

# DUE DILIGENCE REPORT

[REDACTED]

PREPARED FOR

[REDACTED]

PREPARED BY

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## INTRODUCTION

This due diligence report includes our research findings and analysis of the rent regulatory status of each of the residential units of [REDACTED] and [REDACTED] in New York.

Our due diligence investigation includes an analysis of how each free market apartment was deregulated. As you know, [REDACTED] participates (or more accurately, *was* a participant) in the J-51 tax benefit program. Participation in the J-51 tax benefit program automatically creates stabilized tenancies building-wide and all tenancies remain stabilized until the expiration of the building's tax benefits. Therefore, many of the "free market" units at [REDACTED] were analyzed from two perspectives, that is, stabilization in a traditional sense and stabilization stemming from participation in the J-51 program. This report advises you, as a prospective purchaser, of the owner's risks and liability with respect to deregulation of the apartments.

Our research also includes a review of the status of any open violations issued against the building by the Department of Housing Preservation and Development of the City of New York and the New York City Department of Buildings.

We also searched the files of the Supreme Court of the State of New York, New York County, the Civil Court of the City of New York and the Housing Court of the City of New York for pending litigation with respect to this building. Our court investigations also included a review of any judgments held against the properties.

Our investigations produced the following results.

### [REDACTED] – The J-51 Building

The building at [REDACTED] consists of 25 residential units spread over five stories. The current, actual use of the residential units appears to be consistent with the Certificate of Occupancy for the building. A copy of the Certificate of Occupancy for the building is annexed hereto as Exhibit "1."

As previously reported, [REDACTED] *recently* participated in the J-51 tax benefit program. Annexed hereto as Exhibit "2" is the J-51 Abatement and/or Exemption Data for the building.

When an owner takes advantage of J-51 tax exemption and abatement benefits, every tenancy that would otherwise be a free market tenancy becomes subject to rent stabilization. Notably, any units that were subject to rent stabilization before the tax benefits applied are not affected by the J-51 tax benefit participation.

Under the J-51 regulations and rent stabilization law, each “free market” tenancy remains stabilized "forever" UNLESS the owner annexes and executes a "J-51 rider" with the tenant on each and every renewal and each and every new lease executed during the period of time that the benefits applies. That rider notifies the tenant of the unit's stabilized status pending the expiration of the J-51 benefits and most importantly, notifies the tenant that the unit will no longer be protected by the rent stabilization law once the tax benefit period expires. Annexed hereto as Exhibit “3” is a copy of a form J-51 Rider.

In our effort to confirm the building’s J-51 participation, we contacted the Department of Finance of the City of New York (“DOF”), initially, to confirm when the benefits were due to expire and to determine the dollar amount remaining on the tax abatement benefit conferred to the building through the J-51 program. That telephone conversation<sup>1</sup> revealed that the building *was* a participant in the J-51 program over the past ten years but the benefits are now exhausted, as is also confirmed by the following J-51 Benefit History Summary which was copied from the DOF website:

J-51 Benefit History Summary

Tax Year 12/13	██████████	██████████	██████████	██████████
Taxable Value before J-51 Ex	442,350		Total Tax	58,306.16
J-51 Exemption	0		Abatement	3,326.80
Taxable Value	442,350	—	Tax Due	54,979.36

Initial Year	Qtr	Yrs Ex	T/F	Abt Pct	Abt Yrs	Exemption Amount	Alteration Cost	Abatement Granted	Amount Remaining	MTZ /C
02/03		14	F	90	20	0	49,900	3,326.80	0.00	

We then attempted to find out exactly when the benefits ran out by visiting the DOF at ██████████ ██████████ but the agent there directed us to complete and submit an Exemption/Abatement Inquiry Form for the information. Unfortunately, we are told, these requests can take up to thirty

<sup>1</sup> The Department of Finance tax information hotline: (212) ██████████

days for the DOF to fulfill. We can submit a written request on your behalf, if you wish.

However, at this juncture, it makes best sense to request this information directly from the seller. As such, we recommend you demand the seller provide all documents related to the building's J-51 participation, i.e. the Certificate of Eligibility, the J-51 application, and all documents enumerating the benefits received and the work performed. The seller should also disclose exactly when the abatement benefits ran out so that you can best ascertain the regulatory status of certain units. If a free market lease was executed after the J-51 benefits ran out, then it is safe from stabilization, assuming it is properly destabilized without reference to the building's J-51 participation.

### **Absence of Renovation Documents**

There are eight apartments at [REDACTED] that lack proof of renovation documents to support the deregulation of these units even before the building's J-51 participation. When asked, management represented that the owner prior to the seller did not provide any renovation documents for these units. Each affected unit is identified in the enclosed Tenant File Review spreadsheet and each unit is individually treated with recommendations from us located in the last column of the spreadsheet.

### **Failure to Register the Building with DHCR in 2008, 2009 and 2010**

The 2008, 2009 and 2010 registrations were filed on June 1, 2011. Therefore, the exposure window for those units that deregulated by high rent vacancy in the years 2008, 2009 and 2010 but lack renovation documents did not begin until 2011 and will remain open to challenge at least until 2015.<sup>2</sup>

### **Tenant File Review**

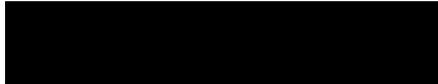
On January 17, 2013, the seller's managing agent provided current DHCR rent roll reports simultaneously with allowing six hours of access to their tenant files. From time to time, the agent would share "insider" information about tenants, pending litigation and pending buyout negotiations. Our findings from our conversations with the agent and the review of the tenant's files are provided in detail on the accompanying

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<sup>2</sup> Upon a showing of "fraud," they are *forever* open to challenge. The case law has not been good about defining the boundaries of "fraud" when it comes to registrations, leaving judges very much to show their predilections when doing so.

spreadsheets. Those spreadsheets also include detailed analysis of the deregulation of each unit as documented on the Division of Housing and Community Renewal (“DHCR”) Registration Rent Roll Reports.

Annexed hereto as Exhibits “4” (250)<sup>3</sup> and “5” (234) are certified Division of Housing and Community Renewal Registration Rent Roll Reports for each of the buildings.



Out of the twenty-five residential units at [REDACTED] there are two rent controlled apartments and twenty-three rent stabilized apartments. As previously reported, the seller made a business judgment decision **not** to annex a J-51 rider to any renewal or new lease executed while the building participated in the J-51 program. The owner prior to the seller also had not annexed the rider to any of the renewals and leases executed during its tenure. According to the seller's agent, the seller decided to "let a sleeping dog lie" since the tax benefit period is “due to expire this tax year.” The impact of this decision on you, as a prospective purchaser, is that every free market tenancy, though disclosed by the seller to be free market, is rent stabilized and remains rent stabilized even after the J-51 period expires. With the law of succession and such, this could make these units rent stabilized long after all of us are dead. Exceptions may lie *only* where “free market” leases were executed after the J-51 benefits were exhausted.

If you decide to pursue the purchase of this building, you should consider how you would like to seller to treat lease renewals of “J-51 stabilized but treated free market” tenancies that are executed during the contract period and through the day of closing. You may wish to negotiate a provision that no renewals be executed during the contract period but we understand that may give rise to a tenant investigating its tenancy rights. Those units that were stabilized before the J-51 benefits kicked in are, of course, entitled to lease renewals under the rent stabilization law and could potentially [REDACTED] overcharge claims as well.

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<sup>3</sup> The 2008 Registration report (page 30 of the DHCR Rent Roll) for [REDACTED] is missing.

APT.	NAME(S) OF RECORD TENANT(S)	LEASE TERM	RENTAL RATE	REGULATORY STATUS	NOTES FROM TENANT FILES W/ RECOMMENDATIONS
█	█	6/1/12-5/31/14	\$1,104.57	RS	Section 8. Tenant's DOB is 10/3/1952 The legal regulated rent on the current lease renewal is \$1,029.90. The 2012 DHCR registration states the legal rent is \$1,043.52. Furthermore, the actual rent charged and collected is \$1,104.57 which creates exposure to overcharge liability. We recommend you investigate the discrepancies here.
█	█	3/1/11-2/29/12	\$2,000	J-51 RS treated FM	Tenant is moving out at the end of February.  This unit is registered as Permanently Exempt by High Rent Vacancy in 2011. The last legal regulated rent is \$1,514.83. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits).  See the DHCR Case History section of the report for recommendations regarding an overcharge case brought by Jesse Tandler in March 2011.
█	█	4/28/12-4/30/13	\$2,155	J-51 RS treated FM	This unit is registered as Permanently Exempt by High Rent Vacancy on the 2009 registration, which was filed in 2011 so there is another two and a half years left in the exposure window. The last legal regulated rent is \$1,375. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may

and █

					be rent stabilized (regardless of and before J-51 benefits).
		5/1/12-4/31/13	\$3,130	J-51 RS treated FM	<p>This unit has not yet been registered as Permanently Exempt. The last DHCR registration for this unit was filed on May 21, 2007, with the record tenant as Cheryl Piscetillo. It would appear that the prior owner opted to let a “sleeping dog lie” when it registered the building in June 2011. There were no registrations filed with DHCR in 2008, 2009 and 2010. Those June 2011 registrations were probably filed in preparation for the sale of the building to the current owner.</p> <p>In order to properly document the deregulation of this unit, a “Permanently Exempt, High Rent Vacancy” registration should be filed for this unit. However, as is the case with Apartments 2 and 3, there are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits).</p>
█		11/1/12-10/31/14	\$1,044.14	RS before J-51	Tenant since 1996.
█		5/1/12-4/30/14	\$1,127.15	RS before J-51	William Cardona was the registered tenant from 1993 through 2007. It was not clear from the file whether he still resides in the apartment and what relation he has to the current tenant. There was no vacancy increase taken over the years.
█		12/1/12-11/30/13	\$1,946.58	RS	Tenant since 2009. Tenancy is rent stabilized by operation of the J-51 tax benefits. The 2009 owner of the building opted to issue a rent stabilized lease rather than renovating and deregulating the unit.

		10/22/12-4/30/14	\$2,050	J-51 RS treated FM	The individual apartment improvement and vacancy lease rent increase calculations that yielded unit deregulation was provided by management. <sup>i</sup> The 2013 DHCR Registration should indicate the unit is Permanently Exempt by High Rent Vacancy.
		9/1/12-8/31/13	\$2,425	J-51 RS treated FM	No tenant file provided. This unit is registered as Permanently Exempt by High Rent Vacancy on the 2010 registration. The last legal regulated rent is \$1,712.88. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits).
		3/1/12-6/30/13	\$2,650	J-51 RS treated FM	No countersigned lease in the file. The prior, regulated tenant was Mary Arce, a rent control tenant who vacated in 2011. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. Copies of cancelled checks were provided for the renovations of this apartment.
		11/7/12-5/31/13	\$3,600	J-51 RS treated FM	This unit has not yet been registered as Permanently Exempt. The last DHCR registration for this unit was filed on May 22, 2000, with the record tenant as C. [REDACTED]  In order to properly document the deregulation of this unit, a "Permanently Exempt, High Rent Vacancy" registration should be filed for this unit. However, as is the case with Apartments 2, 3 and 4, there are no documents to prove the owner in 2000 performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may

					<p>be rent stabilized (regardless of and before J-51 benefits).</p> <p>No countersigned lease in the tenant file.</p> <p>The unusual household composition may present issues of who is who when it comes to dealing with this tenancy.</p>
█	█	12/7/12-8/31/13	\$3,400	J-51 RS treated FM	<p>The last rent stabilized tenant vacated on or around October 1, 2012. The last legal regulated rent reported on the DHCR Rent Roll is \$1,331.31. The individual apartment improvement and vacancy lease rent increase calculations that yielded unit deregulation was provided by management.</p> <p>See Endnote i.</p>
█	█	1/1/13-12/31/13	\$1,800	J-51 RS treated FM	<p>This unit is registered as Permanently Exempt by High Rent Vacancy on the 2009 registration, which was filed in 2011 so there is another two and a half years left in the exposure window. The last legal regulated rent is \$1,699.50. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits).</p>
	█			FM	<p>Under renovation. Rent control tenant vacated in December 2012 for \$55,000 vacate payment. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided by management. See Endnote i.</p> <p>As previously advised, if you decide to purchase this building, you must decide if you would like the seller to issue new leases pending the expiration of the J-51 period. And if so, then you should direct the seller to annex the necessary</p>

					J-51 rider to avoid creating a “forever” stabilized tenancy.
		9/28/12-9/30/13	\$3,100	J-51 RS treated FM	The last registered rent stabilized tenant vacated the unit in 2012 with a legal regulated rent of \$912.47. The individual apartment improvement and vacancy lease rent increase calculations that yielded unit deregulation were provided. See Endnote “i.” Notably, those calculations yielded a legal regulated rent of \$2,460.46, which falls just below the \$2,500 threshold. Management disclosed that expediter fees and costs for permits were not included. You should require the seller to include those costs and fees and run the calculation again to ensure you meet the threshold.
■		3/1/13-2/28/15	\$782.99	RS before J-51	Tenant since at least 1984.
■		6/1/12-5/31/13	\$2,300	J-51 RS treated FM	Unsigned renewal at the rate of \$2,300.  This unit is registered as Permanently Exempt by High Rent Vacancy on the 2010 registration, which was filed in 2011 so there is another two and a half years left in the exposure window. The last legal regulated rent is \$ [REDACTED]. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits ).
■		3/15/12-5/31/13	\$1,795	J-51 RS treated FM	This unit is registered as Permanently Exempt by High Rent Vacancy on the 2010 registration, which was filed in 2011 so there is another two and a half years left in the exposure window. The last legal regulated rent is \$1,345.44. There are no documents to prove the prior owner performed the necessary renovations to deregulate the unit. In

					the absence of those documents, there is a substantial risk that this unit may be rent stabilized (regardless of and before J-51 benefits ).
	[REDACTED]	10/1/11-9/30/13	\$534.04	RS before J-51	Section 8. "Rodriguez" cosigned the lease. Tenant since at least 1984. According to management, tenant is 85 years old and resides alone.
	[REDACTED]		\$217.38	RC	Tenant is claiming succession to his mother's rent control tenancy. According to management, there is a pending non-primary residence proceeding based on an address search that connects Enrique to another location. Kings L&T Index No. 69461/12. We will provide copies of the court files. You should request copies of litigation counsel's file.
	[REDACTED]		\$264.23	RC	The legal regulated rent, according to the seller's rent roll is \$229.01. You should inquire as to why they collect \$35.22 above the legal regulated rent.
	[REDACTED]	6/1/11-5/31/13	\$443.16	RS before J-51	Tenant since at least 1984. Rent is paid by a "senior program" according to management.
	[REDACTED]	Lease Expired	\$865.65	RS before J-51	Tenant represented to management that he was "mailing the new lease renewal in." DRIE. Rent is set at \$669.67 for the lease term. No notice in the file that the benefit is renewed for another term. You should inquire about the nature of the disability and what, if any, "reasonable accommodations" this may entail. There was nothing in the tenant file to indicate the nature of the disability or whether any accommodation(s) has been made. Tenant is cousins with the tenants of Apartment 26. Tenant since 1985.
	[REDACTED]	10/1/12-9/30/13	\$1,641.68	RS	Tenants were bought out on 1/17/13. \$55,000, vacating 1/31/13. This is an obvious opportunity to deregulate the apartment by individual apartment improvements. However, as previously advised, if you decide to purchase this building, you must decide if you would

					like the seller to issue new leases pending the expiration of the J-51 period. And if so, then you should direct the seller to annex the necessary J-51 rider to avoid creating a “forever” stabilized tenancy.
█	█ █	6/1/12-5/31/14	\$562.23	RS before J-51	Tenant is cousins with the tenants of Apartment 24. Tenant since 1985.

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We reviewed thirty tenant files for the building at █. However, the building is registered with HPD as having thirty-three residential units and Property Shark reports that that there are thirty-two residential units. A walkthrough of the building would confirm just exactly how many residential units are in the building. All sources are consistent in that the residential units are spread over six stories.

### Use Inconsistent with Certificate of Occupancy

The actual use of the residential units appears to be **inconsistent** with the Certificate of Occupancy for the building. A copy of the Certificate of Occupancy for the building is annexed hereto as Exhibit “2.” According to the Certificate of Occupancy, the building consists of three stories<sup>4</sup> with a store on the first level and two one family apartments on the second and third levels. You should investigate exactly how much it will cost you to legalize the building and obtain a certificate of occupancy consistent with its current use and makeup. Obviously, you want to negotiate favorable terms with the seller requiring the seller to legalize the building and obtain a proper Certificate of Occupancy or at the least, require the seller to incur the costs for professional services, fees, DOB filings etc. to do so.

### The Mismanagement of 234 █

As previously advised, 234 █ has been horribly mismanaged over the years and dating back several owners ago. The history of mismanagement at the building exposes future owners to liability for treble damages due to overcharging rent stabilized tenancies, among the worst case

<sup>4</sup> Yes, we really do mean three. This has been checked and rechecked.

scenarios,<sup>5</sup> and to having to expend special resources to organize tenant files, obtain missing lease renewals and determine which of two lease renewals govern a tenancy today. In many cases, there are no fully executed leases or lease renewals which raises issues in litigation as a fully executed lease is necessary to prove standing to sue in housing court. There are mechanisms for getting around the absence of a fully executed lease but there is no guarantee that those mechanisms will be enough or will even be available to you on trial day.

The enclosed Tenant File Review spreadsheet treats each unit individually in terms of bringing to your attention the mismanagement issues present in each tenancy. The spreadsheet also provides our recommendations for legitimizing each tenancy's documents.

For those units where there is overcharge exposure, we recommend you require the seller to refund any overcharges prior to closing or alternatively, you obtain a credit in the amount of any overcharges so that those tenants can be made whole as soon as you purchase the building.

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<sup>5</sup> Theoretically, these scenarios could include having to demolish the upper half of the building. This office has had experience with such demolitions and we would be happy to provide you with an oral report as to what they entail, but such a narrative, being highly speculative at this point, is outside of the scope of this report.

APT.	NAME(S) OF RECORD TENANT(S)	LEASE TERM	RENTAL RATE	REGULATORY STATUS	NOTES FROM TENANT FILES W/ RECOMMENDATIONS
█	█ █	11/1/12-10/31/13	\$1,067.88	RS	<p>Tenant since 1993. Missing lease (2010/2011).  Wrong \$ amount on lease. Lease that expired on 10/31/2010 was for monthly rate of \$1,011. Lease expiring on 10/31/13 states monthly rate at \$1,033.75.</p>
█	█ █	RC	\$221.77	RC	<p>Legal regulated rent is \$185.84. Nothing in the tenant file to support rent increase to \$221.77. Notably, in 1987, DHCR granted a rent increase across multiple units.<sup>6</sup></p>
█	█	2/1/13-1/31/15	\$947.93	RS	<p>SCRIE recipient. SCRIE notice dated 1/3/13 states tenant pays \$907.11. Tenant handwrote "\$221.19" for the rental rate amount on the current lease renewal. The seller should be called upon to provide some kind of explanation as to why. Legal regulated rent is \$987.93.</p>
█	█	6/1/11-5/31/13	\$527.31	RS	<p>Tenant was among the first tenants registered with DHCR in 1986. Nothing in the tenant file indicates how old she is or when she moved in. Occupant Cesar Velez Diaz appears on a 2010 NYCHA application.</p>
█	█	12/15/12-5/31/14	\$3,200	FM	<p>Current lease has a personal guaranty. Unit was deregulated in 2012 after the prior tenant vacated on her own volition. That tenant occupied both apartments 5 and 6 at a total rental rate of \$768.19 and was a tenant of the building since at least 1985. A prior owner (Peter █) permitted her to convert the</p>

<sup>6</sup> We recommend you submit a FOIL request to obtain a copy of the DHCR Docket No. BL2302100M file to confirm which units were subject to the increase.

					units into a single unit. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. <sup>ii</sup>
					The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. See Endnote "i." Those calculations yielded a legal regulated rent of \$2,523.96, which just slightly meets the \$2,500 threshold. <sup>7</sup> Management verbally disclosed that expediter fees and costs for permits were not included.
					Maiden name is Cristina Soriano. She is a tenant since 1992 and is now married to Jose [REDACTED] an Occupant of the Apartment. DRIE actual rent paid is \$873.21. Tenant file is missing 2009-2011 lease renewal (copy in file is unsigned). You should inquire about the nature of the disability and what, if any, "reasonable accommodations" this may entail. There was nothing in the tenant file to indicate the nature of the disability or whether any accommodation(s) has been made.
					1984 DHCR registration in the tenant file refers to a "C. Marrero."
					Elena Martinez is the former tenant of Apartment 10. There is a letter in the Apartment 10 tenant file stating that Martinez "gives" the apartment to Natalia Cholula, the current tenant of Apartment 10. She is registered as the tenant of Apartment 10 until 2003. According to management, she moved into Apartment 9 in 2003. She has never been a registered tenant of

<sup>7</sup> Experience teaches that anything that comes this close to the deregulation cut off numbers receives heightened scrutiny by tenants' counsel, the courts, and the DHCR. The result of such scrutiny is often a finding that the premises are in fact regulated because some of the costs are disallowed as "mere repairs" and the landlord is then hit with treble damages.

					<p>Apartment 9. From 2003 to 2006, one Cesar [REDACTED] is the registered tenant of Apartment 9 and from 2007 to 2012, one Sergio Flores is the registered tenant of Apartment 9. According to management, Sergio Flores moved out of the unit in January 2011 and Elena Martinez remained. Perhaps Elena Martinez moved in with [REDACTED] who moves out in 2006 and then Flores moves in in 2007? It appears the 2012 registration erroneously names Sergio Flores as the record tenant. A review of the actual registrations for these years will confirm who the actual, record tenant(s) is(are)(were). You can obtain actual registrations by a FOIL request to the DHCR.</p>
[REDACTED]	[REDACTED]	<p>9/1/12-8/31/14</p> <p>9/1/11-8/31/13</p>	<p>\$957.02</p> <p>\$912.38</p>	<p>RS</p> <p>Tenant actually pays \$925.79/mo.</p>	<p>There are two fully executed leases governing this tenancy today. The 2011-2013 lease renewal (\$912.38/month) indicates there MAY be a preferential rent agreement permitting her to pay \$892.73/mo., the 2012 legal regulated rent reported on the DHCR Rent Roll. Meanwhile, the tenant is actually paying \$925.79/mo. according to the seller's rent rolls annexed hereto as Exhibit "9". There was no preferential rent rider in the file which means this downward rent adjustment is permanent.</p>
[REDACTED]	[REDACTED]	<p>11/20/12-4/30/14</p>	<p>\$3,200</p>	<p>FM</p>	<p>According to management, the last RS tenant moved out 10/31/12. Notably, the current tenant moved in twenty days later. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. See Endnote "i." It appears the owner began construction in September 2012 so the vacate date may be wrong.</p> <p>The last RS tenant was bought out for \$20K, according to management's</p>

					(Kendra) verbal representation, though \$15K according to the buyout spreadsheet annexed hereto under Exhibit "15."
█	█	Lease expired	Use & Occupancy is collected pending litigation. \$997.12	RS	Non-primary residence proceeding is pending. Case marked off calendar for disclosure on January 14, 2013. Juana Aristy and Elsa Aristy's names were added to the lease renewals in 2001 (Juana) and 2009 (Elsa). Tenant changed his driver's license address back to █ after the case started. We will provide copies of the court files. You should request copies of litigation counsel's file. Annexed hereto as Exhibit "12" is a letter from litigation counsel memorializing what transpired in court on January 14, 2013.
█	█	6/1/11-5/31/13	\$649.86	RS	Tenant since 2002. The naming of the apartment MAY be simply to avoid being apartment 13. <sup>8</sup> A walkthrough of the building can confirm just exactly how many units are in the building and how they are named. We refer you to the Certificate of Occupancy section of this report for a full treatment of the issues surrounding the use of the building being inconsistent with the Certificate of Occupancy.
█	█			FM (assuming renovations and rent increases amount to above \$2,500).	No tenant file provided. Unit is currently under renovation. Tenant was bought out (\$50K) in an illegal sublet proceeding. Buyout agreement reviewed. Tenant vacated on 12/14/12. Last legal regulated rent is \$1,246.95.
█	█	11/1/12-10/31/13	\$981.33	RS	2012 DHCR registration shows legal regulated rent to be \$961.33 (\$20 less than the rent currently collected.) Investigate whether there is an overcharge here or if there is a scrivener's error on the 2012 DHCR registration.

<sup>8</sup> The less likely possibility is that it is an illegal apartment carved out of a legal one.

█	█	5/1/11-4/30/13	\$866.73	RS	There are two leases in the tenant file that could govern today's tenancy. Neither one of these leases are countersigned by the landlord. Tenant's DOB is 11/24/1966. Tenant moved in in 2004. \$866.73 is the legal regulated rent reported on the DHCR rent roll.
		5/1/11-4/30/13	\$885.80		
█	█	6/1/11-5/31/13	Either \$670.62 or \$670.75	RS	The 2012 DHCR Legal Regulated Rent is \$657.13. It appears the tenant is being overcharged.
█	█	6/1/11-5/31/13	\$638.78	RS	Non-renewal lease proceeding currently pending before the DHCR. 2001, 2003, 2005, 2007 and 2011 leases were signed by Monica Ramirez, the daughter of the record tenant Martha Rodriguez, and countersigned by the landlord. Tenant is very likely to win this case and DHCR is therefore likely to order the seller to issue a lease in the daughter's name. Annexed hereto as Exhibit "11" is a copy of the tenant's DHCR complaint. By FOIL request to DHCR, you can obtain a copy of the entire case file.
█	█				The last RS tenant, Jeffrey Puro, vacated last week on 1/15/13. The last legal regulated rent is \$1,947.71. This is an obvious opportunity to IAS it above \$2500.
█	█	6/1/11-5/31/13	\$612.58	RS	Nonpayment proceeding in 2012. Tenant appears to be about two months behind in rent at this time. See Seller's rent roll at Exhibit "9". Upon request, we can obtain copies of the court file in the 2012 nonpayment proceeding. Prior to closing, you should inquire as to how these arrears accumulated.
█	█	7/1/11-6/30/13	\$836.52	RS	Current lease renewal is not countersigned by the landlord. There was a 2011 nonpayment proceeding. Tenant appears to █ a rent balance of \$9,085.50 (See Seller's rent roll at Exhibit "9"). Upon request, we can obtain copies of the court file in the 2012 nonpayment proceeding. Prior to closing, you should inquire as to how

					these arrears accumulated.
■	■	8/1/12-7/31/14	\$1,555.13	RS	Tenant file is missing lease renewals. There is a nonpayment proceeding currently pending. Tenant appears to \$3,855.13 in rent arrears. Upon request, we can obtain copies of the court file in the nonpayment proceeding. Prior to closing, you should inquire as to how these arrears accumulated.
■	■	2/1/13-1/31/14	\$800.63 (\$780.63 is the legal rent on a duplicate renewal)	RS	SCRIE– Tenant’s portion, \$876.54. Leases found in the tenant file: Fully executed lease, 2/1/12-1/31/13, \$1,008.92 (2012 Legal Reg Rent) Fully executed lease, 2/1/11-1/31/13, \$972.45 (Sec’y deposit=\$972.41) Fully executed lease, 2/1/10-1/31/11, \$951.05 (2011 Legal Reg Rent) Notice the discrepancies in the rental rates and that there are two leases governing the 2012-2013 period. Prior to closing, you should go through all leases with the seller to confirm what the legal rent and actual rent are for this unit.
■	■			FM	Last RS tenant moved out in November 2012 (\$65K buyout). Last legal regulated rent is \$618.62. Currently under renovation. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. See Endnote “i.”
■	■	11/1/12-4/30/14	\$2,800	FM	Last legal regulated rent was \$570.93. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded unit deregulation was provided. See Endnote “i.”
■	■	10/20/12-4/30/14	\$3,200	FM	Last RS tenant vacated in August 2012. Last legal regulated rent was \$1,093.98. The individual apartment improvement, vacancy lease and permanent vacancy rent increase calculations that yielded

					unit deregulation was provided. See Endnote "i."
█	█ █	6/1/11-5/31/13	\$820.33	RS	Jose █ appears on prior lease renewals.
█	█	10/16/12-9/30/13	\$1,959.53 (legal rent) \$1,850 (preferential)	RS	<p>Mary Beth Doran is the tenant registered with DHCR in 2012. According to management, Doran moved out on October 15, 2012. Seller did not perform any renovations, took a vacancy increase but apparently got the math wrong. The 2012 legal regulated rent was \$1,689.25. 18% vacancy increase brings the legal regulated rent to \$1,993.32, not \$1,959.53.</p> <p>From 2009 to 2010, the legal regulated rent jumps from \$701.26 to \$1,400. We inquired as to whether any backup for renovations existed. The current owner does not █ those documents. If the current tenant investigates the legal regulated rent for this unit, there is exposure to overcharge liability since that increase cannot be substantiated. It is worth the effort to request the seller contact the owner in 2009 to inquire about the renovations and identify who did the renovations and request copies of the cancelled checks that paid for those renovations. The exposure window is about another two and a half years since the 2009 and 2010 registrations were filed in June 2011.</p>
█	█	1/1/12-3/30/14	\$3,200	FM	The individual apartment improvement and vacancy lease rent increase calculations that yielded unit deregulation was provided. See Endnote "i." Those calculations yielded a legal regulated rent of \$2,509.77, which ever so slightly meets the \$2,500 threshold. Management verbally disclosed that expediter fees and costs for permits were not included. Note, an additional 6% permanent vacancy increase cannot be taken here because

					the last permanent vacancy increase was taken in 2008.
█	█	12/15/12-4/30/14	\$2,850	FM	The individual apartment improvement and vacancy lease rent increase calculations that yielded unit deregulation was provided. See Endnote "i."

### DHCR CASE HISTORY

█

There is an open DHCR overcharge case brought by the tenant of Apartment 2 on March 11, 2011. Current management did not know that the case existed since it was commenced during the tenure of its predecessor owner. We advised management to submit a FOIL request to DHCR to obtain a copy of the entire file to ascertain whether an answer to the complaint was filed by the prior owner and what the status of the case is today. Interestingly, the tenant recently advised that he is vacating the apartment at the end of February. However, even if he vacates, the owner, or future owner, does not escape liability, if any, in the overcharge case. This unit is among the purportedly deregulated units that lack any renovation documents from the prior owner. As such, there is a substantial chance that his tenancy is rent stabilized, regardless of the building's J-51 participation.

There are no other DHCR cases that should be of particular interest to you at this time.

█

As reported on the Tenant File Review spreadsheet for █ there is a pending non-renewal of lease case at DHCR. This case was brought by Monica Ramirez, the occupant of Apartment 18, seeking confirmation of her rights to succession by way of her mother, Martha Rodriguez. The tenant file contained fully executed leases signed by the landlord and Monica Ramirez which is a good indication of her likelihood to succeed in this proceeding. We recommend you submit a FOIL request to DHCR to obtain a copy of the entire file to ascertain what defenses the seller has alleged and what is the status of the proceeding. A copy of the complaint is annexed hereto as Exhibit "11."

There are no other DHCR cases that should be of particular interest to you at this time.

A copy of the DHCR case lists for each of the buildings are annexed hereto as Exhibits “16” (250) and “17” (234).

### NYC Department of Buildings (DOB)

[REDACTED]

The Department of Buildings classifies each of the buildings as “C1-Walk-up Apartment”. This Department of Finance Building Classification is used to classify the premises’ tax status, as distinct from its legal use which is typically set forth in the Certificate of Occupancy. As noted above, the current, actual use of the building appears to be consistent with the Certificate of Occupancy for the building. A walk-thru and inspection of the building is necessary to verify the use of the building and confirm exactly how many residential units there are.

There are no open DOB violations at [REDACTED]

[REDACTED]

The Department of Buildings tax classification for this building is “C7-Walk-up Apartment”. As noted above, the actual use of the building is **inconsistent** with the Certificate of Occupancy for the building. See Section “Use Inconsistent with Certificate of Occupancy” above.

As of January 23, 2013, there are six open Department of Building violations. Annexed hereto as Exhibit “19” are copies of the Open Violations. The open violations are from 2008 through 2010. There are three boiler violations, one work without a permit violation, a water leak and mold violation and a 2008 ceiling collapse violation. If you purchase the building, you should receive a credit for each open violation at closing, if they are not certified as corrected and dismissed before closing.

The DOB Property Profile Overview for each of the buildings is annexed hereto at Exhibits “18” (250) and “19” (234).

If you purchase the building, your pre-closing walk thru should include verification that all of the above violations [REDACTED] been corrected and/or credited at the closing table.

**The Department of Housing Preservation and Development  
of the City of New York (“HPD”)**

There are four Class A violations, twenty-eight Class B violations and 9 Class C violations that the HPD considers open at [REDACTED] as of January 16, 2013. See Exhibit “13”.

There are nine Class A violations, fifty Class B violations and 5 Class C violations that the HPD considers open at [REDACTED] as of January 16, 2013. See Exhibit “14”.

You may want to get a credit for each of these open violations or [REDACTED] them resolved by the closing date and demand proof of payment for all associated administrative fees, if any. When you conduct the pre-closing walk-thru of the building, you should confirm that each violation has been corrected and photograph each repair.

Annexed hereto as Exhibits “20” (250) and “21” (234) are the HPD Building Registration Summary Reports and Open Violations for each of the buildings.

**Property Shark Report**

We [REDACTED] included a copy of the Property Shark Reports on each of the buildings which include information pertaining to the neighborhood, ownership, property tax assessment, zoning and size.

A copy of the reports are annexed hereto as Exhibits “20” (250) and “21” (234).

**Court Investigations**

**Housing and Civil Court**

The following is a list of the cases we obtained from the Court’s computer database. We can obtain copies of any court file, at your request. By Friday, January 25, 2013, we will forward you copies of the 234 [REDACTED] Apt. 12 and [REDACTED] Apt. 21 holdover proceedings.

As you review the list of cases, you will find a number of nonpayment proceedings against the same tenant over the years. This data is useful in analyzing whether a tenant’s history of nonpayment is grounds for commencing a chronic nonpayment holdover proceeding. We can analyze any

given tenant's nonpayment history, at your request. That analysis requires pulling each court file to understand the allegations made by each side in the case and how the issues, if any, were resolved.

Please keep in mind that court files for cases in 2009 or earlier are in archives and at this time there is a backlog in filling requests for files from archives. Any requested archived files are expected to arrive no earlier than April 22, 2013.

### Housing Cases

[REDACTED]

- 1) [REDACTED] v. [REDACTED], Index No. [REDACTED]; Non-Pay; Final Judgment 4/9/12
- 2) [REDACTED] v. [REDACTED] Index No. [REDACTED] Filed 8/7/07  
Nothing else listed.
- 3) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/7/07  
Final Judgment 11/13/07
- 4) [REDACTED] v. Arce Index No. [REDACTED] Non-Pay filed  
9/7/07 Disct. 11/30/07
- 5) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/7/07 Disct. 11/30/07
- 6) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/17/07. Nothing else listed.
- 7) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/17/07. Nothing else listed
- 8) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/17/07 Disct. 10/11/07
- 9) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
1/16/08. Decision Denied 2/25/08
- 10) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
1/16/08 DNAP 3/11/08
- 11) [REDACTED] v. [REDACTED] Index No. [REDACTED] Holdover  
filed 4/27/12 DECN/DEND 12/13/12

There were no cases against [REDACTED] & [REDACTED] as Respondents, found.

- 1) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08 Disct.  
1/27/09
- 2) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08  
Judgment/Warrant 1/29/08

[REDACTED] and [REDACTED]

- 3) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/14/11  
Judgment 3/23/11
- 4) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/4/12 nothing  
else listed
- 5) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/10/12  
Nothing else listed
- 6) DHPD v. [REDACTED] Index No. [REDACTED] Violations Filed 3/26/10  
Discontinued 6/18/10
- 7) DHPD v. [REDACTED] Index No. [REDACTED] Violations Filed 2/8/11 Closed  
3/9/11

**234 UNI Assoc.**

- 1) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/30/12  
Judgment 5/9/12
- 2) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 3/7/12  
Judgment 4/24/12
- 3) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 4/27/12  
OFFC 1/14/13
- 4) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 4/27/12  
Judgment 8/17/12
- 5) [REDACTED] v. [REDACTED] Index No. [REDACTED] Holdover filed 4/27/12  
Disct. 6/5/12

- 1) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/17/07 nothing else listed
- 2) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/17/07  
nothing else listed
- 3) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/17/07  
nothing else listed
- 4) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/17/07  
DEND 1/23/08
- 5) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/17/07  
nothing else listed
- 6) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
9/17/07 nothing else listed
- 7) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
10/18/07 Judgment/Warrant 3/13/08
- 8) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
11/7/07 Judgment 3/11/08
- 9) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 11/1/07  
nothing else listed
- 10) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed  
11/1/07 nothing else listed

- 11) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 11/1/07 nothing else listed
- 12) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/7/07 Nothing else listed
- 13) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/7/07 nothing else listed
- 14) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/7/07 nothing else listed
- 15) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 11/7/07 Judgment 12/5/07
- 16) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-pay filed 2/27/08 CLN-D 3/27/08
- 17) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 2/27/08 Nothing else listed.
- 18) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 2/27/08 DNAP 4/14/08
- 19) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-pay filed 2/27/08 DNAP 5/5/08
- 20) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 2/27/08 DNES 4/28/08
- 21) 234 [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 2/27/08 Nothing else listed

- 1) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08 Judgment 9/9/08 War. 9/12/08
- 2) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08 Judgment 9/29/08 War 3/1/10
- 3) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08 Judgment 9/9/08 War 9/10/08
- 4) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 8/14/08 Judgment 9/10/08 War 9/10/08
- 5) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-pay filed 9/2/08 Disct. 2/20/09
- 6) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/2/08 Judgment 10/1/08
- 7) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/2/08 Judgment 10/1/08
- 8) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 9/24/08 Judgment 4/27/09 War 5/12/09
- 9) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/27/10 Judgment 2/17/10 War 3/2/10
- 10) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 12/3/10 Judgment 2/1/11 War 2/16/11

[REDACTED] and [REDACTED]

- 11) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 3/16/11 nothing else listed
- 12) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 3/15/12 nothing else listed
- 13) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 11/1/11 Judgment 12/12/11 War 9/21/12
- 14) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 4/5/11 Judgment 9/14/11
- 15) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/26/12 nothing else listed
- 16) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 11/1/11 Judgment 3/7/12 War 4/3/12
- 17) [REDACTED] v. [REDACTED] Index No. [REDACTED] Non-Pay filed 1/27/10 Judgment 2/16/10 War 2/23/10
- 18) DHPD v. [REDACTED] Index No. [REDACTED] Violations filed 9/7/10 WITH 11/23/10
- 19) DHPD v. [REDACTED] Index No. [REDACTED] Violations filed 9/27/10 Disct 3/10/11
- 20) DHPD v. [REDACTED] Index No. [REDACTED] Violations filed 10/22/10 Disct 1/18/11
- 21) DHPD v. [REDACTED] Index No. [REDACTED] Violation filed 11/16/11 Judgment 8/31/12 CJO \$1,500
- 22) DHPD v. [REDACTED] Index No. [REDACTED] Violations filed 7/31/08 GREX 3/23/10
- 23) Aristy v. [REDACTED] Index No. [REDACTED] Violations filed 9/2/11 Dismissed 9/20/11
- 24) Meserole [REDACTED] v. [REDACTED] Index No. [REDACTED] Violations filed 7/17/08 DNAM 3/3/09

### Civil Cases

1. Hess v. [REDACTED] Complaint Index No. [REDACTED] filed 4/28/10 for \$23,319.35 Nothing else listed
2. Hess v. [REDACTED] Complaint Index No. [REDACTED] filed 4/28/10 for \$22,744.77 Nothing else listed
3. [REDACTED] v. [REDACTED] Group [REDACTED] Index No. 413547/06 complaint filed 6/20/06 Conversion/Replevin. Nothing else listed
4. [REDACTED] v. [REDACTED] Index No. [REDACTED] complaint filed 6/20/06 Conversion/Replevin. Nothing else listed

## Supreme Court

There were no cases found where any of the ownership entities were named as defendants.

However, as previously reported, we ran judgment and lien searches by ownership entity names and by block and lot number. Annexed hereto as Exhibit "22" is a detailed listing of each of the hits we obtained in those searches.

From the detailed listing, you will notice that all but one of the HPD judgments are from 2008 or earlier. Annexed hereto as Exhibit "23" is a copy of the 2012 \$1,500 judgment held by HPD against 234 [REDACTED]. That judgment appears to be for an unpaid fine assessed against [REDACTED] the owner prior to seller, but entered against the building during the seller's tenure.

The non-HPD judgments and liens appear to be minor but do require satisfactions of judgment to be filed. There is a 1991 and a 2003 NYC Bureau of Highway sidewalk lien filed against [REDACTED]. There is also a lien held by [REDACTED] against [REDACTED] a prior owner, and filed against both [REDACTED] and 234 [REDACTED].

We recommend you ensure that satisfactions of judgment are filed for each and every judgment and lien prior to closing, should you choose to purchase the building.

As you know, customarily prior to closing a title search is run on the property which provides a more complete and up to date picture of the liens held against the property.

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<sup>i</sup> Seller's management provided unsigned contractor proposals, payment history spreadsheets and calculations showing how the unit was deregulated. They are annexed to the Due Diligence Report as Exhibit "7." We recommend you obtain actual, cancelled checks and, if available, signed and/or "marked PAID" contractor proposals to verify the data provided on the spreadsheets.

<sup>ii</sup> Seller's management provided unsigned contractor proposals, payment history spreadsheets and calculations showing how the unit was deregulated. They are annexed to the Due Diligence Report as Exhibit "8." We recommend you obtain actual, cancelled checks

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and, if available, signed and/or “marked PAID” contractor proposals to verify the data provided on the spreadsheets.