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What the abandoned, fire-ravaged tenement building at 209 E. Seventh St. looked like in the mid-1980s before squatters renovated it.

Former squats are worth lots, but residents can't cash in

By Lincoln Anderson

Michael Shenker came to live in the East Village in 1970, a 15-year-old, half-Jewish kid from Long Island. His model mother had been the Ipana toothpaste lady in TV commercials, which sometimes featured cameos by him and his brother. But things at home weren't going well, and Shenker decided he had to get out.

The bohemian East Village, with its rocking music scene at the Fillmore East, naturally drew Shenker, an aspiring musician. At first, he was homeless, hanging out and crashing at night with members of a tough Puerto Rican gang. Working odd jobs — one saw him cleaning McSorley's urinals — he eventually managed to get his own place. But the storefront he was living in had a fire, and then his rent quadrupled in the early 1980s, and he found himself again facing homelessness.

One day, he recalled, as he was sitting in Life Café, “This weird girl Natasha I used to play chess with looked over at me and said, ‘Mike, have you ever heard of squatting?’”

The East Village was then full of vacant buildings the city had taken possession of for landlords' failure to pay property taxes. Many of the properties were severely damaged, needing extensive repairs that would daunt even the most experienced professional contractors. Doing all the work themselves, the squatters were rehabbing the burned-out tenement shells, transforming them into viable living quarters, bringing life back to desolate blocks.

It sounded to Shenker like a lot of hard work, but also worth a shot.

“Rents used to be affordable, but rent started going up, and it just got to be too much,” he said. “It was beyond my ability to afford. So I decided to squat.”

In 1984, Shenker moved into his first squat, 319 E. Eighth St., then, in 1987, switched over to 209 E. Seventh St., another building squatters were restoring. A fire had completely gutted the tenement's front half. It would be a major rebuilding job. But, with determined effort, Shenker and the others miraculously brought the building back from the dead. Today the only thing that distinguishes it from the block's other buildings is a funky front-door lintel made from bottles that emits a colorful glow at night.

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In a series of high-profile clashes — particularly on E. 13th and E. Fifth Sts. — the city forcibly evicted many of the squatters in the 1990s. But in 2002, City Hall took a radically new approach: Eleven of the 12 remaining East Village squats were sold for \$1 apiece to the nonprofit Urban Homesteading Assistance Board. Under the agreement, the squatters, with UHAB's guidance, would bring their buildings up to code within one year, then buy them — for just \$250 per apartment — and the buildings would become permanently affordable, Housing Development Fund Corporation, or H.D.F.C., co-ops.

The deal between the squatters and the city was historic, making headlines around the world. Now, more than six years later, a number of the 11 squats are set to undergo formal conversion to co-ops in the next few months. All of them should be converted in 18 months to two years, according to UHAB.

The physical state of most of the buildings is no longer the main problem — apart from a squat on E. Sixth St. that was seriously damaged three years ago by a fire and which is now vacant.

And yet, the renovations for all of the buildings were supposed to be completed after one year — meaning the conversions are now five years behind schedule.

And in the intervening years, problems have mounted. First, UHAB took out large loans from the nonprofit National Consumer Cooperative Bank, purportedly to fund the renovations; but these loans, in turn, have mushroomed with interest. As a result, the squatters are furious that they are now saddled with a huge amount of debt, which they fear some of the buildings might not ever be able to pay off — ultimately undermining all their efforts to own their homes.

The squatters want to know where all this money was spent, because they say UHAB's contractors have been terrible, leaving half-finished repair jobs in the buildings' common spaces that the residents themselves often have had to redo.

Furthermore, some of the squatters are demanding to be able to sell their apartments at market-rate prices, or at least for more money than their deal with the city allows.

And, in what is sure to be a precedent-setting case, one group of squatters — in an effort to escape both the sale restrictions and their looming debt — is suing the city and UHAB for outright ownership of their building under the law of adverse possession.

A second former squat is mulling a similar adverse-possession lawsuit.

Shenker, 53, and an upstairs neighbor, artist Joachim Marx, 48, recently spoke to a visitor in Shen-

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ker's well-appointed, immaculate apartment about UHAB and the homesteaders' desire for the right to sell their apartments for more than the agreed-to cap.

(Since their arrangement with the city, the 11 buildings' residents technically are no longer squatters. The name now used to describe them is "homesteaders.")

Shenker sat on a high stool at his kitchen "island" table, as Marx stood alongside with an album of old photos documenting the building's renovations back in the early days. The photos showed people collectively working together to pour concrete, install a new roof, weld together sheets of corrugated metal to rebuild floors.

The floors of Shenker's place were glistening, polished wood, all put in by Shenker himself, as was the large, backlit, stained-glass window in his living room, which he bought from someone on the street for close to nothing. With a modern kitchen and professional touches like moldings around the edges of the floors and doors, the apartment resembled nothing short of a luxury unit.

"We poured all that concrete, put in the stairs, the landings," Shenker said. "Put in floors, plumbing, electric. ... I moved into a building without heat, hot water, no windows, no floors, no roof. I have put over \$150,000 of cash into my apartment. There's no way I could be compensated financially for the work I put into this building — as well as empowering people on issues of housing: Landlords had completely abandoned the neighborhood. We've homesteaded — we've created equity for ourselves."

Both Shenker and Marx feel the sale caps for their apartments are unacceptable.

"Oh yeah, way too low," said Marx, who is originally from Germany, of the sale cap. "It is very unfair. It doesn't have to be market rate — there should be some restrictions — but definitely not what they put it at now."

In the beginning, the squatters in Shenker and Marx's building each paid \$50 a month in dues that went to fund the building's common costs. Today, Marx pays \$300 a month and Shenker, \$500. Once the building is converted to a co-op, they'll all pay a monthly maintenance fee of about \$600.

"It's not rent," Marx stressed. "We built this place. We own it — ours."

Shenker was struck and almost killed by a car several years ago. Afterward, he couldn't work and fell behind in his rent payments, but the building residents let him slide for a year while he recovered. A part-time electrician — a trade he learned through squatting — he's now up to date in his payments.

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Being able to sell their apartments for what they call a “fair price” is critically important to many of the squatters because, in many cases, their homes are their only equity. Shenker said his accident put that reality in a harsh focus. He has very little savings — “in the very low five digits,” as he put it. He’s thinking ahead to his retirement, and whether he’ll be able to “relocate comfortably” somewhere else then, if he needs or wants to.

“Fifty-three years of age, and having had a near-death experience, and seeing the generation older than me, it’s caused me to take a farsighted view,” Shenker said. “If they had a UHAB retirement home, I’d go there. But they don’t. They don’t even have UHAB healthcare or insurance.”

“A lot” of the other former squatters — many of them now middle-aged and with children — feel the same way he does, wanting no cap on their apartment prices, Shenker said.

The \$800,000 debt his building is now saddled with as a result of the UHAB loans — the interest on the loans having risen to a market-rate 7½ percent — has only compounded the problem, pointing to the need to remove sale restrictions, Shenker and Marx said.

After discussions between the squatters, UHAB, the Department of Housing Preservation and Development and Councilmember Rosie Mendez, H.P.D. agreed to increase the sale-cap restrictions. The new regulatory agreement is currently wending its way through the approval process in the City Council.

Originally, the sale restrictions were that apartments could be sold for only \$5,000 per room, and only to individuals making no more 80 percent of area median income. (Median income is not an average, but the figure exactly in the middle of the area’s highest and lowest incomes.) Under the new, more generous restrictions, apartments will be able to be sold for \$30,000 per room, to individuals making no more than 120 percent of area median income. Each subsequent year that an original tenant stays in place in an apartment, that unit’s sale price will rise by 3 percent.

A 10 percent flip tax on the sale will go to the building to help pay for maintenance fees and to pay off the debt.

If an apartment is vacant at the time a former squatter building is converted to a low-equity co-op, the units will be able to be sold for a higher price — \$50,000 per room — to individuals making no more than 165 percent of area median income. This higher sale price is being allowed in these cases because UHAB thought the flip tax on the sales could help the buildings to better pay off their debts.

The regulatory agreement will be in place 38 years.

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Most of the apartments in the former squats are studios or one-bedrooms, suitable for one or two people. Meanwhile, New York metropolitan area median income is \$54,000 for a single person, \$61,000 for a couple. That means a single person earning up to \$64,800 or a couple earning up to \$73,200 would be able to buy a former squatter apartment.

“A person making 120 percent of area median income makes more than I do,” fumed Shenker, who earns about \$35,000 a year. “Why should a person be able to come in here and buy an apartment for a song? I think people are looking for a fair return for their work on this building — I mean, 25 years of pain in the ass.

“On the market, I think my place would bring \$800,000,” he said. “I’d be happy with half of that; that could relocate me adequately and safely in a place that is more affordable than New York — Florida or New Mexico or, God knows what, if I have to go to a retirement home.”

Under the new restrictions, Shenker’s apartment, with 4.5 rooms, would only fetch about \$135,000, minus the \$13,500 flip tax.

Andy Reicher, UHAB’s executive director, said the former squatters’ complaints about the renovations’ slowness and the mounting debt are “not totally incorrect.”

“From our point of view, it has taken longer,” Reicher said, “and because time is money, it’s been more expensive. We also had some reliance on sweat equity [work that would be done by the squatters] for some of the buildings that was unrealistic. Some of the buildings have been able to get their work done, and we’re just waiting for changes to the legal documents” before converting them to co-ops, he said. Construction costs have skyrocketed, too, he added.

“I think, in the end, everyone’s been very patient,” Reicher said. “It’s been frustrating. ... But in the end, what’s going to result is affordable, limited-equity co-ops.”

As for the regulatory agreement, Reicher said, “It’s what it is. That’s the agreement. I’m not going to get into this in the press. ... Everyone would like higher caps, but that wasn’t the original agreement. ... To make a speculative real estate investment in New York City wasn’t the plan — and I doubt the city would have released [the buildings]. You don’t foreclose [affordable housing] opportunities in your neighborhood just because you want to move on.

“We’ve been able to allow some flexibility in income and sales,” he added. “The local councilmembers have been in support of it.” (While 10 of the buildings are in Mendez’s district, one — 7½-9 Second Ave. — is in Councilmember Alan Gerson’s district.)

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Reicher added that the former squats, under what is known as Article XI, will pay no property taxes for 40 years. That exemption was always part of the plan, and will save the residents hundreds to thousands of dollars in taxes, he said.

For those former squatters who can't afford the monthly maintenance fee, H.P.D. has made subsidized Section 8 vouchers available, he added.

Reicher said the banks won't foreclose on the buildings if they can't meet their monthly charges.

"If the co-ops don't pay, the first thing is they will try to work it out," he said.

As for the 274 E. Seventh St. residents who are suing for ownership under adverse possession, Reicher said they are just accruing more interest on their building's loan.

"They could have had their building six months ago," he stated. "They just have to agree to be an Article XI co-op. But they just don't want the restrictions. ... As far as I know, there isn't adverse possession in New York. I'm not a lawyer."

Reicher said the city has stepped in to help the situation.

Seth Donlan, an H.P.D. spokesperson, explained that the help is coming in the form of below-market-rate loans the city is offering. The regulatory agreement on apartment sale prices and ownership, on the other hand, "is what it will be," Donlan said.

"For whatever reason," Donlan said, "the tenants weren't able to provide the level of sweat equity that was planned — maybe the tenants weren't skilled enough or the job was too tough. So the non-profit [UHAB] had to take more debt to hire contractors to do the work. Because of that, we've had to look at restructuring the debt load to keep the units affordable. We are in the process of giving them Article XI [property] tax exemptions. We're also giving them 1 percent loans.

"The tenants are concerned that the debt load is not affordable. We agree the debt load is too high to be kept affordable," Donlan said. "We're stepping in to give these loans at a below-market-rate interest, so these units can stay affordable."

Donlan noted the city is currently giving a \$1.7 million, 1 percent-interest loan for the fire-damaged 719 E. Sixth St., and a \$600,000 loan at 1 percent for 155 Avenue C (See Sqwatt). He said "no one can get" 1 percent-interest loans, so the squatters are lucky to be receiving this assistance.

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Keeping affordable housing — like these former squats — affordable is H.P.D.'s mission, Donlan said, noting, "That's what we do — that's our reason for being."

As for UHAB, Donlan said, "UHAB is an organization that the city has worked with extensively. We would not have transferred the properties to them if we did not have faith they would do an adequate job. And we certainly would not be providing them with additional financing if we felt they were mis-managing the buildings' finances."

Unlike Reicher, Adam Leitman Bailey is a lawyer — and he does believe adverse possession exists in New York. And unlike Donlan, Bailey does think UHAB has mismanaged the 11 buildings' finances. He represents about eight of the buildings, including the residents of the Rainbow Co-op, at 274 E. Seventh St., in their adverse-possession lawsuit.

"Yes, adverse possession is alive and well," Bailey said. "They changed the law, so it is harder to claim adverse possession. However, the revision is only applied to lawsuits that are filed after July 7, 2008. Our lawsuit was filed before then, in late 2006 or early 2007. ... Our case is going strong. It has survived all motions to dismiss. It is in discovery. And I would bet on us. ... We don't lose too many cases at this firm."

In fact, Bailey is an expert — perhaps the expert — on adverse possession. His latest views on the issue are laid out in his article slated to run this week in the New York Law Journal. When The Villager first spoke to Bailey a few months ago, he had to cut the conversation short because, he said, he was running out to give a lecture on adverse possession to "200 attorneys."

"This may be the first case in the world where a group has sued as a building for adverse possession and won," Bailey predicted. "This is one of the most exciting cases in the United States. Manhattan is the richest real estate in the entire world. My clients salvaged an abandoned building for over 10 years without permission, created fabulous spaces and now are suing under New York City law for ownership."

Adverse possession, as applied to a squatter building, Bailey said, is simply put, to live there for at least "10 years — open and notorious, continuous and exclusive — without permission, with a claim of right."

Meanwhile, UHAB has let down its end of the deal, Bailey said.
(article continues after photos)

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Top, Michael Shenker (photographed by Fly) renovating his apartment at 209 E. Seventh St. in the 1980s. Above, Shenker (Villager photo by Caroline Debevec) in the kitchen area of his renovated apartment in a photo taken several months ago. He did all the work himself, even the tiling.

“How can we sign an agreement when we have to take on loans that are worth more than the value that the property is worth because he mismanaged money and has an adjustable interest rate still today on the property?” Bailey asked regarding UHAB’s Reicher. “Instead of being owners, you’re actually buying debt — which is unacceptable to our clients. When you buy a place for \$1 but you have a \$500,000 mortgage, is it really \$1?”

“To this day, we still do not know where these monies have gone,” he said of the UHAB loans.

The 274 E. Seventh St. residents have the strongest set of facts to prove mismanagement by UHAB and to claim adverse possession of any of the 11 buildings, Bailey said. Plus, he said, “They’re German — they’re the best organized.”

“You should see their apartments,” Bailey marveled. “They’re like designers.”

In the 1990s, squatters on E. 13th St. argued in court for keeping their building under adverse possession — but their case was weakened by the fact that not all of them had lived there 10 years. In that earlier case, upon seeing that the law was not on the squatters’ side, the city quickly moved to evict.

Bailey said he believes in the concept of a low-equity co-op, but also that his Rainbow Co-op clients have a right “to get some money.”

“They have ownership by adverse possession, so they don’t have to agree to any concessions,” he stated.

Although Shenker said “a lot” of squatters feel like he and the Rainbow Co-op residents do — that there shouldn’t be any sale caps — interviews with leading former squatters from a number of buildings showed some diversity of opinion. Several said they weren’t interested in being able to sell at market rate, but just want to make a small profit.

“I personally don’t have any plans,” said Frank Morales, who lives in a former squat on E. 10th St. “I would pass my apartment on to my son. Whether there should be a blanket agreement — we’ve never had blanket agreements. My own feeling is I would just assume maintain the integrity of our history.”

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An ordained Episcopal minister, Morales said, “I often speak about speculation — the buying and selling of land — as the root of all evil. If people want to sublet and make a little something, that may be different.”

In the 1980s, a squatter worked on repairing the area around a window damaged in the fire that had gutted 209 E. Seventh St.

Jerry Wade a.k.a. “Jerry The Peddler” lives in See Sqwat — a punk squat on Avenue C that boasts a mosh pit and a stage in the basement for crust-core bands.

“Most of the people in See Sqwat would prefer, if the squatters want to sell their units, that they sell them back to the building at a little bit of profit — because we did a lot of work in the apartments — but not market-rate profit,” Wade said. “This has always been about very low-income people being able to afford housing. We’re mostly punks and hippies in this squat. We’re countercultural. Some of the other squats are working class and bohemian,” he added, saying those other former squatters might want more money for their units.

Each squat has a different story. Wade still loves to tell how See Sqwat used to not have stairs and the squatters would climb nets up to their apartments, like scaling the rigging of an old sailing ship.

Popeye, another veteran See Sqwater, said he was against the idea of the former squatters making a killing on their apartments. Recalling the gentrification battles of the 1980s and ’90s, he said those real estate pressures remain, and must still be resisted.

“You got to stay endlessly vigilant, because that’s the natural,” he said, of the tendency to want to cash in. “Even if the cops aren’t pressuring us, it’s like a current in the water.”

Requesting anonymity, a resident of Bullet Space, an arts squat with a gallery on E. Third St., said their building is also considering suing UHAB.

“Right now, we’re trying to work out a fair deal,” he said. “My feeling is it’s Stalinistic housing: We can’t afford to move out — you’re trapped in the city. We don’t want market rate. We don’t even want half of market rate. Just let us live a little bit. I got a family now. I got four people in my apartment. I got a wife and kids and another one coming. When I’m 70 years old, I might want to get out of New York. I kind of feel UHAB — you can quote me on this — are poverty pimps. They’re giving us a deal you can’t afford to pay. Fifty percent of the buildings won’t be able to make it. The banks will take ’em over.”

The process has gone on way too long, he said.

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“We should have closed this three years ago,” the Bullet Space resident said. “So much red tape, so much mismanagement. ... Our building regrets cutting a deal with UHAB. We feel we’re being used and abused. We feel we could have done it for one-third the cost.”

For example, he said, UHAB hired a construction manager at a salary of \$70,000, but the squatters wound up doing “90 percent of his job.”

Harry Kresky, an attorney representing Bullet Space, declined comment on whether the squat will sue the city and UHAB.

“At this point, all I’m authorized to say is I’m involved in negotiations with UHAB...to complete the transaction,” Kresky said.

Eric Rassi, who lives in Morales’s building on E. 10th St., said he also doesn’t plan to sell his apartment, wanting instead to turn it over to his children.

“I don’t think we should get market rate, because that’s tripling what rent should be,” said Rassi. “It’s ‘landopoly.’ People in New York City have been paying triple what the rent should be since 1985.”

Rassi feels the former squatters should get the same sale rights that tenants in the city’s TIL (Tenant Interim Lease) program co-ops get.

Aurelia Diaz, a resident of 278 E. Seventh St., another of the 11 former squats, said she and her neighbors are extremely anxious about the debt on their building. She said UHAB took out a \$2.75 million loan, but it only covered four buildings, so UHAB had to take out a second loan. UHAB took out a \$509,000 loan just for her building, and, a few years later, with added interest, the building now owes \$924,000, she said.

“They did less than \$180,000 of work on our building — where did the rest of the \$500,000 go?” Diaz asked. Meanwhile, tenants had to rip out sheetrock and electrical work that UHAB-contracted workers installed shoddily in the hallway and then redo it themselves, she said. In one frightening incident, a ceiling the workers were repairing collapsed onto a little girl.

“Thank God, she was all right,” Diaz said.

Fear over the building’s mounting debt makes Diaz and her neighbors believe they may never own their units.

“This deal may never go through, and the building may become a rental,” she said. “It’s been a

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rough ride with UHAB.”

At age 19, Diaz moved into 278 E. Seventh St., which was in relatively good shape. Then, at one point, the landlady just walked away.

“Her name was Miss Tiller. She up and left — she went back to Ponce,” Diaz recalled.

She said she and most of the building’s residents don’t want the right to sell for market value, because they think their property taxes would then rise to beyond the point where they could afford them.

“I’m not looking to flip my apartment,” Diaz said. “I’m happy with whatever I get. If they say I can sell my apartment for \$10,000 in 10 years, I’m O.K. with that. We all know that you can sell a one-bedroom apartment in Lower Manhattan for \$1 million. People are looking at those numbers and saying, ‘I want to be rich. I want to be able to retire, flip that apartment and go buy a house somewhere.’ People are looking at this like it’s a gold mine, like they hit the Lotto. I’ve spoken to people in a lot of the buildings, and it seems they want the caps removed. But I’m not with the market value. ... I just wish that this project had been over five years ago — because our maintenance would have been much, much lower.”

Despite all the disagreement, Jen Kaminsky, a UHAB organizer, recently said from four to six of the former squats will be converted to co-ops sometime between now and February. Umbrella House (21-23 Avenue C) will be the first to convert, she said. Other buildings expected in this first group include Shenker’s 209 E. Seventh St., Diaz’s 278 E. Seventh St. and Bullet Space (292 E. Third St.).

Those buildings where some squatters didn’t fully hold up their end of doing sweat equity, according to Kaminsky, include Serenity (733 E. Ninth St.), 544 E. 13th St. and 377 E. Tenth St., Morales’s building, which admittedly was also set back by a fire.

“Serenity needs a whole new staircase, and joists need to be replaced,” Kaminsky said. “At 7½-9 Second Ave., the common areas need a lot of work.” And 719 E. Sixth St. — currently vacant — is lagging far behind because of the fire three years ago started by “a hoarder,” who is in the process of being evicted, Kaminsky said.

(The “twelfth squat” — the one that didn’t go into the program with the city and UHAB — is 272 E. Seventh St. “That’s a real squat,” said Bailey. Neighbors say the building has been a problem in recent years, with young people coming in, kicking out the previous residents, and then throwing loud parties. But more recently, the building has been more under control.)

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Taking matters into their own hands, the former squatters plan to hold a press conference on Jan. 21 to call for a “bailout” — just like investment banks have been getting from the government.

A draft of a yet-to-be-released “Letter to Councilwoman Mendez,” written by Bullet Space attorney Kresky, announcing the press conference, states: “N.C.B., supposedly a community-oriented lending institution, is insisting that the homesteaders pay every penny in interest owed on loans it negotiated with UHAB. At the same time, major banks are being bailed out by the federal government and, in turn, working out reasonable accommodations with low- and moderate-income homeowners whose mortgages they hold.

“Further, UHAB and H.P.D. are refusing to recognize the value of the substantial investment of time and money (sweat equity) that the homesteaders themselves made in their apartments over the years.

“We call on UHAB, N.C.B. and H.P.D. to reconsider their position and act in a fair and responsible manner toward the homesteaders.”

Speaking on Monday, Shenker said, “I think that Rosie is not aware of all these financials. We want to have meaningful discussion on the financing. ... The thrust of the letter is calling for a revisiting of these numbers.”

Mendez and her chief of staff, Lisa Kaplan, did not return a number of phone calls for this article. A Mendez aide this week said both Mendez and Kaplan were on vacation till Jan. 5. The aide said she had not seen the letter from Kresky, which Shenker had e-mailed to The Villager on Monday.

“I think they just want to keep their heads down,” Shenker offered, “because UHAB’s artificial price caps do not conform with their median income restrictions — it just doesn’t add up.”

Beyond being a vocal former squatter, Shenker is well known among local activist circles. Identifying as somewhat of an anarchist, he figures he’s been arrested at least 20 times over the years, mainly in protests to save community gardens and squats from development. In 2004, Shenker was surprised to learn he was on a list of protesters under police surveillance leading up to the Republican National Convention.

But beyond his activism, Shenker is also a guy with a really nice apartment — one that he built every single inch of with his own hands, where there was literally nothing before. He thinks he deserves something for that.