

**DHCR Order Terminating Proceeding - The J-51 Battle Ends for IPN Tenants**

**I**n May 2008 several hundred IPN tenants complained about rent overcharges to the New York State housing regulating agency (DHCR).

We based these complaints on the landlord's receipt of a tax abatement, known as J-51, after leaving the Mitchell Lama program in 2004. J-51 subsidizes landlord improvements to a building in exchange for the landlord providing rent-regulated apartments.

A lower court (the New York State Supreme Court) agreed in 2010 that IPN apartments should have remained rent-regulated due to the landlord's J-51 tax status. New York State appeals courts and the United States District and Appeals Courts disagreed. They relied instead on one court's characterization of the landlord's unfair profit as a New York City Department of Finance "error" rather than a continuing illegal profit stream. In light of these court outcomes, DHCR has terminated the J-51 overcharge proceedings; tenants have

no other avenues of redress on this issue. The courts have ended IPN tenants' J-51 battle.

**What does this mean for tenants? Everything is status quo.**

- **Market rate tenants** must continue to annually re-negotiate leases, with no rent or other protection from regulatory agencies.
- **LAP tenants** continue to have rent protection under the 2004 agreement between the IPN Tenants Association and the landlord.
- **Voucher tenants** continue to receive their vouchers. The federal government continues to pay the landlord tens of thousands of dollars per month for the difference between voucher tenant payments and "market" rates for apartments which were never upgraded to "market" conditions.

Today, the affordable housing battle must switch gears in an effort to protect the voucher tenants. While the landlord reaps massive federal subsidies for voucher apartments, those tenants face ever-increasing restrictions. Local regulatory agencies (HPD) are now threatening to "downsize" voucher tenants.

If you have received a letter from DHCR denying your claim for overcharges, it means you filed overcharge papers several years ago in the event the J-51 case was won by the tenants. No one is more disappointed than the IPNTA in the loss of this case. Extremely disappointed. You need do nothing with that letter.

Our attorney, Seth Miller, was interested in knowing if all residents did receive this letter. If you can, please email [info@ipnta.org](mailto:info@ipnta.org) to let us know if you received the letter. For those who do not have email, you can leave a short note with your identifying info in the tenant box in your lobby.

**Update on Voucher Tenant Information**

**At the end of August 2013**, our voucher residents began to receive letters from HPD (Housing Preservation and Development) stating that new policies were being put into place. Part of the new policies would require some tenants to downsize.

The letter further defined downsizing situations. If you are a voucher tenant, you have already received one or two

letters about the new policies. Though HPD first said they would come to IPN, as we announced in September, the agency later explained they could not spare their staff.

Therefore, Jessica Wett of Congressman Nadler's office arranged for a meeting with four Independence Plaza representatives, six HPD staff members who work with section 8—including the

Assistant Commissioner--and a representative or two from each of our elected officials' offices. Diane Lapson, Diane Stein, Marnee May and Rosemarie Reed attended on behalf of the IPNTA. The meeting was held on September 27<sup>th</sup>.

At the meeting, HPD confirmed that due to the Federal sequester (and of course, now, the subsequent government shutdown) they would have a \$35

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**Important Notice - We have distributed this newsletter to all residents at Independence Plaza in the past.** However, in the future, we will restrict hard copy distribution to paid members of the tenant association only. The newsletter will still be posted on our website for anyone to read. With the cost of printing considered, this seems like the fair thing to do. **We appreciate our members who continue to support us by joining the IPNTA each year.** For Membership form, see <http://ipnta.org>

**IP Amenity Center a.k.a. "The Gym"**

When the Amenity Center opened this year (the exercise room and children's playroom), tenants were told that the space was only available for the new tenants. Board members from the tenant association immediately approached management, who requested a meeting to discuss.

At the meeting, we were told that in fact the spaces were going to be available for all residents – that there was a misunderstanding and it would be available for a fee. Originally, some residents who had moved in a few years ago were told that the space would be free for their use. We brought up the fact that according to the Human Rights Commission, amenities would have to be equal to all residents. Stellar met with their lawyers, who confirmed our statements. Originally, the amenity center was to be **\$1200 per person**. To

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**Entertainment on Pier 26****Report from Diane Lapson**

**The Hudson River Trust concert series** that took place this summer on Pier 26 was met with a wide range of reactions. The strongest viewpoint was from those who were very upset about the loud concerts, that were broadcast via 60 foot columns of speakers.

What followed was 13 pages of 311 complaints by residents from Independence Plaza and other surrounding buildings. Though tests showed the decibel level was within the legal range (!) most of the time, the sound was amplified by the river. Additionally, based on space and acoustics, the sound seemed even louder when it reached our top floors.

There were about seven residents who were happy with the concerts, feeling that we need more music and art in the community.

However, the complaints created the need for Community Board #1 involvement. About eight IP residents attended a meeting of the Quality of Life Committee, where representatives from the Heritage of Pride three day event and Hudson River Trust personnel discussed the situation. I met with Madelyn Wills, the head of HRT and she expressed their unhappiness with the resident's reactions.

As of this week, the HRT is meeting to discuss their 2014 pier plans. I was told that they are looking into theater performances and dance activities to replace the full blown concerts of 2013. Those big concerts will now take place uptown around 57<sup>th</sup> Street.

At my request, HRT spoke with Mitch Frohmer, a fellow CB1 member, who is also a leader of a Latin Band. Mitch had great advice as to placement of speakers, etc. I believe residents would be happy with quieter activities as we used to enjoy – big bands with dancing minus the 60 foot speakers.

Having entertainment in our community is something we have been missing for a long time – but obviously the type of entertainment needs to be appropriate for a neighborhood that includes residents, students taking evening classes, and office workers who work late shifts.

It seems like a good compromise will be reached and HRT has reassured us that 2014 will not see a repeat of 2013. When the time comes for a CB1 presentation, anyone is welcome, as always to sit in on the meetings. The IPNTA can do an email blast to let you know when they are taking place.

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**Amenity Room... (continued)**

make a long story short, it is now **\$895 per apartment**, for all residents. There is a **\$100.00 one time charge** for the key fob to enter the room. We don't see a lot of activity going on in the exercise room – perhaps in time the fee will be reduced. In the meantime, we are glad that all tenants have the opportunity to utilize this center and thank the Human Rights Commission for their advice and offer for free representation if we needed it.

**Update on Voucher Tenant Information... (continued)**

million dollar deficit for 2013. To deal with it, the Commissioner of HPD decided that residents in the section 8 voucher program would have to downsize to save HPD money. Of course, we don't know how many residents throughout the city this decision affects, so we don't know what the actual savings to HPD would be. HPD did say that this quick fix was important because if the government shutdown continues, it could threaten the voucher program altogether. HPD says that, in order to avoid this, they must put this initial action in place.

We explained that studios constitute less than 10 percent of all IPN apartments. We also explained that the residents were very upset with the recent news, which could affect single tenants in a 1-bedroom apartment and a single parent and child in a 2-bedroom apartment. So far, HPD has sent letters to 21 over-housed residents in 2-bedroom apartments. Of the 21, they have received requests from 2 residents not to be moved for health reasons.

As the letter from HPD stated, if a studio is offered to a resident and that resident refuses to move, his or her voucher would be changed from the **enhanced** Section 8 voucher program (specific to IPN) to the **regular** section 8 voucher program. The resident would then be required to pay as his or her share the difference between what the regular section 8 program would cover and what the enhanced section 8 program would cover. This could amount to twice the rent the resident is currently paying.

The IPNTA is very concerned about this latest development and stated this position during the meeting. We also submitted a letter stating our concerns to the Commissioner of HPD, all elected officials, including Public Advocate Bill DeBlasio.

There is currently litigation between HPD and Stellar regarding an agreement of what the base rent for these section 8 apartments should be.

Until this litigation is settled, HPD will not begin offering studio apartments to over-housed residents. They understand there are not enough studio apartments and said the process of downsizing residents to studios would take a very long time. And as we stated at our voucher tenant meeting in September, if there is no studio or 1-bedroom apartment available, HPD will continue to support a resident in his or her current 1-bedroom or 2-bedroom apartment. At the same time, HPD stated that even if the sequester was called off they may not revisit their new policies.

In the meantime, the IPNTA and elected officials continue to explore possible alternatives to these new policies. This includes a plan to discuss the entire issue with the newly-elected mayor after November.

For now, we want to remind all voucher residents that there will be no movement until after the 2014 recertification. Anyone with specific medical conditions or other special circumstances should begin filing papers with HPD now, *since they would prefer to get these papers earlier than waiting for recertification.* Special

circumstances include residents with a full-time live-in assistant who needs his or her own room; disabled residents who have equipment in their apartments; visually impaired residents living with another adult in a 2-bedroom apartment; etc. *Please get your doctors' notes and medical records together as soon as you can and send them via registered or certified mail to HPD, along with an HPD Medical Form.* Be sure to include your name and other identifying information and be sure you keep copies of anything you send.

In the meantime, voucher representatives from the IPNTA have been meeting with a new coalition of other developments similarly affected by these new policies targeting voucher residents.

We have also been in e-mail/phone dialog with the leaders of those buildings' tenant associations. Some of us are even involved in the bigger picture, studying the federal funds from HUD that filter down to HPD.

We are committed to exploring all options. There are demonstrations being planned against this downsizing – and we will call on our residents to support these activities. Though we understand the dilemma of having to find more funds for this situation, and though the current employees of HPD were very considerate and supportive during our meeting at HPD, we have had some negative history with the agency in the past. The coalition's message has to reach the new Commissioner and after a new Mayor takes office, there could be another Commissioner appointed who needs to hear from us. We will do our best.

**Seniors, Special Situations and Disabled**

**We need an updated list of our seniors and folks with special situations or disabilities, in case of emergencies.**

**If you would like IPNTA executive board members to confidentially keep your information, and/or share it confidentially with the Tribeca Citizens Emergency Response Team**, run by our good friend and district leader Jean Grillo, please fill out and return this form. Put it in the tenant association box in your lobby. During the

last hurricane, this information was also requested by some of our elected officials who wanted to send assistance. Use both sides if you have more than one person in apartment with special needs, or use it to explain situation. You may also attach an additional note to this form.

Please PRINT NEATLY.

NAME:	<input type="checkbox"/> Senior <input type="checkbox"/> Disabled <input type="checkbox"/> Illness
Address & Apartment:	I do not have Internet <input type="checkbox"/>
Home Phone:	Cell Phone:
Emergency contact phones (at IPN):	(Not at IPN):
Email address:	Add me to IPNTA email list: <input type="checkbox"/>
You may share my name and apartment/phone with C.E.R.T. only for emergency use:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Would you like to be contacted by an organization, TAMID, that is offering holiday food, etc. for the homebound? One of our tenants is doing outreach. If so, we will give B.Walters your name and contact:	<input type="checkbox"/> Yes <input type="checkbox"/> No