIL

Hon. Elliot Spitzer
Office of the Governor
State Capitol
Albany, New York 12224

Hon. Deborah VanAmerongen
Commissioner
New York State Dep't of Housing and
Community Renewal
25 Beaver Street
New York, New York 10004

**RE: Housing Crisis On Roosevelt Island - State Involvement
In Sale of Westview Apartment Building**

Dear Governor Spitzer and Commissioner VanAmerongen:

I am writing on behalf of my client, Westview Taskforce, Inc. ("WTI"), the official tenants association for the Westview building complex on Roosevelt Island ("Westview"), to address a most urgent matter; namely, the State of New York's decision to become actively involved, in the eleventh hour, in the sale of Westview to a group comprised primarily of Westview tenants. The State's recent activity has threatened the viability of a hard-fought deal that would keep Westview's apartments affordable for all of its tenants, even those who choose not to buy.

Let me start with the following observation: WTI has no doubt whatsoever that both of you have the best interests of Westview's tenants at heart and that both of you are genuinely and passionately committed to preserving affordable housing in our State. That being said, recent actions by DHCR (by ordering the immediate rental of Westview's vacant apartments) and by RIOC (by attempting to unilaterally dictate a lower sales price for Westview and its *de facto* rejecting of the Letter of Intent between Westview's owners and tenants for the building's sale ("LOI")) has threatened to destroy years of tenant efforts to preserve their affordable housing.

Eight months ago, the owners and tenants of Westview jointly signed an LOI for the sale of Westview, which was vigorously negotiated by all parties. Securing that LOI was a major achievement for the tenants, who saw this formalization of their deal as the

beginning of the end of their years-long struggle to save their affordable housing. If the State had given its blessing to the LOI when first asked, the tenants' long nightmare would be over. Instead, however, the State has recently thrown several wrenches into the deal. Specifically, the State has (1) demanded Westview immediately rent out its vacant apartments, the sale of which are an indispensable element of the LOI, (2) insisted the present owners of Westview be paid a significantly lower purchase price for the building than that agreed to in the LOI, and (3) apparently determined that the only acceptable method for saving Westview's affordable housing is to do so in perpetuity.

Again, although I do not question the good-intentioned motives behind the State's actions, in practice the State has inadvertently enter into a game of "Russian Roulette" with Westview's tenants' housing. To avoid going into an excessive explanations at this time, it will suffice to say that the likelihood the State's current approach will secure an equal or better result than that in the LOI is infinitesimal. In fact, even the pursuit of this approach will cause irreparable damage to the tenants' hard-earned LOI.

Choosing to roll the dice with these tenants' homes is not a prudent course of action in light of all the relevant considerations, some of which the State appears to not have in mind. While the State is seems fixated on the remote chance of preserving Westview's 361 units as affordable housing in perpetuity, it seems wholly unaware that it recent actions have created a far more likely chance that the State will lose all of those 361 units of affordable housing in perpetuity. I implore both of you, in your approach to Westview, not to expose these tenants and their homes to any greater level of risk than your would accept for your own families and your own homes.

If the State continues to block the culmination of the deal outlined in the LOI, one of two disastrous scenarios are certain to develop:

- **Scenario #1:** The current owners of Westview will immediately seek to remove Westview from the Mitchell-Lama program, to raise the building's rents to market rates and to evict virtually all of Westview's current tenants. While the State would surely respond to such an action by arguing in court that the General Development Plan ("GDP") for Roosevelt Island requires Westview remain affordable – an argument WTI made to you, Governor Spitzer, when you were Attorney General – subsequent violations of the GDP by the State under Governor Pataki (by allowing over one-thousand units of affordable housing at the Eastwood apartment building on Roosevelt Island to become market-rate housing) have rendered the GDP unenforceable. State's legal argument will not prevail and the tenants will lose their homes. Additionally, what the State believes is a source of great leverage against Westview's owners, that Westview's current ground lease only extends through 2028, is not nearly as strong as the State might think. With hundreds-of-millions of dollars to be made from the potential sale of a "market rate" Westview, its current owners (or

a subsequent purchaser) may simply choose to wait for the political pendulum to swing back the other direction, at which time they will easily secure their ground lease extension from RIOC. Simply put, the current owners have in virtually unlimited quantities what the tenants fully lack: Time. The final result of this process will be the loss of Westview's affordable housing both in the short and long terms.

- **Scenario #2:** Westview is one of the most poorly maintained buildings in the Mitchell-Lama program and, due to its operational inefficiencies, also the most expensive. In fact, the building is desperately in need of \$15 million in urgent repairs (which are provided for under the LOI, incidentally). Even if, for the sake of argument, Westview remained in the Mitchell-Lama program, Westview's owners can and will petition for a rent increase to prevent the building from deteriorating further. No one – not the tenants, not RIOC and not DCHR – will be able to reasonably assert that such repairs are not immediately necessary. Consequently, Westview's owners will receive permission to institute a significant rent increase that will drive the building's highest-in-the-State "affordable" rents far beyond what most Westview tenants can afford (certainly that will be the case for the 41% of Westview's tenants who earn below the Average Median Income). This, in turn, will force many if not most of Westview's tenants to abandon their homes. The final result of this process will be the loss of Westview's affordable housing both in the short and long terms.

The only way to avoid producing one of these two calamitous scenarios is for the State to accept the well-formulated judgment of WTI that the LOI – which saves the affordable housing of every Westview tenant, opens affordable homeownership opportunities for everyone, fully funds the \$15 million required for building rehabilitation and pays RIOC more for the ground lease extension than it had agreed to accept from private developers – offers the best option for preserving Westview's affordable housing. This conclusion reflects both the positive results achieved through the LOI and the unacceptably high level of risk the tenants (and the State) would unavoidably encounter by pursuing the exceedingly remote chance of securing a better deal. It warrants mentioning again Westview's tenants are not undertaking an academic exercise in saving affordable housing – these tenants are genuinely at risk of losing their homes in the very near future. The State should not risk gambling away these long-suffering tenants' homes because the State does not share the same level of risk.

Until we can arrange a meeting in the very near future, I would ask you to take immediate actions that in no way compromise or restrict the State's future options with regard to Westview. First, DHCR should temporarily suspend its requirement that Westview rent its vacant apartments. Second, DHCR should notify the current owners of Westview that the State is considering supporting the deal reflected in the LOI, so the owners will not feel compelled to take any drastic defensive actions.



I thank you for your attention to this matter and for your unquestionable dedication to protecting and preserving affordable housing in the State of New York. I will be contacting Commissioner VanAmerongen to follow up on this letter in a few days, but should either of you wish to reach me before then, please contact me at (212) 277-6350.

Sincerely,

Chad Marlow

cc: Hon. Michael Bloomberg
Hon. David Cabrera, Esq.
Hon. Rich McCurnen
Hon. Jessica Lappin
Hon. Carolyn Maloney
Hon. Jose Serrano
Hon. Steven Shane
Mr. Charles Lucido
David Berkey, Esq.
Mr. Opher Pail