

## Real Estate Weekly

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### *Tenant victory could spell trouble for developers*

by Daniel Geiger

A recent ruling in New York City housing court could provide market rate tenants with the power to resist developers who would evict them to make way for condominiums.

The decision came as the result of a lawsuit launched by a collection of tenants at the Sheffield, a rental building in Midtown that is being converted into condos.

The Sheffield's owners had been trying to empty the property to allow for construction to take place by allowing residents' leases to expire. But the tenant group delayed eviction proceedings through appeals until the conversion plan's state approval process reached benchmarks past which tenant eviction is barred.

The court sided with the tenants despite protestations from the building's owners that they were illegal occupants by the time the conversion's state approvals were granted.

The case, although decided by a lower court, could give tenants the legal grounds to challenge conversion plans in a way that would likely have a far-reaching impact on residential development in the city.

The Sheffield's owners, a partnership between Kent Swig, Yair Levy, and Serge Hoyda, have vowed to appeal the ruling but some legal experts say that it is like to stand.

"I think that the judge took a very black and white interpretation of the Martin Act," said Adam Leitman Bailey, a real estate lawyer, of the law that prevents tenant eviction after a building's conversion has received attorney general approval. "If the tenant is in the building, even though they really have no legal right to be there anymore, the judge basically said they can then stay. But that's New York City residential law. For landlords sometimes it feels like you're in Communist Russia or China."

Already, another tenant group is using the same process to stave off eviction at Manhattan House, a large Upper West Side rental building that is being converted to condos. Legal observers expect their case to also reach a judgment in favor of the tenant group.

Both that group and the collection of holdout tenants at the Sheffield number barely over 20 and occupy just a fraction of the hundreds of units in each building. The Sheffield's owners have said that if their appeal is unsuccessful and the group is allowed to continue to rent, it will likely make little difference to their bottom line. But developers have already begun to envision scenarios in which such tenant resistance won't be so innocuous to their conversion plans.

Assured by the success that residents have had at the Sheffield and potentially also now Manhattan House, tenant groups may begin to grow in size. If tenants control a sizeable enough portion of a building they may be able to prompt landlords to cancel their conversion plans because it often makes little economic sense to convert just a fraction of a rental building.

“For us, it’s not a big deal,” said Dan Deutsch, an executive vice president at YL Real Estate Developers, a part owner of the Sheffield. “We’re going to get market rents for the apartments and when you look at it, they comprise a very small portion of the building. But I think that this is going to be worrisome for developers going forward. I think a lot of developers are paying close attention to this case.”

It also could greatly aid the bargaining position of residents in negotiation with a building owner who has conversion plans. Landlords may now have to offer richer concessions to tenants who will be displaced or offer residents discounted condos – all of which could affect the economics of condo development by creating added expenses for building owners.

“It’s going to make it almost impossible to work out a deal for a conversion,” said Maurice Mann, a real estate investor who owns a number of rental buildings. “If anyone has all the power they’re always going to want something more and you’ll never reach a deal that both can agree on.”

Mann was part of a partnership that recently acquired the Upper West Side luxury rental building, the Aphorp. Although Mann said that the building will continue to operate as a rental property, rumors have circulated the building will be converted into condos to the consternation of its residents