



# A MITCHELL-LAMA TENANT'S BUYOUT HANDBOOK

by Sue Susman

in collaboration with the  
**Community Service Society**  
**Met Council on Housing**  
**Mitchell Lama Residents Coalition**  
**NYS Tenants & Neighbors Coalition**

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**INTRODUCTION**

This handbook includes information on what a “buy-out” is in a Mitchell-Lama rental building in New York City, the consequences, what you can expect, and how you can fight it. It ends with several resources, including how you can organize or strengthen an existing tenant association, a list of lawyers, one of supportive organizations and websites, sample flyers, and a housing survey.

**BACKGROUND**

“Mitchell-Lama” rental buildings were created all over New York State to provide affordable housing to lower- and middle-income tenants. Under the law sponsored by legislators Mitchell and Lama, landlords got

- Extremely low-cost (or no-cost) land
- Low-interest mortgages
- Ownership of a development– but they only had to invest 5% of the cost.
- Guaranteed return of 6% on their investment.

Rents under Mitchell-Lama are limited, based on landlords covering their expenses (including repairs and things like new windows).

The Private Housing Finance Law governs Mitchell-Lamas. In New York City, depending on who provided the mortgage, Mitchell-Lamas are supervised by either

- New York State’s housing commission, the Division of Housing and Community Renewal (DHCR) (sometimes with the federal Department of Housing and Urban Development (HUD); or
- New York City’s housing department, the Department of Housing Preservation and Development (HPD) – sometimes together with HUD.

The Private Housing Finance Law permits building owners to pay off their mortgages early, after a period of 20 or more years (depending on the land development agreement) and to privatize the Mitchell-Lama building. Buildings built *before 1974* go into a form of rent regulation called rent stabilization. Those built *after Dec. 31, 1973* lack that protection and can go to whatever the market will bear (unless their landlord got tax breaks under a program called J-51 or a loan under HPD program “8A”).

## **MAIN ISSUES**

What happens to tenants in most buildings being taken out of Mitchell-Lama depends in part on when the building was constructed. That is because the Emergency Tenant Protection Act of 1974, a state law, puts all apartment houses built before 1974 into rent stabilization, leaving the later buildings without rent protection once they leave Mitchell-Lama.

But there’s a catch even for the pre-1974 buildings, which become rent stabilized. Landlords are seeking huge increases in rent under a provision of law called “unique or peculiar circumstances” – explained on *pages 16-17*.

Those built after Dec. 31, 1973 can go directly to free market rate, without protection for tenants other than “enhanced” Section 8 vouchers (see *page 21*) for some tenants in buildings that had “236” federal subsidies (see *page 14, 15, 21*), or what they can negotiate with the landlord and the city. See *pages 19-22*.

## **BUY-OUTS**

### ***What is “buying out”?***

“Buying out” means the landlord is pre-paying the mortgage for a building in order to take it out of the Mitchell-Lama program.

It does not mean that the tenants get paid any money.

It is clearer to say “the owner is taking the building out of the Mitchell-Lama program” — but the expressions “buyout” or “the landlord is buying out” are common on websites like that of New York State’s Division of Housing and Community Renewal.

The limited-profit housing company that now owns your building may dissolve (so the buyout process is sometimes called “dissolution”), and a new for-profit company will take over. The change does not require different owners.

### ***Why should tenants be concerned?***

Leaving Mitchell-Lama means that rents will no longer be based on the landlord getting only a 6% profit over his expenses.

In the best situations – in buildings **built before 1974** – landlords may be limited to rent stabilization increases averaging about 5 - 6% a year. But even for those buildings, landlords are demanding additional rent increases between 3 and 8 times what tenants are paying now. Landlords are claiming “**unique or peculiar circumstances**” entitle them to these enormous hikes. See *page 16*. (“**236**” buildings may be different. See below.)

In buildings **built after Dec. 31, 1973**, tenants face similar enormous increases to market rate, but with almost no protections against evictions. See *pages 19-22*. (“**236**” buildings may be different. See below.)

In “**236**” buildings whose owners received a federal mortgage subsidy, subsidized tenants generally pay 30% of their income, but some could see a rent increase even if they go into rent stabilization. See *pages 14, 15, and 21*.

So we tenants must protect ourselves – to keep rents affordable and to keep our homes. See *pages 24-33*.

### ***Why did landlords get into Mitchell-Lama in the first place?***

Well-connected landlords got benefits for being in the Mitchell-Lama program. They got

- extremely inexpensive, land (that the government had taken over),
- government-subsidized (cheap!) mortgages
- a guaranteed 6% return on their investment
- a requirement that they invest only 5% of the project’s entire cost!, and
- lower taxes.

This was to persuade them to build in poor neighborhoods that the government decided needed development and affordable housing.

### ***Aren’t landlords entitled to buy out after 20 years? (or longer under some agreements)***

Yes **but** . . . the question is what happens to the people who live in these buildings. Tenants were

never told that our apartment status would change after 20 years or so.

The landlords have not suffered: Having invested in many cases only 5% of the project’s cost, they were given low-interest mortgages, ridiculously cheap land, tax breaks, depreciation write-offs that often exceeded their other profits, hefty management fees, and a guaranteed 6% return on their investment.

Affordable housing is a necessity in New York City if the city is to function: we are the people who staff the city’s schools, libraries, hospitals, transit system, offices, social-work centers, theaters and music and art programs. The City and State rightly decided that having middle income housing is crucial — and that is no less true now than it was in 1955 when Mitchell and Lama proposed their bill to the New York State Legislature.



So to answer a question with a question: Is the City’s need for affordable housing outweighed by a landlord’s “need” to make more than a 6% profit (and large management fees) on land obtained dirt-cheap?

### ***How can we postpone or prevent leaving Mitchell-Lama?***

It is hard to prevent a landlord from taking your development out of Mitchell-Lama. Delaying or preventing a buyout depends on the building’s history: what agreement did the city and landlord come to about how the land could be used? Was it meant to be “affordable” forever? For 35 years? and so on. So you have to investigate – by using the internet



([www.save-ml.org](http://www.save-ml.org), click on “Find your building” to see your home’s borough, block and lot numbers), and then further on that page, going to the Dept. of Buildings and the Dept. of Finance websites. Look up the earliest documents such as the Board of Estimate Approval (which would contain any restrictive land use covenant), the deed, the mortgage, and related documents. In HPD buildings, those documents should come to you with the buyout notice. In DHCR buildings, use the internet to see whether any document requires that you stay in Mitchell-Lama longer. Bring it to your lawyer’s attention. In HUD buildings, check your mortgage for reference to Section 250 of the federal housing law that may keep the building affordable.

Tenant Associations in a couple of buildings have figured out how to buy their buildings from the owners with outside support. This will be easier for Mitchell-Lamas built from 1974 on, under Local Law 79 if it survives a pending lawsuit by landlords, or if a similar state law is passed. See *page 19*. In those cases, the building might remain in Mitchell-Lama, as a rental or a co-operative.

### ***Will anyone be evicted because we leave Mitchell-Lama?***



**If your building was built before 1974 (or is still under J-51 or 8A), you cannot** be evicted by the landlord except for specific violations like not paying your rent or maintaining

a nuisance in your apartment. That is because tenants in these buildings are protected by rent stabilization laws. However, landlords want to make lots of money — which is most easily done when an apartment is vacant: the landlord can raise the rent

with each new vacancy, and can make “improvements,” 1/40 of whose cost will be added to the rent. If the vacancy’s rent is over \$2000, that takes the apartment out of rent stabilization, and that gives landlords a big incentive to try to oust existing tenants.

To protect yourselves, you and your fellow tenants must make sure everything is in order and

- Make clear that this is your primary residence (you do not live elsewhere). For that, landlords often look at
  - where you pay taxes
  - where your car is registered
  - whether you own any property elsewhere
  - where you vote.
- Pay your rent on time. (There is no automatic grace period!)

**If your building was built from 1974 on and is not protected by J-51 or 8A,** you may be evicted for a variety of reasons – but the main one would probably be that you can’t afford the rent.

### ***What about Seniors and the Disabled?***

You may be entitled to **freeze** your rent at the current level under the Senior Citizen Rent Increase Exemption (SCRIE) or the Disabled Rent Increase Exemption (DRIE) if you live in a Mitchell-Lama or rent stabilized building, and you now pay — or are facing an approved rent increase that would have you paying — at least 1/3 of your household income in rent.



**If you are 62 and older** and your total household income after taxes is under \$27,000 (going up to \$28,000 in Oct. '08; and \$29,000 in Oct. '09), apply for the Senior Citizen Rent Increase

Exemption (SCRIE) from the City's HPD as soon as you get notice of a rent increase.

**If you are disabled – of any age – and** you meet Social Security or Veterans Administration standards for disability, and your household income would not disqualify you for SSI (about \$18,060 yearly income for one person, and \$25,000 for two people), apply for the Disabled Rent Increase Exemption (DRIE) from New York City's HPD.

**But:** → If you get **DRIE** or **SCRIE** and **your apartment leaves Mitchell-Lama and is not in rent stabilization, you will lose your DRIE or SCRIE.** So if you are in a development built in 1974 or later (and your landlord never got J-51 or 8A loan benefits), your DRIE or SCRIE will end.

That is because under DRIE or SCRIE, the tenant's rent is frozen at the last payment level, while the government pays the rest. But the government is unwilling to pay if the total rent is unregulated and therefore unlimited.

If you get an enhanced voucher once your building leaves Mitchell-Lama and is no longer otherwise regulated (see page 22),

- Your rent will be the higher of roughly 30% of your household income or the last rent you were paying, and
- As a disabled or elderly person you may be able to keep that voucher and stay in your apartment even if it has more rooms than HUD says is appropriate.



Aside from these remedies, seniors and the disabled have no special protection against rent increases or evictions – unless tenants negotiate that protection with the landlord.

## ***How can we minimize future costs now while we are still in Mitchell-Lama? (mainly for pre-1974 buildings!)***

### **In DHCR-Supervised Buildings:**

If your building is DHCR-supervised, the landlord keeps any money left in the building's capital reserve fund upon leaving Mitchell-Lama. That fund, which comes from your rents,

is for major repairs like a new roof, windows, or elevators. **But** DHCR can order the landlord to put that money into an **escrow account** for repairs and replacements over



the five years after the buy-out. So in pre-1974 buildings it is worth hiring a building engineer and an elevator engineer to do a report.

Further, under rent stabilization (unlike under Mitchell-Lama), a landlord is allowed to raise your rent permanently for a "major capital improvement" (MCI). So unless an item is on the DHCR list and accounted for in the escrow account, the landlord could keep the money from the capital improvement fund and permanently raise your rent for any MCI. That means you would pay for those improvements twice: once with your Mitchell-Lama rents and again under rent stabilization. In at least one building, DHCR ordered the landlord to put more money (\$1.4 million in all) into the escrow account than he actually had in the capital improvement fund.

Those engineering reports (and letting DHCR know you are having them done) both save the tenants money later and may delay the buy-out.

### **In HPD and HUD-Supervised Buildings:**

If your building is supervised by **HPD** (or a combination of **HPD** and **HUD**), any money left in the capital reserve fund goes back to the City when the building leaves Mitchell-Lama, rather than to the landlord.

But try to get HUD to roll back your rent: If you got an increase to pay for capital improvements (such as elevator repairs or new windows), make sure they have actually been done. Similarly, if your rents have already paid for a capital improvement that has been completed, ask HUD for a rent roll-back – before the building leaves Mitchell-Lama.



**If the Owner seeks a rent increase before you leave Mitchell-Lama**, review the budget with a fine-tooth comb, and insist that the hearing on the rent increase be held in your building.

### **WHAT IS THE BUYOUT PROCEDURE?**

- If you live in an **HPD-supervised** building, you will get a notice one year in advance. If you live in a **DCHR-supervised** building, you will get a notice 90 days in advance (soon to be 1 year.)
- Both DHCR and HPD have checklists to see if the landlord may buy out of Mitchell-Lama. Contact the agency supervising your building and ask for the checklist. Make sure the landlord has met every item, and that you have copies of what the landlord submits.
- If your building had a federally-subsidized mortgage under the “**236**”, you will receive an application for an enhanced Section 8 voucher to keep your rent from going up when the subsidy is lost. See *pages 14, 15 and 21*.

- Your building’s owner will notify you of a meeting for all tenants, at least 60 days before the buyout to hear what the owner has to say about his plans for the building. You and your neighbors should
  - prepare questions in advance;
  - invite local politicians to attend;
  - invite your Tenant Association’s lawyer to attend; and
  - go yourself, and show unity and strength.
- The building leaves Mitchell-Lama on approximately the date set – unless your Tenant Association and attorney find a way to delay it.

*Tenants in **pre-1974** buildings or later buildings that received **J-51** or **8A** loan benefits should read below. Those in buildings built in **1974** or later, should jump to page 20.*

### **For all Pre-1974’s (and later buildings whose owners benefited from J-51 or 8A):**

Your apartment goes into rent stabilization upon leaving Mitchell-Lama, and – except for subsidized tenants in 236 buildings – the starting rent is exactly the same as the total (including surcharges) you paid under Mitchell-Lama.

If you are a subsidized tenant in a **236** building – with a federally-subsidized mortgage – you must apply for an “enhanced” Section 8 voucher (see *page 21*) to keep your rent at that same level. That is because your landlord will be losing a federal mortgage subsidy, and will pass that subsidy loss on to you as a rent increase. That pass-along does not happen to tenants in buildings without a federal mortgage subsidy.

When your current lease expires at the end of its normal term, you'll be issued a new lease under rent stabilization. The new rent will include any increase determined each year by the Rent Guidelines Board.

## RENT REGISTRATION

Within 90 days after the buyout, the owner must **register the starting rents** with the NYS Division of Housing and Community Renewal's Office of Rent Administration. It will use the Initial Apartment Registration ("RR-1(i)") form to determine your starting rent for rent stabilization.

Within a few weeks of leaving Mitchell-Lama, the owner will send you an "initial rent registration" form (RR-1(i)). That will state the number of rooms in your apartment – the number to be used later if the landlord asks for a "major capital improvement" hike in your rent, or your rent is reduced because the tenant starts paying for electricity separately. In addition, the owner must fill out and post a form explaining what services are covered by the rents (form RR-3). If the landlord's form is not posted, ask the landlord for it and notify HPD or DHCR that it is missing.

- ▶ In buildings with no federal mortgage subsidy, your starting rent should be IDENTICAL to the last rent paid under Mitchell-Lama -- including surcharges.
- ▶ In **236** buildings, the stated rent may be what HUD calls "market" rent – which would mean an increase if your rent is now subsidized. To keep paying the same amount as you were paying under Mitchell-Lama, you must get an enhanced voucher. See *page 21*.



Tenants have 20 days to inspect and protest any RR-1 or RR-3 errors. Check the RR forms (front & back) to make sure they state correct rents & number of rooms.

The Tenant Association should consult with its attorney to prepare a response for EVERY tenant to sign.

Have tables in the lobby for several days to help tenants prepare those responses.



Use the opportunity to educate tenants and sign them up for the Tenant Association.

Submit all protests to DHCR's Office of Rent Administration together in one or two cartons with a cover letter.

If the registration form does not list (or the owner is cutting) existing services such as a storage room, community room, laundry machines, television antenna, etc., consider filing an application with DHCR for a rent reduction based on diminution of services.

**IF your building is rent stabilized because of J-51 or 8A** (programs giving your landlord tax breaks for doing major repairs), your rents will go up according to the Rent Guidelines Board annual increases, plus a percentage of Major Capital Improvements, and possibly "hardship" (if the landlord isn't making enough profit!). The landlord cannot apply for an additional "unique or peculiar circumstances" increase (see below for an explanation of that phrase). Check with your lawyer about whether J-51 or 8A loan benefits bar buildings

from leaving Mitchell-Lama in the first place. It is often very hard to verify whether your landlord received J-51 or 8A benefits, but it's worth the research!

**All other pre-1974 buildings face a possible "UNIQUE or PECULIAR CIRCUMSTANCES" rent increase application from the landlord.**

Within **60 days** of leaving Mitchell-Lama, the new corporation that owns your building is likely to send a notice of its application to the NYS Division of Housing & Community Renewal's Office of Rent Administration, for an increase in the starting rent for rent stabilization based on "**unique or peculiar circumstances.**"

This comes from a section of the Emergency Tenant Protection Act of 1974 (a state law that puts all pre-1974 apartments into rent stabilization). The section, listed in the rent laws as Rent Stabilization Law Section 26-513(a), may affect the starting rent for each apartment (perhaps not those with enhanced vouchers – consult your lawyer!) It says:

***a. The tenant or owner of a housing accommodation made subject to this law by the emergency tenant protection act of nineteen seventy-four may, within sixty days of the local effective date of this section or the commencement of the first tenancy thereafter, whichever is later, file with the commissioner an application for adjustment of the initial legal regulated rent for such housing accommodation. The commissioner may adjust such initial legal regulated rent upon a finding that the presence of unique or peculiar circumstances materially affecting the initial legal regulated rent has resulted in a rent which is substantially different from the***

***rents generally prevailing in the same area for substantially similar housing accommodations.***

- In buildings built before and through 3/10/69, only those apartments vacated on or after 7/1/71 may get those notices.
- In buildings built after 3/10/69, all apartments may get those notices.

The landlord will likely **claim the "unique & peculiar circumstance" is that your development is leaving Mitchell-Lama or has never been market-rate.**

In November 2007, DHCR published new regulations that state that just leaving Mitchell-Lama is not in itself a "unique or peculiar circumstance." These regulations apply everywhere in New York State that the Emergency Tenant Protection Act applies.

But owner Larry Gluck (Stellar Management) and owner Steve Witkoff (Witkoff Realty) have challenged the regulations themselves and their application. So those cases are pending in court.

Tenants in one development should respond THROUGH A SINGLE LAWYER on behalf of the Tenant Association and not respond individually, even though each apartment will get a separate notice with a separate rent increase demanded.

It is not clear whether enhanced Section 8 vouchers for tenants in former 236 buildings (pre-1974) will protect them from these increases. **Consult your lawyer.**



## For Mitchell-Lamas Built From 1974 On

Your landlord is allowed to take your building out of Mitchell-Lama and charge whatever the market will bear unless your building received a tax abatement under the New York City **J-51 or 8A** programs (which subsidized repairs or replacements).

**J-51 or 8A** *might* keep buildings from leaving Mitchell-Lama, and if they do leave, require that – whatever year they were built – they go into rent stabilization for a set period of years. Find out whether your building benefited from J-51 by searching on the internet ([www.save-ml.org](http://www.save-ml.org)), checking with the Dept. of Finance. (At least one building had to do a title search to find out.) It can make the difference between an affordable home or none. Consult your lawyer!

In addition, if New York City **Local Law 79** survives a legal challenge by landlords – or a state bill is passed with the same effect – tenants in post-1973 Mitchell-Lamas will have the first right to buy the building (with the help of a non-profit organization) should your landlord decide to take your building out of Mitchell-Lama. If the landlord refuses the tenants' offer at the legally appraised price, he must keep the building in Mitchell-Lama. But finding affordable funding for the tenants is hard.



If you organize and involve your state and local representatives, you may be able to get

- Section 8 enhanced vouchers for tenants who qualify in **236** buildings (see *page 21*);
- a “landlord assistance plan” to subsidize non-voucher tenants (see *page 22*);
- some tax breaks to keep costs lower for the landlord and therefore for the tenants.

## How high can the rents go ?



The rent in buildings constructed from 1974 on, can legally go to whatever the market will bear -- unless your building received benefits under the **J-51** program (for repairs or replacements).

To soften the blow, many middle-income tenants in buildings with a federal mortgage subsidy (“**236**” buildings) may be eligible for “Section 8 Enhanced Vouchers” (also called “sticky vouchers”). See the next page for more on those. Seniors and the disabled have no special protection built into the law once the rent is not regulated, but may apply for enhanced vouchers.

Because rents can legally go sky-high, now is the time to organize.

Investigate whether your building’s documents will let you stay in Mitchell-Lama. Check whether a non-profit organization (a community group, community bank, union, church, for example) can try to buy your building to keep it affordable.

Ask your City Council representative to help you find funding, and to contact HPD Commissioner Shaun Donovan, or ask your State Senator or Assembly Member to help you contact DHCR Commissioner Deborah VanAmerongen and other officials to see whether something can be done.

Contact tenant groups listed at the end of this booklet (see *page 36*) for support and suggestions.

## **What about “enhanced”(“sticky”) Section 8 vouchers?**

If your building’s mortgage was subsidized by HUD’s Section 236 (see *pages 14, 15*), you may be eligible for a Section 8 “enhanced” (also called “sticky”) voucher, under a federal law. Timing matters: Enhanced vouchers are only available to tenants when the building owner is leaving a federally-subsidized program. These vouchers cannot be obtained by individual tenants later.

- If you get an enhanced voucher, your rent will be governed by federal rules. Under those rules, you will never pay less than the current rent you are paying under Mitchell-Lama – since the purpose is to keep things in place, not to give you an additional benefit.
- The general goal is to keep your rent at 30% of your income. So if your current rent is less than 30% of your income, you will not qualify for an enhanced voucher – but apply anyway in case your income drops before the buyout.
- An enhanced voucher will keep your share of the rent at 30% of your income – even if the landlord raises the rent or your income drops substantially – for as long as the voucher lasts.

While you pay 30% of your income, the government pays the rest of the rent to the landlord, as long as the rent is “reasonable” (an undefined term!). So landlords love this, but it is **not guaranteed** and every year the federal government fights to reduce enhanced vouchers or to cut them out altogether.

It takes a few months for eligible tenants to receive their vouchers, so applications are distributed a few months before leaving Mitchell-Lama. Within 1 year of getting a voucher, tenants are expected to live in

(or move to) a size apartment that fits federal guidelines for the household size and composition. However, as long as you are on the waiting list for a smaller apartment, you may stay where you are until one becomes available. And the apartment must pass inspection, so get the landlord to make those repairs now.

For more information on vouchers in New York City, look at the website: [www.nyc.gov/html/hpd/html/for-tenants/section-8-tenant.html#StickyVouchers](http://www.nyc.gov/html/hpd/html/for-tenants/section-8-tenant.html#StickyVouchers) .

To qualify for a Section 8 Enhanced Voucher, you must

- be in the lower half of incomes for New York City households (about \$60,000 for a family of 4);
- move to the smallest possible apartment for your current family size if it is available – or the next year you’ll get the subsidy only for the “appropriate” sized apartment.
- Report all household income even if you think it does not count. Failure to report income (even if it will not be counted) will end your voucher.

Sometimes these vouchers are administered by the New York City Housing Authority (NYCHA), which usually investigates tenants for criminal backgrounds that would disqualify them. In other buildings, HPD administers the vouchers.

## **What about “landlord assistance plans”?**



These are contractual agreements in buildings built from 1974 on, worked out between the Tenant Association and the landlord, with the help of lawyers, and often of the local politicians.

Sometimes they permit rents to go up (for certain classes of tenants) only according to rent

stabilization rules. Sometimes they increase the rents gradually to market rate.

These plans depend on tenant and political pressure to negotiate the original agreement, and the Tenant Association – as well as individual tenants sometimes – must go to court to enforce it if the landlord does not hold up his end. That can be a long and expensive process.

But it's possible that the Democrats will become the majority in the State Senate in 2009, and that may make possible a law that would put you into rent stabilization – so try to hang on for a year and don't rush any negotiations!

### **WHAT IF THE OWNER WANTS TO MAKE THE BUILDING A CONDO OR CO-OP?**



#### **Do you have to buy your apartment?**

Most condominium and co-operative plans are “non- eviction” plans, which means that rent stabilized tenants are not required to buy their apartments. Instead, they can remain as rent stabilized tenants.

In a non- eviction plan, tenants in only 15% of the apartments in your building need to agree to buy.

Condo or co-op plans that would result in evicting tenants require the consent of tenants in 50% of the apartments in your building. That is not common.

But please check with your lawyer about any specific plan being offered in your building. Tenants may be able to negotiate many terms, including what becomes of the building's capital reserve fund.

### **How long will it take if the owner wants to make the building condo or co-op?**

It takes roughly a year or more, since the landlord has to present a plan (called a “red herring”) to the tenants and to the NYS Attorney General, and tenants can then negotiate its terms. The State must finally approve the plan. Please consult your lawyer!

### **HOW CAN WE PROTECT OUR HOMES?**

**POLITICAL ACTION:**  
**Support “home rule” – to take rent regulation and supervision away from New York State and give it back to the City.**



Upstate legislators have supported the Urstadt Law (giving the State control over NYC rent regulation). But New York City landlords contribute to enrich those legislators — who are not accountable to NYC voters. Write to your New York State Assembly member, Senator and Governor Spitzer to support home rule for rent regulation. And tell the Mayor that we need “home rule.”

### **Help elect more pro-tenant State Senators.**

Right now, pro-tenant bills never even get considered in the Senate's Housing Committee – controlled by upstate senators. But with just 2 more pro-tenant legislators elected, the Senate will have to listen to us.



**And organize your fellow tenants . . .**

## ORGANIZE TENANTS

### Steps to Take Regarding a Buyout

*This section applies to all tenant associations. If you don't have a functioning association, please see page 38 first.*

#### STRATEGIZE

Tenant leaders: educate yourselves about the issues, and keep in mind:

- the landlord wants to make as much money as possible;
- you may well wind up in a negotiation with the landlord;
- some aspects of the law may help and others hurt; and
- you must pressure politicians and consider legal and other tactics to give the landlord something to worry about when the negotiations come.



The issue is how to get the landlord to the table. Even in pre-1974 buildings -- buildings going into rent stabilization -- tenants have things to negotiate with the landlord.

**Discuss:** Saving tenants from future increases, (see page 11 ); protecting tenants from eviction (see page 9), and keeping a unified front -- prevent the landlord from “dividing and conquering.”

#### EDUCATE TENANTS

Hold meetings to educate tenants about the issue. It's hard to get people to contribute to hire a lawyer if they don't understand the issue.



At meetings and in flyers, explain about the buyout and

- in 236 buildings: subsidy losses and enhanced vouchers;

- in pre-1974's: "unique or peculiar" increases;
- in buildings constructed from 1974 on: market rates, and ways of dealing with the problem.

Sample flyers for all 3 types of buildings are at the end of this booklet.

#### HIRE A LAWYER FOR THE TENANTS – NOW!

A list is on page 35 of this handbook. The lawyer should be available to help with strategy about fighting or delaying the buyout, preventing or minimizing rent increases and asking for rent rollbacks (see page 30), protesting rent registration (see page 16), keeping your community room and other facilities, and, most importantly for pre-1974 buildings, to fight any "unique & peculiar circumstances" applications (see page 17). Lawyers can also help you negotiate with the owner concerning buyouts and landlord assistance plans (see page 23), and help protect tenants from eviction.

Ask your lawyer to work with the lawyers representing other buildings in similar situations. Let's present a united front and share strategy. The briefs for Central Park Gardens, prepared by attorney Jacques Rose, are available to be shared, as is the amicus brief that many of us are continuing to pay for. All tenant can read and use the briefs on line at [www.save-ml.org](http://www.save-ml.org). (If you find it useful, a contribution to the lawyers' payment would be appreciated.)

Since attorneys' time costs money, delegate only one or two tenants to talk with your lawyer – and make sure your lawyer knows who they are.

## RAISE MONEY RIGHT AWAY.



Paying lawyers and keeping a tenant association going cost money. Each apartment should be assessed, perhaps \$200-\$400 or whatever the Tenant Association decides. That assessment is very little compared to the huge monthly rent increases the landlord seeks, but it must cover the \$5,000 retainer that most lawyers require and the \$3,000-plus per month thereafter when the going gets rough.

Some tenants groups have found that raffles can raise over \$3,000 and bake sales between \$200-\$500.

Give tenants the opportunity to contribute additional money to a defense fund. Make it easy for them to contribute on a periodic as well as on a lump sum basis. (If you have sophisticated web-using tenants, consider setting up a PayPal account to deduct monthly payments from their credit cards.)

**You need a bank account.** If your Tenant Association does not already have an account, get an "Employer Identification Number" (EIN) from the Internal Revenue Service by calling 800-829-4933. Bring the bank: the EIN, a copy of your Tenant Association letterhead, a copy of the minutes showing the group's "resolution" to open a bank account, and identification for the Tenant Association officers who will co-sign the checks. If you get under \$25,000 in collections and interest, you probably do not have to file any tax form.

**Consult your attorney!**



**Keep careful financial records** of revenues and expenses, together with a detailed account of which tenants contributed

when and how much. Someone needs to accept that responsibility. Make the income and expense sheets publicly available so that tenants have confidence the money is not being stolen or wasted. Permit contributors to see the record of *their* contribution, but not others'. The point is accountability, not embarrassment of one's neighbors.

Consider setting up a computer program to mail individual e-mail statements every few months or have tenants sign in to a website with their own passwords to see their own accounts. Public announcements let the landlord find out exactly how much money the tenants are working with, so many Tenant Associations vote at a general meeting not to publicize this information.

If your building has a few wealthier souls who could be big donors, consider meeting with them in their apartments in a less formal setting outside of general tenant meetings as part of a fundraising effort. Among other things, ask them whether they will "sponsor" those tenants who can't afford to contribute.



Fundraising serves two purposes: raising money and building community. Minimize fundraising events that burn energy (like flea markets) but do not raise money. Although they give tenants a sense of unity and that is important, burnout is a concern.

There are many ways to handle the "free-rider" problem, but keep in mind that **tenant unity is everything**. Therefore, do not post the names of non-payers, but do have tenant leaders or floor captains contact them individually to ask



why they are not supporting a group that is working to save their homes.

### INVOLVE POLITICIANS

They are there to work for you. They can come to your meetings (and draw a crowd); obtain documents that you need; pressure your supervising agency (HPD and HUD or DHCR) to roll back rents (see next page) and to follow the rules; pursue the landlord for violations such as illegal construction or poor living conditions; negotiate landlord assistance plans (see page 23) with the landlord; and educate tenants about their rights.



A few local politicians also provide free legal services to individual tenants facing housing problems in their districts. You can also use the web to go to <http://lawhelp.org/NY/> to find free legal resources.

**Welcome political support, but** don't let politicians speak for the tenants. That is the job of the tenant leaders. Since local politicians will have a mixed agenda, encourage tenants to listen to the board. Sometimes local politicians seek to co-opt individual members by giving them jobs.

**CONTACT OTHER TENANT GROUPS FOR SUPPORT.** Participate in the **PIE Campaign** (Protection for tenants, Incentives for owners to stay in Mitchell-Lama, and Enforcement of the law) to change the law and how it is used. See list, page 36.

### ROLL BACK EXISTING RENTS AND FIGHT RENT INCREASES.

If your landlord has received any rent increases for work that has not been done (such as new

windows), ask the supervising agency (HPD & HUD if you are under HUD; or DHCR) for a rollback of that increase now, while you are still in Mitchell-Lama.

Similarly, if your landlord received an increase for work that was completed and has been fully paid for by that increase, ask for a rollback: they are not allowed to continue the higher rent under Mitchell-Lama, although they can under rent stabilization.

If your landlord asks for a rent increase before you leave Mitchell-Lama, fight it: ask for the hearing to be held in your building, and review the landlord's claimed expenses very carefully with an accountant.

If you are in a **DHCR-supervised** building, **HIRE AN ENGINEER** to report on whatever work needs to be done in your building. (See page 11.) File that report with DHCR -- and let them know in advance that it is coming. Make sure your engineer is licensed in New York State and has insurance.



**DO A SURVEY OF YOUR BUILDING.** This will establish

- the range of incomes
- the range of ethnicity (important for political purposes)
- the types of work that people in your building do (important for publicity in showing that you do the work necessary to this city).

See the sample housing survey at the end of this booklet. It is available on line at [www.save-ml.org](http://www.save-ml.org).

## PROTECT TENANTS.

Make sure the elderly and disabled who qualify get on SCRIE (Senior Citizens Rent Increase Exemption) and on DRIE (Disabled Rent Increase Exemption) with the first rent increase. (See *page 10*.) This is crucial for those in pre-1974 buildings that will go into rent stabilization. Since SCRIE and DRIE end if there is no rent regulation, it is irrelevant for buildings built from 1974 on – unless they are under J-51 or 8A.



Advise tenants to ensure that their apartment is their legal address – where they are registered to vote, where their car is registered, where they pay taxes.

For those in pre-1974 buildings, now is the time to **fight surcharges**, and get your rent down to the lowest possible level. Under Mitchell-Lama, your surcharge must be reduced if your income drops. So consider whether it makes sense to retire sooner rather than later in order to have that reduction some months before you leave Mitchell-Lama. Are you expecting an outside bonus of some kind? If so, consider delaying it until after you leave Mitchell-Lama. Do you need and use that extra air conditioner? If not, ask the landlord to remove it.

Now is also the time for those tenants who want to **transfer apartments within the building** to officially make that request to the owner – in writing, by certified mail, return receipt requested.

Encourage tenants in 236 buildings to apply for enhanced vouchers.



## GET MORE TENANTS ON BOARD: CHEERLEAD!

Encourage tenants like yourself to take an active role, no matter how small. Ask those who cannot contribute money to participate in other ways -- by sitting at tables in the lobby, by contributing photocopying, by cooking for the bake sale, by designing T-shirts, etc. Be positive, and work to build a sense of community!

## COMMUNICATE REGULARLY:

- With notices distributed under every door, and posted in the mailroom and laundry rooms.
- By e-mail: Collect tenant e-mail addresses and create a list assuring tenants their address will not appear to others. Set up e-mail buddies: ask folks with e-mail to print out a copy and slip it under the door of someone without it on the same floor. That way you can get messages out FAST.
- Produce a building newsletter. You can include positive news about births and marriages and little bios of tenants so that you get to know one another and see each other as a community.
- Send a periodic letter signed by the board to all tenants. If you have a large complex, work out who writes the draft, final approval, duplication, deadlines, and distribution.
- Write announcements for general tenant meetings so that the tenants feel it is important for them to attend.



- Have a detailed agenda; post a summary agenda before the meeting. But: every communication to tenants is seen by the landlord. If the landlord lies to tenants, tenant leaders must respond forcefully and factually.
- Stay on message: **Unite to save our homes!**

## CONCLUSION

We can and must stay strong to save our homes. Use the resources at the end of this pamphlet to help as we educate, organize and act.



We have to create stronger tenant associations, demand that our politicians change the laws, elect those who will help us, oppose those who hurt us, work with tenant lawyers and negotiate with the landlords. As an integral part of the larger tenant movement, let's work to save affordable housing for all of us.

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## ACKNOWLEDGMENTS

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## LAWYERS RECOMMENDED BY VARIOUS TENANT ASSOCIATIONS



Carol Ule, Jacques Rose  
Hartman, Ule, Rose & Ratner, LLP  
305 Broadway, Suite 1201, New York, NY 10013  
212-437-9110  
E-mail: [jrose@hurrlaw.com](mailto:jrose@hurrlaw.com)

Stephen Dobkin, Seth Miller  
[Collins, Dobkin & Miller, LLP](http://Collins, Dobkin & Miller, LLP)  
277 Broadway, 14th Floor  
New York, New York 10007  
212-587-2400 ,fax: 212-587-2410  
E-mail: [sdobkin@collinsdobkinmiller.com](mailto:sdobkin@collinsdobkinmiller.com) or  
[smiller@collinsdobkinmiller.com](mailto:smiller@collinsdobkinmiller.com)

Serge Joseph, Kevin McConnell  
Himmelstein, McConnell, Gribben, Donoghue &  
Joseph  
15 Maiden Lane, New York, New York 10038  
212-349-3000  
E-mail: [sjoseph@hmgdjlaw.com](mailto:sjoseph@hmgdjlaw.com)  
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Barry Mallin & Associates, P.C.  
132 Nassau Street, New York, NY 10038  
212-285-1200  
E-mail: [bmallin@mallinlaw.com](mailto:bmallin@mallinlaw.com)

Jeffrey Reich  
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270 Madison Avenue, New York, New York 10016  
212-545-4600  
E-mail: [reich@whafh.com](mailto:reich@whafh.com)

- continued on next page -

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Bryan Cave  
1290 Avenue of the Americas  
New York, NY 10104-3300  
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E-mail: [sberman@bryancave.com](mailto:sberman@bryancave.com)

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35 Worth Street, New York, NY 10013  
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Robert Salzman  
Salzman & Salzman LLP  
26 Court Street, Suite 2207  
Brooklyn, NY 11242  
718-624-2394  
E-mail: [Salzmanlaw@aol.com](mailto:Salzmanlaw@aol.com)

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## **ORGANIZATIONAL & WEB RESOURCES**

**Community Service Society**  
[www.cssny.org/index.html](http://www.cssny.org/index.html), 212-614-5492

**Housing Conservation Coordinators**  
<http://www.hcc-nyc.org/legalservices/about.htm>  
777 10th Ave., New York, NY 10019  
212-541-5996

**Housing Links**  
<http://homepages.nyu.edu/~swl2/housing.html>

**Metropolitan Council on Housing**  
[www.metcouncil.net/](http://www.metcouncil.net/)  
339 Lafayette Street, #301, New York, NY 10012  
212-979-0611 hotline (Mon.-Wed.-Fri. 1:30-5 p.m.)  
212-979-6238, [active@metcouncil.net](mailto:active@metcouncil.net)

**Mitchell-Lama Residents Coalition**  
[www.mitchell-lama.org/](http://www.mitchell-lama.org/)  
P.O. Box 20414, Park West Finance Station  
New York, NY 10025, Voice Mail:212-465-2619

**Mitchell-Lama Task Forces (by Borough)**  
Brooklyn Borough President's Office  
Fred Arriaga, 718 802-3757  
[farriaga@brooklynbp.nyc.gov](mailto:farriaga@brooklynbp.nyc.gov)

Bronx Borough President's Office  
James Rausse, 718 590-6104  
[jrausse@bronxbp.nyc.gov](mailto:jrausse@bronxbp.nyc.gov)

Manhattan Borough President's Office  
Ryan Galvin, 212-669-8130  
[galvin@manhattanbp.org](mailto:galvin@manhattanbp.org)

**PIE Campaign (for current & former MLs)**  
[amy@tandn.org](mailto:amy@tandn.org), 212-608-4320, ext. 301

**Tenants & Neighbors**  
[www.tandn.org](http://www.tandn.org), 36 West 27th St, 4th Floor  
New York, NY 10001-5906  
212 608-4320 voice, 212 619-7476 fax

**UHAB** (Urban Homesteading Assistance Board)  
<http://www.uhab.org/>  
120 Wall St., 20th Fl., NY, NY 10005  
212-479-3302

[www.save-ml.org](http://www.save-ml.org) A website about saving Mitchell-Lamas, including updated versions of this handbook,

frequently asked questions, notice of pending laws and political activities, links to government and tenant activist resources for tenants, a list of buildings and their political representatives, and media reports. The list is maintained by Sue Susman, and you can get on a tenant activists e-mail list by e-mailing [sue@janak.org](mailto:sue@janak.org).

<http://lawhelp.org/NY/> This website gives free legal resources for lower-income tenants, covering not only housing issues, but also immigration, divorce, and other legal matters.

### Government Offices:

#### HPD:

<http://www.nyc.gov/html/hpd/html/for-apartment-seekers/mitchell-lama.html>

- Commissioner Shaun Donovan
- Gary Sloman, director of operations for HPD's Division of Housing Supervision (responsible for Mitchell-Lamas) [slomanq@hpd.nyc.gov](mailto:slomanq@hpd.nyc.gov), 212-863-6501

100 Gold Street  
New York, NY 10038

#### DHCR:

Commissioner Deborah Van Amerongen  
Dep. Comm'rs Richmond McCurnin, David Cabrera,  
212-480-6444  
25 Beaver St., Management Bldg.  
New York, NY 10004

DHCR Office of Rent Administration  
[www.dhcr.state.ny.us/ora/progs/oraprogs.htm](http://www.dhcr.state.ny.us/ora/progs/oraprogs.htm)  
1-866-ASK-DHCR (1-866-275-3427)  
92-31 Union Hall St., Jamaica, N.Y. 11433

## ORGANIZING A TENANT ASSOCIATION

Mitchell-Lama tenants have a legal right to have a Tenant Association

(see [www.tenant.net/Rights/renters.txt](http://www.tenant.net/Rights/renters.txt)), and to post notices about Tenant Association activities such as elections. Mitchell-Lama buildings are required to have community rooms for tenants. So you have a place to meet and a place for notices.

### GETTING STARTED FROM SCRATCH



To make things easier, find someone with access to a photocopier!

**Put a notice up** (on the bulletin board in the mailroom or in the laundry rooms, for example) seeking out a few neighbors concerned about building issues. Ask those people to contact you – so you have to give your phone number or e-mail address or both.



**Set a meeting for the people who responded to the notice.** It can be in one of your apartments. Provide coffee and tea and perhaps cake. Decide what issues are important to your building right now, such as delaying a buyout or stopping a rent increase.

Ask each person at the meeting to **contact outsiders knowledgeable** about those issues. There is a list at the end of this pamphlet.

Someone with internet access – whether at home, work, or in the public library, should look up

[www.save-ml.org](http://www.save-ml.org) and report back for those who don't have it. That website has information about your building and political representatives, links to important government resources, and notes about the latest legal and political developments.

**Arrange for a general tenants meeting to launch the Tenant Association.** Reserve your community room, or use the laundry room, or a room in a nearby public school. Make sure it is physically accessible to those who have trouble with stairs. Pick a date about 2 weeks away, and an evening time.



**Invite an outside speaker who has been through the buyout process** to talk about how it has worked in that person's building.

**Invite local politicians** to help you -- both to make *them* aware and to get their support.

**Put a notice under each tenant's door** inviting them to a "get-together" to learn about the building, its tenants, and forming a Tenant Association. Tell them when and where. Ask them to bring a chair if it is needed. Give the exact date, time and location.

Announce that someone will be there (and it can be an outsider) to talk about saving our homes if the building leaves Mitchell-Lama.

If you can afford it, offer cookies, tea, coffee & soda -- and announce in the notice that there will be refreshments.



**Post flyers in the hallways and bulletin boards** 1 week before the meeting and again 2 days before the meeting.

**Prepare copies of handouts** that tenants will take home to read later. Consider putting all documents in more than one language. (Can someone in the building translate?). See the sample flyer at the end of this handbook.

**Prepare an agenda.**

**Make a sign-up sheet** for everyone's name, apartment number, telephone number, and e-mail address.

Decide who will get and prepare the refreshments, if you can afford them.

**Assign people to greet people at the door** and ask them to sign in -- and print clearly.

**Assign someone to act as secretary** at the meeting to take minutes and later write them up formally.

If you expect people who have difficulty with English but share another language like Spanish or Creole, see if you can find a tenant to **translate**, and when the meeting begins, announce that those who would like translation help can sit together in one particular location.



## **AT THE FIRST MEETING**

Try to start on time, but no more than 5 minutes after the time stated in the notice.

**Introduce yourselves**, and state the purpose of the meeting: **to organize a Tenant Association.**

**Explain why you all need to organize:**

- Looming rent increases
- The building pulling out of the Mitchell-Lama program
- Dealing with the landlord on other issues such as security, building cleanliness, the garage, and similar matters.

**Tell what other Mitchell-Lama buildings are doing.** (You can find out by contacting [www.save-ml.org](http://www.save-ml.org), the [Mitchell-Lama Residents Coalition](#) or [Tenants & Neighbors](#) and reviewing their newsletters. They are on the web.)

Explain the city-wide effort to take control over rent regulation away from the state and give it back to the city (“home rule”).



**Answer questions respectfully:** No question is a “stupid” question. Tenants have serious concerns and these issues are hard to grasp.

**Ask for volunteers to form a core:**

- to be floor captains -- one per floor, who will distribute notices to tenants and collect dues and contributions;
- to produce a newsletter (1 page is fine!);
- to create a structure (for example, a board of 5 people) to lead the organization;



- to produce by-laws that tenants will vote on later (samples are available at [www.save-ml.org](http://www.save-ml.org));
- to produce an "action plan";
- to start a fundraising committee: hiring lawyers and engineers is very expensive; and even reproducing a newsletter and providing photocopies cost money.

**Ask for volunteers for immediate action:**

- to sit in the lobby to educate other tenants with flyers and conversation;
- to get signatures on letters to politicians.



Allow time for tenants to raise issues, whether it is rent increases, roaches, or poor security.

**BE POSITIVE:** Praise volunteers and let everyone know that they CAN protect their homes and community.

**Invite people to join – and ask them to pay dues** (for example \$10 or \$20 each year) to cover costs.



**AFTER THE FIRST MEETING**

**Start an e-mail list of tenants.** Make it easy for tenants to join. Have one tenant leader who uses a computer create a “listserve.” Give it a name, such as the initials for your Tenant Association, and put up notices asking tenants to send you their e-mail addresses to get



updates. Make it clear that the tenants' own e-mail addresses won't appear to others on the list.

**Post notices on building bulletin boards** so those tenants without e-mail stay informed. (If it's something really important, put it in the newsletter for everyone or use the e-mail buddy system.)

**Send a summary of the meeting to every tenant.** Use e-mail for those tenants who have given their e-mail addresses. Put your e-mail (if you have one), on the summary, along with your phone number. People have to be able to reach you and have confidence you will respond. If you don't want to use your regular e-mail, set up a special account.

**Meet monthly with your floor captains,** especially at first, and start a dialogue. Ask floor captains to introduce themselves to tenants and to provide their phone number (and e-mail address if they have one). Ask the floor captains what issues tenants have on their minds. If you can, print up a "business card" for each tenant with the emergency and contact numbers for building staff and for the floor captain.

**Plan another general meeting once you have something to report** (by-laws, action plan, association structure, events in the building), but no more than 2 months later.



**Connect with other tenant groups outside your building to keep informed.** Join the Mitchell Lama Residents Coalition, Tenants & Neighbors, and Met Council on Housing, and make sure you get their newspapers to deliver to your tenants. Encourage individual tenants to join the organizations as well -- since that's the money that keeps those groups going!

### **Do things by the book**

The law establishes your right to have a Tenant Association. The association should have written by-laws -- that you should follow. Some buildings have them already and are happy to share. Check on the website [www.save-ml.org](http://www.save-ml.org).



**Fundraise** (see pages 27-29 of this handbook).



**Contact other organizations** (listed on pages 36-37) for additional help as you get started.

**SAMPLE FLYER FOR TENANTS in  
PRE-1974 BUILDINGS (not 236!)  
[Put YOUR TENANT ASSOCIATION here]**

**LET'S SAVE OUR HOMES & COMMUNITY!**

Our building's owner has applied to take our building out of the Mitchell-Lama program and into rent stabilization. That may happen in about \_\_\_\_\_ months. And that could mean trouble and higher rents.

Here's some background: Buildings in the Mitchell-Lama program have limited rents. The owner usually

- bought the land for very little money,
- got low-interest mortgages from the government for the rest of the cost,
- got big tax breaks, and
- was entitled to 6% return on its investment.

So our rents have been calculated to cover the landlord's expenses (including paying off the mortgage) plus 6% profit. (This is different from rent stabilization in which rent goes up according to what the Rent Guidelines Board says, regardless of profit or loss in any individual building.)

What about rent stabilization?

The starting rent in rent stabilization will be the last rent (including surcharges) that each of us paid under Mitchell-Lama, and our rents will be controlled by the Office of Rent Administration, which is part of the NYS Division of Housing and Community Renewal (DHCR), and by the city's Rent Guidelines Board. So far so good . . .

**But** landlords claim they're entitled to a huge increase in the starting rent for rent stabilization just because they're taking the building out of Mitchell-

Lama! (It's called a "unique or peculiar circumstances" increase.) It applies to every apartment in this building since we were built between March 10, 1969 and Jan. 1, 1974. [NOTE: Buildings constructed before March 10, 1969 should instead say: "It applies to every apartment whose tenants moved in on or after July 1, 1971 – except perhaps if you moved into the building earlier and transferred after that date. "]

- The state housing commission (DHCR) has stated that just leaving Mitchell-Lama is **not** a "unique or peculiar circumstance," but at least two landlords are in court claiming the opposite. No court has ever determined what "unique or peculiar" means for Mitchell-Lama buildings -- and there are 60 buildings just like ours.

So we have to work together:

- to see if we can delay leaving in Mitchell-Lama
- to hire a lawyer, and maybe an engineer
- to ask our state legislature to pass a law protecting us from this "unique or peculiar circumstances" increase. (DHCR policy can be changed more easily than a law.)

If you have access to the internet, check out the website about this issue: [www.save-ml.org](http://www.save-ml.org).

Our rents could also go up if the landlord does "major capital improvements" that affect the whole building, so we may have to fight about that.

We're planning to have a Tenant Association meeting on \_\_\_\_\_, and hope to see you there! In the meantime, please feel free to call me or stop me in the lobby.

\_\_\_\_\_  
Name of head of Tenant Association

Telephone number:

E-Mail:

**SAMPLE FLYER FOR TENANTS in  
PRE-1974 "236" BUILDINGS  
[Put YOUR TENANT ASSOCIATION here]  
LET'S KEEP OUR HOMES & COMMUNITY!**

Our building's owner has applied to take our building out of the Mitchell-Lama program and into rent stabilization. That may happen in about \_\_\_\_\_ months. And that could mean trouble and higher rents.

Here's some background: Buildings in the Mitchell-Lama program have limited rents. The owner

- bought the land for very little money,
- got federal funds under the "236" program that reduced his mortgage rate to 1% (and passed the savings to the subsidized tenants),
- got big tax breaks, and
- has been entitled to 6% return on his investment.

So our rents have been calculated to cover the landlord's expenses (including paying off the mortgage) plus 6% profit. (This is different from rent stabilization in which rent goes up according to what the Rent Guidelines Board says, regardless of profit or loss in any individual building.)

What about our rents?

Because the landlord loses the federal subsidy when he takes the building out of Mitchell-Lama and re-finances, he passes that "loss" to the subsidized tenants as a rent increase. To prevent that, and to keep our starting rents in rent stabilization the same as the last rent (including surcharges) that each of us paid under Mitchell-Lama, all tenants not paying "market rate" must apply for Section 8 "enhanced vouchers" (also called "sticky vouchers").

Once we leave Mitchell-Lama, our rents will be controlled by the Office of Rent Administration, which is part of the NYS Division of Housing and Community Renewal (DHCR), and by the city's Rent Guidelines Board – but tenants with enhanced vouchers will not pay more than 30% of their income – as long as the vouchers last.

We still have to worry: landlords claim that they're entitled to a huge increase in the starting rent for rent stabilization just because they're taking the building out of Mitchell-Lama! (It's called a "unique or peculiar circumstances" increase.) Those with "enhanced vouchers" may be protected from such an increase, but the federal government keeps trying to limit those vouchers.

So far, no authority has ever determined what "unique or peculiar" means for Mitchell-Lama buildings -- and there are about 60 other buildings just like us. So we have to work together:

- to try to delay leaving in Mitchell-Lama
- to hire a lawyer, and maybe an engineer
- to ask our state legislature to pass a bill protecting us from this "unique or peculiar circumstances" increase.

If you have access to the internet, check out the website about this issue: [www.save-ml.org](http://www.save-ml.org).

Our rents could also go up in other ways, as well.

So we're having a Tenant Association meeting on \_\_\_\_\_, and hope to see you there! In the meantime, please feel free to call or stop me in the lobby.  
[ADD YOUR NAME, PHONE & E-MAIL]

**SAMPLE FLYER FOR TENANTS in  
DEVELOPMENTS BUILT AFTER DEC.  
31, 1973**

**[Put YOUR TENANT ASSOCIATION here]**

**LET'S SAVE OUR HOMES & COMMUNITY!**

Our building's owner has applied to take our building out of the Mitchell-Lama program and up to free market rents. The notice says they want it to happen by     (date)    . And that means trouble!

Here's some background: Buildings in the Mitchell-Lama program have limited rents. The owner usually

- bought the land for very little money,
- got low-interest mortgages from the government for the rest of the cost,
- got big tax breaks, and
- was entitled to 6% return on its investment, as well as hefty management fees.

So our rents have been calculated to cover the landlord's expenses (including paying off the mortgage) plus 6% profit.

But once we leave Mitchell-Lama, we have NO legal protection unless we can negotiate it with the landlord.

We will not be covered by rent stabilization, so tenants who have been getting the Senior Citizen's "SCRIE" subsidy will lose it

**We have to work to save our homes, and there's a lot of work ahead of us.**

1. We may be able to delay or stop leaving Mitchell-Lama – until we can get a new law passed that will protect us.
2. If our building had a "236" federal mortgage subsidy, some of us may qualify for Section 8 "enhanced" vouchers available for middle-income as well as low-income people so we'll keep paying 30% of our income in rent;
3. We must get our elected representatives to help us negotiate with the landlord and pass a bill that will put us into rent stabilization;
4. We must hire a lawyer to work out a deal we can live with.
5. We can consider whether we can work with a non-profit organization to help buy our building and keep it affordable;
6. We must ask the NYS Senate's housing committee to pass a bill that would put us into rent stabilization.

**And all that means we have to work together.**

We're planning to have a Tenant Association meeting on     (date)    , and hope to see you there! In the meantime, please feel free to call me or stop me in the lobby.

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President, Tenant Association  
Telephone number:  
E-Mail:

## HOUSING SURVEY INTRODUCTION

### [YOUR BUILDING NAME] TENANT ASSOCIATION

*[The Housing Survey and its introductory pages each fit on an 8.5" x 11" sheet and are available electronically from sue@janak.org.]*

We need everyone's help to keep our rents as low as possible. Part of that effort is gathering facts to present to the government. Some of those facts are the **range of incomes** in the building – so we can show the government that if they raise the rents, we will lose our homes. And some of the facts are the **kinds of work** that we do so that we can tell the media that we do (or have done) the work that the city needs. Finally, we want facts to show that we make the city **ethnically diverse** – and that's a good thing. That's why we're urging you to fill out the **anonymous survey** even though it asks about your income, your work and your ethnicity.

This survey has 2 parts to it.

One is completely **anonymous**. Your name and apartment number are not on it anywhere. That's the part where you'll check off the annual income range and the type of work you've done. This part will go into the box marked "ANONYMOUS SURVEYS." That box will be     [location in building]    .

The other part has your apartment number, but no other information. That's just so we can keep track of which apartments still haven't submitted the surveys. That will go into a separate box

marked "COVER SHEETS." That box will be right next to the "ANONYMOUS SURVEYS" box.

At no time will anyone know who submitted which survey. We will open the "Cover Sheet" box a few times to see who has not yet turned in their survey and urge them to do so. We will open the "Anonymous Survey" box only at the end, once all the surveys are in.

This is very important for our building, so please encourage your neighbors to do it as well.

If you have questions about the survey, please contact me at \_\_\_\_\_.

THANKS.

**[SIGN YOUR NAME]**

[HEAD OF TENANT ASSOCIATION]

**COVER SHEET for  
HOUSEHOLD SURVEY**

**[YOUR BUILDING]**

**APT. \_\_\_\_\_**

**Please fill in your apartment number and put this sheet in the box marked “cover sheet” when you put the other sheet in the box marked “anonymous surveys.”**

THANK YOU!

**ANONYMOUS HOUSEHOLD SURVEY for  
[YOUR BUILDING]**

[Note: this will all fit on 1 8.5”x 11” sheet with narrow margins]

**How long have you been living in this building?**

- Less than 1 year    1-2 years    3-5 years    6-10 years    11-15 years    16-20 years    21-25 years    26 years or longer    since the building opened.

**My rent when I first moved into the building was \$\_\_\_\_\_.**

**Now the base rent (minus surcharges) is \$\_\_\_\_\_.**

**What size is your apartment?**    studio    1 bedroom    2 bedrooms    3 bedrooms

**Number in the apartment full-time?**    1 person    2 people    3 people    4 people    5 or more

**What age and gender are the people living in the apartment full time?**

<b>GENDER</b> ↓	<b>Age</b> 0-2	<b>Age</b> 3-5	<b>Age</b> 6-14	<b>Age</b> 15-24	<b>Age</b> 25-44	<b>Age</b> 45-59	<b>Age</b> 60+up
<b>Male(s)</b>							
<b>Female(s)</b>							

**What race/ethnicity describes residents of your apartment and yourself? Check all that apply.**

- Black or African American    African    Hispanic or Latino    East or South Asian    White    American Indian or Alaska Native    Native Hawaiian/Other Pacific Isl.    Other

**Are you a registered voter in New York City?**

Yes  No

**Are you a veteran?**  Yes  No

**What is your employment status? (check all that apply in your apartment)**

- Full-time union worker
- Temporarily unemployed or disabled
- Retired
- Homemaker
- Full-time non-union worker
- Full-time student
- Part-time worker
- Other

**When employed, what occupation? (check ALL that apply for every tenant in the apartment. You can check “civil service” AND “management” if both apply.)**

✓	Type of work	✓	Type of work
	Architecture and engineering		Installation, maintenance & repair
	Arts, design, entertainment, sports, & media		Life, physical, & social science
	Building and grounds cleaning and maintenance		Legal
	Civil service		Management
	Business and financial operations		Military (active or veteran)
	Computer and mathematical		Personal care and service
	Community and social services		Production
	Construction and extraction		Protective service
	Education, training, and library		Office & administrative support
	Food preparation and serving related		Sales and related
	Healthcare practitioner / technical		Transportation & material moving
	Healthcare support (home attendant)		

**What was the combined income for all members of your household in 2004?**

- Under \$20,000
- \$20,000-\$30,000
- \$30-40,000
- \$40-50,000
- \$50-60,000
- \$60-70,000
- \$70-80,000
- \$80-100,000
- over \$100,000.

**Do you receive any housing subsidy?**

- Section 8
- SCRIE
- DRIE
- 236
- Capital grant
- Other \_\_\_\_\_

**Do receive any government financial assistance, such as SSI or other welfare?**  Yes  No.

PLEASE PUT THIS IN THE BOX MARKED “ANONYMOUS SURVEYS” LOCATED

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