

**Community Board 12, Manhattan**  
**Minutes for the Housing and Human Services Committee Meeting**  
**September 4th, 2014 – Main Meeting Space**  
**530 West 166<sup>th</sup> Street – 6<sup>th</sup> Floor**  
**New York, NY 10032**

**Committee Members Present (6):** Chair Richard Lewis, Asst. Chair Yahaira Alonzo, Osi Kaminer, Ayisha Oglivie, Felipe Wityk Sanchez, and Alyce Smith, and Public Member Christina Burgess.

**Committee Members Absent, but Excused (2):** Lorena Jimenez-Castro and Jay Mazur.

**Committee Members Absent, Not Excused (0):**

**Public Speakers List (6):** Christopher Thompson (Executive Director, Community Options Inc.), Adam Leitman Bailey, Esq. (Adam Leitman Bailey PC Attorney for the New Amsterdam Condominium), Massimo D'Angelo, Esq. (Adam Leitman Bailey PC Attorney for the New Amsterdam Condominium), Jared Constantino Board of Managers President –2360 Amsterdam Avenue) and Py Desparois and Enrique Garcia (**Individual Condominium Unit Owners - 2360 Amsterdam Avenue**).

**Guest (1):** Jorge Escobedo (NMIC)

**Public (15):** Martin Collins (WHIDC) **Individual Unit Owners - New Amsterdam Condominium /2360 Amsterdam Avenue** [Guillermo Gil, Kosta K. Djordjevic, Arnite Tremont, Jorge Escobedo, Jose Urena, Rohan Dalal, Jiz Wu, Monique Romero, Xiomara Linarez, and Zoila Martinez], Robert T. Lie (Sponsor /Gleam Management– 456 West 167 Street), Sarah Pharr, Christine Haas (*wrong sign in; left for H and E Committee meeting*), and Kelsey Warner.

**Staff:** Paola Garcia.

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**Welcome, Opening Remarks, and the Agenda.** Richard Lewis as Chair called the meeting to order at 7:05pm. Meeting was set to record to a digital audio file. He welcomed board members back from the summer recess. Board Members introduced themselves as did members of the public present. The Chair announced the appointment by George Fernandez, Chair –CB12, M Yahaira Alonzo as Assistant Chair of the Housing and Human Services Committee. A quorum was present during the entire meeting. Topics for tonight's agenda were outlined.

#### **HHS Committee Chair's Report**

Chair attended in August the Mayor's signing into law the City Council's amendment to the new NYS Law on the Senior Citizens Rent Increase Exemption (SCRIE) that will now grant the same income threshold parity to Disabled Rent Increase Exemption (DRIE) recipients.

- The household income eligibility threshold is now \$50,000 retroactive to July 1<sup>st</sup>, 2014. Previously, that threshold was some \$20,000 in DRIE and \$29,000 in SCRIE. The Department of Finance application forms for both programs are available in the board's office. This program is only available to rent increases associated with regulated apartments. This committee and the board passed last Winter a strong resolution recommending during both governmental legislative sessions not only a substantial increase in the income thresholds (no increases had happened for five years), but also parity in both programs.
- Affordable housing will be coming to 21 Arden Street and 2110 Amsterdam Avenue, two boarded-up HPD properties. Meetings on agency and community planning need to take place.
- Annual Medieval Festival will be held on September 28th at Fort Tryon Park.

- The rules of behavior for the Public Hearing were read aloud. The overall goal is to maintain order, allow each party an opportunity to speak on the facts within reasonable time limitations, present counterclaims and responses without personal or character attacks or value judgments. These expectations will allow the committee to make its finding and determinations at a fair hearing to all present.

#### **Source Documents Released at the Meeting.**

The following source documents were distributed or made available at the meeting:

- Public Hearing Notices in English and Spanish for 2360 Amsterdam Avenue and 456 West 168<sup>th</sup> Street – Posted ten days in advance (Available in the CB12, M Office)
- Public Hearing Rules of Conduct (Available in the CB12, M Office)
- Written Presentation and Photos from Adam Leitman Bailey, PC [120 Broadway] – September 4<sup>th</sup>, 2014 for "Consideration of An Application Submitted by Community Options, Inc." (Available in the CB12, M Office)
- Condominium Unit - Contract of Sale (2360 Amsterdam Avenue – PH1 and PS8) dated July 22<sup>nd</sup>, 2014 between Errol A. Dawkins [474 West 158<sup>th</sup> Street] and Community Options, Inc [350 Fifth Avenue]. (Available in the CB12, M Office).
- Property Condition assessment & Evaluation report with text, photos and costs by Ateller Consulting, LLC (230 West 17<sup>th</sup> Street) on 2360 Amsterdam Avenue Condominium (Available in the CB12, M Office).
- Dimensionless /Uncertified Rendering of Floor Plans for PH1 at 2360 Amsterdam Avenue (Existing and Proposed) - Ann Falutico, Architect, PC Submitted by Community Options, Inc at the meeting on September 4<sup>th</sup>, 2014 (Available in the CB12, M Office )
- Certified Homes in District #12 – Submitted by Community Options – September 4<sup>th</sup>, 2014 Available in the CB12, M Office )
- Official CB12, M OPWDD PLACEMENT- INFORMATION REQUEST FORM [Co-op Condo] form OPWDDC-101 – Three Forms Answered and Submitted and Notarized from Community Options, Inc - dated 09/03/2014. (Available for inspection only with redacted personal and medical information in the CB12, M Office).

#### **Public Hearing on the OPWDD Placement Requests.**

This public hearing is required by Mental Health Laws (Sections 33.02 and 41.34) to determine the potential issues of saturation and the safety and sanitary condition of the requested placement living spaces in the unit and the property, as well as protect the rights of these individuals within other laws. Although due diligence is expected by all parties to the lease or contract of sale, the committee cannot place the community board to approving a defective and potentially unlawful placement requests.

#### ***Testimony of Community Options, Incorporated***

Community Option, Inc. (COI) wants to place 10 individuals who have developmental disabilities in three residential apartments and two different buildings in community district #12. Two other condo units under consideration are at 456 West 167<sup>th</sup> Street apartments 2E and 3E. Both units have 2 bedrooms and 2 bath rooms. Each unit will house three individuals. The other placements will be in a penthouse unit at 2360 Amsterdam Avenue (northwest corner of West 177<sup>th</sup> Street and across from Highbridge Park). Penthouse 1 (a duplex), is a 3 bedroom 2 bath condo and will house four individuals.

Mr. Christopher Thompson, their Executive Director presented his case for Community Options. The documents he submitted are listed above. He also submitted incomplete responses to the HHS Committee's **OPWDD PLACEMENT- INFORMATION REQUEST FORM**. Since 1989 Community Options has provided support and services for individuals with service with special and developmental needs. Despite these challenges these individuals live somewhat independent with assistance. Many are in school or have jobs. But they need some assistance: like reminders to pay bills, go to a medical appointments, do laundry, etc. The individuals Community Options has requested to place are all able to walk – none are dependent on wheelchairs -- and all of them are able to effectively communicate most of their needs to maximize their independence. COI has locations in Manhattan and that provide services to twelve individuals, to over sixty individuals in

Brooklyn, and to over twenty individuals in Queens. None of the individuals they want to place have criminal backgrounds. Some of the individuals may even be from the same community they are placed. And the individuals for the units requested have relatives that live nearby.

Mr. Thompson stated how Community Option's place OPWDD individuals. First, they select a potential residence in an area that is not oversaturated with OPWDD individuals. (*Note: No detailed information was provided to show how an area was not oversaturated as claimed, except a list of seventeen of these facilities was submitted to the HHS Committee during the public hearing. There was no evidence to certify that this document was an exhaustive or complete list of such facilities.*) In this list Mr. Thompson asserted that closest other residence to 2360 Amsterdam Avenue was 0.3 miles. (*Note: There are at least three other such facilities according to this incomplete list that is 0.5 miles away or less*). Then the unit has to pass fair market appraisal to make sure the price is not inflated. (*Note: No evidence was submitted to the committee to confirm approval of these potential sales.*) As he continued his testimony, Mr. Thompson stated that his organization would at the same time conduct a feasibility study and notified the local community board of its placement intent. (*Note: No results or documents of a feasibility study was presented to the board.*)

Mr. Thompson continued his testimony. OPWDD regulates the whole process. An architect chosen by his organization checks out the each proposed unit and makes sure it is safe for the individuals a given placement. The architect reviews the conditions of each apartment. Mr. Thompson claimed that his organization was aware of the many problems with these units. The architect knows. She has made proposals for modifications in order to protect the individuals. For instance, in her proposal she included, every room has to have hard-wired alarms, all water temperatures monitored so that it doesn't go above a certain temp and burn these individuals. We wouldn't put individuals in a unit that they could hurt themselves. Renovations will be done to make it ADA compliant.

***Note: Mr. Thompson presented no material evidence that any of these steps he outlined in his testimony had taken place and is contrary to responses listed in the HHS Committee's OPWDD PLACEMENT- INFORMATION REQUEST FORM where such evidence was requested to be submitted prior to the hearing. No architect report of unit conditions for each placement in a unit in each building was presented. Only a brief dimensionless rendering of the PH1 in 2360 Amsterdam Avenue was presented. His testimony was considered too speculative and in the end he asked the committee just to trust him that all issues raised would be corrected in the unit.***

#### **Testimony of Adam Leitman Bailey, PC**

Adam Leitman Bailey, PC (ALB), is a law firm that represents owners of 2360 Amsterdam Avenue. Mr. Bailey, Esq. and Massimo D'Angelo, Esq. presented their case in opposition to the OPWDD Placements requested in their building. He presented documents and legal arguments based on both procedural and substantive claims to support their position. He claimed that their clients didn't get a notice of oversaturation potential at least 40 days in advance as it is required by law. They received the notice via email the day of the Public Hearing. Regardless of that provision of the law, Bailey claimed the request should be rejected because the building was poorly constructed. The building is not ADA compliant. He claimed that it is not even safe for someone who is not disabled. There is now a successful lawsuit concluded on this building on behalf of the condo owners against the developer. There are leaks, mold and structural damages - specifically in the unit Company Options wants to purchase. The amount of money it will cost to make the building ADA compliant

and remediate other structural problems will be more than \$4 million dollars, according to a consultant's report by **Atelier Consulting, LLC**. The staircases only have 1 hand rail and the stairs are too steep. Provisions of the ADA and Barriers Act require two hand railings (one on each side of the stairs). The height of the rail of the balcony in the PH1 unit is not high enough (not even 5 ft. tall).

The consultant's report (60 pages) about the problems of the building was prepared in 2012 and submitted in evidence for this hearing. Mr. Bailey claimed that the report revealed many serious problems with the entire building. This is a building that cannot be lived in by anyone with a disability. Community Options and the unit's seller did not follow the condominiums bylaws. These bylaws require that when you sign such a contract of sales, a copy of that sale must be submitted to the Condominium's Board. This board has the right of first refusal. They failed to follow this procedure. Finally, although, the Condominium Board won the lawsuit, it cannot collect on the judgment because the developer disappeared. People with children cannot buy in the building. It is too dangerous.

#### **Testimony of Jared Constantino**

Jared Constantino is the Condominium's Board of Manager's President. He stated that there are some real safety issues in the building: There is no doorman or full-time superintendent in the building. Anyone can get up on the roof. There are other buildings in Community Board 12. M and within the seventeen building OPWDD saturation lists that will be better suited for these placements. We are currently in the midst of litigation. There is a judgment against the sponsor who is now missing. Court findings have further validated all the issues with this building. Other major issues include water filtration and mold. The building is not suitable for the current residents, and definitely not suitable for people with special needs. The rider in the contract of sale, the seller, Errol Dawkins now residing at 474 West 158<sup>th</sup> street #31) made misrepresentations about the physical conditions building and unit.

#### **Testimony of Enrique Garcia**

Enrique Garcia is the Secretary of the Board of Managers of 2360 Amsterdam Avenue. He appeared and stated that residents in the building who have gotten very physically sick because of conditions in the building. So he raised the following questions: why would Community Organization, Inc place someone with disabilities in a place where condominium residents know for a fact it has made people very physically ill? And why will you place clients in a building that is not ADA compliant? Given the cost and extent of these problems he would like to know how long it would take to make the building ADA compliant?

***Note: A representative for the developer of Edgcombe Parc Condominium and Gleam Management company (Sponsor: 167 Development LLC c/o Gleam Realty Inc., 43-73 Union Street, Flushing, NY 11355) for the building located at 456 West 167 Street, Mr. Robert T. Lie appeared at the hearing, but did not testify. He indicated to the committee after the conclusion of the meeting that his company had not been notified of any contemplated sale by Community Options and only showed up as a result of receiving a notice of the public hearing from the Community Board.***

#### **Open Discussion on the Testimony.**

Several issues developed during the course of the discussion that followed the testimony given. Adam Leitman-Bailey claimed that they could never make this building ADA compliant. Board Chair George Fernandez explained the OPWDD process to Adam Leitman Bailey. He stated that the Mental Health law as

current constructed such that the sponsoring organization needs to file its placement intent with the community board, and the community board then holds a public hearing to make findings, a determination, and a resolution. Beyond the issue of the sale of a unit the sponsoring organization does not have to file placement requests to the placement premises or their representatives. Given that no resident in 2360 Amsterdam Avenue are wheelchair users and none need any assistance with technological devices he could not understand what was the urgency to make the entire building ADA compliant at this time now?

Committee member, Ayisha Olgivie wanted to know why Community Options would risk the health of their clients in a building and unit that has had significant safety, health, and sanitary conditions. Community Options, Inc. provided no answer.

Finally, the HHS Chair asked both parties what they wanted this board committee to do tonight on this matter. Community Options responded that they wanted the community board to understand its mission that they are not trying to depreciate property values. They are simply trying to afford the right of individuals with disabilities to live in the community and for the Community Board to trust us and build a relationship. Adam Leitman-Bailey responded that they wanted the community board to vote against allowing this corporation who hasn't followed the condominiums bylaws and to deny Community Options OPWDD Placement Application.

#### **Findings and Determinations.**

After a thorough open discussion amongst committee members and review of the findings presented it was determined that:

- Community Options, Inc. failed to do a sufficient job of due diligence in its investigation of the units it wanted to place its OPWDD clients; and
- Community Options, Inc. failed to offer sufficient transparency to all parties in advance of the hearing and the acquisition of two units appeared speculative ; and
- Given the volume of information that eventually surfaced Community Options, Inc. did not provide either sufficient preliminary, detailed and documented information, either in advance or at the time of the hearing so that the HHS Committee to effectively absorb these facts, promptly investigate these findings, and make OPWDD Placement determinations regarding Mental Health Law Sections 33.02 and 41.34; and
- Community Options, Inc. failed to contact all parties in the sale or presumptive sale of units in both buildings to insure by law compliance and assess on site any possible unit and building problems regarding all safety and sanitary conditions;
- The HHS Committee is requesting that Community Options submit a new application with all legal documentation submitted to all affected parties in a timely submission
- All other parties associated with any sale or rental of unit(s) shall submit all documentation and sale approvals in a timely manner before the next public hearing.
- Any new hearing shall be held without prejudiced to the facts previously established.
- Accordingly, the HHS objects to the current OPWDD Placement Requests by Community Options for the two buildings in CB12, M.

Two separate resolutions were then voted on to object to the OPWDD Placement to either building with no objection to a new application:

**HHS Committee (Y-N-A = 6-0-0)      Public (Y-N-A = 14-2-0)**

A third resolution to consider changes in the Mental Health Law and the administrative procedures thereof was also approved, with the same committee votes but will be tabled due to the need for the matter to be placed on the agenda in an open committee meeting.

**Preliminary Discussion on the NYC budget for FY2016.**

The committee reviewed last year’s Agency response to the Community Board’s rankings. As we examined the Board’s number one ranking ‘Affordable Housing’ we decided that we needed to find out where this community district stands regarding the new administration’s priorities in its ten housing year plan. Ayisha Olgvie mentioned that there are three buildings nearby that currently have 15 empty apartments and have been empty for about 5 years. This may be a case of warehousing where the property’s owner maybe searching for a buyer. So with so many losses of affordable housing units in our community this matter needs to be investigated by one of our CBO’s, such as NMIC. The Committee wanted to give affordable housing a new twist and to ask for more capital money for preservation and more affordable units. This action may help both tenants and owners.

Osi Kaminer offered the suggestion to add vertical building farms as a new item in our capital budget. If successful we would then be the first community in NYC to have a vertical farm.

The committee considered removing the request for new Daycare centers from the FY2016 as there has been little movement on this item by the city in the past five years of our ranking.

**Outcomes (Not Ranked) from the HHS Committee’s Preliminary Discussions on the FY2016 Budget**

<b>Capital Items</b>	<b>Description</b>
A	Affordable Housing (New Construction)
B	Affordable Housing (Preservation and Rehabs)
C	Centralized Building/Center for CBO
D	Vertical Urban Farms
<b>Expense Items</b>	<b>Description</b>
A	Attorneys, Legal Advocacy and Assistance
B	Online Agency Database and Systems Linkage
C	More Agency Inspectors and Inspections
D	Initiative to Lower Energy Costs

The meeting was adjourned at 10:00pm.

**Respectfully Submitted by**  
**Yahaira Alonzo, Assistant Chair**  
**Edited, rewritten and released by**  
**Richard Lewis, Chair - HHS Committee**  
**September 4th, 2014**