



NEW YORK CITY LAW DEPARTMENT
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Press Release

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For Immediate Release

OWNERS OF THREE UPPER WEST SIDE SRO BUILDINGS AGREE TO RESTORE BUILDINGS' USE AS PERMANENT RESIDENCES

SETTLEMENT OF LONGSTANDING LITIGATION WITH CITY WILL RESULT IN CORRECTION OF OUTSTANDING VIOLATIONS AND PAYMENT OF \$600,000 IN PENALTIES

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New York, November 29, 2011 – As a result of an agreement finalized late last week between the City and the owners of three Single Room Occupancy (SRO) buildings, hundreds of SRO dwelling units—which have been used as transient hotel rooms for tourists—will be restored to their lawful use as permanent residences.

The agreement resolves a longstanding litigation between the City and the owners, initiated by the City. In addition to other health and safety matters, City enforcement agencies were concerned that residential SROs inhabited by transient occupants lacked the more stringent fire safety protections required in buildings used for transient use. City officials were also apprehensive about the reduction in affordable housing if permanent residential units could be used for the more lucrative tourist trade. In addition, residents and public officials were concerned about the impact of such use on their quiet enjoyment and security in their homes. The settlement was approved on November 22nd by New York State Supreme Court Justice Michael D. Stallman.

“This settlement is another step toward resolving these difficult issues for the City, communities and owners of residential buildings and ensuring that buildings intended for permanent residential uses are occupied in an appropriate and lawful manner,” said Corporation Counsel Michael A. Cardozo.

“This agreement demonstrates the effectiveness of the City’s longtime efforts to ensure that SRO owners comply with the law. It will deter others from illegally renting permanent housing to transient occupants for hotel use, and we hope that it will help preserve affordable housing and enhance quality of life for City residents,” said Deborah Rand, Assistant Commissioner for Housing Litigation at the Department of Housing Preservation and Development.

The agreement is between the City of New York and the owners of three buildings on the Upper West Side of Manhattan—the Montroyal, located at 315 West 94th Street, the Pennington, located at 316 West 95th Street and the Continental, located at 330 West 95th Street. All three have been the subject of ongoing litigation since the City filed an enforcement action in 2007. The case name is City v. 330 Continental, LLC et al.

The Settlement and Order provides that the owners pay the City \$600,000 in civil penalties. The owners have also agreed to ensure that all units in the buildings are used, occupied, and offered only for permanent residence purposes, as required by applicable law. In addition, the owners have agreed to

correct all outstanding violations of the Building Code, the Zoning Resolution and the Housing Maintenance Code and to maintain their buildings in compliance with those laws, as well as the Multiple Dwelling Law and other applicable State and City laws and regulations.

The long litigation history of City v. 330 Continental, LLC et al. has led to significant amendments to State and City law in order to clarify that residential buildings can only be used for permanent residence purposes. Although the City has long contended that such buildings, which include apartment houses, tenement houses, and certain SRO buildings, must be used for permanent residence purposes, an appellate court's decision in an earlier stage of the case led to great uncertainty. In reversing a grant of a preliminary injunction in the case, the Appellate Division, First Department ruled, contrary to the City's long-standing interpretation of the Multiple Dwelling Law, the Building Code, and the New York City Zoning Resolution, that as long as a majority of the dwelling units in these residential buildings were used for residential purposes, the other units could be rented for transient use by tourists or other types of temporary occupants.

In response to this decision, community residents, public officials, and legislators expressed deep concerns that substantial numbers of units in apartment houses and SRO buildings intended for permanent residence occupancies would be rented to transients. Accordingly, legislation was introduced in Albany to clarify that all dwelling units within residential apartment and SRO buildings classified as permanent residences must be used and occupied as permanent residences. The legislation was enacted on July 16, 2010 and took effect on May 1, 2011.

The City continued litigating the 330 Continental LLC case, contending that these buildings were in violation of the law, even when judged by the criteria set out in the appellate decision before the amended law came into effect, since the buildings in question were not used primarily as permanent residences. The defendants continued arguing that their use of the buildings was lawful.

The City and its agencies were represented by Deborah Rand, Assistant Commissioner for Housing Litigation at the Department of Housing Preservation and Development, who appeared as a Special Assistant Corporation Counsel, and by Assistant Corporation Counsel Mary O'Sullivan, Senior Counsel at the New York City Law Department.

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