



## NEWS UPDATE JUNE 13, 2006

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### J-51 LITIGATION UPDATE :

(This article contains background information for those who need some further understanding.)

There are currently two cases pending in New York State Supreme Court to protect IPN tenants' rights to fair *and legal* rents. These lawsuits were forced upon the plaintiffs by the landlord's failure to honor its promises or to follow the law. The landlord's consistent failure to be truthful or treat tenants fairly when it comes to rents makes clear that there is little reason for IPN tenants or the IPNTA ever to trust the landlord's statements or actions.

In the first case, filed in September 2004, 20 long-term tenants and the IPNTA are asking the court to force the landlord to abide by a March 2004 agreement between the landlord and the IPNTA. These plaintiffs include: several who have lived at IPN for nearly 30 years; several are artists; several are self-employed; several are retired; several are families with school aged children or younger. (There are also 3 plaintiffs who were supposed to be transferred to larger apartments.)

The March 2004 agreement was designed to protect Mitchell-Lama residents' right to remain in their homes at affordable rents. It was based on the assumption that once removed from the Mitchell-Lama program, IPN would no longer be subject to rent regulation. Market rate rents would have meant that most long-term tenants would have lost their homes.

The agreement promised tenants who were not eligible for sticky vouchers that their rent would be based on the last Mitchell-Lama rent they paid. The landlord coerced dozens of long-term tenants into paying rents based on amounts higher than the last Mitchell Lama rent they paid. The tenants who are suing refused to be coerced. When the landlord refused to honor its agreement, these tenants and the IPNTA were forced to sue. The lawsuit also addresses rights of tenants who were denied the opportunity transfer to larger apartments after having waited for years to do so when IPN was taken out of the Mitchell Lama program.

We are waiting for the judge's decision on a number of issues in this case – not the least of which is a request to include in this case, the issue which is the subject of the second lawsuit.

The second case was filed in December 2005 by seven "free market" tenants who moved in after IPN was taken out of the Mitchell-Lama program. This case asks the court to enforce J-51 rent stabilization rights across the board – for IPN tenants who lived here before IPN was removed from the Mitchell-Lama and those who are the first tenants to move in after a Mitchell-Lama tenant moved out.

IPN's owners received the J-51 tax abatement every year beginning in 1998. Apartments in buildings receiving this abatement must be rent regulated. If landlords fail to tell tenants about the J-51 abatement in each lease & lease renewal, the apartments continue to be rent stabilized even after the termination of the abatement for as long as the tenants in occupancy & those with succession rights reside in them. J-51 means that after removing IPN from the Mitchell-Lama program all Mitchell-Lama tenants as well as the first tenants to take occupancy after a Mitchell-Lama resident vacated an apartment were supposed to receive rent stabilized rents.

We all know that's not what happened. The judge in this case (the same judge who is hearing the other case) has ordered the landlord not to raise the rents of the seven plaintiffs or evict them while waiting for her decision. The lawyers were in court for arguments before the judge on May 18. At that time the judge ordered the landlord to continue not raising these plaintiffs' rents and not to evict them pending her decision which probably won't be made several weeks or months. The judge will also be making another important decision. In March of this year (after IPN received the abatement for eight years and after the lawsuit was filed) the landlord paid the city back the amount taken after the buyout on 6/28/04 of the abatement and now claims that having belatedly paid the taxes, the J-51 rules no longer apply. But actions taken in March 2006 cannot change the law that applied from 1998 to 2005. Plaintiffs argue that IPN must be rent stabilized. The judge may decide who is correct – should the case be dismissed or should IPN be rent stabilized.

POLITICAL UPDATE

At this time, we have the ears of our elected officials regarding the J-51. Borough President Scott Stringer, who's strong letter is printed in this news update, has devoted part of his legal staff to our issue. We have also had a rep from the Exec. Board meet with Councilmember Alan Gerson and staff and our attorney to discuss what his office will be doing in support of our efforts. We have also spoken to State Assemblymember Deborah Glick and Congressman Jerold Nadler. We are working on a joint meeting with all of our elected officials to make a plan on promoting our rights. This issue affects IPN but there are much bigger implications and it is of great interest to our electeds to be a part of it. Strategically speaking, now is the time for us to exert the political support. We will let tenants know when we need them to show up for an old fashioned IPN show of strength!

We appreciate the strong support shown by Stringer so far. He would like to come to IPN and speak to our tenants and a meeting for the near future is in the works.

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THE CITY OF NEW YORK  
**OFFICE OF THE PRESIDENT**  
BOROUGH OF MANHATTAN

**SCOTT M. STRINGER**  
BOROUGH PRESIDENT

May 15, 2006

Commissioner Shaun Donovan  
Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038

Dear Commissioner Donovan:

I write regarding a matter that gives me cause for concern and that I fear, unless remedied, will create yet another loophole for owner evasion of affordable housing preservation.

The tenants of Independence Plaza North ("IPN") have brought to my attention that when the owner of IPN withdrew the property from the Mitchell Lama Program on June 28, 2004 ("Dissolution Date"), the property was still receiving a partial abatement of real property taxation pursuant to Real Property Tax Law §489 and Administrative Code §11-243 ("J-51 Abatement"). According to HPD regulations, IPN's receipt of J-51 tax abatement benefits required IPN's units to remain rent stabilized following their exit from the Mitchell Lama program.<sup>1</sup> However, immediately upon IPN's exit from Mitchell Lama, the owner removed the units from rent protections and increased tenants' rents higher than what would be permitted by rent stabilization.

It is also my understanding that the termination date of J-51 abatement benefits for IPN was revised to coincide with the Mitchell Lama exit date, June 28, 2004, even though the owner apparently continued to receive the abatement benefits through March 2006. Original Department of Finance records as of March 2006 showed that IPN had been receiving J-51 abatement benefits from 1998 through 2006. In a letter dated March 23, 2006, HPD Assistant Commissioner Julie Walpert wrote to Rose Horton of the Department of Finance, stating that "HPD has determined that the J-51 Abatement should have been terminated, and the Property should have been restored to full taxpaying status, on the Dissolution Date." The Department of Finance adjusted its records to reflect the new termination date as June 28, 2004.

Adjusting the records does not negate the fact that the property had been receiving the J-51 abatement from the Dissolution Date until the end of March 2006 and that all units that had received abatement benefits should have remained under rent regulation until the first vacancy following the termination of the benefits pursuant to the Rules of the City of New York §5-03. In addition, assuming the revision of the termination date was the result of a revocation of benefits by HPD, such a revocation should not have affected the continuation of rent stabilization for units that had been receiving J-51 benefits.<sup>2</sup>

As soon as HPD became aware of the rent increases following dissolution and the ongoing J-51 abatement, it should have taken immediate action to remedy the oversight by maintaining the residents under rent regulation. The residents, not knowing that the owner was receiving the J-51 Abatement and that they were therefore protected by rent regulation,

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<sup>1</sup> A unit receiving J-51 tax abatement benefits "shall remain subject to rent regulation until the occurrence of the first vacancy after tax benefits are no longer being received for the building at which time the unit shall be deregulated, unless the unit is otherwise subject to rent regulation". 28 RCNY §5-03(e)(3)(i)(A).

entered into an agreement with the owner. Under the agreement eligible residents received Section 8 enhanced vouchers, while residents not eligible for Section 8 received the benefits of the Landlord Assistance Program (“LAP”).

The LAP provided that (1) on the sixty-first day after the Dissolution Date, the residents’ rents would increase from their last Mitchell-Lama rent (including all current surcharges and other adjustments in rent) in accordance with the New York City Rent Guideline Board (“RGB”) increases for that time, 4.5% for one-year leases and 7.5% for two-year leases; (2) until the ninth anniversary of the Dissolution Date the residents’ rents will continue to increase in accordance with RGB increases; (3) beginning on the ninth anniversary of the Dissolution Date, the residents’ rents will be further increased (beyond the RGB increases) by 3.33% for three consecutive one-year periods; and (4) after the twelfth anniversary of the Dissolution Date, the residents’ rents will be further increased (beyond the RGB increases) by 1% for each year. While the LAP offers a measure of protection to the residents, the rent increases are clearly greater than those that would have been permitted under rent regulation.

Also, the residents receiving Section 8 enhanced vouchers are now unnecessarily reliant on the federal Section 8 program and its requirements. Some residents will see higher rent increases than they would have under rent stabilization, while all residents will have to submit annual income statements that may result in rent increases. If a resident becomes income-ineligible for Section 8 at any time, then the resident will have to pay market rent. Finally, a resident’s apartment must meet Section 8 housing quality standards, including the mandated number of bedrooms for the household size. If residents had been placed under rent stabilization they would not have been confined by the requirements of the Section 8 program.

When my staff inquired about the erasure of the J-51 Abatement record without keeping the residents in rent regulation, Gary Sloman, HPD Director of Operations, responded that HPD felt that the LAP was better for the residents than rent regulation since the J-51 abatement would have naturally terminated in a few years. Residents claim that they were never consulted about what was more beneficial to them. In addition, even with the termination of the J-51 abatement the residents should have remained in rent regulation until vacancy pursuant to the RCNY §5-03. Finally, the owner’s failure to notify the residents of the J-51 abatement during the negotiations for the new voucher and LAP agreement preceding the Dissolution Date was not in good faith. Given this, the owner should not be rewarded with HPD sanctioned evasion of the rent regulation requirements of the J-51 Abatement.

I look forward to your response to this letter, so that I may understand HPD’s rationale for allowing the 1,329 units at IPN to be lost first from Mitchell Lama and then from rent regulation at a time of affordable housing crisis. I urge you to take immediate action to place the appropriate units in rent regulation.

Sincerely,  
Scott M. Stringer  
Manhattan Borough President



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<sup>1</sup> “Rent regulation shall not be terminated by the waiver or revocation of tax benefits.” 28 RCNY §5-03(e)(ii).

COMMUNITY NEWS :

CB1 has now reactivated its important “Quality of Life Committee,” which was functioning years ago when IPN tenant Anne Compocchia was Chair. Some of the topics for this year’s discussion and action, of interest to IPN tenants are: **Affordable Housing - Health - Sanitation** (including the important rat problem downtown)(responsible dog walking, i.e. picking up after dogs) - **Construction noise and vibration** - (anticipated numerous construction jobs for the next 10 years) - **Graffiti - Emergency Preparedness - Schools - Security and Police.** IPN’s input has obviously played a role in these important topics. Additionally, CB1 is working on curtailing the proliferation of tour helicopters downtown and the closeness of flight to buildings, to view Ground Zero.

FLOR DE SOL

On the “Tribeca Committee,” discussion about renewing Flor de Sol’s sidewalk café license came up. In response to numerous complaints here at IPN, it was reported that many tenants at IPN, as well as neighboring buildings facing Greenwich Street are not happy with the noise and music that emanates from the restaurant once the weather turns warm. The entire front of the restaurant is open during these months and live music, etc. reach the 39<sup>th</sup> floor of IPN. When this issue is presented during a full board meeting for a vote, it is suggested that affected IPN tenants show up to speak about having the front doors closed, especially during performances. We will post the date of the meeting.

AIR FLIGHT PATTERN:

For all those who began doubted their own senses that flight patterns of planes heading towards or away from Newark Airport seem closer to IPN and flights seem more frequent since 9/11/01– here’s the good news and the bad news. You are not imagining it! Since 9/11/01 there is much more restricted air space. Therefore more planes are flying closer to IPN and Tribeca than ever before. Though it doesn’t make sense to IPN tenants, it’s part of the National Security plans.

Gary Smiley, a member of the FDNY, and tribeca's CERT coordinator, will be attending our June CERT meeting and we would love to have guests from IPN in attendance to see how CERT runs. Please come down and see where the action is! – Jean Grillo, Tribeca CERT co-director

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BUILDING SERVICES COMMITTEE REPORT

Buildings bought out of the Mitchell Lama program by private owners undergo a considerable reduction in services, and IPN is no exception. Add to that the noise and inconvenience of ongoing renovations, and you have a volatile situation and an angry tenant body. Please do not direct that anger against the Building Services Committee (BSC). We are volunteers. We do our best. We are not turning off the water or breaking the elevators.

Here is what we do. BSC meets officially with management one to two times a month and communicates daily to negotiate timely delivery of services for IPN tenants. Right now, some of our main concerns are: the delays in balcony renovation on some lines that have deprived tenants of their warrantee of habitability, the ongoing noise, dust, and inconvenience to townhouse tenants subjects to plaza renovations, timely replacement of appliances, appropriate repair of apartments damaged by outside circumstances, and changes in policy regarding billing tenants for repairs previously done for free. Our tools range from conversation to negotiation to confrontation and to litigation. Tenants not satisfied with BSC results are encouraged to take their cases to small claims court, where, in recent experience, claims have been resolved in the IPN tenant's favor. (Document all correspondence with management—telephone calls and dates, letters, bills, etc.)

Meantime, to tell us about a problem or to volunteer to help, drop a note in the lobby box or e-mail [vclammer@aol.com](mailto:vclammer@aol.com) or [vicki40harrison@aol.com](mailto:vicki40harrison@aol.com).

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MEMBERSHIP DRIVE RESULTS

The membership drive is over on June 15<sup>th</sup> and the IPNTA has maintained a stable membership base (around 680.) There have been many changes over the last year. And even though the membership drive may be finished, you can always join or make a donation to help undercut the costs facing the TA. Membership is per tenant, not apartment: Per tenant: \$20.00 Per senior tenant: \$10.00 (65 and over). You can put your checks in the tenant box in the lobby (not to be confused with Management's rent box.)

Thanks to all of you who have shown your support by joining the IPNTA. We continue to represent you on many fronts – here at IPN, in the community, and with issues that concern New Yorkers in general.

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MEETING WITH TENANT ASSOCIATIONS from LAWRENCE GLUCK BUILDINGS (Glucked?)

This June a meeting took place with representatives of twelve other buildings owned by Lawrence Gluck. Two members of our Exec. Board and a few Committee Heads were joined by other TA reps from across the city (all boroughs). Other buildings could not make this meeting, but are interested in our discussions. The meeting was sponsored by UHAB. (Urban Homesteading Assistance Board). For the past quarter century, UHAB's primary work has been helping to create and support low-income co-ops in New York City. They heard our complaints and extended their support to allow us to use their facilities while moderating the meeting. Stories from other Gluck buildings are familiar and sometimes worse. All present are interested in a joint plan of action and we will keep you posted as these meetings progress.

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WELCOME TO NEW TENANTS.

For those of you who have recently moved to IPN, we welcome you to one of the most amazing communities in New York City. In spite of our struggles, this is a place where people make good friends and become good neighbors. The Independence Plaza Tenant Association (IPNTA) is here if you need help. IPN is a large complex and often one voice is not enough to be heard. We've got the experience. Feel free to drop us an email: [Info@IPNTA.ORG](mailto:Info@IPNTA.ORG) or leave a note in the tenant box with your contacts.

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NEWS UPDATES:

We've been posting frequent updates in the plastic sleeves in the hallways. Please do not remove them so all neighbors may read them. If you'd like to get a copy emailed to you, please send your email address to: [Info@ipnta.org](mailto:Info@ipnta.org).

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IPNTA EXECUTIVE BOARD

President – Diane Lapson; Secretary – Judy Bernstein; Treasurer – Jean Hartman  
VP 80 N.Moore (Bldg 1)- Ed Rosner; VP 310 Greenwich (Bldg 9) – Kathleen McGovern VP Townhouses: Manuel Cabrero  
VP at Large: John Lynch & Felix Ortiz  
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