

October 29, 2015

Via Email: Mark.Colon@nyshcr.org

Mark Colon, Deputy General Counsel
New York State Homes and Community Renewal
25 Beaver Street, 6th Floor
New York, New York 10004

Re: Westview 595-625 Main Street, Roosevelt Island, New York 10044
("Westview")
North Town Phase III Houses, Inc. (the "Housing Company") and
Withdrawal from Mitchell-Lama Program
Our File No. 10100.002

Dear Mark:

Please be informed that the revised Affordability Plan dated October 26, 2015 received from David Hirschhorn is mostly consistent with the understanding recently reached between WTI and Mr. Hirschhorn, however, there are some revisions to be made and we expect a further revised Affordability Plan shortly.

I want to take advantage of this opportunity to shortly address some concerns related to your consideration and determination of the appropriate initial rent adjustment upon withdrawal of Westview from the Mitchell-Lama Program.

First, please note that WTI has not "agreed" to any specific Initial Rent adjustment. WTI has maintained that the rent determination process must be independently managed by HCR. It is my understanding that you have a copy of the red herring offering plan for Westview submitted to the New York State Department of Law so I have made references below to certain pages in such offering plan and for easy reference included copies of just those pages. We trust the HCR process will properly and fairly address the rent determination and in that regard request that the following matters be considered:

1. The 2013 Financial Statement as included in the offering plan reflects a net profit of \$690,351 (see page 114) even with a vacancy shortfall of \$606,508 (see page 108). Therefore, there is no need or basis for rent increases to meet owner's expenses. We note that the offering plan did not include a 2014 Financial Statement.

2. Any claims by the owner for rent increases to equalize rents with another project (in this case Island House) or to make up, or otherwise retroactively account, for the absence of prior rent increases is not consistent with the means and basis for HCR's determination of rents.

GALLET DREYER & BERKEY, LLP

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3. The maximum annual rent adjustment allowed (except for few with exceptionally high incomes) under the Affordability Plan is 7.5% (see page 455).

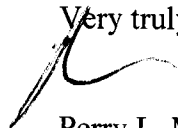
4. Approximately 40% of the Westview tenants have incomes under AMI and any one time major rent adjustment is likely to cause hardship for tenants and even displacement of many tenants.

5. Subsequent rent adjustments subject to the Affordability Plan (after the initial rent adjustment) must commence at least one year after effective date, not before.

If you believe it would be helpful in this process to have another meeting with Westview Task Force, we would be pleased to attend such a meeting at your earliest convenience.

Thank you for your consideration and assistance in this matter.

Very truly yours,



Perry L. Mintz

PLM/pms
Encls.

cc: Westview Task Force

686305

Certified Annual Financial and Operating Report

Statement of Retained Earnings (Deficit)

UDC # 68

Development Number

Schedule 9

Retained Earnings (Deficit) - January 1, 2013

\$ (12,912,263)

Net Profit for the Year Ended December 31, 2013

690,351

Retained Earnings (Deficit) - As of December 31, 2013

\$ (12,221,912)

Certified Annual Financial and Operating Report

Statement of Income and Expenses

For the Year Ended 12/31/13

UDC #68
Development Number

Exhibit B

Line Reference (a)	Account Number (b)	Item Description (c)	Amount (d)
		Income	
	5100& 5200	Apartment Rental Income	
1.	5110	Gross Scheduled Apartments Rental Income	\$ 7,725,078
2.	5211	Less: Vacancy Loss (Apts. Available for Occupancy)	<u>606,508</u>
3.	5212	Vacancy Loss (Apts. Unavailable for Occupancy)	<u>-</u>
4.	5250	Allowance	<u>-</u>
5.	5260	Resident Employee Apartments	<u>29,103</u>
6.	—	Net Apartment Rental Income (Line 1 minus lines 2 through 5)	<u>7,089,467</u>
7.	5120	Surcharges - Excess Rents	<u>103,401</u>
8.	—	Total Apartment Rental Income (Lines 6 and 7)	\$ 7,192,868
	5100& 5200	Other Rental Income	
9.	5130	Gross Commercial Rental Income	\$ 62,273
10.	5220	Less: Vacancy Loss-Commercial	<u>-</u>
11.	—	Net Commercial Rental Income	<u>62,273</u>
12.	5140	Gross Professional Apt. Rental Income	<u>-</u>
13.	5230	Less: Vacancy Loss-Professional	<u>-</u>
14.	—	Net Professional Apt. Rental Income	<u>-</u>
15.	5150	Gross Parking Rents	<u>-</u>
16.	5240	Less: Vacancy Loss-Parking	<u>-</u>
17.	—	Net Parking Rents	<u>-</u>
18.	—	Other: _____	<u>-</u>
19.	—	_____	<u>-</u>
20.	—	Total Other Rental Income (Lines 11, 14, 17, 18 and 19)	\$ 62,273
21.	5300	HUD Interest Reduction Subsidy	\$ -

under his Mitchell Lama lease or the New Lease pursuant to the Affordability Plan. Upon the expiration or sooner termination of such person's Mitchell Lama lease, the rights of such person to continued occupancy (after taking into account the provisions of the Affordability Plan) shall be determined in accordance with applicable law.

- (iv) The initial rent and other occupancy terms under the New Lease will be subject to the "**Affordable Rental Restrictions**" set forth below:

Prior to the Affordability Plan Effective Date, DHCR shall issue an order (i) increasing the rent under the existing Mitchell Lama leases to the "Initial New Lease Rent" which increase shall be effective as of the first day of the month following the Affordability Plan Effective Date (the "New Lease Commencement Date"), and (ii) directing the Sponsor to offer the New Lease to all Bona Fide Mitchell Lama Tenants. The "Initial New Lease Rent" will be the rent in effect pursuant to the DHCR Rent Order effective September 1, 2009, including all applicable surcharges then in effect for each apartment (the "DHCR Rent"), increased by 14.9%. Effective October 1, 2015, and on each October 1st thereafter, the Initial New Lease Rent will be increased by (i) the "RGB Increase" (as defined below), and (ii) the "Income Adjustment" (as defined below):

- For tenants with Validated Income of less than 100% of the median income, as published from time to time by HUD for the New York, NY area, as adjusted for the applicable household size ("AMI"), an amount equal to the then 1 year lease renewal guideline increase rate as published from time to time by the New York City Rent Guidelines Board (the, "RGB Increase"), (but not to exceed 7.5%);
- For tenants with Validated Income between 100% -150% of AMI, an amount equal to the then 1 year RGB Increase, plus 2% (but not to exceed 7.5% in the aggregate);
- For tenants with Validated Income between 150% - 200% of AMI, an amount equal to the then 1 year RGB Increase, plus 2% (no cap);
- For tenants with Validated Income above 200% of AMI, an amount equal to the then 1 year RGB Increase, plus 5% (no cap)

This is not an offering. An offering may only be made pursuant to an offering plan accepted for filing by the New York State Department of Law. This Affordability Plan is intended to describe the method for withdrawal of the property from the Mitchell Lama Law in accordance with the regulations of the Division of Housing and Community Renewal.