

an obligation to pay temporary maintenance and child support (*see, Catrone v Catrone*, 92 AD2d 559).

At bar, the husband was directed to pay \$250 per week in maintenance and \$375 per week in child support. He continuously defaulted in making these payments, resulting in judgments against him. His persistent conduct in failing to make these payments warranted the appointment of a receiver for the rents and profits derived from the cooperative apartment (*see, Rose v Rose*, 38 AD2d 475; *Catrone v Catrone, supra*).

However, we find that the appointment of a receiver for the husband's business, Richard Rogers Design, Inc., was improper. Although the corporation is owned and operated by the husband, the corporation is not a party to this action, and application of its moneys to meet the husband's personal obligations would in essence be a dividend (*see, Kretzer v Kretzer*, 81 AD2d 802). Moreover, the record is devoid of information regarding the corporation's creditors, and whether the corporation is solvent, or has a surplus (*see, Matter of Brennan v Brennan*, 109 AD2d 960, *supra*; *Kretzer v Kretzer, supra*).

In any event, we note that in view of the intense animosity between the parties, it was improper to appoint the wife the receiver of the business (*see, Fischer v Fischer*, 111 AD2d 25; *cf., Peters v Peters*, 127 AD2d 575, *supra*; *Edelman v Edelman*, 83 AD2d 622).

The court did not err in awarding the plaintiff counsel fees in the amount of \$1,000 in the order dated September 14, 1990, to defray the expenses of the wife's motion to enforce a support order (*see, DeCabrera v Cabrera-Rosete*, 70 NY2d 879).

However, the award of counsel fees in the amount of \$800 in the order entered January 18, 1991, was improper. The wife brought her motion for appointment of a receiver over the husband's business eight days after a motion for identical relief had been denied, when there had been no change in circumstances. Accordingly, counsel fees with respect to that motion should have been denied. Thompson, J. P., Balletta, Copertino and Santucci, JJ., concur.

15 ROSLYN GARDEN ASSOCIATES et al., Respondents, v BOARD OF TRUSTEES OF INCORPORATED VILLAGE OF ROSLYN, Appellant.
—In an action, *inter alia*, for a judgment declaring that the vacancy rate in the Village of Roslyn is in excess of 5%, the defendant appeals from a judgment of the Supreme Court, Nassau County (O'Brien, J.), entered September 24, 1990, which held that the vacancy rate in the Village of Roslyn

exceeded 5% and directed the defendant to declare the housing emergency declared pursuant to the Emergency Tenant Protection Act of 1974 at an end.

Ordered that the judgment is affirmed, with costs.

Pursuant to McKinney's Unconsolidated Laws of NY § 8623 (Emergency Tenant Protection Act of 1974; L 1974, ch 576, § 4, as amended [hereinafter ETPA]), a local government of a city, town, or village not covered by any other State rent control or stabilization (i.e., outside the City of New York and having a population of less than 1,000,000 people) may, under certain conditions, declare that a housing emergency exists within the city, town or village and subject all nonexempted housing to regulation under the ETPA. The Village of Roslyn made such a declaration in 1981 and the plaintiffs are the owners of all the buildings in the Village subject to the ETPA. However, although a declaration of a housing emergency by the Village was optional, pursuant to the ETPA § 3 the Village "must" declare the emergency at an end when the vacancy rate exceeds 5%. Here, although the plaintiffs submitted proof to the Village of Roslyn that the vacancy rate in 1990 far exceeded 5%, both the Mayor of Roslyn and the defendant, the Board of Trustees of the Incorporated Village of Roslyn (hereinafter the Board of Trustees), refused to undertake their own survey to determine the vacancy rate in the Village and refused the plaintiffs' requests to declare the emergency at an end. The plaintiffs commenced this action, *inter alia*, seeking declaratory relief from the court that the vacancy rate in the Village exceeded 5% and to compel the Village to declare the emergency at an end.

Although the ETPA grants a local government discretion to declare that a housing emergency exists when a class of housing or all housing within its borders has a vacancy rate not in excess of 5% (*see*, McKinney's Uncons Laws of NY § 8623 [a]; ETPA § 3 [a]; L 1974, ch 576, § 4, as amended), section 8623 (b) states that "The emergency must be declared at an end once the vacancy rate described in subdivision a of this section exceeds five percent". Here, the unimpeached testimony at an inquest established that the vacancy rate for all buildings in the Village currently subject to the ETPA far exceeded 5%. A local government is a political subdivision of the State. Therefore, its legislative power is circumscribed by the grant of authority from the State (*see*, *Kamhi v Town of Jericho*, 141 AD2d 607, *affd* 74 NY2d 423; *Matter of Ames v Board of Trustees of the Village of Roslyn*, 98 AD2d 216). The refusal by the Village to declare the housing emergency at an end is in derogation of its statutory

grant of power. Therefore, the court properly directed the Village to declare the housing emergency at an end. The defendant argues against this result by asserting that the court impermissibly usurped the legislative discretion of the Village. However, contrary to the defendant's assertions, the ETPA does not vest a local government with any discretion to either continue the emergency once the vacancy rate exceeds 5% (*cf.*, McKinney's Uncons Laws of NY § 8603 [Local Emergency Housing Rent Control Act § 3; L 1962, ch 21, as amended]) nor to determine the vacancy rate (*cf.*, *Colonial Arms Apts. v Village of Mount Kisco*, 104 AD2d 984). Therefore, the issue was justiciable and the Supreme Court properly directed the Village to declare the emergency at an end (*see*, *Matter of Boung Jae Jang v Brown*, 161 AD2d 49). Bracken, J. P., Balletta, Eiber and Copertino, JJ., concur.

16 DONALD SCHIAVETTA, Respondent, v VICTORIA I. MCKEON et al., Appellants.—In an action, *inter alia*, to recover possession of real property purchased at a court ordered foreclosure sale, the appeal is from a judgment of the Supreme Court, Nassau County (Roncallo, J.), dated June 2, 1992, which, *inter alia*, directed that the plaintiff recover possession of the premises. The defendants' notice of appeal from the order dated December 11, 1991, is deemed a premature notice of appeal from the judgment (*see*, CPLR 5520 [c]).

Ordered that the judgment is affirmed, with costs (*see*, *Schiavetta v McKeon*, 190 AD2d 724 [decided herewith]). Thompson, J. P., Balletta, Rosenblatt and Eiber, JJ., concur.

17 DONALD SCHIAVETTA, Respondent, v VICTORIA I. MCKEON et al., Appellants.—In an action to foreclose a mortgage, the defendants Victoria I. McKeon and Thomas McKeon appeal from (1) a judgment of the Supreme Court, Nassau County (Roncallo, J.), dated June 6, 1989, entered upon their default in answering the complaint, which, *inter alia*, directed the sale of certain premises, (2) an order of the same court, dated November 9, 1989, which confirmed a Referee's report of the foreclosure sale and directed the Referee to execute and deliver a deed of conveyance to the plaintiff, and (3) an order of the same court dated August 23, 1990, which, upon granting the plaintiff's motion to reargue his opposition to the defendants' motion to vacate their default, vacated a prior order of the same court, dated March 5, 1990, which directed a hearing on the motion to vacate, and denied the defendants' motion.

Ordered that the appeal from the judgment dated June

§ 8622

Note 1

Omnibus Housing Act of 1983 govern rent stabilized apartments. *Hutchins v. Conciliation and Appeals Bd.*, 1984, 125 Misc.2d 809, 480 N.Y.S.2d 684.

This chapter provides tenant with alternative statutory remedies for recovery of rent overcharge. *Krochta v. Green*, 1983, 121 Misc.2d 471, 467 N.Y.S.2d 995.

Legislative intent in enacting this act was to create orderly administrative method for regulating rent increases. *Siegler v. Ogden*, 1976, 88 Misc.2d 320, 387 N.Y.S.2d 532.

Resolution of city council of New York, which was dated June 4, 1974 and adopted June 20, 1974, and which determined and declared that rent regulation and control was required by a public emergency continuing to exist after May 29, 1974, and which implemented the Emergency Tenant Protection Act of 1974, section 8621 et seq., controlling

UNCONSOLIDATED LAWS

Title 23

rents of certain apartment units, was retroactive in effect to May 29, 1974, so that all proceedings commenced prior to July 1, 1974, and subsequent to May 29, 1974, were under the provisions of the new law. *Perth Realty Co. v. Dovoll*, 1974, 79 Misc.2d 514, 358 N.Y.S.2d 619.

2. Purpose

Contract clause of United States Constitution, U.S.C.A.Const. art. 1, § 10, cl. 1, is not absolute bar to modification of leases entered into prior to local effective date of this Act, since this Act is valid exercise of police power of state, providing reasonable alternative for protection and general welfare of citizens under declared housing emergency. *Freeport Randall Co. v. Herman*, 1981, 83 A.D.2d 812, 441 N.Y.S.2d 826, affirmed 56 N.Y.2d 832, 452 N.Y.S.2d 566, 438 N.E.2d 99.

§ 8623. Local determination of emergency; end of emergency

a. The existence of public emergency requiring the regulation of residential rents for all or any class or classes of housing accommodations, including any plot or parcel of land which had been rented prior to May first, nineteen hundred fifty, for the purpose of permitting the tenant thereof to construct or place his own dwelling thereon and on which plot or parcel of land there exists a dwelling owned and occupied by a tenant of such plot or parcel, heretofore destabilized; heretofore or hereafter decontrolled, exempt, not subject to control, or exempted from regulation and control under the provisions of the emergency housing rent control law,¹ the local emergency housing rent control act² or the New York city rent stabilization law of nineteen hundred sixty-nine;³ or subject to stabilization or control under such rent stabilization law, shall be a matter for local determination within each city, town or village. Any such determination shall be made by the local legislative body of such city, town or village on the basis of the supply of housing accommodations within such city, town or village, the condition of such accommodations and the need for regulating and controlling residential rents within such city, town or village. A declaration of emergency may be made as to any class of housing accommodations if the vacancy rate for the housing accommodations in such class within such municipality is not in excess of five percent and a declaration of emergency may be made as to all housing accommodations if the vacancy rate for the housing accommodations within such municipality is not in excess of five percent.

b. The local governing body of a city, town or village having declared an emergency pursuant to subdivision a of this section

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EMERGENCY TENANT PROTE Ch. 5

may at any time, on the basis of conditions within such city, town or accommodations and the need for of residential rents within such municipality is either wholly or partially rents pursuant to this act⁴ does not and thereby remove one or more regulation under this act. The end once the vacancy rate described exceeds five percent.

c. No resolution declaring the emergency as authorized by subdivisions a and b adopted except after public hearing and public notice, as the local legislative body shall determine.

(L.1974, c. 576, § 4 [§ 3]; amended L.

¹ Section 8581 et seq.

² Section 8601 et seq.

³ Section 26-501 et seq. of the Administrative Code following section 8617.

⁴ L.1974, c. 576, § 4.

Historic

1980 Amendment. Subd. a. L.1980, c. 69, § 4, eff. Apr. 11, 1980, retroactive to July 1, 1974, in sentence beginning "The existence of", inserted ", including any plot or parcel of land which had been rented prior to May first, nineteen hundred fifty, for the purpose of permitting the tenant thereof to construct or place his own dwelling thereon, and on which plot or parcel of land there exists a dwelling owned and occupied by a tenant of such plot or parcel".

Cross Re

Findings and declaration of emergency under sections 26-501 of the Administrative Code following section 8617.

Housing accommodations subject to rent control. Procedure for adoption of local laws, sections 8621-8623 of this act applicable only to Westchester and Rockland counties.

New York Codes, Ru

Local areas subject to control, see 9-10 of the Codes, § 8634.

UNLIMITED LAWS
Title 23

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Co. v. Herman, 1981,
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EMERGENCY TENANT PROTECTION ACT
Ch. 5

§ 8623

may at any time, on the basis of the supply of housing accommoda-
tions within such city, town or village, the condition of such
accommodations and the need for continued regulation and control
of residential rents within such municipality, declare that the emer-
gency is either wholly or partially abated or that the regulation of
rents pursuant to this act⁴ does not serve to abate such emergency
and thereby remove one or more classes of accommodations from
regulation under this act. The emergency must be declared at an
end once the vacancy rate described in subdivision a of this section
exceeds five percent.

c. No resolution declaring the existence or end of an emergency,
as authorized by subdivisions a and b of this section, may be
adopted except after public hearing held on not less than ten days
public notice, as the local legislative body may reasonably provide.
(L.1974, c. 576, § 4 [§ 3]; amended L.1980, c. 69, § 4.)

¹ Section 8581 et seq.

² Section 8601 et seq.

³ Section 26-501 et seq. of the Administrative Code of the City of New York, set out following section 8617.

⁴ L.1974, c. 576, § 4.

Historical Note

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Effective Date; Expiration. See section 17 of L.1974, c. 576, as amended, set out as a note under section 8582.

Legislative Declarations of L.1980, c. 69. See section one of L.1986, c. 69, set out as a note under section 8605.

Separability of Provisions. See section 16 of L.1974, c. 576, set out as a note under section 8621.

Cross References

Findings and declaration of emergency in the city of New York, see section 26-501 of the Administrative Code of the City of New York, set out following section 8617.

Housing accommodations subject to regulation, see section 8625.

Procedure for adoption of local laws, see Municipal Home Rule Law § 20 et seq. Provisions of this act applicable only in the city of New York and in Nassau, Westchester and Rockland counties, see section 8634.

New York Codes, Rules and Regulations

Local areas subject to control, see 9 NYCRR 2500.8, set out following section 8634.

MUNICIPALITY=LONG BEACH

085	ETPA ID #	AKAFLAG	BUILDING'S NAME	PRIMARY ADDRESS	TENURE	UNITS	94 UNITS	CHANGE	CHARGE
419	130001			1 EAST BROADWAY	COOP	33 54	54	0	\$540
420	130015			210 EAST BROADWAY	COOP	15 30	30	0	\$360
421	130017			215 EAST BROADWAY	RENTAL	91 V	91	0	\$910
422	130016			333 EAST BROADWAY	COOP	18 22	22	0	\$220
423	130004			410 EAST BROADWAY	COOP	16 50	50	0	\$500
424	130018			740 EAST BROADWAY	COOP RENTAL	40 98	96	0	\$960
425	130006		EXECUTIVE TOWERS AT LIDO	854-860 EAST BROADWAY	RENTAL	270 276	269 V	0	\$2,700
426	130019			855 EAST BROADWAY	COOP	4 9	4	0	\$40
427	130005			28 FRANKLIN BOULEVARD	RENTAL	129 124	123 V	0	\$1,230
428	130031			65 LINCOLN BOULEVARD	RENTAL	85 73	84	0	\$850
429	130009		KENNEDY HOUSE	10 MONROE BOULEVARD	RENTAL	103	103	0	\$1,030
430	130020			55 MONROE BOULEVARD	RENTAL	98 39	96	0	\$960
431	130021			210 SHORE ROAD	RENTAL	96 V	96	0	\$960
432	130022		(SAN REME?)	270 SHORE ROAD	RENTAL	62 10	62	0	\$620
433	130023			420 SHORE ROAD	COOP	77 16	87	0	\$170
434	130030			X 465 SHORE ROAD	RENTAL	127 V	127	0	\$1,270
435	130012			522 SHORE ROAD	COOP	60 71 V	58	0	\$580
436	130024			600 SHORE ROAD	COOP	24 19	24	0	\$240
437	130011			630 SHORE ROAD	RENTAL	178 V	178	0	\$1,780
438	130010			700 SHORE ROAD	COOP	19 7	19	0	\$190
439	130025			711 SHORE ROAD	COOP	51 38	51	0	\$510
440	130026			750 SHORE ROAD	COOP	32 23	33	0	\$330
441	130027			840 SHORE ROAD	COOP	18 15	18	0	\$160
442	130007			25 WEST BROADWAY	RENTAL	142 29 V	142	0	\$1,420
443	130003			370 WEST BROADWAY	COOP	23 27	23	0	\$230
						1886	1824	0	\$18,860
						1553			

MUN1

N = 25

New York State Tenants & Neighbors Coalition

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BILLY:

Thanks for talking with me about the situation in Long Beach. I will ask Joel Asarch (Corporation Counsel) how many hours they are budgeting.

In the meantime, here are some selected things from my files for youse guys to consider. I also have copies of actual decisions. Call me if questions.

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In Opposition to Vacancy Decontrol In the City of Long Beach

What the ETPA allows

The Emergency Tenant Protection Act of 1974 (ETPA) gives local governments wide discretion in defining classes of housing subject to rent stabilization. Indeed, the City of Long Beach, unlike other municipalities which regulated all buildings with 6 or more apartments, initially (1974) enacted ETPA only for buildings with 100 or more units, then in 1979 lowered the threshold for the regulated class to 60 or more

The ETPA requires that the vacancy rate for the *class* of housing to be regulated be 5 percent or less to justify a declaration of emergency, and that the vacancy rate for the *class* remain 5 percent or less for the emergency to continue. The ETPA further requires that the municipality declare the emergency at an end if the vacancy rate for the *class* of housing that is regulated exceeds 5 percent. The municipality is under no obligation to consider the vacancy rate in non-regulated buildings.

Not only is the statute clear on this point, but the courts have upheld the statute. Among numerous cases concerning landlord challenges to the local declaration of emergency, the Town of Haverstraw in Rockland County declared an emergency only for buildings with 120 units or more based on a survey of such buildings. The landlords sued, claiming that the town was required to survey all rental housing. The Appellate Division, Second Department (the same department which covers Nassau County) ruled against the landlords, stating unequivocally that the ETPA requires a survey of only the class of housing subject to regulation (*Mountainside Apartments v. Town of Haverstraw, Appellate Division, 2nd Department, January 1987*).

Does any member of the Long Beach City Council genuinely believe that the over-60's have a vacancy rate in excess of 5 percent? Especially if the warehoused units are discounted?

According to the NYS Division of Housing and Community Renewal, there are approximately 1500 apartments in 25 buildings subject to the ETPA (rent stabilization) within the City of Long Beach.

....continued....

The Net Vacancy Rate

There are two ways of defining a vacancy rate, the gross and the net.

The gross vacancy rate is comprised of all vacant apartments at the time of a survey, no matter what the condition of the apartments and no matter why they are vacant.

The net vacancy rate is determined by subtracting from the gross vacancy rate all apartments which are (a) uninhabitable and (b) unavailable for rent. Put another way, the net vacancy rate is comprised of all apartments which at the time of the survey are vacant, habitable, and available for rent.

The reason an apartment is unavailable for rent is irrelevant in terms of determining the net vacancy rate. It doesn't matter if the landlord is warehousing for speculative reasons, as is clearly the case with Executive Towers (where tenants report there are now almost 30 empty apartments), or if the landlord is renovating an apartment, or if he is holding it vacant for a friend or relative who is moving in three months from now. The important fact is the apartment is off the market, not available to renters who are looking for a place to live. It should therefore not be counted as vacant for purposes of determining the supply of rental housing in a municipality.

The United States Bureau of the Census uses the net vacancy rate as the valid indicator of a housing emergency, as does the City of New York. The courts, including the New York State Court of Appeals, have consistently upheld the use of the net vacancy rate as justification for a continuing housing emergency, in the face of landlord lawsuits insisting that the City should use the gross vacancy rate. For example, in 1967 the gross vacancy rate was 5.14 percent and the net vacancy rate 3.19 percent. The landlord lawsuit to overturn rent regulation on this basis was rejected by the courts (*Lampert v. Berman*, 284 N.Y.S.2d 657). The City Council's legal advisor, Mr. Asarch, points out that the ETPA is silent about this issue, referring merely to the "vacancy rate." True. But the same is true of every other rent control law in effect in New York State.

What is the logic of allowing landlords to warehouse apartments in order to reach a vacancy rate of more than 5 percent, then declaring that the emergency must be ended? In Long Beach, Sam Walton would have to warehouse slightly more than 75 apartments to achieve this result.

If sued by landlords, the City of Long Beach should conduct a survey of the class of housing that is subject to rent stabilization, meaning the 1500 or so apartments in buildings with 60 or more units. Any apartment that is uninhabitable or unavailable for rent should be excluded from the count. In the face of testimony from tenant after tenant on April 2 that their buildings have no vacancies, or no vacant apartments available for rent, and that many buildings have waiting lists, can there be any doubt that the vacancy rate for the over-60's is well below 5 percent?

....continued....

ADDITIONAL ISSUES:

1. The resolution being considered by the City Council does not preserve all current rights under rent stabilization. By restricting ongoing coverage under the ETPA to the "tenant of record" and his or her spouse, the resolution seriously curtails the right of succession, which under the ETPA applies to children, parents, siblings as well as spouses, as well as "non-traditional" family members who are not related by blood or marriage but who live together as family units, such as gay couples, unmarried heterosexual couples, and seniors and disabled persons who function in family-type relationships without any romantic or sexual involvement.
2. Councilman Zapson, despite his denials, has a clear conflict of interest and should excuse himself from voting on this resolution. As the owner of 270 Shore Road, he has filed an application to remove the 62 apartments from coverage under the ETPA. DHCR has granted this application in part, and the remaining 11 tenants are appealing the DHCR decision. For Mr. Zapson to claim that he is not affected by the Vacancy Decontrol resolution and that there is therefore no conflict of interest is downright dishonest.
3. Finally, and most importantly, the enactment of Vacancy Decontrol will have a devastating effect on current tenants, future tenants, the rental housing market, and the long-term health of the City of Long Beach. Current tenants paying a reasonable rent--\$700 to \$900 per month seems to be typical of current rents under ETPA, which are hardly low--will be sitting ducks for harassment. Much of what reasonable persons would consider harassment (for example, suing a tenant leader who complains about building conditions for defamation) does not meet the stringent definition of harassment under the state rent laws, but is nevertheless harassment. No apartment will ever again be available to any household that cannot pay a market rent, and tenants moving into the destabilized apartments will have no right to an initial lease or to an automatic lease renewal as under ETPA. Tenants moving into destabilized apartments will be afraid to complain of bad conditions because the result will be no lease renewal. Middle income tenants will be forced out of Long Beach just as many low income tenants have been forced out in the past, to be replaced by people who can pay \$2,000 a month or more. Increased real property tax revenues resulting from this rent spiral would certainly swell the municipal coffers. But destroying the rental housing market and forcing middle income tenants out is too high a price to pay for increased revenues.

*Prepared by Michael McKee
4/4/96*

Long Beach Won't End Rent Control

By Sid Cassese

STAFF WRITER

Fierce opposition to a plan to end rent controls in Long Beach appeared last night to have been successful, with the announcement that the city council would not bring the rent-control measure to a vote.

"I recommended to the commission that they put this resolution in the ash bin of history," City Manager Edwin Eaton said at last night's council meeting.

David Soren, a tenant leader, said after the announcement that tenants were happy with the decision and would support the city in any legal fight with the landlords.

The move raises the possibility of legal action, although it was unclear last night whether any landlords had such plans. One landlord, Sam Walton, was at the meeting but left without comment.

Under the controversial "vacancy decontrol" plan that would have taken effect immediately upon pas-

sage of the measure, apartments under rent controls would have continued under the controls until current residents vacated. Once vacant, a rent-controlled apartment would have been removed from the program, and the landlord could have charged whatever rent the market would bear.

The plan, Councilman Michael Zapson had said earlier, was "a way of ensuring that all of our residents presently under rent stabilization will be protected," adding that because vacant apartments would be removed from rent controls, the city would never be hit again with the so-called 5 percent rule.

That rule, which has been used by landlords to threaten the city with a suit, says that when the vacancy rate in apartments covered by state rent-control laws is 5 percent or more, controls automatically end.

Landlords have said the vacancy rate is far greater than 5 percent; tenants say it is far less. City officials had said that "vacancy decontrol" was a

compromise landlords were willing to accept.

"I think my clients will go along with this vacancy decontrol," Martin Shlufman, a Garden City lawyer representing a number of landlords who own rent-controlled apartments around the county, including two of the bigger landlords in Long Beach, had said before the council acted. Long Beach has between 1,200 (city figure) and 1,500 (state figure) apartments under rent controls.

But tenants were not willing to accept the proposed modification of the law, fearful that some landlords would harass them out of their apartments.

"We know landlords will harass us," said Shirley Weber, a 20-year tenant in a rent-controlled building.

According to tenant leaders around the county and the state, several of whom helped their Long Beach counterparts in opposing the proposed change, it would have been the first "vacancy decontrol" action under the state's Emergency Tenant Protection Act and was being watched closely.

New York State Tenants & Neighbors Coalition

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The Emergency Tenant Protection Act of 1974 (ETPA) gives local governments wide discretion in defining classes of housing subject to rent stabilization. Indeed, the City of Long Beach, unlike other municipalities which regulated all buildings with 6 or more apartments, initially (1974) enacted ETPA only for buildings with 100 or more units, then in 1979 lowered the threshold for the regulated class to 60 or more.

The ETPA requires that the vacancy rate for the *class* of housing to be regulated be 5 percent or less to justify a declaration of emergency, and that the vacancy rate for the *class* remain 5 percent or less for the emergency to continue. The ETPA further requires that the municipality declare the emergency at an end if the vacancy rate for the *class* of housing that is regulated exceeds 5 percent. The municipality is under no obligation to consider the vacancy rate in non-regulated buildings.

Not only is the statute clear on this point, but the courts have upheld the statute. Among numerous cases concerning landlord challenges to the local declaration of emergency, the Town of Haverstraw in Rockland County declared an emergency only for buildings with 120 units or more based on a survey of such buildings. The landlords sued, claiming that the town was required to survey all rental housing. The Appellate Division, Second Department (the same department which covers Nassau County) ruled against the landlords, stating unequivocally that the ETPA requires a survey of only the class of housing subject to regulation (*Mountainside Apartments v. Town of Haverstraw, Appellate Division, 2nd Department, January 1987*).

Does any member of the Long Beach City Council genuinely believe that the over-60's have a vacancy rate in excess of 5 percent? Especially if the warehoused units are discounted?

According to the NYS Division of Housing and Community Renewal, there are approximately 1500 apartments in 25 buildings subject to the ETPA (rent stabilization) within the City of Long Beach.

....continued....



The Net Vacancy Rate

There are two ways of defining a vacancy rate, the gross and the net.

The gross vacancy rate is comprised of all vacant apartments at the time of a survey, no matter what the condition of the apartments and no matter why they are vacant.

The net vacancy rate is determined by subtracting from the gross vacancy rate all apartments which are (a) uninhabitable and (b) unavailable for rent. Put another way, the net vacancy rate is comprised of all apartments which at the time of the survey are vacant, habitable, and available for rent.

The reason an apartment is unavailable for rent is irrelevant in terms of determining the net vacancy rate. It doesn't matter if the landlord is warehousing for speculative reasons, as is clearly the case with Executive Towers (where tenants report there are now almost 30 empty apartments), or if the landlord is renovating an apartment, or if he is holding it vacant for a friend or relative who is moving in three months from now. The important fact is the apartment is off the market, not available to renters who are looking for a place to live. It should therefore not be counted as vacant for purposes of determining the supply of rental housing in a municipality.

The United States Bureau of the Census uses the net vacancy rate as the valid indicator of a housing emergency, as does the City of New York. The courts, including the New York State Court of Appeals, have consistently upheld the use of the net vacancy rate as justification for a continuing housing emergency, in the face of landlord lawsuits insisting that the City should use the gross vacancy rate. For example, in 1967 the gross vacancy rate was 5.14 percent and the net vacancy rate 3.19 percent. The landlord lawsuit to overturn rent regulation on this basis was rejected by the courts (*Lampert v. Berman*, 284 N.Y.S.2d 657). The City Council's legal advisor, Mr. Asarch, points out that the ETPA is silent about this issue, referring merely to the "vacancy rate." True. But the same is true of every other rent control law in effect in New York State.

What is the logic of allowing landlords to warehouse apartments in order to reach a vacancy rate of more than 5 percent, then declaring that the emergency must be ended? In Long Beach, Sam Walton would have to warehouse slightly more than 75 apartments to achieve this result.

If sued by landlords, the City of Long Beach should conduct a survey of the class of housing that is subject to rent stabilization, meaning the 1500 or so apartments in buildings with 60 or more units. Any apartment that is uninhabitable or unavailable for rent should be excluded from the count. In the face of testimony from tenant after tenant on April 2 that their buildings have no vacancies, or no vacant apartments available for rent, and that many buildings have waiting lists, can there be any doubt that the vacancy rate for the over-60's is well below 5 percent?

....continued....

ADDITIONAL ISSUES:

1. The resolution being considered by the City Council does not preserve all current rights under rent stabilization. By restricting ongoing coverage under the ETPA to the "tenant of record" and his or her spouse, the resolution seriously curtails the right of succession, which under the ETPA applies to children, parents, siblings as well as spouses, as well as "non-traditional" family members who are not related by blood or marriage but who live together as family units, such as gay couples, unmarried heterosexual couples, and seniors and disabled persons who function in family-type relationships without any romantic or sexual involvement.
2. Councilman Zapson, despite his denials, has a clear conflict of interest and should excuse himself from voting on this resolution. As the owner of 270 Shore Road, he has filed an application to remove the 62 apartments from coverage under the ETPA. DHCR has granted this application in part, and the remaining 11 tenants are appealing the DHCR decision. For Mr. Zapson to claim that he is not affected by the Vacancy Decontrol resolution and that there is therefore no conflict of interest is downright dishonest.
3. Finally, and most importantly, the enactment of Vacancy Decontrol will have a devastating effect on current tenants, future tenants, the rental housing market, and the long-term health of the City of Long Beach. Current tenants paying a reasonable rent--\$700 to \$900 per month seems to be typical of current rents under ETPA, which are hardly low--will be sitting ducks for harassment. Much of what reasonable persons would consider harassment (for example, suing a tenant leader who complains about building conditions for defamation) does not meet the stringent definition of harassment under the state rent laws, but is nevertheless harassment. No apartment will ever again be available to any household that cannot pay a market rent, and tenants moving into the destabilized apartments will have no right to an initial lease or to an automatic lease renewal as under ETPA. Tenants moving into destabilized apartments will be afraid to complain of bad conditions because the result will be no lease renewal. Middle income tenants will be forced out of Long Beach just as many low income tenants have been forced out in the past, to be replaced by people who can pay \$2,000 a month or more. Increased real property tax revenues resulting from this rent spiral would certainly swell the municipal coffers. But destroying the rental housing market and forcing middle income tenants out is too high a price to pay for increased revenues.

*Prepared by Michael McKee
4/4/96*

"(f) conspiring or combining to perform any of the foregoing or any other unlawful acts tending to accost, annoy, intimidate, disturb, frighten or molest residents of or visitors to the City of New York."

The only question we pass upon is that of the validity of the stay obtained without notice to defendants.

In our opinion, the stay violates the constitutional rights of free expression guaranteed to these defendants, as well as to all other persons, by the First Amendment to the Constitution of the United States. The stay is, therefore, in all respects vacated.

Our vacatur of the stay is not to be deemed in any way approval of the conduct of defendants as portrayed in the moving papers.



48 A.D.2d 326

**CENTRAL PLAINS COMPANY et al., Respondents, v. CITY OF
WHITE PLAINS, Appellant.**

Supreme Court, Appellate Division, Second Department.

June 18, 1975.

Property owners and landlords brought action for declaration that a city rent control law was invalid. The Supreme Court, Westchester County, John C. Marbach, J., rendered judgment for the property owners and landlords and city appealed. The Supreme Court, Appellate Division, Christ, J., held that in calculating whether there were rental vacancies of five percent or less to warrant a declaration of housing emergency, the city was not required to exclude rental classifications exempt from rent control.

Reversed.

Landlord and Tenant ⇔ 200.11

In calculating whether there were rental vacancies of five percent or less to warrant declaration of housing emergency under Emergency Tenant Protection Act of 1974, city was not required to exclude rental classifications exempt from rent control. McK.Unconsol.Laws, §§ 8623, subd. a, 8625, subd. a.

Paul B. Bergins, Corp. Counsel, White Plains (Morton H. Zucker and Richard M. Gardella, White Plains, of counsel), for appellant.

Stuart R. Shamberg, P. C., Mt. Kisco, for respondents.

Before HOPKINS, Acting P. J., and MARTUSCELLO, CHRIST, MUNDER and SHAPIRO, JJ.

CHRIST, Justice.

In this declaratory judgment action the plaintiffs, property owners and landlords, claim to be aggrieved by a rent control law adopted by the Common Council of the City of White Plains which they seek to have nullified. There are no factual disputes involved in this appeal. After both sides moved for summary judgment, the Special Term granted judgment to the plaintiffs, declared the resolution illegal, and thereby abrogated the city's rent control law.

The authority which permits the city to declare a housing emergency and impose local rent control is embodied in the Emergency Tenant Protection Act of 1974 (Act) (L.1974, ch. 576, § 4, McKinney's Uncons. Laws of N.Y., Book 65, § 8621 *et seq.*). Specifically, subdivision a of section 3 of the Act provides:

" * * * A declaration of emergency may be made as to any class of housing accommodations if the vacancy rate for the housing accommodations in such class within such municipality is not in excess of five percent and a declaration of emergency may be made as to all housing accommodations if the vacancy rate for the housing accommodations within such municipality is not in excess of five percent."

Subdivision a of section 5 of the Act further describes that an emergency may be declared as to all or any class of housing accommodations in a local municipality except in 11 enumerated categories. These exempt categories include, among other things, housing owned by the United States, the State of New York, or their agencies or municipalities, housing already subject to rent regulation under other laws, and housing accommodations in a building containing fewer than six dwelling units.

The criteria for declaring an emergency is the percentage of housing units that are vacant. For example, the Act permits a local government to survey a particular class of housing accommodations and declare an emergency as to that class if less than 5% of the units therein are vacant (or, conversely, 95% or more of the units are occupied). Or, the municipality may survey the entire community and declare an emergency for the entire locality, if less than 5% of all units within the entire locality are vacant. The City of White Plains chose the latter alternative.

The city's Common Council, on June 20, 1974, adopted a "Resolution Fixing a Hearing Pursuant to the Emergency Tenant Protection Act of 1974 to Determine the Existence of a Public Emergency Requiring the Regulation of Rental Units." The resolution noted that according to a United States census report for 1970 the vacancy rate for rental units in the city was 2.2%. It further recited that additional and up-to-date facts were needed regarding the current vacancy rate for particular classes of rental units and all units within the city. The

Commissioner of Planning and Traffic was directed to conduct a survey. Accordingly, questionnaires were circulated throughout the city and a survey was compiled. The survey concluded that the vacancy rate for the entire city was less than 5%. A public hearing was held and the city declared a rent emergency under the authority of the Act.

The plaintiffs argue that the city's declaration of emergency is invalid because the survey included all housing within the city, including exempt housing under the Act. They claim that if the exempt housing is excluded from consideration the vacancy rate in the city will exceed 5% and will preclude a finding of a vacancy emergency. They further note that exempt housing is always full and, therefore, an emergency will constantly exist if exempt housing is included, a situation which they argue is unfair and not intended by the Legislature when the Act was enacted.

The Special Term agreed with the plaintiffs' arguments and construed the term "all housing" to mean "all rental housing, except that exempted by Section 5." In granting summary judgment to the plaintiffs and declaring the resolution of emergency invalid, the court held:

"It is agreed by all parties that the survey by the Common Council included exempt housing in determining the vacancy rate and that but for the inclusion of the exempt housing, that survey would have established a vacancy rate of in excess of 5% thus precluding a declaration of emergency. The issue then for this court is whether or not a municipality may under the Act survey exempt housing in determining a vacancy rate for that municipality's rental housing. For the reasons set forth below, this Court answers that question in the negative.

* * * * *
" * * * The inclusion of public, controlled housing in a vacancy survey, which housing is virtually vacancy-free, would lead to a perpetual finding of a housing emergency regardless of actual conditions in the private sector and would thus pervert the purpose and intent of Act.

* * * * *
" * * * [W]e would read the last sentence of Section 3, quoted above, to say that an emergency may be declared in any class of housing when the vacancy rate in that class is less than 5% and that an emergency may be declared as to all rental housing, except that exempted by Section 5, when the vacancy rate in the non-exempt rental housing is less than 5%. * * *"

We find, however, that the Act is clear and unambiguous and requires no such construction (see McKinney's Cons.Laws of N.Y. Book 1, Statutes, §§ 71, 76). The statute succinctly states that when the vacancy rate for "housing accommodations within such municipality is not in excess of five percent" an emergency may be declared. It makes no exclusions. When the statute speaks of all housing in a city and its concomitant vacancy rate, it means precisely that, all housing. The fact that the Act specifically precludes a local government from regulating certain enumerated housing as defined in subdivision a of section 5 simply embodies the legislative restriction that housing already regulated should not be burdened with additional local regulation. But this directive has no bearing on the total number of housing units which are in fact available in a local area. In order to determine this a municipality must, as the City of White Plains has, survey all units within its city confines. The term exempt housing means, therefore, exempt from regulation under the Act, not exempt from consideration in determining vacancies. Although there is not unanimity of opinion, letters from the State Rent Administrator and the State Commissioner of the Division of Housing and Community Renewal, contained in the record on this appeal, support this position. And Mr. Justice Beisheim, in a case very similar to the instant one, specifically rejected the argument that exempt housing may not be included in a companion survey conducted by the City of Yonkers (*Seasons Realty v. City of Yonkers*, 80 Misc.2d 601, 363 N.Y.S.2d 738).

The plaintiffs may be correct that the exempt housing is always fully occupied and therefore an emergency situation may exist at all times since the vacancy rate in the non-exempt housing would have to be extremely great to offset the zero vacancy rate in the exempt units (see *Amsterdam-Manhattan Inc. v. City Rent & Rehabilitation Administration*, 15 N.Y.2d 1014, 1015-1017, 260 N.Y.S.2d 23, 24-25, 207 N.E.2d 616, 617 [diss. opn.]). However, it should be noted that the alleged full occupancy in the exempt categories may be an indicator of the unavailability of housing in the non-exempt sector. And, as previously noted, it is the scarcity of housing in an entire community which triggers an emergency declaration for an entire city. In any event, the Act merely permits a municipality to declare an emergency when the rental units become scarce, but does not compel such a declaration. When a statute is clear, as this Act is, courts must effectuate its mandate.

Accordingly, the judgment should be reversed, on the law, with \$20 costs and disbursements, the plaintiffs' motion denied, the defendant's cross motion granted, and the city's declaration of emergency declared valid.

Judgment of the Supreme Court, Westchester County, dated February 18, 1975, reversed, on the law, with \$20 costs and disbursements, plaintiffs' motion denied, defendant's cross motion granted, and it is

declared that the declaration of housing emergency in a resolution entitled "Resolution Declaring a Public Emergency Requiring Regulation of Residential Rents Pursuant to the 'Emergency Tenant Protection Act of 1974'", adopted by the Common Council of the City of White Plains on July 29, 1974, is valid and lawful.

HOPKINS, Acting P. J., and MARTUSCELLO, MUNDER and SHAPIRO, JJ., concur.



48 A.D.2d 912

Marvin SUTTON, Respondent, v. Donald DeRIGGI, Appellant.

Supreme Court, Appellate Division, Second Department.

June 23, 1975.

Appeal was taken by defendant from an order of the Supreme Court, Nassau County, denying his motion for summary judgment in a defamation action. The Supreme Court, Appellate Division, held that defendant could not be held liable for alleged defamatory statement made in respect to plaintiff where there was no claim that defendant knew of any falsehood in statement and, similarly, plaintiff was unable to prove with convincing clarity that statement was made with reckless disregard of whether it was false or not.

Reversed, and motion granted.

Libel and Slander ⇐ 50½

Defendant could not be held liable for alleged defamatory statement made in respect to plaintiff where there was no claim that defendant knew of any falsehood in statement and, similarly, plaintiff was unable to prove with convincing clarity that statement was made with reckless disregard of whether it was false or not.

Curtis, Hart & Zaklukiewicz, Merrick (Edward J. Hart, Merrick, of counsel), for appellant.

Before RABIN, Acting P. J., and MARTUSCELLO, CHRIST, MUNDER and SHAPIRO, JJ.

MEMORANDUM BY THE COURT.

In a defamation action, defendant appeals from an order of the Supreme Court, Nassau County, dated May 1, 1974, which denied his motion for summary judgment.



City of Long Beach
KENNEDY PLAZA
LONG BEACH, NEW YORK 11561

TEL: (516) 431-1000
FAX: (516) 431-1389

CITY COUNCIL

EDMUND A. BUSCEMI, PRESIDENT
PEARL WEILL, VICE PRESIDENT
JOEL CRYSTAL
THOMAS M. KELLY
MICHAEL G. ZAPSON

March 27, 1996

Dear Neighbor:

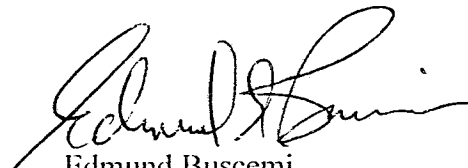
In the last several days a flyer was distributed with misinformation regarding the removal of Rent Stabilization for current tenants.

The landlords have requested, and presented several good arguments for Rent Stabilization to be eliminated in the City of Long Beach. Pursuant to the Rent Stabilization Laws of New York State they believe the City of Long Beach can no longer legally maintain Rent Stabilization. They have advised us that they may in fact sue the City to destabilize the City.

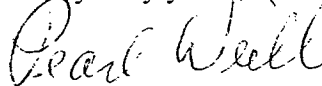

We are aware that thousands of residents of Long Beach live in Rent Stabilized apartments. Paying stabilized rents is the only way many can afford to continue to live in Long Beach. We have therefore, advised the landlords that any lawsuit to destabilize the City will be vigorously fought by the Long Beach City Council.

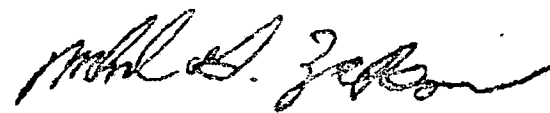
While many believe Rent Stabilization to be a thing of the past, this council will protect all Long Beach Residents who are under rent stabilization. We will not let it be discarded to allow landlords to make more money and leave tenants unprotected.

Please attend our next council meeting on Tuesday, April 2, 1996 at 8:00 pm and voice with us opposition to the removal of rent stabilization to current lease holders.


Edmund Buscemi
President


Joel Crystal
City Council Person

Very truly yours,

Pearl Weill
Vice President

Tom Kelly
City Council Person


Michael Zapson
City Council Person

LAMPERT v. BERMAN

Cite as 284 N.Y.S.2d 657

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ined and cross-examined witnesses at length and, for the most part, incidentally, interposed no objections or complaints to the procedures now complained of.

[5] Contrary to appellants' contention that there was a failure of proof, including that of scienter, the evidence which the board chose to accept was not merely substantial but was, indeed, overwhelming. This included proof of appellants' convictions of larceny, upon their pleas of guilty, under indictments charging, *inter alia*, larceny by false pretenses, whereby they obtained the very same unemployment insurance benefits which are the subjects of the initial determinations and the Referee's and the board's decisions now before us.

Decision affirmed, without costs.

HERLIHY, REYNOLDS, AULISI and STALEY, JJ., concur.



55 Misc.2d 99

Application of Leonard LAMPERT, Petitioner, for an order pursuant to Article 78 of the Civil Practice Law and Rules, v. Frederic S. BERMAN, as City Rent and Rehabilitation Administrator, Respondent.

Supreme Court, Special Term, New York County, Part I.

Sept. 22, 1967.

Proceeding for mandamus to compel rent decontrol. The Supreme Court, Special Term, Joseph A. Sarafite, J., held that mandamus was not available to compel rent administrator, who was required to decontrol rents upon occurrence of 5% vacancy rate, to issue decontrol order although petitioner claimed that vacancies were in excess of 5% if gross vacancy rate rather than net vacancy rate, used by administrator, were employed.

Petition dismissed.

1. Mandamus ⇨ 1, 12

Mandamus is extraordinary remedy, and judiciary will not interfere with executive department in exercise of its official duties unless some specific act or thing which law requires to be done has been omitted.

2. Mandamus ⇨ 73(1)

Mandamus was not available to compel rent administrator, who was required to decontrol rents upon occurrence of 5% vacancy rate, to

issue decontrol order although petitioner claimed that vacancies were in excess of 5% of gross vacancy rate rather than net vacancy rate, used by administrator, were employed. Administrative Code, § Y51-12.0.

Emory Gardiner, New York City, for petitioner.

Maurice A. Reichman, by Jack Sobell, New York City, for respondent.

JOSEPH A. SARAFITE, Justice.

In this special proceeding, petitioner landlord seeks an order in the nature of mandamus directing respondent, the City Rent and Rehabilitation Administrator 1) to schedule a public hearing for the purpose of considering the issuance of an order abolishing Rent and Eviction controls within the City of New York and 2) to issue—upon conclusion of that hearing—an order of decontrol.

In this connection petitioner seeks to compel the respondent to comply with the provisions of section Y51-12.0 of the Administrative Code. The statute as recently amended, (Local Laws, 1967, No. 60 of City of New York) provides in pertinent part as follows:

“Decontrol on basis of vacancy rate.—Whenever the city rent agency shall find, after making such studies and investigations as it deems necessary for such purpose * * * that the percentage of vacancies in all or any particular class of housing accommodations in the city, as such class is determined by the city rent agency, is five per centum or more, the controls imposed on rents and evictions by and pursuant to this title, with respect to the housing accommodations as to which such finding has been made, shall be forthwith scheduled for orderly decontrol * * * by order of such agency; provided, however, that notwithstanding any provision of this section to the contrary, such agency shall not order the decontrol of any particular class of housing accommodations as to which it shall find that the percentage of vacancies is less than five per centum; provided, further, that no such order shall be made unless such agency shall hold a public hearing on such proposal at which interested persons are given a reasonable opportunity to be heard * * *.”

Petitioner contends that two recent studies—one conducted and prepared by the United States Bureau of the Census pursuant to a contract with the rent agency, and another, by Dr. Chester Rapkin, a nationally known housing expert, analyzing the Census Bureau's report—disclose that “there is a current rate of vacancy in residential housing in the City of New York in excess of five per centum.” (In fact, said reports concluded that the existing vacancy rate was less than 5%.) It is claimed that despite the fact that the substance of these studies and supporting data were made known to respondent, he, nevertheless, failed

and refused to schedule or otherwise hold—as, contends the petitioner, the statute requires—a public hearing “preparatory and antecedent to the issuance of an order” of decontrol. Notwithstanding this statutory obligation, it is argued, respondent advised the Mayor of the City of New York that the vacancy rate was below the statutory limit of 5%; and further, that this action culminated in the passage of a resolution by the City Council in March, 1967 extending rent controls for two years.

Essentially, petitioner claims that the Bureau of the Census and Dr. Rapkin and respondent all erroneously excluded from their computations a category of housing units denominated as “unavailable” vacancies which, if otherwise included, would have brought the vacancy rate figure to over 5%.

Petitioner urges that the provisions of the statute mandated respondent to take “independent and non-delegable action” as the facts warranted it and that he may not avoid this duty by asserting that the City Council’s “finding concerning the putative housing emergency” has stripped him of that power.

Respondent, on the other hand, contends that the petitioner misreads the studies—heretofore cited—by referring incorrectly in his petition to the gross vacancy rate of 5.14% as the key figure in determining whether there is a housing shortage. Respondent argues that the central factor in such determination is not the gross vacancy rate but rather the net vacancy rate which—it is undisputed—is 3.19%. Hence, respondent urges—and the court agrees—the only issue in this proceeding is whether or not respondent properly interpreted the vacancy rate figures as set forth in the studies.

In support of his contention that he adopted the proper vacancy rate, respondent argues that all rent administrators before him and previous legislative bodies and the Court of Appeals have likewise accepted the *net* rental vacancy rate as the proper factor in determining the existence of a housing shortage. Moreover, respondent contends that the City Council—at its hearings in March, 1967—considered and rejected all of the arguments, now presented by petitioner, endorsed the net rental vacancy rate and passed their resolution extending rent controls. The action by the Council, it is argued, by validating respondent’s finding precludes the existence of any justiciable question to be resolved in this proceeding. The court shares this view.

At the outset, it is observed that the issue presently before the court was indeed raised and considered in *Amsterdam-Manhattan Inc. v. City Rent and Rehabilitation Administration* (43 Misc.2d 889, 252 N.Y.S.2d 758, *affd.* 21 A.D.2d 965, 252 N.Y.S.2d 395, *affd.* 15 N.Y.2d 1014, 260 N.Y.S.2d 23, 207 N.E.2d 616). There, the petitioner sought to declare the New York City Rent and Rehabilitation Law (Local Laws, 1962 No.

20 of City of New York) as unconstitutional. There—as here—the Rent Administrator submitted to the Mayor and City Council a report with recommendations based upon a survey of the Bureau of Census; there—as here—the salient factor in the report was the citing of the net rental vacancy rate as the critical factor in basing his recommendation that a public emergency in housing then existed; and there—as here—the City Council conducted a hearing at which it considered the net rental vacancy rate as the basis upon which to predicate passage of a resolution to extend controls. In that case the court held that the “City Council did not act arbitrarily in selecting specific criteria—a net rental vacancy rate * * * upon which to predicate the finding of emergency, nor can it be gainsaid that such factually uncontroverted data afforded a rational basis for the legislative determination.” (p. 896, 252 N.Y.S.2d pp. 765, 766).

[1] Finally, as observed in *Matter of International Railway Co. v. Schwab*, (203 App.Div. 68, at p. 74, 196 N.Y.S. 659, at p. 664): “mandamus is an extraordinary remedy, and the judiciary is loathe to interfere with the executive department of the government in the exercise of its official duties, unless some specific act or thing which the law requires to be done has been omitted * * * ‘The interference of the Supreme Court with the details of municipal administration is not to be encouraged. These details are entrusted by the people to officers chosen directly or indirectly by themselves. These officers are criminally responsible for a willful neglect of their duties, and upon them the responsibility for the government of our cities should usually be allowed to rest. The Supreme Court is not so organized as to enable it conveniently to assume a general supervisory power over their acts; and, indeed, such an assumption by it would be contrary to the whole spirit and intent of our government.’” (Quoting from *People ex rel. Clapp v. Listman*, 40 Misc. 372, 376, 82 N.Y.S. 263, *affd.* 84 App.Div. 633, 82 N.Y.S. 784.)

[2] On the facts presented herein, the discretionary relief of mandamus does not lie merely because petitioner happens to disagree with respondent’s finding and interpretation of the appropriate vacancy rate factor used to determine the existence of an emergency. This was not the kind of an administrative act which under the law respondent was “positively required” to perform. (*Matter of Walsh v. LaGuardia*, 269 N.Y. 437, 199 N.E. 652; *cf.* *Matter of Zara Contracting Co. Inc., v. Cohen*, 45 Misc.2d 497, 257 N.Y.S.2d 479, *affd.* 23 A.D.2d 718, 257 N.Y.S.2d 118.)

Moreover, respondent’s finding was challenged on that very issue and fully reviewed at a public hearing before the City Council and thereafter endorsed in the form of a resolution passed by that legislative body. Nor can it be said that there was an insufficient rational basis for the legislative finding of the existence of an emergency as to justify this court

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to disregard that finding. This is particularly true when it is undisputed that the net rental vacancy rate factor used by both this respondent and the City Council has had long historical precedence in the process of ascertaining the existence of a housing shortage.

Consequently, the granting of this petition would be an unwarranted interference by the court with the action of the respondent. The petition is dismissed.



28 A.D.2d 1135

The PEOPLE, etc., Respondent, v. Ethel DuPONT, Appellant.

Supreme Court, Appellate Division, Second Department.

Nov. 13, 1967.

The defendant was convicted in the County Court, Nassau County of the violation of vagrancy, and she appealed. The Supreme Court, Appellate Division, held that guilty plea should not have been accepted without inquiry by court, on the record, as to the underlying facts in order to determine that plea was to a crime in fact, that when defendant protested innocence and moved to withdraw plea of guilty to vagrancy, denial of the motion was improvident exercise of discretion, and that no authority existed for grand jury to return indictment for the violation of vagrancy, as distinguished from a crime, and vagrancy counts in indictment could not stand.

Reversed; motion to withdraw guilty plea granted; indictment reinstated as to all counts except vagrancy counts; vagrancy counts dismissed; action remitted.

1. Criminal Law ⇨264

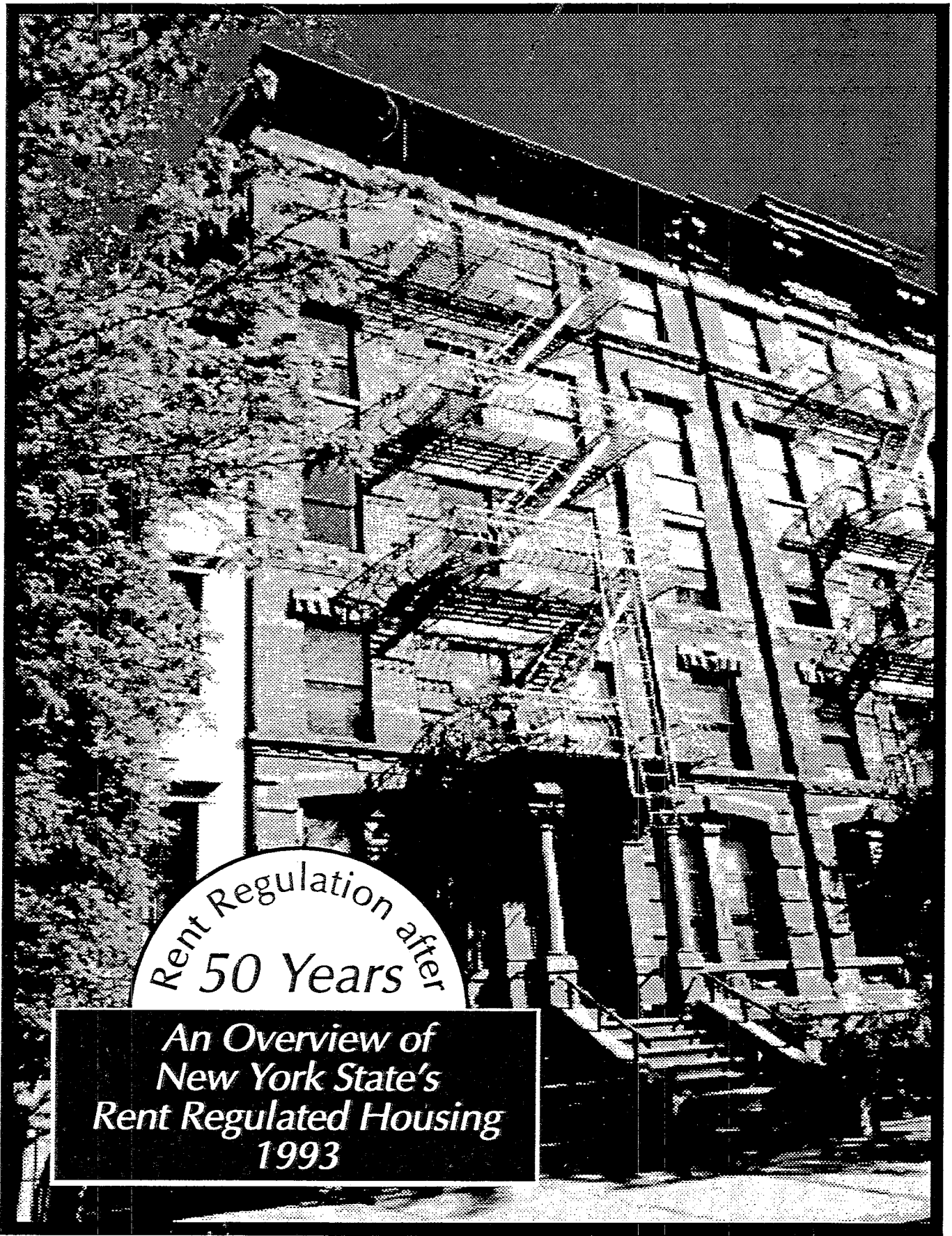
Guilty plea to vagrancy count should not have been accepted without inquiry by court, on the record, as to the underlying facts in order to determine that plea was to a crime in fact. Code Cr.Proc. § 887, subd. 4.

2. Criminal Law ⇨274

When defendant protested innocence and moved to withdraw plea of guilty to charge of vagrancy, denial of the motion was improvident exercise of discretion. Code Cr.Proc. § 887, subd. 4.

3. Grand Jury ⇨1

The grand jury derives its powers solely from constitution and statute.



*Rent Regulation after
50 Years*

*An Overview of
New York State's
Rent Regulated Housing
1993*



New York State Division of Housing and Community Renewal
Mario M. Cuomo, Governor ■ Donald M. Halperin, State Director of Housing
Joseph A. D'Agosta, Deputy Commissioner for Rent Administration



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Appendix: List of Regulated Buildings by County

The following is a listing of all buildings which have registered stabilized units since the inception of the apartment registration requirement in 1984. Also included are buildings that applied under the MBR program for increases in their rent control rents.

The list is organized by county, then sorted by zip code within each county. To help identify neighborhoods and communities we have also included the name of the local post office station before each zip code.

NYC Counties

Bronx
Kings
New York
Queens
Richmond

Counties outside NYC

Nassau
Rockland
Westchester

An "*" following an address indicates the building is a cooperative.

A "#" sign following an address indicates the building has rent controlled units.

Nassau County

Floral Park,11001

5 Adelaide St
27 Atlantic Ave.
39 Atlantic Ave.
43 Atlantic Ave.
26 Carnation Ave.
30 Carnation Ave.
34 Carnation Ave.
1 Childs Ave.
33 Floral Blvd.*
35 Floral Blvd.*
37 Floral Blvd.
39 Floral Blvd.
41 Floral Blvd.
43 Floral Blvd.
45 Floral Blvd.
47 Floral Blvd.
53 Floral Blvd.
18 Iris Ave.
5 N. Tyson Ave.*
8 N. Tyson Ave.
60 Plainfield Ave.
55 Tulip Ave.
62 Tulip Ave.
66-70 Tulip Ave.#
91 Tulip Ave. *
40 Woodbine Ct.

Great Neck,11021

1 Ascot Ridge*
1 Ash Place
7 Ash Place
8 Barstow Rd*
19 Barstow Rd
21 Barstow Rd*
36 Barstow Rd*
21 Bond St*
37 Brompton Rd*
50 Brompton Rd*
15 Canterbury Rd*
16 Canterbury Rd*
20 Canterbury Rd*
25 Canterbury Rd*
20 Chapel Place*
21 Chapel Place*
25 Chapel Place*
5-10 Clent Rd
1 Cutter Mill Rd*
1 E. Mill Drive*
2 E. Mill Drive*
3 E. Mill Drive*
4 E. Mill Drive*
62 Essex Rd
30 Grace Ave.*
71 Grace Ave.*
802 Great Neck Rd
810 Great Neck Rd
15 Hillpark Ave.*
20 Hillpark Ave.*
45 Hillpark Ave.*
50 Hillpark Ave.*
1 Hillside Ave.*

10 Ipswich Ave.*
35 Knightsbridge Rd*
40 Knightsbridge Rd
40 Knightsbridge Rd
50 Knightsbridge Rd
60 Knightsbridge Rd
70 Knightsbridge Rd
75 Knightsbridge Rd*
80 Knightsbridge Rd
1 Maple Drive*
4 Maple Drive*
221 Middle Neck Rd*
240 Middle Neck Rd
24 Middleneck Rd
215 Middleneck Rd*
221 Middleneck Rd*
240 Middleneck Rd
242 Middleneck Rd
244 Middleneck Rd
246 Middleneck Rd
248 Middleneck Rd
250 Middleneck Rd
1 Millbrook Ct.
2 Millbrook Ct.
3 Millbrook Ct.
4 Millbrook Ct.
5 Millbrook Ct.
6 Millbrook Ct.
7 Millbrook Ct.
8 Millbrook Ct.
9 Millbrook Ct.
10 Millbrook Ct.
11 Millbrook Ct.
12 Millbrook Ct.
14 Millbrook Ct.
15 Millbrook Ct.
16 Millbrook Ct.
17 Millbrook Ct.
18 Millbrook Ct.
19 Millbrook Ct.
20 Millbrook Ct.
21 Millbrook Ct.
22 Millbrook Ct.
24 Millbrook Ct.
1 Overlook Ave.*
22 Park Place*
25 Park Place*
33 Prospect St#
5 Schenck Ave.*
11 Schenck Ave.
19 Schenck Ave.*
21 Schenck Ave.
23 Schenck Ave.
40 Schenck Ave.*
46 Schenck Ave.
90 Schenck Ave.*
50 S. Middleneck Rd
140 S. Middleneck Rd*
150 S. Middleneck Rd
160 S. Middleneck Rd
2 Spruce St*
16 Stoner Ave.*
30 Stoner Ave.*
1 Terrace Circle*
2 Terrace Circle*
3 Terrace Circle*
4 Terrace Circle*
5 Terrace Circle*
6 Terrace Circle*

Nassau

7 Terrace Circle*
8 Terrace Circle*
9 Terrace Circle*
10 Terrace Circle*
11 Terrace Circle*
12-22 Terrace Circle*
13 Terrace Circle*
24-30 Terrace Circle*
34-42 Terrace Circle*
44 Terrace Circle*
46 Terrace Circle*
1 Townhouse*
4 Townhouse
8 Welwyn Rd*
10 Welwyn Rd*
11 Welwyn Rd
12 Welwyn Rd
13 Welwyn Rd
1-11 W. Mill Drive*
2 W. Mill Drive*
4 W. Mill Drive*
6 W. Mill Drive*
13-23 W. Mill Drive*
25-29 W. Mill Drive*
34-42 W. Mill Drive
6-8 Wooleys Lane*

Great Neck,11023

14 Beach Rd
621 Middleneck Rd
1 Wooleys Lane*
11 Wooleys Lane*

Great Neck, 11024

794 Middleneck Rd
825 Middleneck Rd
113 Steamboat Rd

Manhasset,11030

15 Gaynor Ave.*#
17 Gaynor Ave.*#
390 Plandome Rd#
409 Plandome Rd
24 Vanderbilt Ave.

New Hyde Park,11040

2188 Jericho Turnpike#
268 Langdale St*
77-12 271 St

Port Washington,11050

6 Bellview Ave.
73 Carlton Ave.*
1 Evergreen Ave.
1 Herbert Ave.#
32 Madison Park Gardens*

62 Main St#
85 Main St#
125 Main St*
495 Main St Unit A-H

Mineola,11501

1 Birchwood Ct.*
2 Birchwood Ct.*
3 Birchwood Ct.*
4 Birchwood Ct.*
5 Birchwood Ct.*
6 Birchwood Ct.*
1 Bradley Ct.
89 Bradley Place
59-71 Charles St
63 Charles St
67 Charles St
100 Clinton Ave.*
101 Clinton Ave.*
120 Clinton Ave.
400 E. Old Country Rd
408 E. Old Country Rd
4 Fairhaven Mall
1 Fairhaven Mall
3 Fairhaven Mall
2 Fairhaven Mall
190 First St
225 First St
270-286 First St#
377 First St
162 Grant Ave.
250 Harrison Ave.
120 Horton Hwy*
101 Jackson Ave.
192 Jackson Ave.
1 Laurel Drive
2 Laurel Drive
3 Laurel Drive
4 Laurel Drive
5 Laurel Drive
6 Laurel Drive
7 Laurel Drive
8 Laurel Drive
9 Laurel Drive
10 Laurel Drive
11 Laurel Drive
12 Laurel Drive
14 Laurel Drive
15 Laurel Drive
15 Laurel Drive
17 Laurel Drive
19 Laurel Drive
100 Lincoln Ave.*
101 Lincoln Ave.*
129 Lincoln Ave.
101 Main St
190 Mineola Blvd.
1 Richlee Ct.
986 Richlee Ct.
55 Roselle St
57 Roselle St
58 Roselle St
59 Roselle St
62 Roselle St
63 Roselle St
66 Roselle St

67 Roselle St
70 Roselle St
71 Roselle St
185 Roslyn Rd#
1 Russell Drive
2 Russell Drive
3 Russell Drive
4 Russell Drive
5 Russell Drive
6 Russell Drive
7 Russell Drive
8 Russell Drive
9 Russell Drive
10 Russell Drive
11 Russell Drive
12 Russell Drive
14 Russell Drive
15 Russell Drive
16 Russell Drive
18 Russell Drive
160 Second St#
200 Second St#
135 Third Ave.
1 Vanderbilt Drive N.
3 Vanderbilt Drive N.
203 Willis Ave.#
341 Willis Ave.

Baldwin,11510

700 Merrick Rd#
2363 S. Grand Ave.#

Carle Place,11514

1 Cornwall Lane
2 Cornwall Lane
3 Cornwall Lane
4 Cornwall Lane
5 Cornwall Lane
6 Cornwall Lane
7 Cornwall Lane
8 Cornwall Lane
401 E. Jericho Turnpike
1 Madison Lane
2 Madison Lane
3 Madison Lane
4 Madison Lane
5 Madison Lane
6 Madison Lane
7 Madison Lane
8 Madison Lane
2 Parkside Drive
4 Parkside Drive
6 Parkside Drive
8 Parkside Drive
1 Rudolph Drive
3 Rudolph Drive
5 Rudolph Drive
7 Rudolph Drive

Cedarhurst,11516

97 Cedarhurst Ave.#
103 Cedarhurst Ave.

118 Cedarhurst Ave.
232 Cedarhurst Ave.
234 Cedarhurst Ave.
236 Cedarhurst Ave.
238 Cedarhurst Ave.
257 Cedarhurst Ave.*
300 Cedarhurst Ave.*
506 Central Ave.#
545 Central Ave.*
547 Central Ave.*
549 Central Ave.*
551 Central Ave.*
553 Central Ave.*
555 Central Ave.*
557 Central Ave.*
557 Central Ave.*
623 Central Ave.*
601 Chestnut St*
59 Columbia Ave.
218 Washington Ave.

Freeport,11520

16 Archer St
175 Archer St
45 Broadway
56 Broadway
95 Broadway
107 Broadway
100 Brooklyn Ave.*
110 Brooklyn Ave.*
2-24 Florence Ave.
4 Florence Ave.*
6 Florence Ave.*
8 Florence Ave.*
10 Florence Ave.*
12 Florence Ave.*
14 Florence Ave.*
16 Florence Ave.*
18 Florence Ave.*
20 Florence Ave.*
22 Florence Ave.*
24 Florence Ave.*
30 Florence Ave.
40 Graffing Place
75 Graffing Place
33 Grand Ave.
128 Guy Lombardo Ave.#
160 Guy Lombardo Ave.#
180 Guy Lombardo Ave.
280 Guy Lombardo Ave.*
397 Guy Lombardo Ave.
43 Hampton Place*
45 Hampton Place*
47 Hampton Place*
49 Hampton Place*
51 Hampton Place*
53 Hampton Place*
55 Hampton Place*
57 Hampton Place*
59 Hampton Place*
61 Hampton Place*
50 N. Bergen Place
35 N. Columbus Ave.
95 N. Columbus Ave.
44 N. Grove St

Nassau

70 N. Grove St*
25 N. Long Beach Ave.
30 N. Long Beach Ave.
35 N. Long Beach Ave.
56 N. Long Beach Ave.
85 N. Long Beach Ave.
45 N. Ocean Ave.
65 N. Ocean Ave.
100 Ocean Ave.*
22 Pearsall Ave.#
109 Pine St
115 Pine St
119 Pine St
121 Pine St
125 Pine St
127 Pine St
155 Pine St
164 Pine St*
178 Pine St
20 Randall Ave.
40 Randall Ave.
75 Randall Ave.
99 Randall Ave.*
100 Randall Ave.*
98 Rose St#
52 Russell Place
96 Smith St
124 Smith St*
133 Smith St*
136 Smith St
150-160 Smith St
194 Smith St*
125 S. Bayview Ave.
55 S. Bergen Place*
69 S. Bergen Place
76 S. Bergen Place
88 S. Bergen Place
48 S. Long Beach Ave.
119 S. Main St#
100 S. Ocean Ave.*
150 S. Ocean Ave.*
404 S. Ocean Ave.
420 S. Ocean Ave.
494 S. Ocean Ave.*
30 Wallace St
206 W. End Ave.*
208 W. End Ave.*
210 W. End Ave.*
212 W. End Ave.*
214 W. End Ave.*
216 W. End Ave.*
218 W. End Ave.*
220 W. End Ave.*
40-46 W. Merrick Rd
116 W. Merrick Rd#
190 W. Merrick Rd*
200 W. Merrick Rd#
250 W. Merrick Rd*

Glen Cove,11542

21-31 Brewster St
57-63 Chestnut St#
6 Glen Keith Rd
1-109 Glen Keith Rd*
30 Pearsall Ave.*
66-90 Sea Cliff Ave.

20 Stephen Oval#
21 Stephen Oval#
24 Stephen Oval#
25 Stephen Oval#
30/31 Stephen Oval#
33 Stephen Oval
52 Woolsey Ave.#

Hempstead,11550

115 Atlantic Ave.
27 Attorney St
270 Baldwin Rd
16 Bedell St
18 Bedell St
20 Bedell St
51 Bell St
260 Belmont Parkway
6 Brown Ave.
3-7 Burr Ave.
9 Burr Ave.
16 Burr Ave.
26 Burr Ave.
43 Burr Ave.
135 Clinton St
146-152 Clinton St
3 Covert St
143-145 Duncan Rd
1-7 Elk Ct.
2-12 Elk Ct.
14 Elk St
34 Elk St
35 Elk St#
269 Elmwood Ave.
380 Front St*
482 Front St
555 Front St
599-621 Front St
651 Front St
775 Front St
451 Fulton Ave.
545 Fulton Ave.
548 Fulton Ave.
565 Fulton Ave.*
590 Fulton Ave.
600 Fulton Ave.
54 Greenwich St#
108 Grove St
25 Hendrickson Ave.*
60 Hendrickson Ave.
41 High St
43 High St
61-73 Hilbert St
160 Hilton Ave.
180 Hilton Ave.#
1-3 Jackson Ct.
2-24 Jackson Ct.
9-15 Jackson Ct.
31-37 Jackson Ct.
39-43 Jackson Ct.
45 Jackson St
50 Jackson St#
299 Jackson St#
357 Jackson St
95 Jerusalem Ave.
100 Jerusalem Ave.

15 Lafayette Ave.
 103 Lawson St
 1 Lincoln Blvd.#
 21 Lincoln Blvd.
 105 Long Beach Rd
 115 Long Beach Rd
 133 Main St
 298 Main St
 17 Maple Ave.
 31 Miller Place
 35 Miller Place
 32 Moore Ave.
 14 Mulford Place*
 62 N. Franklin St
 25 Peninsula Blvd.
 25-31 Robson Place
 33-39 Robson Place
 31 Sammis Place
 6 Sealey Ave.
 35 Seitz Ave.
 91 S. Franklin St
 67 Terrace Ave.
 77 Terrace Ave.
 91-101 Terrace Ave.
 107 Terrace Ave.
 115-119 Terrace Ave.
 125 Terrace Ave.
 127 Terrace Ave.
 129 Terrace Ave.
 131 Terrace Ave.
 133-141 Terrace Ave.
 145 Terrace Ave.
 92 Union Place
 1 Van Cott Ave.
 50 Van Cott Ave.
 85 Van Cott Ave.
 20 Villa Ct.
 37 Villa Ct.
 37/50 Villa Ct.
 38 Villa Ct.
 39 Villa Ct.
 40 Villa Ct.
 41 Villa Ct.
 42 Villa Ct.
 43 Villa Ct.
 44 Villa Ct.
 45 Villa Ct.
 46 Villa Ct.
 47 Villa Ct.
 48 Villa Ct.
 50 Villa Ct.
 10 Washington St#
 100 Washington St
 150 Washington St
 190 Washington St
 193 Washington St
 271 Washington St
 322 Washington St
 330 Washington St
 350 Washington St
 358 Washington St#
 360 Washington St
 10 Webb Ave.
 50 Webb Ave.
 62 Wellington St
 20 Wendell St*
 151 W. Columbia St
 62 Willington Rd
 37 Woodmere Blvd.#

Hewlett,11557

1185 E. Broadway#

Long Beach,11561

1 E. Broadway*
 210 E. Broadway*
 215 E. Broadway#
 333 E. Broadway*
 410 E. Broadway*
 740 E. Broadway*
 854 E. Broadway
 855 E. Broadway*
 65 Lincoln Blvd.
 10 Monroe Blvd.
 55 Monroe Blvd.*
 210 Shore Rd
 270 Shore Rd
 420 Shore Rd*
 465 Shore Rd
 522 Shore Rd*
 600 Shore Rd*
 630 Shore Rd
 700 Shore Rd*
 711 Shore Rd*#
 750 Shore Rd*
 840 Shore Rd*
 25 W. Broadway
 370 W. Broadway*

Lynbrook,11563

185 Atlantic Ave.*
 200 Atlantic Ave.*
 210 Atlantic Ave.
 145 Broadway
 148 Broadway
 260 Broadway
 20 Daley Place*
 30 Daley Place
 40 Daley Place*
 2 Duryea Place
 50-60 Hempstead Ave.*
 57 Hempstead Ave.*
 157 Hempstead Ave.*
 477 Merrick Rd
 504 Merrick Rd*
 75 Noble St*
 30 Shipherd Ave.*
 151 Union Ave.
 121 Vincent Ave.

Rockville Centre,11570

37 Clinton Ave.
 45 Grand Ave.*
 55 Grand Ave.*
 91 Grand Ave.
 95 Grand Ave.
 99 Grand Ave.
 12 Hempstead Ave.*

1 Jefferson Ave.*
 22 Jefferson Ave.*
 10 Lenox Rd*
 30 Lenox Rd
 31 Lenox Rd
 50 Lenox Rd
 55 Lenox Rd*
 77 Lenox Rd
 88 Lenox Rd
 51 Lincoln Ave.*
 70 Lincoln Ave.
 80 Lincoln Ave.*
 61 Maine Ave.*
 75 Maine Ave.*
 145 Maple Ave.
 175 Maple Ave.
 181 Maple Ave.
 239 Maple Ave.
 243 Maple Ave.
 247 Maple Ave.
 275 Maple Ave.*
 350 Merrick Rd
 410 Merrick Rd
 453 Merrick Rd
 465 Merrick Rd
 471 Merrick Rd
 555 Merrick Rd
 120 Morris Ave.*
 1 N. Forest Ave.
 22 N. Forest Ave.*
 30 N. Forest Ave.
 43 N. Forest Ave.*
 115 N. Forest Ave.
 4 N. Lewis Place*
 32 N. Long Beach Rd
 34 N. Long Beach Rd
 36 N. Long Beach Rd
 36 N. Long Beach Rd
 38 N. Long Beach Rd
 40 N. Long Beach Rd
 46 N. Village Ave.
 195 N. Village Ave.*
 200 N. Village Ave.*
 250 N. Village Ave.*
 90 Ongley St
 11 Park Place*
 59 S. Centre Ave.
 85 S. Centre Ave.*
 2-8 S. Marion Place
 120-130 S. Park Ave.*
 6 S. Park Ave.
 70 S. Park Ave.*
 77 S. Park Ave.*
 90 S. Park Ave.*
 100 S. Village Ave.
 102-108 S Village Ave.*
 210 Sunrise Hwy
 55 Windsor Ave.

Roslyn ,11576

13 Columbia Place
 215 E. Broadway
 223 E. Broadway
 231 E. Broadway
 239 E. Broadway
 247 E. Broadway

300-320 Main St
 301-335 Main St
 301 Main St*
 304 Main St
 305 Main St*
 308 Main St
 309 Main St*
 311 Main St*
 312 Main St
 313 Main St*
 315 Main St*
 316 Main St
 317 Main St*
 319 Main St*
 320 Main St
 321 Main St*
 323 Main St*
 325 Main St*
 327 Main St*
 329 Main St*
 331 Main St*
 333 Main St*
 335 Main St*
 24 Middleneck Rd
 26 Middleneck Rd
 30 Middleneck Rd
 32 Middleneck Rd

Roslyn Heights,11577

1 Edwards St*
 108 Edwards St
 300 Edwards St
 57 Garden St
 253 Roslyn Rd

Westbury,11590

260 Grand Blvd.
 209 Hopper St

Valley Stream,11581

83 Roosevelt Ave.

Woodmere,11598

1100 Ward Place#

15 Lafayette Ave.
 103 Lawson St
 1 Lincoln Blvd.#
 21 Lincoln Blvd.
 105 Long Beach Rd
 115 Long Beach Rd
 133 Main St
 298 Main St
 17 Maple Ave.
 31 Miller Place
 35 Miller Place
 32 Moore Ave.
 14 Mulford Place*
 62 N. Franklin St
 25 Peninsula Blvd.
 25-31 Robson Place
 33-39 Robson Place
 31 Sammis Place
 6 Sealey Ave.
 35 Seitz Ave.
 91 S. Franklin St
 67 Terrace Ave.
 77 Terrace Ave.
 91-101 Terrace Ave.
 107 Terrace Ave.
 115-119 Terrace Ave.
 125 Terrace Ave.
 127 Terrace Ave.
 129 Terrace Ave.
 131 Terrace Ave.
 133-141 Terrace Ave.
 145 Terrace Ave.
 92 Union Place
 1 Van Cott Ave.
 50 Van Cott Ave.
 85 Van Cott Ave.
 20 Villa Ct.
 37 Villa Ct.
 37/50 Villa Ct.
 38 Villa Ct.
 39 Villa Ct.
 40 Villa Ct.
 41 Villa Ct.
 42 Villa Ct.
 43 Villa Ct.
 44 Villa Ct.
 45 Villa Ct.
 46 Villa Ct.
 47 Villa Ct.
 48 Villa Ct.
 50 Villa Ct.
 10 Washington St#
 100 Washington St
 150 Washington St
 190 Washington St
 193 Washington St
 271 Washington St
 322 Washington St
 330 Washington St
 350 Washington St
 358 Washington St#
 360 Washington St
 10 Webb Ave.
 50 Webb Ave.
 62 Wellington St
 20 Wendell St*
 151 W. Columbia St
 62 Willington Rd
 37 Woodmere Blvd.#

Hewlett,11557

1185 E. Broadway#

Long Beach,11561

1 E. Broadway*
 210 E. Broadway*
 215 E. Broadway# - 91 apts
 333 E. Broadway*
 410 E. Broadway*
 740 E. Broadway*
 854 E. Broadway
 855 E. Broadway*
 65 Lincoln Blvd.
 10 Monroe Blvd. - 103 apts
 55 Monroe Blvd.*
 210 Shore Rd
 270 Shore Rd
 420 Shore Rd*
 465 Shore Rd
 522 Shore Rd*
 600 Shore Rd*
 630 Shore Rd - 178 apts
 700 Shore Rd*
 711 Shore Rd*#
 750 Shore Rd*
 840 Shore Rd*
 25 W. Broadway - 89 (143)
 370 W. Broadway*
 25 Franklin Blvd - 124

Lynbrook,11563

185 Atlantic Ave.*
 200 Atlantic Ave.*
 210 Atlantic Ave.
 145 Broadway
 148 Broadway
 260 Broadway
 20 Daley Place*
 30 Daley Place
 40 Daley Place*
 2 Duryea Place
 50-60 Hempstead Ave.*
 57 Hempstead Ave.*
 157 Hempstead Ave.*
 477 Merrick Rd
 504 Merrick Rd*
 75 Noble St*
 30 Shiperd Ave.*
 151 Union Ave.
 121 Vincent Ave.

Rockville Centre,11570

37 Clinton Ave.
 45 Grand Ave.*
 55 Grand Ave.*
 91 Grand Ave.
 95 Grand Ave.
 99 Grand Ave.
 12 Hempstead Ave.*

1 Jefferson Ave.*
 22 Jefferson Ave.*
 10 Lenox Rd*
 30 Lenox Rd
 31 Lenox Rd
 50 Lenox Rd
 55 Lenox Rd*
 77 Lenox Rd
 88 Lenox Rd
 51 Lincoln Ave.*
 70 Lincoln Ave.
 80 Lincoln Ave.*
 61 Maine Ave.*
 75 Maine Ave.*
 145 Maple Ave.
 175 Maple Ave.
 181 Maple Ave.
 239 Maple Ave.
 243 Maple Ave.
 247 Maple Ave.
 275 Maple Ave.*
 350 Merrick Rd
 410 Merrick Rd
 453 Merrick Rd
 465 Merrick Rd
 471 Merrick Rd
 555 Merrick Rd
 120 Morris Ave.*
 1 N. Forest Ave.
 22 N. Forest Ave.*
 30 N. Forest Ave.
 43 N. Forest Ave.*
 115 N. Forest Ave.
 4 N. Lewis Place*
 32 N. Long Beach Rd
 34 N. Long Beach Rd
 36 N. Long Beach Rd
 36 N. Long Beach Rd
 38 N. Long Beach Rd
 40 N. Long Beach Rd
 46 N. Village Ave.
 195 N. Village Ave.*
 200 N. Village Ave.*
 250 N. Village Ave.*
 90 Ongley St
 11 Park Place*
 59 S. Centre Ave.
 85 S. Centre Ave.*
 2-8 S. Marion Place
 120-130 S. Park Ave.*
 6 S. Park Ave.
 70 S. Park Ave.*
 77 S. Park Ave.*
 90 S. Park Ave.*
 100 S. Village Ave.
 102-108 S Village Ave.*
 210 Sunrise Hwy
 55 Windsor Ave.

Roslyn ,11576

13 Columbia Place
 215 E. Broadway
 223 E. Broadway
 231 E. Broadway
 239 E. Broadway
 247 E. Broadway

300-320 Main St
 301-335 Main St
 301 Main St*
 304 Main St
 305 Main St*
 308 Main St
 309 Main St*
 311 Main St*
 312 Main St
 313 Main St*
 315 Main St*
 316 Main St
 317 Main St*
 319 Main St*
 320 Main St
 321 Main St*
 323 Main St*
 325 Main St*
 327 Main St*
 329 Main St*
 331 Main St*
 333 Main St*
 335 Main St*
 24 Middleneck Rd
 26 Middleneck Rd
 30 Middleneck Rd
 32 Middleneck Rd

Roslyn Heights,11577

1 Edwards St*
 108 Edwards St
 300 Edwards St
 57 Garden St
 253 Roslyn Rd

Westbury,11590

260 Grand Blvd.
 209 Hopper St

Valley Stream,11581

83 Roosevelt Ave.

Woodmere,11598

1100 Ward Place#

Nassau

15 Lafayette Ave.
 103 Lawson St
 1 Lincoln Blvd.#
 21 Lincoln Blvd.
 105 Long Beach Rd
 115 Long Beach Rd
 133 Main St
 298 Main St
 17 Maple Ave.
 31 Miller Place
 35 Miller Place
 32 Moore Ave.
 14 Mulford Place*
 62 N. Franklin St
 25 Peninsula Blvd.
 25-31 Robson Place
 33-39 Robson Place
 31 Sammis Place
 6 Sealey Ave.
 35 Seitz Ave.
 91 S. Franklin St
 67 Terrace Ave.
 77 Terrace Ave.
 91-101 Terrace Ave.
 107 Terrace Ave.
 115-119 Terrace Ave.
 125 Terrace Ave.
 127 Terrace Ave.
 129 Terrace Ave.
 131 Terrace Ave.
 133-141 Terrace Ave.
 145 Terrace Ave.
 92 Union Place
 1 Van Cott Ave.
 50 Van Cott Ave.
 85 Van Cott Ave.
 20 Villa Ct.
 37 Villa Ct.
 37/50 Villa Ct.
 38 Villa Ct.
 39 Villa Ct.
 40 Villa Ct.
 41 Villa Ct.
 42 Villa Ct.
 43 Villa Ct.
 44 Villa Ct.
 45 Villa Ct.
 46 Villa Ct.
 47 Villa Ct.
 48 Villa Ct.
 50 Villa Ct.
 10 Washington St#
 100 Washington St
 150 Washington St
 190 Washington St
 193 Washington St
 271 Washington St
 322 Washington St
 330 Washington St
 350 Washington St
 358 Washington St#
 360 Washington St
 10 Webb Ave.
 50 Webb Ave.
 62 Wellington St
 20 Wendell St*
 151 W. Columbia St
 62 Willington Rd
 37 Woodmere Blvd.#

Hewlett,11557

1185 E. Broadway#

Long Beach,11561

1 E. Broadway*
 210 E. Broadway*
 215 E. Broadway#
 333 E. Broadway*
 410 E. Broadway*
 740 E. Broadway*
 854 E. Broadway
 855 E. Broadway*
 65 Lincoln Blvd.
 10 Monroe Blvd.
 55 Monroe Blvd.*
 210 Shore Rd
 270 Shore Rd
 420 Shore Rd*
 465 Shore Rd
 522 Shore Rd*
 600 Shore Rd*
 630 Shore Rd
 700 Shore Rd*
 711 Shore Rd*#
 750 Shore Rd*
 840 Shore Rd*
 25 W. Broadway
 370 W. Broadway*

Lynbrook,11563

185 Atlantic Ave.*
 200 Atlantic Ave.*
 210 Atlantic Ave.
 145 Broadway
 148 Broadway
 260 Broadway
 20 Daley Place*
 30 Daley Place
 40 Daley Place*
 2 Duryea Place
 50-60 Hempstead Ave.*
 57 Hempstead Ave.*
 157 Hempstead Ave.*
 477 Merrick Rd
 504 Merrick Rd*
 75 Noble St*
 30 Shipherd Ave.*
 151 Union Ave.
 121 Vincent Ave.

Rockville Centre,11570

37 Clinton Ave.
 45 Grand Ave.*
 55 Grand Ave.*
 91 Grand Ave.
 95 Grand Ave.
 99 Grand Ave.
 12 Hempstead Ave.*

1 Jefferson Ave.*
 22 Jefferson Ave.*
 10 Lenox Rd*
 30 Lenox Rd
 31 Lenox Rd
 50 Lenox Rd
 55 Lenox Rd*
 77 Lenox Rd
 88 Lenox Rd
 51 Lincoln Ave.*
 70 Lincoln Ave.
 80 Lincoln Ave.*
 61 Maine Ave.*
 75 Maine Ave.*
 145 Maple Ave.
 175 Maple Ave.
 181 Maple Ave.
 239 Maple Ave.
 243 Maple Ave.
 247 Maple Ave.
 275 Maple Ave.*
 350 Merrick Rd
 410 Merrick Rd
 453 Merrick Rd
 465 Merrick Rd
 471 Merrick Rd
 555 Merrick Rd
 120 Morris Ave.*
 1 N. Forest Ave.
 22 N. Forest Ave.*
 30 N. Forest Ave.
 43 N. Forest Ave.*
 115 N. Forest Ave.
 4 N. Lewis Place*
 32 N. Long Beach Rd
 34 N. Long Beach Rd
 36 N. Long Beach Rd
 36 N. Long Beach Rd
 38 N. Long Beach Rd
 40 N. Long Beach Rd
 46 N. Village Ave.
 195 N. Village Ave.*
 200 N. Village Ave.*
 250 N. Village Ave.*
 90 Ongley St
 11 Park Place*
 59 S. Centre Ave.
 85 S. Centre Ave.*
 2-8 S. Marion Place
 120-130 S. Park Ave.*
 6 S. Park Ave.
 70 S. Park Ave.*
 77 S. Park Ave.*
 90 S. Park Ave.*
 100 S. Village Ave.
 102-108 S Village Ave.*
 210 Sunrise Hwy
 55 Windsor Ave.

Roslyn ,11576

13 Columbia Place
 215 E. Broadway
 223 E. Broadway
 231 E. Broadway
 239 E. Broadway
 247 E. Broadway

300-320 Main St
 301-335 Main St
 301 Main St*
 304 Main St
 305 Main St*
 308 Main St
 309 Main St*
 311 Main St*
 312 Main St
 313 Main St*
 315 Main St*
 316 Main St
 317 Main St*
 319 Main St*
 320 Main St
 321 Main St*
 323 Main St*
 325 Main St*
 327 Main St*
 329 Main St*
 331 Main St*
 333 Main St*
 335 Main St*
 24 Middleneck Rd
 26 Middleneck Rd
 30 Middleneck Rd
 32 Middleneck Rd

Roslyn Heights,11577

1 Edwards St*
 108 Edwards St
 300 Edwards St
 57 Garden St
 253 Roslyn Rd

Westbury,11590

260 Grand Blvd.
 209 Hopper St

Valley Stream,11581

83 Roosevelt Ave.

Woodmere,11598

1100 Ward Place#

Nassau

15 Lafayette Ave.
 103 Lawson St
 1 Lincoln Blvd.#
 21 Lincoln Blvd.
 105 Long Beach Rd
 115 Long Beach Rd
 133 Main St
 298 Main St
 17 Maple Ave.
 31 Miller Place
 35 Miller Place
 32 Moore Ave.
 14 Mulford Place*
 62 N. Franklin St
 25 Peninsula Blvd.
 25-31 Robson Place
 33-39 Robson Place
 31 Sammis Place
 6 Sealey Ave.
 35 Seitz Ave.
 91 S. Franklin St
 67 Terrace Ave.
 77 Terrace Ave.
 91-101 Terrace Ave.
 107 Terrace Ave.
 115-119 Terrace Ave.
 125 Terrace Ave.
 127 Terrace Ave.
 129 Terrace Ave.
 131 Terrace Ave.
 133-141 Terrace Ave.
 145 Terrace Ave.
 92 Union Place
 1 Van Cott Ave.
 50 Van Cott Ave.
 85 Van Cott Ave.
 20 Villa Ct.
 37 Villa Ct.
 37/50 Villa Ct.
 38 Villa Ct.
 39 Villa Ct.
 40 Villa Ct.
 41 Villa Ct.
 42 Villa Ct.
 43 Villa Ct.
 44 Villa Ct.
 45 Villa Ct.
 46 Villa Ct.
 47 Villa Ct.
 48 Villa Ct.
 50 Villa Ct.
 10 Washington St#
 100 Washington St
 150 Washington St
 190 Washington St
 193 Washington St
 271 Washington St
 322 Washington St
 330 Washington St
 350 Washington St
 358 Washington St#
 360 Washington St
 10 Webb Ave.
 50 Webb Ave.
 62 Wellington St
 20 Wendell St*
 151 W. Columbia St
 62 Willington Rd
 37 Woodmere Blvd.#

Hewlett,11557

1185 E. Broadway#

Long Beach,11561

1 E. Broadway*
 210 E. Broadway*
 215 E. Broadway#
 333 E. Broadway*
 410 E. Broadway*
 740 E. Broadway*
 854 E. Broadway
 855 E. Broadway*
 65 Lincoln Blvd.
 10 Monroe Blvd.
 55 Monroe Blvd.*
 210 Shore Rd
 270 Shore Rd
 420 Shore Rd*
 465 Shore Rd
 522 Shore Rd*
 600 Shore Rd*
 630 Shore Rd
 700 Shore Rd*
 711 Shore Rd*#
 750 Shore Rd*
 840 Shore Rd*
 25 W. Broadway
 370 W. Broadway*

Lynbrook,11563

185 Atlantic Ave.*
 200 Atlantic Ave.*
 210 Atlantic Ave.
 145 Broadway
 148 Broadway
 260 Broadway
 20 Daley Place*
 30 Daley Place
 40 Daley Place*
 2 Duryea Place
 50-60 Hempstead Ave.*
 57 Hempstead Ave.*
 157 Hempstead Ave.*
 477 Merrick Rd
 504 Merrick Rd*
 75 Noble St*
 30 Shipherd Ave.*
 151 Union Ave.
 121 Vincent Ave.

Rockville Centre,11570

37 Clinton Ave.
 45 Grand Ave.*
 55 Grand Ave.*
 91 Grand Ave.
 95 Grand Ave.
 99 Grand Ave.
 12 Hempstead Ave.*

1 Jefferson Ave.*
 22 Jefferson Ave.*
 10 Lenox Rd*
 30 Lenox Rd
 31 Lenox Rd
 50 Lenox Rd
 55 Lenox Rd*
 77 Lenox Rd
 88 Lenox Rd
 51 Lincoln Ave.*
 70 Lincoln Ave.
 80 Lincoln Ave.*
 61 Maine Ave.*
 75 Maine Ave.*
 145 Maple Ave.
 175 Maple Ave.
 181 Maple Ave.
 239 Maple Ave.
 243 Maple Ave.
 247 Maple Ave.
 275 Maple Ave.*
 350 Merrick Rd
 410 Merrick Rd
 453 Merrick Rd
 465 Merrick Rd
 471 Merrick Rd
 555 Merrick Rd
 120 Morris Ave.*
 1 N. Forest Ave.
 22 N. Forest Ave.*
 30 N. Forest Ave.
 43 N. Forest Ave.*
 115 N. Forest Ave.
 4 N. Lewis Place*
 32 N. Long Beach Rd
 34 N. Long Beach Rd
 36 N. Long Beach Rd
 36 N. Long Beach Rd
 38 N. Long Beach Rd
 40 N. Long Beach Rd
 46 N. Village Ave.
 195 N. Village Ave.*
 200 N. Village Ave.*
 250 N. Village Ave.*
 90 Ongley St
 11 Park Place*
 59 S. Centre Ave.
 85 S. Centre Ave.*
 2-8 S. Marion Place
 120-130 S. Park Ave.*
 6 S. Park Ave.
 70 S. Park Ave.*
 77 S. Park Ave.*
 90 S. Park Ave.*
 100 S. Village Ave.
 102-108 S Village Ave.*
 210 Sunrise Hwy
 55 Windsor Ave.

Roslyn ,11576

13 Columbia Place
 215 E. Broadway
 223 E. Broadway
 231 E. Broadway
 239 E. Broadway
 247 E. Broadway

300-320 Main St
 301-335 Main St
 301 Main St*
 304 Main St
 305 Main St*
 308 Main St
 309 Main St*
 311 Main St*
 312 Main St
 313 Main St*
 315 Main St*
 316 Main St
 317 Main St*
 319 Main St*
 320 Main St
 321 Main St*
 323 Main St*
 325 Main St*
 327 Main St*
 329 Main St*
 331 Main St*
 333 Main St*
 335 Main St*
 24 Middleneck Rd
 26 Middleneck Rd
 30 Middleneck Rd
 32 Middleneck Rd

Roslyn Heights,11577

1 Edwards St*
 108 Edwards St
 300 Edwards St
 57 Garden St
 253 Roslyn Rd

Westbury,11590

260 Grand Blvd.
 209 Hopper St

Valley Stream,11581

83 Roosevelt Ave.

Woodmere,11598

1100 Ward Place#

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director of the Okeanos Ocean Research Foundation in Riverhead, and Rav Freidel of Concerned Citizens of Montauk to praise Forbes' actions.

Forbes said he filed his bill to "plug a giant loophole" in existing laws, which restrict the dumping of contaminated wastes in local waters and in the ocean, but not into Long Island Sound.

The problem first became an issue last October when the U.S. Navy began a massive dredging project in the Thames River in Connecticut, and dumped 900,000 cubic yards of contaminated sediment in Long Island Sound, about 1.25 miles off Fishers Island.

The dredging, which Navy officials said was needed to give birth to a new Seawolf submarine in New London, involved more dredged material than is normally dumped in

on this year, and said it might be difficult getting support from representatives from Connecticut because dredging is seen there as an economic issue, not an environmental one.

Forbes also complained that the federal Environmental Protection Agency is trying to loosen regulations that cover ocean dumping, by allowing harbor sediment to be dumped without adequate testing for pollutants.

He blamed the Democratic administration for supporting those changes, but Freidel said it was the Republican-dominated Congress that was gutting environmental laws.

"I haven't a clue how this stuff will pass," he said. "And the EPA is working overtime to gut its own laws . . . but Forbes is saying the right thing and as long as he says it, we'll lend him our support."

'Vacancy Decontrol' Hit

By Sid Cassese
STAFF WRITER

As Long Beach city officials mull over efforts to modify rent control, tenant leaders and others around Nassau County are keeping a wary eye on the situation while trying to organize tenant resistance to the move.

Officials in this city of 35,000 have left no doubt they intended to push through a rent destabilization modification called "vacancy decontrol," which, they said, would mollify landlords (by letting them charge whatever the market will bear when apartments become vacant) while continuing rent controls for tenants currently protected and for their spouses as long as they remained in their apartments.

But a strong outpouring of opposition at the regular city council meeting Tuesday night caused the five council members to hesitate, and adjourn their decision for two weeks.

"Personally, I still favor vacancy decontrol," said City Manager Edwin

Eaton, "but many views were offered by the citizens, some of which the council would like to explore further."

Among those issues was a concern about possible harassment by some landlords in order to accelerate vacancies. "We would like to see if there were some way we could combat that or penalize that," Eaton said.

But Jeanne Kippel of Great Neck Plaza, a longtime tenant advocate, called vacancy control the first step toward complete decontrol, "and not just in Long Beach," she added, "but wherever there is the Emergency Tenant Protection Act."

Kippel, the tenant representative on the Nassau County Rent Stabilization Board, is also the Great Neck Plaza housing commissioner.

"How long will they [landlords] leave those protected tenants alone?" Kippel asked the City Council Tuesday night.

Both Kippel and Carlos Mackey, the tenant representative for the Village of Hempstead, pointed out that the current ETPA law is to expire June 15, 1997.

FROM : NEWS-DAY

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1996-04-05

11:47

#422 P.01/01

6/6/96

Long Beach Tenants Coalition

newsletter

Voice mail number \$124/year

membership dues per person
membership cards
statement of purpose
form letters to Skelos & Weisenberg

- agenda
- speakers

⑤ Tuesday mtg
- distribution of flyers

- elections, structure, dues

① Tenant lobby day follow-up

lease video

② Lawsuit

③ Rockville Centre

④ Primary residence decontrol

PAULSEN REAL ESTATE CORP.
 PO Box 298
 Long Beach, New York 11561
 (516) 889-2056

April 26, 1996

OPEN LETTER TO ALL RESIDENTS

As most of you are aware on April 16, 1996 the City Council considered and failed to adopt a resolution to decontrol only vacant apartments. I would like to tell you why this was a great mistake and give you the true facts.

1. The City Council, in formulating the Vacancy Decontrol Resolution was attempting to avoid the more sweeping consequences of the total end of rent control.
2. All current tenants would have been protected under the stabilization law as long as they remain a tenant in their apartment. Only new tenants would be destabilized.

Every tenant should know that the text of the resolution included the following language:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONG BEACH AS FOLLOWS:

1. That all current tenants within multiple dwellings whose apartments are subject to the Emergency Tenant Protection Act of 1974, as amended, shall continue to have their apartments be subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, for so long as the tenant of record and/or his or her spouse continue to reside in that apartment.
3. Only new tenants would have paid higher rents financing improvements to the buildings. Every tenant in residence would have benefited directly by continued protection and a modernized buildings. The several individuals from our building who spread erroneous information to all residents, who spread unwarranted fear that the decontrol proposal would in some way adversely affect any current residents of the building did a great disservice to all. Numerous improvements were planned for Crystal House based upon the decontrol of vacant apartments. These renovations and improvements cannot take place without this City Council resolution.

We all lost when the City Council failed to pass this resolution.

I believe the proposal failed because it was not understood. I would welcome any resident's call for additional information or an explanation concerning this issue. A copy of the full text of the proposal is available in the office. Please take the time to reconsider this proposal and understand that it was a strait forward proposal that would have positively impacted the quality of life at Crystal house and all other rental buildings. It is my hope and I ask for your assistance in requesting that the City Council reconsider this proposal.

Edmund A. Buscemi (Pres.)---432-5170

Pearl Walli (Vice-Pres.) ---432-3830

Edwin L. Eaton (City Manager)-431-1000

Joel Crystal---- (H) 431-9411 (W)897-2040

Michael Zapson-(H) 432-5772 (212-279-3467

David Kelly---431-1000

Join The Tenant Army!

Rent control, rent stabilization and other tenant protection laws are in danger. The rent laws are temporary and must be renewed periodically. The cash-rich real estate lobby and its allies in the State Legislature use these periodic expirations as leverage, demanding damaging changes to the laws in return for renewing them for another few years. With new allies in the Governor's office and the State Senate, they are closing in for the kill.

Without the rent laws, landlords would be free to raise your rent by any amount, even raise your rent several times a year. Landlords would not be required to give you a lease or renew your lease, and would be free to terminate your tenancy and evict you for no reason at all.

We need an army of tenants to defeat the landlords. They have the money. We have the votes. But to win, thousands of tenants have to get involved.
JOIN US!

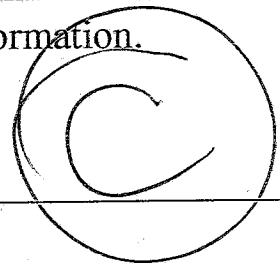
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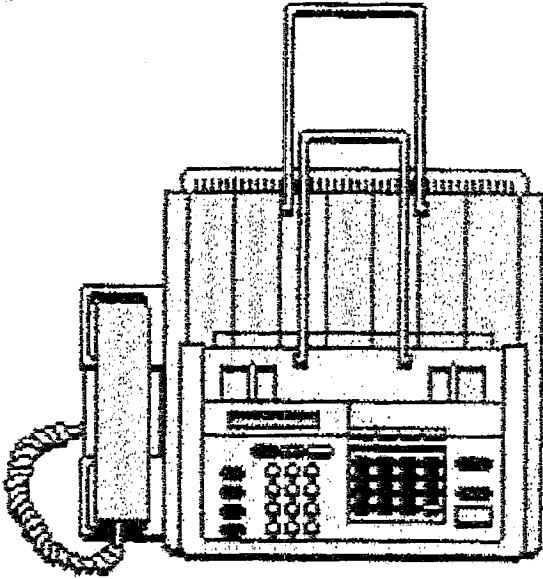
11561

PHONE (h)

516-432-3050

(w)

212-582-7693



FAX

FROM
MICKEY & JULIE
SCHECHTER

PHONE # (516) 432-1183

FAX# (516) 432-1117

TO: Michael **ATTENTION**

FROM: Julie Schechter **DATE:** 5/17/96 (2 AM)

REFERENCE: Flyer.

SPECIAL INSTRUCTIONS: —————

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TENANTS! Your rights are in danger! Governor

Pataki plans to end rent stabilization, rent control, and other tenants protections. If Pataki gets his way, your rent will go through the roof. You will lose the right to renew your lease, and there will be no more succession rights for your family members and domestic partners. If you don't want to land in Oz when the Pataki twister hits

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STOP PATAKI!

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SAVE OUR HOMES.

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WE'RE RENT
REGULATED
ANYMORE



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Brenda Riexinger.....889 6321

Shirley Weber.....889 4983

No answer? Just leave your name and phone number and we will get back to you.

Just Remember , We did it here in Long Beach, and with your support, we can do it again in Albany .

SEE YOU ON TUESDAY..

msb 

CASE #95-552 NC
MARCH 26, 1996 TERM

At a term of the Appellate Term of the
Supreme Court of the State of New York
for the 9th and 10th Judicial Districts
held in Nassau County, on

APR 12 1996

PRESENT HON. <u>ANDREW J. DIPAOLO</u>	PRESIDING JUSTICE
" HON. <u>THOMAS M. STARK</u>	ASSOCIATE JUSTICE
" HON. <u>ANGELO J. INGRASSIA</u>	ASSOCIATE JUSTICE

-----x
PAULSEN REAL ESTATE CORP.,

Respondent,

-against-

ROBERT GRAMMICK,

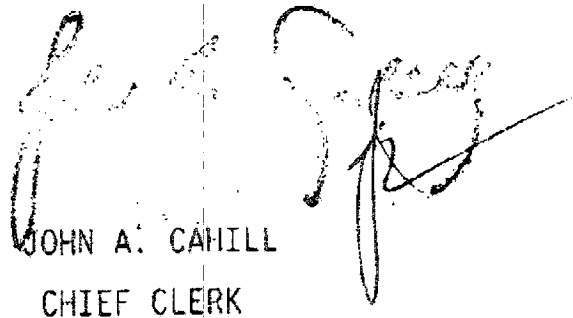
Appellant.
-----x

The above named appellant having appealed to this court from a JUDGMENT of the FIRST DISTRICT COURT, NASSAU COUNTY entered on APRIL 3, 1995 and the said appeal having been argued by PORTER L. KIRKWOOD, ESQ. for the appellant and argued by MARTIN A. SHLUFMAN, ESQ. for the respondent and due deliberation having been had thereon;

It is hereby ordered and adjudged that the judgment is unanimously reversed with \$30 costs, petition dismissed and matter remanded to the court below for a hearing to determine reasonable attorney's fees to be awarded tenant.

BARRY A. KAMEN, P.C.
1741-B NORTH OCEAN AVENUE
MEDFORD, NY 11763

MARTIN A. SHLUFMAN
1205 FRANKLIN AVENUE
GARDEN CITY, NY 11530

A handwritten signature in black ink, appearing to read "John A. Cahill", is written over the typed name and title.

JOHN A. CAHILL
CHIEF CLERK
APPELLATE TERM

0034f

0034f (5914T)

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM : 9th and 10th JUDICIAL DISTRICTS

PRESENT: DIPAOLO, P.J., STARK and INGRASSIA, JJ.

PAULSEN REAL ESTATE CORP.,

Respondent,

-against-

NO. 95-552 N C

ROBERT GRAMMICK,

DECIDED
APR 12 1996

Appellant.

Appeal by tenant from a judgment of the District Court, Nassau County (Driscoll, J.) entered on April 3, 1995, awarding possession of the apartment and \$5,372 to petitioner.

Judgment unanimously reversed with \$30 costs, petition dismissed and matter remanded to the court below for a hearing to determine reasonable attorney's fees to be awarded tenant.

A holdover proceeding was commenced against tenant based on the allegation that he harbored a dog in violation of the provisions of his lease. The facts indicated that during the 17 years that tenant had resided in this

apartment, he had other dogs for some of that time and the
dog in question had lived in the apartment from July of 1991

SM-1

0034f

0034f

RE: PAULSEN REAL ESATATE CORP. v ROBERT GRAMMICK
NO. 95-552 N C

until the present time. The notice to cure and the notice of termination were sent to tenant in July of 1994. The Court below found that tenant was in violation of the lease and that there was no retaliatory eviction.

While certain cases recognized not only the validity of the no-pet clauses but that a non-waiver of that clause was valid as well (see, Knolls Coop. Section II v Cashman, 19 AD2d 789, aff'd 14 NY2d 579; Riverbay Corporation v Klinghoffer, 34 AD2d 630; Pollack v J.A. Green Construction Corp., 40 AD2d 996, aff'd 32 NY2d 720; Dennis & Jimmy's Food Corp v Milton Company, 99 AD2d 477, aff'd 62 NY2d 613), a more recent line of cases have held that non-waiver clauses may be waived under certain circumstances (see, Jeppaul Garage Corp. v Presbyterian Hosp. in City of N.Y., 61 NY2d 442; see also, 510 Joint Venture v Solcoor, Inc., 177 AD2d 465; Lee v Wright, 108 AD2d 678). In this last cited case, the occupant in the apartment had resided there for a period of four years before the owner of the apartment sought to terminate the occupancy on the ground of an improper sublet of the apartment. The Court stated (at p.680) that "[C]ontrary to its [the Supreme Court] conclusion that the nonwaiver clause in the lease precluded any finding of

waiver, it has long been the rule that parties may waive a
'no-waiver' clause (see, Atkin's Waste Materials v May, 34
NY2d 422).

SM-2

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0034f

RE: PAULSEN REAL ESATATE CORP. v ROBERT GRAMMICK
NO. 95-552 N C

Knowing acceptance of rent without any effort to terminate the lease justifies the inference that the landlord has chosen to hold the tenant to the lease and therefore waived any violation."

In the case at bar, tenant has resided in this building since October 1, 1974. While the original lease and the renewals carried over the no-pet clause, tenant has had a dog on and off during his tenancy in the building without any objection being raised by the landlord. The dog in question was bought in July of 1991 and has lived with tenant since that time. It is the opinion of this Court that acceptance of rent for a three year period with knowledge of the existence of the dog is a waiver of landlord's right to terminate the lease on that ground. Petitioner failed to establish any other independent ground for the termination of the lease, such as nuisance, and therefore the petition must be dismissed. Having prevailed on the merits, tenant is entitled to reasonable attorney's fees (see, RPL §234).

We consider no other issues.

Hounded tenant wins dog fight

Ruling lets him keep pooch pal in pad

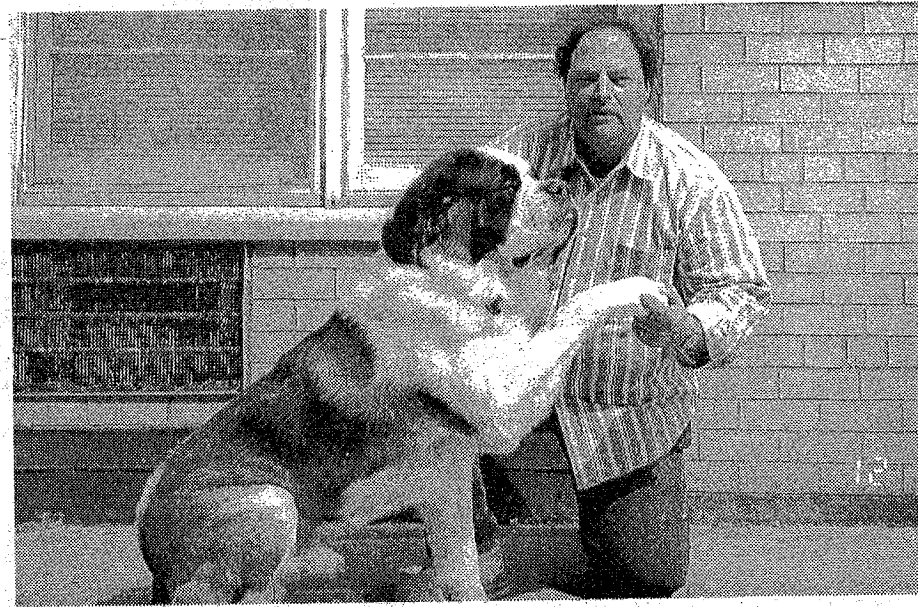
By Kevin O'Neill

Casey, a very laid-back, sleepy-eyed St. Bernard, may have an occasional drooling problem but he is no "nuisance" as a tenant, his owner staunchly maintains.

So, when Casey's master, Robert Grammick, got a notice two years ago from his landlord telling him to either evict Casey or they would both be tossed from their Long Beach apartment, Mr. Grammick was determined to fight it. Last month, his tenacity paid off when a state appeals court ruled that the five-year-old hound and his master could stay.

"It was a long battle, and finally I got justice," said Mr. Grammick, during an interview at the Crystal House apartment building where he has lived for 22 years. "I was very pleasantly surprised."

This particular dog's tale began on July 13, 1994, when landlord David Paulsen sent Mr. Grammick a "notice to cure," ordering Mr. Grammick "to remove the dog from your apartment" within 10 days or face eviction. The notice pointed out that Mr. Grammick's lease contains a clause that "expressly prohibits the harboring of pets" without the consent of the landlord.



Kevin O'Neill/HERALD

Robert Grammick went to court after being ordered to get rid of his dog, Casey.

But it gave no reason why Mr. Grammick was suddenly being told to get rid of Casey, who had been living in Mr. Grammick's apartment since August 1991.

From the start, Mr. Grammick was convinced that the landlord's action was not about Casey but about getting back at Casey's master: Over the past few years, the Long Island Rail Road engineer had become a vocal member of

April 1995. His landlord claimed during the district court trial that Casey had become a "nuisance," allegedly relieving himself in the Shore Road building's hallways and otherwise annoying other tenants.

In appealing the decision, Mr. Grammick's attorney, Mr. Kamen, wrote in his court papers that the landlord's nuisance charge was based on the "single complaint" of a tenant who Mr. Kamen described to the court as "the building drunk." In the three years prior to ordering Mr. Grammick to remove the dog, Mr. Kamen stated, the landlord had "twice renewed Mr. Grammick's lease without making any objection regarding the dog."

Continued from Page 3

Furthermore, Mr. Kamen added, "it is Mr. Grammick's position that the landlord's claim of a nuisance was concocted solely for the purpose of rebutting the defense of retaliatory eviction."

In its April 12 decision, a state appellate court ruled in favor of Mr. Grammick and

ordered Mr. Paulsen to reimburse him for his attorney fees. The court stated that Mr. Grammick had kept Casey and a previous pet "during his tenancy in the building without any objection being raised by the landlord." By accepting rent from Mr. Grammick for three years while knowing the tenant was keeping a dog, the court argued, there had been a "waiver" of the "landlord's right" to "terminate the lease" on the grounds of a no-pets clause.

Mr. Paulsen, the court added, "failed to establish any other independent ground for the termination of the lease, such as nuisance."

"It's wrong to tell someone they've got no problem with them having a dog and then turn around years later and do this," Mr. Grammick said.

"I was thrilled when I heard about it," said one ex-Crystal House tenant, Kevin Thim, of Maine, who recalled losing a sim-

ilar pet dispute with the landlord. "He [Mr. Grammick] drew the line in the sand and said, 'I'm not going.'"

Reached for comment, Mr. Paulsen's attorney, Martin Shlufman, of Garden City, said his client decided to enforce the no-pets clause against all the building's tenants because of various complaints over the years, such as that the animals were relieving themselves on the building property. He said the 125-pound Casey's messier traits included heavy hair shedding and salivation.

"The problem is that the court is not saying how long a tenant can keep the pet before it's decided that the landlord's waived his right," said Mr. Shlufman, whose client plans to appeal. "What this is doing is forcing landlords to get rid of a dog as soon as he realizes its presence."

Continued on Page 9

Tenant in dog house goes to court, wins

"I said, 'No, you're not going to do this to me, we're going to fight this.'"

Robert Grammick

Precedent on Renters' Pets

By Sid Cassese

STAFF WRITER

Apartment-dwelling animal owners may not have to continue living on the edge, wondering when the landlord is going to enforce that "no pet" clause in their lease.

Robert Grammick, a Long Beach tenant who had a St. Bernard for three years in violation of his lease, has won reversal of an order from First District Court in Hempstead that upheld his eviction by Crystal House apartments at 630 Shore Rd.

"It has just about made me penniless, but I not only believed the landlord's action against me was illegal but immoral, as well," said Grammick, a Long Island Rail Road engineer who has lived in the building since 1974 and remained, with his dog Casey, pending the appeal.

On April 12, the Appellate Division of State Supreme Court unanimously reversed District Court Judge Joseph Driscoll's decision of April 3, 1995, which included an award of \$5,372 to the landlord. The matter was sent back to District Court for it to determine reasonable attorneys fees to be awarded Grammick.

"The dog in question was bought in July of 1991 and has lived with tenant since that time . . . acceptance of rent for a three-year period with knowledge of the existence of the dog is a waiver of landlord's right to terminate the lease on that ground," the three-member appellate panel said.

The decision, which sets a precedent for judges on Long Island and in parts of New York City, said a non-waiver clause in the lease "may be waived under certain circum-



Newsday / Bill Davis

Robert Grammick and his dog, Casey

stances."

Martin Shlufman, the Garden City lawyer representing the apartment building's owner, Paulsen Real Estate Corp., said the decision would be appealed. "We think the decision is wrong," he said. ". . . It would indicate that even though the non-waiver clause is in the lease, it doesn't mean anything."

Grammick had argued that there was no attempt to enforce the "no pet" clause until after he made a series of complaints about asbestos and falling brick.

Robert W. Grammick
630 Shore Road Apt. #206
Long Beach, NY 11561
516 889-4466

March 29, 1995

Thomas S. Gulotta
Nassau County Executive
One West Street
Mineola, NY 11501

Subject: Appeal for Legislative Declaration of Protection

Dear Mr. Gulotta:

I am a Nassau County resident and a constituent of yours. I am also a pet owner renting an apartment which is under the control of the Division of Housing and Community Renewal (DHCR Rent Stabilization). This is of course a State Agency, and as such, is subject to city or county laws. Currently there is no law on the books in Nassau County that would afford pet owners any protection from the kind of behavior some landlords/owners engage in. It occurred to me that you might not be aware of this "crack", so to speak, in our judicial system. I have learned from a member of your staff, Mrs. Diane Bernardo, that you are an animal lover and have pets of your own. Knowing this, I feel confident that you will have a solution to this problem. I realize that you are a busy man with many demands being asked of you by hundreds, maybe even thousands of voters. With that thought in mind, I have made an effort to do the research that would be of the most help, to clearly present the facts and consume the least amount of your valuable time. It is my sincere hope that once you have reviewed all the facts, you will be as alarmed as I have become, and moreover, willing to resolve this deficit in our judicial system.

I first made my complaint and appeal to the Nassau County Director of the DHCR, Mrs. Abrams, and she informed me that there was no protection for tenants with pets in Nassau County. She also told me, that if a landlord decides to bring a summary court proceeding against a tenant, you'll just have to see how the judge rules."

In August of 1994, my landlord, owner and CEO of Paulsen Real Estate Corp., who owns the Crystal House where I live, brought just such an action against me (Hold-over Proceeding, Index #4963/94) in Nassau County First District Court, before the Honorable Judge Jonathan Driscoll. As of this date his decision is still pending.

The landlord's case is as follows:

That I as the tenant in apartment #206 am in violation of House Rule #9 of my lease. House Rule #9 states; "Dogs or animals of any kind shall not be kept or harbored in the apartment unless in each instance it be expressly permitted in writing by owner. This consent, if given, can be taken back by owner at any time for good cause on reasonably given notice. The strict adherence to the provisions of this rule by each tenant is a material requirement of each lease.

Tenants failure to obey this rule shall be considered a serious violation of an important obligation by tenant under this lease. Owner may elect to end this lease based upon this violation." Additionally, Article #28 of my lease is titled **NO WAIVER OF LEASE PROVISION**. Sub para-A states "Even if owner accepts your rent or fails once or more often to take action against you when you have not done what you have agreed to do in this lease, the failure of owner to take action or owners' acceptance of rent, does not prevent owner from taking action at a later date if you again do not do what you have agreed to do." Sub para-B states "Only a written agreement between you and owner can waive any violation of this lease."

This is in essence the landlords' case as presented to the First District Court for a ruling.

At this time I will state, not only my position, but, I will also offer to you what my own investigation has revealed. I have spoken to not only my neighbors that have pets, but also to the pet owning tenants of the Executive Towers, whose concerns are equally shared. I made application for my apartment in September of 1974. The application clearly stated "NO PETS." The landlords' rental agent at that time was Mrs. Terry Thompson. I told Mrs. Thompson that I had a dog and her response was "So do I and I live here!" She went on to say that the building had many pets and the "no pet" clause in the lease is not enforced and not to worry about it. My application for a lease was approved and my dog and I moved into #206 on October 1, 1974. Mrs. Thompson told me the truth...the landlord did not enforce the "no pet" clause. In 1976 I gave this dog to my father, who owns a house on a third of an acre plot in New Jersey. It broke my heart to have to do this, but due to my young seniority as a Locomotive Engineer for the Long Island Rail Road, having to work a rotating shift from day to day was not fair to the dog. I continued to live in this same apartment for many more years without any pets. In October of 1982, while on a fishing trip to Quincy, Mass., someone broke into my apartment and cleaned me out. A Long Beach robbery detective who investigated the robbery suggested I get an alarm or a dog. Well, my seniority in 1982 wasn't much better than it was in 1976, so I dismissed the dog suggestion. In June of 1991, I approached the current building manager/rental agent, Daniel Marquez, and asked him if it was alright if I got a dog. His response was "Bob, you've been living here a long time now, you know there are lots of dogs here...NO PROBLEM!" Approximately two or three weeks later (July 1991) I drove to a breeder in Delmar, NY and bought my St. Bernard puppy. My lease was renewed on October 1, 1991 and again on October 1, 1993. The building manager and the landlord (David Paulsen) gave me permission (verbally) to have this dog. The dog has not been a nuisance nor has he destroyed any of the landlord's property.

There came a time when I brought complaints to the attention of the landlord, i.e. chunks of concrete falling down onto my patio from the terraces above, asbestos on the ceiling of the garage falling down on my car. I also complained about the lack of services on the part of the building manager-super. My complaints to the landlord fell on deaf ears.

In my frustration, I filed complaints with the building department of Long Beach, as well as, with the Nassau County Department of Health (appendixed to this letter). On July 11, 1994 I went to speak to the landlord in his office, which is on the lobby level of my building, to express my concerns about a blocked fire exit (Ocean Room). This complaint led to an argument between myself and the landlord and two days later, the landlord wrote me a Notice To Cure (appendixed to this letter). You will read in this Notice To Cure that the landlord expresses that permission had been given to some tenants to have a dog, etc. Now, it's his letter, his words! The obvious question comes to mind.....was this permission that he states he gave to some tenants in writing, as the lease requires, or was it verbal? My own investigation revealed.....**VERBAL!!!** I spoke to the other eight neighbors of mine who have dogs and they all told me the following:

That they made it clear to the landlords' agent (Daniel Marquez) that they had a dog when they made their application for a lease. The landlords agent gave each of these tenants the assurance that pets are OK, and that the "no pet" clause in the lease is not enforced. So, permission was given, but it was verbal. Many of my neighbors have lived here at the Crystal House for almost as long as I have and I'm into my 21st year in the same apartment.

My landlord was asked under oath by my attorney (Barry Kamen) in court "If Mr. Grammick had not gone to your office on July 11, 1994, to discuss with you this blocked fire exit, would we be here (in court) today?" The landlord answered "Maybe, Maybe Not." My attorney followed by asking "So it was this argument between you and Mr. Grammick that triggered this action by you?" The landlords answer was "YES!" If this isn't retaliatory, then I don't know what is!

I also learned in my investigation something I strongly feel is deserving of a mention. I spoke to my neighbors who I knew didn't file any complaints with any government agency, and I asked them what they thought was the landlords reason for threatening them with eviction. Their answers were no surprise to me.....to force a turnover of the apartment was the overwhelming response. I spoke to the Long Beach Town Supervisor, Mr. Bruce Nyman. Mr. Nyman informed me that my landlord (David Paulsen) and the landlord (owner) of Executive Towers (Samuel Walton) both petitioned the Long Beach City Council on several occasions and again most recently, to get out from under the control of the DHCR. Mr. Nyman told me that the city council has denied their petition in the past and is likely to do so again. Therefore it seems evident to me that both of these owners might be using the pet owning tenants as a pawn to further their own agenda. This agenda would force a turnover of these apartments which would garner a higher rent.

Mr. Gulotta, I want to be crystal clear about what I'm asking for and why. If a landlord (owner) doesn't want pets in his or her building I have absolutely no problem with this. But to welcome prospective pet owning tenants with open arms, only to send them letters of eviction six months or one or three years later, is, in my opinion, immoral! Many of my former neighbors moved out, rather than spend hundreds or even thousands of dollars to fight this injustice. I'm offering to you their names and phone numbers (at the end of this letter) for verification. I, on the other hand, made

March 29, 1995

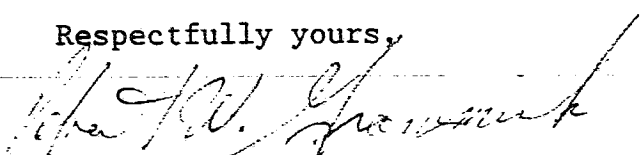
the decision to fight and hopefully right this wrong. But it has been very costly, to the sum of over five thousand dollars. The trial lasted four days, due to a strategy on the part of the landlords' counsel, so as to run up my legal expenses. And if Judge Driscoll should rule against me, my attorney has told me that an Appellate Court proceeding would cost another five thousand dollars. If the tenants of Nassau County had the kind of protection the N.Y.C. residents or Westchester County residents have (appendixed to this letter) the potential hardship and dislocation of law abiding, tax paying tenants, could be avoided. I read something about a year ago, the author I don't recall, but I think it's worth mentioning here....."INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE."

I'm in support of the N.Y.C and Westchester County Legislation, and I would like to leave you with what I think is a fundamental question.....Are the pet owning residents of Nassau County any less deserving of this protection? I think not!

So Mr. Gulotta, please share this appeal with the Nassau Board of Supervisors and help us to right a wrong, not only for us tenants, but for our pets as well.

Thanking you in advance for your time and concern.

Respectfully yours,



Robert W. Grammick

Enclosures 3

cc: Barry Kamen, Esq.
John DeGrace, Clerk Nassau County Board of Supervisors
Bruce Nyman, Long Beach Town Supervisor
Jodie Giberti, Tenants Association

FORMER TENANTS OF THE CRYSTAL HOUSE

Mr. & Mrs. Kevin Thim - work phone - 212 296-6466

Mr. & Mrs. Marty Klein - home phone - 516 431-0106

Robert W. Grammick
630 Shore Road Apt. # 206
Long Beach, NY 11561
516 889-4466

April 4, 1995

Jerome B. Fleischman
Corp. Counsel For The City Of Long Beach
One West Chester St. Rm. # 402
Long Beach, N.Y. 11561

Subject: Appeal for Legislative Declaration

Dear Mr. Fleischman:

I am writing to you as an appeal for help. As I stated to you on the phone a few weeks back, I am a resident of Long Beach, as well as, a pet owner who rents an apartment in a multiple dwelling within the City of Long Beach. I have lived in the same apartment for the past 21 years. This apartment building (**Crystal House**) is under the control of **Division of Housing and Community Renewal (DHCR)** and as such, is subject to city or county laws. Currently, there is no law on the books in Nassau County or in the City of Long Beach, which would afford pet owners any protection from the kind of behavior some landlords/owners, engage in. When I last spoke to you on the telephone, you expressed to me, that if I was to get a copy of the **N.Y.C. Law** or **Westchester County Law**, (which I brought to your attention) you would then take the matter up with the City Counsel. Enclosed please find copies of both of these laws. I have also enclosed a copy of my letter to Mr. Thomas Gulotta, as well as, other documents, which I feel support my position. In the interest of brevity, please make reference to the letter I wrote to the County Executive as to the details of what concerns the pet owning tenants of Long Beach.

At this point, let me be very clear about my position, if a landlord/owner doesn't want pets in his or her building, I can accept this, and I appreciate them saying so, right-up-front. It is not my intention to change or take away their rights. I am speaking out against what my landlord (David Paulsen), as well as, the landlord of the Executive Towers (Samuel Walton) have done. In both instances these landlords or their rental agents have assured perspective pet owning tenants, (at the time they made application for a lease) that pets were tolerated and that the **NO PET** clause in the lease, was not enforced. And now, after some time has past, these same tenants are receiving letters from their landlord, to get rid of their dog or move, or be subject to a Summary Court action. This, in my opinion is **Immoral!**

As you will see in what I have enclosed, the cost of litigating a summary court proceeding is very expensive. If pet owning tenants had the protection of this N.Y.C. or Westchester County Law, the potential hardship and dislocation of law abiding, tax paying, voters....could be avoided. Please bare in mind, that there are nine families in the Crystal House and fifteen families in the Executive Towers, that are subject to eviction. (see Newsday article enclosed). I have spoken to many of these people and each of these tenants have told me that, they had the permission of the landlord or his rental agent, to rent with pet at the time they made application for a lease. But, this consent was verbal! The landlord or his rental agent, could have and should have been honest with these perspective tenants, and therefore these applicants would have looked elsewhere for an apartment. But to be welcomed with open arms into a building, only to be told six months, or one year or three years later, that you are in violation of your lease, to my way of thinking it looks like a scam!

April 4, 1995

I realize that this might be a little strong, but keep this in mind, Mr. Paulsen and Mr. Walton both petitioned the City of Long Beach for relief from the control of the DHCR. They were denied! So how else then can they get the level of rent they are looking for? One way, would be to enforce the written letter of the lease, thereby creating an apartment turnover, which would garner a higher rent.

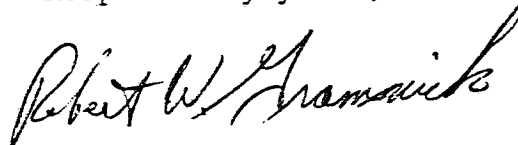
I'm in support of the N.Y.C. and Westchester County Legislation, and I would ask of you, as well as all the members of the city council, a similar question I asked of the County Executive, and that is..... Are the pet owning tenants of Long Beach any less deserving of this protection? I think not! With this legislation that is being asked for, the pet owning tenants of Long Beach could be spared the financial hardship, as well as, the emotional discomfort and anxiety, that comes with a summary court proceeding. This hardship is not something to be taken lightly when one considers the lack of affordable housing along with the restrictions one sees in the classifieds, ie; No smokers, No pets, etc.

Legislators in N.Y.C. and Westchester County have recognized these abuses by landlords and have taken responsible action. So, Mr. Fleischman, won't you and the members of the City Council, please consider some responsible action, and give the pet owning residents of Long Beach some support and relief in this matter?

Please share this appeal with the members of the City Council for their review and consideration, and help us to right a wrong, not only for us, but, for our pets as well.

Thanking you in advance for your time and concern.

Respectfully yours,



Robert W. Grammick

Enclosures 10

cc: Barry A. Kamen, Esq.
Edmund Buscemi President of the City Council
Bruce Nyman Town Supervisor
Jodie Giberti Tenants Association Executive Towers

Michael McKee

212-695 9314

Meeting on April 2nd - ~~was a success~~ ^{was a success} that there was a reporter from the L.B. Herald present who contacted Michael McKee of the Tenants' Neighbors Coalition - Michael contacted me - and with his encouragement and guidance things really started rolling - We ~~held~~ ^{called} a hasty meeting ^{of some of the people} at the March 31st Council meeting - Michael came to Long Beach & we discussed ways of getting the city tenants ~~to get involved~~ ^{involved}

Another flyer was printed & delivered - This time with the help of wonderful volunteers we distributed notice of the next meeting & other information to all the rental apartments buildings in L.B.

The April 2nd meeting was ~~held~~ ^{just above} ~~Star~~ ^{Star} ~~standing room only~~ ^{standing room only} - with people offering strong arguments against re-control. Michael McKee was there and spoke ~~strongly~~ ^{strongly}, as did James Kippel of the Great Neck Tenants Coalition and Michael Rosenberg from Assemblyman Harvey Weisenberg's office - The council members recessed for 15 minutes ^{then} & announced they could not reach a decision & would have an answer at the next meeting -

We had 2 weeks - we held a Tenants meeting at the L.B. Public Library on Sat. April 13th with ~~more than~~ ^{more than} 300 tenants present - we had great speakers and urged everyone to continue writing, phoning the council -

We called newspapers & TV and received excellent coverage - we also had groups of people visit all apt. buildings & ~~spe~~ ^{as} couples looking for apartments, and gathered important information concerning ^{apartment} vacancy availability in Long Beach.

A day before the scheduled meeting we were asked to meet with the city manager & the

Head of the party in power & all the
 present and a strong discussion continued for
 almost three hours - we had no decision -

- We had fantastic cooperation -
 Posters were excellent, large orange buttons
 stating TENANT POWER - were made - The
 media was at the April 16th meeting and
 the people came in droves - It was
 standing room only - even our landlord
 Mr Samuel Walton, so sure of victory sports
 our Tenant Power Button -

We were #15 on the ~~calendar~~ calendar
 the audience was seated. The Council
 announced they were addressing our issue
 first - and then wasted no time in
 announcing that the Rent Decentral
 issue - It was to be "permanently
 withdrawn" - never to be brought up again -
 - The audience broke out in cheering - screaming
~~applauding~~ ^{applauding} - & thanking the Council members
 - The landlords & their entourage stormed
 out of the meeting before the Council members had a
 chance to vote on it - It was a remarkable
 evening.

P.S. I just want to mention that prior to the very first
 meeting, several of the local high ranking political
 figures in Long Beach told people calling them on the day
 of the meeting that it was a "Done Deal" - They feared
 a law suit from the landlord even though they knew that
 the vacancy figures were artificial - and they felt
 a compromise, however distasteful to the tenants,
 would be the easiest way - That is what they
 were going to do!! Nothing we could say would make
 any difference - They were wrong.
 (I know it's a mess - I'm sorry) Shuey

fencing around the luxury buildings. Keeping out all that do not live in them and even blocking their beautiful landscaping from onlookers.

Well here we go again. Our snow-birds should stay in the sun, visitors to Long Beach should stay visitors and not be encouraged to move here. And by all means re-name Long Beach. The one that comes to mind first is

NO CASH, NO SPLASH

A. South Shore, Community
where breed & harassment RULE!

Young couples starting out are left in the cold. People old & young that are disabled are left in the cold. Though to the council there aren't many apartments falling into this proposal, there are more than you think and people have a right to live not only exist.

Young lawyers, cheating city councils,
greedy landlords Great Politics

Busy dance partners

Soot

432-9623

Mary

431-5698

Good Evening Council Members
and Mr. Eaton,

I am here tonight to speak on behalf of your political dancing. I am usually pretty good at learning new steps, but for some reason I just can't get the Napson side step, or the residential stamp. In its entirety, this proposal is a slap to every hard working individual that is unfortunate enough to move into D.B. and not know, that by any and all accounts, should you have an idea of living comfortably and harassment free from landlords that is without benefit of political terms of endearment such as "kissing butts, greasing palms, or buttering both sides of the bread, things will forever change all will.

Mr. Napson should abstain from this vote. As the one of the owners of 270 Shore Rd, which does have rent stabilized tenants, it directly affects him.

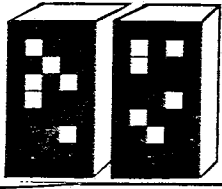
Mr. Crystal, you said at the last meeting, you have only been in office 93 days. Well now it is 107. Has your conscience gotten to you yet?

For some time, I have tried to learn the right way to address people in power. Speaking nice and giving facts, I was told, is the way to go. Not true in this great City of Long Beach.

This cast system is alive and well and thriving. You see the Great Wall of Waldbaums hides the North Park Area and City Hall hides Channel Park. Your majority of Blacks are hidden well. Your hispanic population are between those areas and also in buildings on Broadway that only get month to month to most, the others are fortunate enough to ask for a lease, because they are aware of their rights.

In the late 70's and early to mid 80's a cleanup took place. Mysterious fires, total displacement, and an uncaring political machine called the city council made comments like, we are not in the Real Estate business led them go to other agencies and welfare. Most of those people were young single parents, some attending school, some welfare recipients, others working while kids were in school.

Well they're gone and we pour a building boom of condos and beautiful



854-860 E. BROADWAY TENANTS ASSOC., INC.

April 28, 1995

● AS PREDICTED ●

The notice slipped under your door a few days ago from our landlord, Mr. Samuel Walton is clearly an attempt to frighten The Tenants of Executive Towers.

This is the harassment we were certain was going to happen--and would have happened even with Vacancy De-Control being granted by the City Council. Vacancy De-Control would not have been enough to pacify our landlords quest for more money.

We are aware that 15 of the 30+ apartments, warehoused since the summer of 1995, have been rented {or deposits taken} with-in the last 3 days. This just proves our contention, to the City Council, that there would not have been a 5% vacancy problem had our landlord rented these apartments at the time they became vacant.....This clearly illustrates that our thinking was correct and there was no reason to de-stabilize.

We agree with Mr. Walton about one thing; that the City Council Members should be called and informed. They should be told that harassment by the landlord - AS PREDICTED - has begun. His threat of "total repeal of rent control" is yet another "bullying" tactic by a desperate man whose ambitious attempt to make more of a fortune, at our expense, has been thwarted.

More about this topic will be discussed at our next Tenants Association meeting on Thursday, May ~~2nd~~^{1st}, at 8:00 PM.

4/16/96 Long Beach
MM planned testimony - ^{never} given

Impossible that vacancy rate in >60s is
>5%
if exclude apts. off the market

You know this & everyone in this
room knows it - FRAUD

If you allow US to warehouse until
vacancy rate >5%, there would be no
RS left in Nassau County

actually Census
Survey - independent consultant
Census Bureau or
reputable company

not that hard
telephone records (reverse directory)
then investigate apts w/o telephone a/c's
White Plains case (including public housing)
Timing of study - wait 2 months
after apts in 25 West Broadway are
offered for rent -

Make US prove (1) they are trying to
rent apts
& (2) they can't rent despite best efforts -

Succession

children

parents

siblings

non-traditional families

March 24, 1996

TO ALL RENTAL TENANTS:

**We regret to inform you that
RENT STABILIZATION IS GONE !!!**

On Tuesday, March 19th, the Long Beach City Council met and held a hearing at the request of Mr. Samuel Walton, of Executive Towers, to abolish rent stabilization.

Mr. Walton stated that there was "a 5% vacancy" rate in Long Beach rental apartments. He asked that due to this situation, all rental apartments be de-stabilized. We all know that Long Beach apartments have been "going like hot cakes" and our landlords do not truly have a "vacancy" problem". Landlords are warehousing their apartments so that they can ask for as much money as they want if the apartments are de-stabilized.

And herein lies the problem!!!!

If de-stabilization is granted for these vacant apartments it is the end of all controls; meaning all rental apartments can be de-stabilized. Young, old, single, married... *all* will feel the wrath of the "rental landlords" regardless of where you live; ie. Executive Towers, Crystal House, Kennedy House, and other rental apartment houses in Long Beach.

What we can do about it?

As the City Council has not yet voted on the specific guidelines of the landlords request, we *strongly urge* you to call one, or all of the city council members {listed below} and voice your objections. Tell them the real reason why these so called "vacant apartments" are empty. Tell them what a hardship it would be for us if we were all suddenly placed at the mercy of these few greedy landlords.

You must call our elected officials or else, if the landlords get what they want you will have no one to blame but yourself. *You* voted our city officials into office and you have a right to be heard!

Who to Call:

Council Members

Edmund A. Buscemi {Pres.}-----432-3830
Pearl Weil {Vice Pres.}-----432-5170
Joel Crystal----- (h) 431-9411 (w) 897-2040
Michael Zapson----- (h) 432-5772 (w) 212-279-3467
David Kelly-----Call City Hall

Corporation Council

Joel Asarch-----431-2464

County Legislator

Bruce Nyman-----571-6204

Join The Tenant Army!

Rent control, rent stabilization and other tenant protection laws are in danger. The rent laws are temporary and must be renewed periodically. The cash-rich real estate lobby and its allies in the State Legislature use these periodic expirations as leverage, demanding damaging changes to the laws in return for renewing them for another few years. With new allies in the Governor's office and the State Senate, they are closing in for the kill.

Without the rent laws, landlords would be free to raise your rent by any amount, even raise your rent several times a year. Landlords would not be required to give you a lease or renew your lease, and would be free to terminate your tenancy and evict you for no reason at all.

We need an army of tenants to defeat the landlords. They have the money. We have the votes. But to win, thousands of tenants have to get involved. JOIN US!

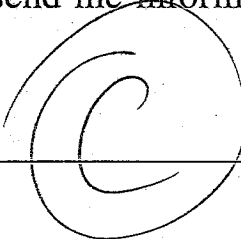
ISSUED BY: New York State Tenants & Neighbors Coalition
505 Eighth Avenue, 18th Floor
New York, N.Y. 10018-6505
(212) 695-8922

Clip and mail this coupon to the above address.

YES! I want to join the Tenant Army. Please send me information.

NAME

ANN KAYMAN



ADDRESS

521 W. BAY DR.

APT

LONG BEACH, NY

ZIP CODE

11561

PHONE (h)

516-897-2811

(w)

212-318-7700

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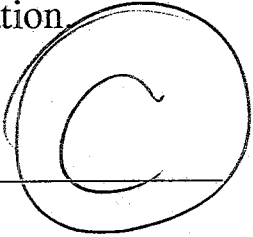
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505 Eighth Avenue, 18th Floor
New York, N.Y. 10018-6505
(212) 695-8922

Clip and mail this coupon to the above address.

YES! I want to join the Tenant Army. Please send me information.

NAME Roy Lester 

ADDRESS 124 Coolidge Ave APT _____
Long Beach NY ZIP CODE 11561

PHONE (h) 889-2903 (w) 357-9191

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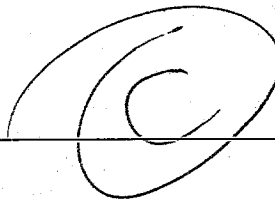
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(212) 695-8922

Clip and mail this coupon to the above address.

YES! I want to join the Tenant Army. Please send me information.

NAME

BOB GRAMMICK



ADDRESS

630 SHORR RD

APT

206

LONG BEACH

N.Y.

ZIP CODE

11561

PHONE (h)

516 889-4466

(w)

N/A

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505 Eighth Avenue, 18th Floor
New York, N.Y. 10018-6505
(212) 695-8922

Clip and mail this coupon to the above address.

FAX 516-432-0375

YES! I want to join the Tenant Army. Please send me information.

NAME

John Kulik

©

ADDRESS

P.O. BOX 445

APT

LONG BEACH N.Y.

ZIP CODE

11561

PHONE (h)

516 432-5085

(w)

Beeper 516-839-0631

Car phone 516-353-4017

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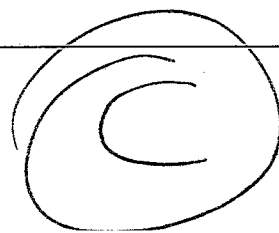
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NAME Cy. Weber

ADDRESS 10 MONROE BLVD LONG BEACH 11561 APT 4P

LONG BEACH ZIP CODE 11561

PHONE (h) 516-889-2421 (w)



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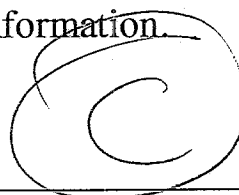
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NAME

GLORIA & Irving DILLER



ADDRESS

860 E. B'WAY

APT

4T

LONG BEACH N.Y.

ZIP CODE

11561

PHONE (h)

516 431 1399

(w)

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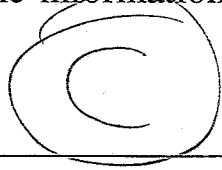
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NAME ROSA SANTORO 

ADDRESS 860 E. BROADWAY APT 3M

LONG BEACH NY ZIP CODE 11561

PHONE (h) (516) 431-9171 (w) _____

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NAME

MARLA ROWE

(C)

ADDRESS

854 E. BROADWAY

APT

37

LONG BEACH, N.Y.

ZIP CODE

11561

PHONE (h)

516-432-5481

(w)

516-571-5557

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NAME Julian S. Schachter Julie

ADDRESS 854 East Broadway (C) APT 7H

Long Beach ZIP CODE 11561

PHONE (h) 516 432 1117 - (w)

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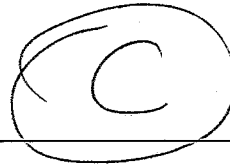
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NAME

Shirley Weber



ADDRESS

860 E. Broadway

APT

S-B

Long Beach, N.Y.

ZIP CODE

11561

PHONE (h)

316-889-4983

(w)

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NAME c/o KATHY SHORT / P SMALL

ADDRESS 57 ALABAMA AVE APT 4

LONG BEACH N.Y. ZIP CODE 11561

PHONE (h) _____ (w) 431-2309



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NAME Lucille Centeno 

ADDRESS 89 East Pine St. APT A

Long Beach, N.Y. ZIP CODE 11561

PHONE (h) 431-8223 (w) _____

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NAME Lillian Schwager

ADDRESS 860 East Broadway APT 3A

Long Beach, N.Y. ZIP CODE 11561

PHONE (h) 431-7564 (w) _____

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NAME BOB GRAMMICK 

ADDRESS 630 SHORE RD. APT 206

LONG BEACH N.Y. ZIP CODE 11561

PHONE (h) 516 889-4466 (w) N/A

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NAME Soren (DAVID & JANET)

ADDRESS 270 Shore Rd. APT 53

Long Beach, NY ZIP CODE 11561

PHONE (h) 889-5450 (w) _____

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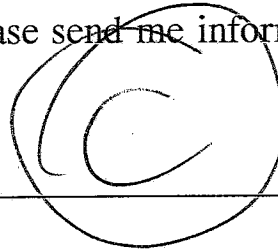
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NAME

^{Mary}
Eddie Bade



ADDRESS

270 Shore Rd

APT

58

ZIP CODE

Long Beach

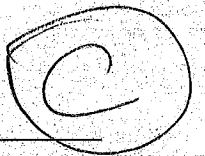
NY 11561

PHONE (h)

516-431-5098 (w)

NAME

Jeff + Melissa Rosner
send mail to my office



ADDRESS

20 W. PARK #306

APT

LONG BEACH NY

ZIP CODE

11561

PHONE (h)

FAX 516 432 0624 (h) 516 432-4628

04-02-96

AS PER CONVERSATION WITH CITY COUNCIL
MEMBER KEARL WELLS ON THIS DATE ITEM #4
OF THE CITY COUNCIL CALENDAR IS GOING TO
BE ADDRESSED FIRST.

J Kulik

P.S. AS PER DAVID SCREEN, MY TENANT ASSOC. PRESIDENT,
CBS TV NEWS WILL AIR AT THE MEETING TONIGHT!

CALENDAR

for

REGULAR MEETING OF THE COUNCIL

of the

CITY OF LONG BEACH

held

TUESDAY, APRIL 2, 1996.

1. Resolution Authorizing Publication for Hearing of a Bond Ordinance Dated April 16, 1996, Authorizing the Reconstruction of Bulkheads in and for the City of Long Beach, Nassau County, New York, at a Maximum Estimated Cost of \$3,250,000 and Authorizing the Issuance of \$3,250,000 Serial Bonds of Said City to Pay the Cost Thereof.
2. Resolution Authorizing Publication for Hearing of a Bond Ordinance Dated April 16, 1996, Authorizing the Issuance of \$200,000 Serial Bonds of the City of Long Beach, Nassau County, New York, to Pay the Cost of the Acquisition of Real Property and the Buildings Situated Thereon, Located at 100 West Pine Street, In and For Said City.
3. Resolution Authorizing the City Manager to Enter into a Contract for the Purchase of Real Property.
4. Resolution Removing Vacant Apartments from the Emergency Tenant Protection Act of 1974, as Amended.

Legislative Memo: Under the proposed Resolution, current tenants of record and their spouses will continue to be protected by the ETPA. Only vacant apartments on/after the effective date of this Resolution will be removed from regulations under ETPA.

April 2, 1996

Page 2
City Council Agenda

5. Resolution Authorizing Budget Amendment to Capital Projects Fund Budget Year 1995-1996.
6. Resolution Authorizing Transfer of Funds
7. Resolution Authorizing the City Manager to Participate to the Extent of up to 100% of the Non-Federal Share in the Cost of a Transportation Enhancement Federal-Aid Project.
8. Resolution Authorizing the City Manager to Enter Into a Contract for the Installation of a Motorless Hermetic Pump and a Used Suction Pump Motor for City Hall.
9. Resolution Authorizing Budget Amendment to Community Development Fund Budget Year 1995-1996.
10. Resolution Authorizing the City Manager to Execute a Change Order Relating to the Contract with Astro Air Corporation for the Mechanical Work for the Construction of a Senior Community Center.
11. Resolution Authorizing the City Manager to Execute a Change Order Relating to the Contract with APC, Inc. for the Construction of a Senior Community Center.
12. Resolution Authorizing the City Manager and the City Comptroller to Transfer Funds Within the 1995/1996 Budget.
13. Resolution Authorizing Settlement of Certiorari Proceedings.
14. Resolution Authorizing Publication of a Notice of Public Hearing on an Application to Waive the Off-Street Parking Requirements for Premises 359 East Park Avenue, (street floor), Long Beach, New York.

April 2, 1996

Item No. 4
Resolution No.

The following Resolution was moved by
and seconded by

**Resolution Removing Vacant Apartments from the
Emergency Tenant Protection Act of 1974, as Amended**

WHEREAS, on August 27, 1974, the City Council of the City of Long Beach found, pursuant to Section 3 of the Emergency Tenant Protection Act of 1974, that a public emergency existed requiring the regulation of rents for housing accommodations containing one hundred or more dwelling units in the City of Long Beach, and adopted a resolution invoking the provisions of said Emergency Tenant Protection Act with regard to said accommodations; and

WHEREAS, on April 24, 1979, the City Council of the City of Long Beach found, pursuant to Section 3 of the Emergency Tenant Protection Act of 1974, that a public emergency existed requiring the regulation of rents for housing accommodations containing not less than sixty nor more than ninety-nine dwelling units in the City of Long Beach, and adopted a resolution invoking the provisions of said Emergency Tenant Protection Act with regard to said accommodations; and

WHEREAS, many housing units which were occupied by tenants at the time of the adoption of the aforementioned resolutions are presently unoccupied; and

WHEREAS, on June 16, 1992, the City Council of the City of Long Beach found, pursuant to Section of the Emergency Tenant Protection Act of 1974, as amended, that a public emergency no longer existed with respect to rental apartments in buildings owned as cooperatives and condominiums which became vacant after the date of conversion to cooperative or condominium status; and

WHEREAS, the City Council has specifically considered the number of vacant apartments as alleged by the landlords and by the tenants in buildings protected by the Emergency Tenant Protection Act of 1974, as amended; and

WHEREAS, the City Council finds that tenants of record and their spouses who presently occupy apartments in multiple dwellings subject to the Emergency Tenant Protection Act of 1974, as amended, should continue to be subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, and as adopted by sections 13-7.2 and 13-7.3 of the City of Long Beach Code of Ordinances; and

April 2, 1996

Page 2

Item No. 4

Resolution No.

WHEREAS, the City Council finds that a question of fact exists concerning the vacancy rate of multiple dwellings within the City of Long Beach subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, which if found to be greater than 5% would necessarily involve the City Council declaring that the housing emergency would be at an end; and

WHEREAS, the City Council believes it is in the City's best interest to keep stability for those residents currently residing in multiple dwelling buildings; and

WHEREAS, the City Council further finds that the regulation of rents, pursuant to the Emergency Tenant Protection Act of 1974, as amended, of apartments that are presently vacant with no tenant of record or his/her spouse, does not serve to abate the public emergency which required the regulation of rents in residential housing units;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONG BEACH AS FOLLOWS:

1. That all current tenants within multiple dwellings whose apartments are subject to the Emergency Tenant Protection Act of 1974, as amended, shall continue to have their apartments be subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, for so long as the tenant of record and/or his or her spouse continue to reside in that apartment.
2. That all apartments within multiple dwellings subject to the Emergency Tenant Protection Act of 1974, as amended, which are vacant as of the effective date of this resolution and which have no tenant of record or spouse of the tenant of record residing therein as of the effective date of this resolution or which become vacant after the effective date of this resolution, shall be removed from regulation under the Emergency Tenant Protection Act of 1974, as amended.
3. That to the extent the City of Long Beach is empowered by statute, all current tenants of record and their spouses within multiple dwellings which are subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, shall have their apartments remain subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, regardless of whether any or all of the other apartments within the multiple dwelling building are deregulated.

April 2, 1996

Page 3

Item No. 4

Resolution No.

4. The terms used in this Resolution are defined and incorporated herein as follows:

A. Tenant of Record -- person(s) named on the lease in effect on the effective date of this Resolution

B. Spouse -- the husband or wife of a tenant of record.

5. That this Resolution shall apply to all multiple dwellings within the City of Long Beach which are subject to the Emergency Tenant Protection Act of 1974, as amended, including rental buildings, cooperatives and condominiums.

6. The City of Long Beach shall be notified by the Landlord or building manager of each building with apartments or units subject to the provisions of the Emergency Tenant Protection Act of 1974, as amended, in January of each year of the number of units/apartments (a) in the building; (b) subject to the Emergency Tenant Protection Act of 1974, as amended; and (c) deregulated

7. This Resolution shall be effective immediately upon its adoption.

APPROVED AS TO ADMINISTRATION

Eugene Camaroto
Acting City Manager

APPROVED AS TO FORM & LEGALITY

Paul R. ...
Corporation Counsel

VOTING:

Council Member Crystal -

Council Member Kelly -

Council Member Weill -

Council Member Zapson -

President Buscemi -