

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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May 26, 2011

Start: 10:00 am approx

Recess: 10:30 am approx

HELD AT: Committee Room - 14th Floor
250 Broadway

B E F O R E:

ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:

Gale Brewer
Leroy G. Comrie, Jr.
Elizabeth Crowley
Lewis A. Fidler
Robert Jackson
Letitia James
Brad Lander
Melissa Mark-Viverito
Rosie Mendez
James S. Oddo
Joel Rivera
Eric A. Ulrich
Jumaane D. Williams

A P P E A R A N C E S

Morris Benjamin
President of the Board of Directors
Mutual Redevelopment Houses Inc.

Julie Walpert
Asst. Commissioner Housing Supervision
Department of Housing Preservation and Development

CHAIRPERSON DILAN: Quiet please.

Good morning everyone, my name is Erik Dilan and I am the Chair of the New York City Council's Housing & Buildings Committee, and today the Committee will conduct a hearing on three resolutions for the purpose of a vote. First the Committee will hear and receive testimony on Resolution 813 in relation to Penn South, an affordable housing development in Speaker Quinn's district. The resolution would permit Penn South to impose a capital assessment on residents of the development of \$204 per room per year in each of the ten years beginning June 1 of 2011 through May 31st of 2021. The capital assessment would be used for capital improvements, including the replacement of the HVAC system. The resolution would also permit Penn South to impose a 15% increase in carrying charges in future years, when needed, to meet these increases in operating expenses. Penn South must consult with New York City Department of Housing Preservation and Development. Lastly, the resolution would approve a sixth amendatory agreement to the contract between the city and Penn South. The sixth

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2 amendatory agreement would modify the real estate
3 tax exemption language to provide additional tax
4 exemption for eight additional years. It would
5 modify language with regard to income eligibility
6 requirements at the time of admission, modify the
7 language with regard to division of surcharge of
8 Penn South stock allocated to their apartments,
9 and would add a new provision expanding Penn
10 South's right to future development portions of
11 its property, which would provide funding for
12 major capital projects to help Penn South sustain
13 affordability. Second on today's agenda is
14 Resolution 700, which calls upon the New York
15 State Legislature to renew and strengthen laws
16 regulating rents and the eviction of tenants. It
17 is highly anticipated that the State Legislature
18 and the Governor will come to an agreement
19 extending regulations before its sunset on the
20 date of June 16th. In short, the resolution calls
21 upon the State Legislature and the Governor to
22 make regulatory changes to the rent regulation
23 program, including stronger protection to tenants
24 by repealing vacancy decontrol and the Urstadt
25 Law, by granting tenants in buildings in Mitchell-

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2 Lama or project-based Section 8 programs all the
3 protections of rent stabilization when buildings
4 exist in the program. The third resolution is a
5 pre-considered resolution which would authorize
6 the Speaker to file amicus briefs on behalf of the
7 Council in two mortgage foreclosure cases. The
8 first case was brought in 2009 by National Bank of
9 New York regarding 296 Fifth Avenue in the Park
10 Slope neighborhood of Brooklyn. The second case
11 was brought on in 2010 by the Dime Savings Bank of
12 Williamsburg regarding 262 to 272 45th Street in
13 the Sunset Park neighborhood of Brooklyn. Both
14 cases are currently pending in New York State
15 Supreme Court in Kings County. The amicus brief
16 would serve the purpose of supporting the tenants'
17 motions, which request that the court in each case
18 order a court-appointed mortgage foreclosure
19 receiver to cure conditions constituting
20 violations of the city and state housing
21 maintenance laws on property, as well as a request
22 to the court to order the banks to advance the
23 funds necessary for the receiver to comply with
24 the obligations, at the time, the Supreme Court
25 Appellate Division and/or Court of Appeals and in

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2 any other foreclosure cases in which the same
3 relief is appropriate. The Committee will hear
4 testimony on one item before us, and the Committee
5 will hear testimony on Penn South, which is
6 Resolution 813, first, and then we will conduct a
7 vote on all three matters, so I ask the members to
8 please remain in the hearing room for the duration
9 of the hearing so we can maintain a quorum in
10 order to vote. I believe everyone that wishes to
11 speak has indeed spoken to the sergeant-at-arms,
12 so we will proceed with HPD first. It's all one
13 panel? Okay. so we'll hear from, I believe it's
14 Mr. Benjamin Morris, as well as Juan David
15 Martinez. Are you on Penn South also? No? Okay,
16 we're only taking testimony on Penn South. All
17 the other items we've heard testimony on, we
18 intend to vote on and hopefully pass the other
19 items today. So we'll take testimony only from
20 Penn South, which we have not heard, from Mr.
21 Morris Benjamin, is that correct? Okay. And he's
22 joined by Ms. Julie Walpert of HPD. She will not
23 provide testimony, but if there are any questions,
24 she's available to help answer. So, Mr. Benjamin,
25 why don't you begin?

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2 MR. BENJAMIN: Okay. I'd like to
3 say good morning to Chairperson and members of the
4 Committee on Housing and Buildings of the City
5 Council. My name is Morris Benjamin, I'm the
6 President of the Board of Directors for Mutual
7 Redevelopment, and I also reside there. Penn
8 South, we're formally known as Mutual
9 Redevelopment Houses, is a 2,820-unit housing
10 cooperative in the Chelsea section of Manhattan.
11 Completed in 1962, it is organized under New York
12 State's Redevelopment Company law, it's in article
13 five of the Private Housing Finance law and it's
14 supervised by New York City Department of Housing
15 Preservation and Development. We are justifiably
16 proud of our nearly 50 years of providing high-
17 quality affordable housing to over 4,500 low- and
18 moderate-income New Yorkers, a majority of whom
19 are senior citizens on fixed incomes. Acting
20 responsibly, we have preserved our
21 infrastructures, added modern conveniences, and
22 aided our environment, while operating in a sound
23 financial manner. All of this has been made
24 possible by assistance from the city in the form
25 of tax exemption and other benefits, and by the

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2 carrying charge increases and assessments we have
3 imposed on our co-operators to pay for operating
4 expenses and major capital projects. Now we are
5 faced with a challenge beyond anything we have
6 ever dealt with. We must replace our entire
7 heating and cooling distribution system, HVAC,
8 from basement to roof. We must open walls in
9 every apartment, replace piping and fan cool units
10 and close and restore. To complicate matters, the
11 old insulation contains asbestos, and requires
12 abatement. Metallurgical tests show that the 49-
13 year-old system has little or no useful life left,
14 and needs to be replaced as soon as possible. Our
15 engineers are hard at work designing the new
16 system. Modern equipment will provide additional
17 comfort to residents, in addition to significant
18 energy savings, but it will be expensive. It is
19 estimated that the total cost may be as much as
20 \$100 million. Borrowing this vast sum of money
21 will add over \$6 million a year to our budget.
22 Unless approached creatively, such an increase in
23 debt would have required an increase in carrying
24 charges of about 30% and place an undue burden on
25 our residents, particularly senior citizens on

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2 fixed income. How to raise sufficient funds to
3 pay for the debt service on the HVAC loan has been
4 a major consideration for the past two years. It
5 has been the subject of much discussion internally
6 as well as with the city. We believe that the
7 final result before your Committee today is
8 fiscally sound and equitable to all concerned.

9 Let me briefly enumerate the various components.

10 The major portion of HVAC funding will come from
11 present and future co-operators as follows: the
12 \$17-per-room-per-month assessment over the next
13 ten years, approximately 10% of the carrying
14 charges; the change in the surcharge formula to
15 increase surcharge income; lowering the allowable
16 income from eight times rent to seven times rent;
17 increasing the price of first sale of apartments
18 from approximately \$12,000 per room to as much as
19 \$18,000, with the new funds going into our
20 reserve. The city is assisting in the HVAC
21 financing with the following: a \$12 million loan
22 at 1% interest from the Housing Development
23 Corporation, HDC, no principal payments for 30
24 years; a \$5 million loan at 1% from HDC, principal
25 paid off over a 30-year amortization period; a

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2 portion of the savings from the loans will be used
3 to subsidize low-income families too young to
4 qualify for SCRIE, the Senior Citizens Rent
5 Increase Exemption; a \$5 million City Council
6 grant payable over three years; approximately
7 \$300,000 a year for the 20-year life of our
8 amended contract resulting from the city's waiving
9 the automatic increase in shared-surcharge funds
10 they will receive as a result of our change in
11 surcharge calculations. Funds will be held in our
12 operating reserve and released by HDC as needed to
13 pay for the HVAC costs, or meet other Penn South
14 needs. Relaxation in language in our contract
15 with the city to permit us to do selective and
16 limited development on our property to fund future
17 major capital projects. This change has no
18 connection with HVAC, and there are no plans at
19 this time to do any development. As is customary
20 when coming to the City Council for carrying-
21 charge increases under our contract with the city,
22 our proposal includes the authority to impose in
23 the future additional increases up to 15% if
24 needed to meet operating expenses after
25 consultation with HPD. In return for the city

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2 aid, Penn South was asked to add eight more years
3 to its contract and offer eight more years of
4 shelter rent tax exemption. This will allow it to
5 remain affordable through 2030. Our board of
6 directors saw this as a win-win situation. It was
7 good for our co-operators and its residents and
8 good for the city as well. More important, it
9 keeps Penn South affordable. Our co-operators
10 agreed with the board. At an advisory referendum
11 held last month, over 1,600 shareholders voted 87%
12 supported adding the eight years to our contract.
13 The City Council is charged by law and by our
14 contract with the city to approve all of Penn
15 South's carrying charge increases, assessments,
16 and contract changes. We respectfully seek your
17 approval of all the items covered by Resolution
18 813, thank you.

19 CHAIRPERSON DILAN: Now just before
20 we ... before we get to any show of business ... is
21 the mic working? Yeah, before we get to any
22 questions, I failed to acknowledge the members who
23 have shown up. To the far left, Council Member
24 Comrie of Queens, Council Member Mendez of
25 Manhattan, Council Member Viverito of Manhattan,

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2 Council Member James of Brooklyn, Council Member
3 Fidler of Brooklyn, Council Member Williams of
4 Brooklyn, Council Member Brewer of Manhattan, and
5 Council Member Jackson of Manhattan. We were
6 briefly joined by Council Member Oddo of Staten
7 Island, and you were first today, right? Oh, you
8 have a question? As well as Council Member Lander
9 of Brooklyn. So just a simple question more
10 towards HPD, I have two, actually. We also have
11 Council Member Crowley of Queens, who was with us
12 earlier. Does HPD support the resolution?

13 MS. WALPERT: Yes we do.

14 CHAIRPERSON DILAN: Okay. And are
15 there any plans for any additional increases for
16 tenants in this development in the near future
17 besides those authorized in the resolution?

18 MR. BENJAMIN: No there aren't.

19 CHAIRPERSON DILAN: Okay. Okay,
20 that was ... in terms of revenue impact, I won't ask
21 it, because it's detailed in our briefing report,
22 so just for members, for their benefit, the
23 revenue impact of this action is detailed in the
24 briefing report, if you want to see it, you can
25 take a look there. Council Member Comrie.

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2 COUNCIL MEMBER COMRIE, JR.: How
3 many shareholders in total are at Penn South?

4 MR. BENJAMIN: Well, there are
5 2,820 apartments, and each apartment has one vote.
6 There are about 4,500 co-operators in Penn South,
7 residing at Penn South with families.

8 COUNCIL MEMBER COMRIE, JR.: 4,500
9 co-operators, but how many of them are
10 shareholders? All 4,500, or- -

11 MR. BENJAMIN: [Interposing] The
12 stock ownership would be either one or two per
13 apartments, so it's more than 2,820, but less than
14 the total. Not every member of a household is a
15 shareholder.

16 COUNCIL MEMBER COMRIE, JR.: Is a
17 shareholder, okay. And I seem to remember Penn
18 South asking for a resolution to do major capital
19 repairs in the last two years. Is that correct,
20 that there was a request from Penn South to do
21 major capital repairs on the building?

22 MR. BENJAMIN: The last time we
23 were here was for some J51 changes, but this is ...
24 we've been working on this for the last two years.

25 COUNCIL MEMBER COMRIE, JR.: Okay,

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so this is separate from the reasons for the J51?

MR. BENJAMIN: That's correct.

COUNCIL MEMBER COMRIE, JR.: All right, I just wanted to be clear. I seemed to remember that. And what's the average ... and how many ... how many three-bedrooms do you have in Penn South?

MR. BENJAMIN: We have 210 three-bedrooms, I believe.

COUNCIL MEMBER COMRIE, JR.: Right.

MR. BENJAMIN: 210, correct.

COUNCIL MEMBER COMRIE, JR.: And you haven't - God bless you - you haven't ... as you said in your testimony, you haven't figured out the exact plan for the placement of the A/C, but have they started to look into the ductwork systems as possible replacement to try to cut down into the digging into all of the walls, if possible?

MR. BENJAMIN: No, we have ... we do have a plan for the replacement, we do not yet have a contract as to who will do the work. We did discuss with shareholders several different options on how the work could be done, and

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2 shareholders voted on replacement in kind. There
3 was some discussion about core drilling and
4 leaving things where they were, but that would
5 have been a loss of space.

6 COUNCIL MEMBER COMRIE, JR.: Okay.
7 All right, thank you. No further questions.

8 MR. BENJAMIN: You're welcome.

9 CHAIRPERSON DILAN: Okay, we have
10 Council Member Brewer, followed by Lander.

11 COUNCIL MEMBER BREWER: Mostly just
12 to say thank you, as Julie knows, we have many not
13 similar exactly, but Mitchell-Lama who don't have
14 the wherewithal of Penn South to remain affordable
15 and I just want to say, you're the model for the
16 whole city, and I wish everybody had the mentality
17 of people in Penn South. Thank you very much.

18 MR. BENJAMIN: Thank you.

19 CHAIRPERSON DILAN: Council Member
20 Lander.

21 COUNCIL MEMBER LANDER: I just want
22 to echo Council Member Brewer and say thank you
23 and congratulations. I think that, you know, you
24 and your fellow co-operators and the leadership
25 are really true affordable-housing heroes and

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2 unsung affordable-housing heroes in New York City.
3 The temptation to move to a market-based model and
4 the pressure to do so I know is significant, and I
5 think to say this is an essential resource of
6 permanent affordable home ownership housing in New
7 York City and to honor the model that it was built
8 on takes, I know, a lot of courage and a lot of
9 political organizing, and it's something that we
10 don't take for granted in this body, so I want to
11 say thank you for the work that you and your
12 fellow leadership and co-operators have done.

13 MR. BENJAMIN: Thank you.

14 COUNCIL MEMBER LANDER: In keeping
15 this model strong, thank you.

16 CHAIRPERSON DILAN: All right, are
17 there any further questions or statements from the
18 membership? [crosstalk] Yeah, Council Member
19 Viverito.

20 COUNCIL MEMBER MARK-VIVERITO:
21 Thank you, just because I know that I've dealt
22 with Julie many times in my district, is this a
23 similar model to the Franklin Plaza and 1199, in
24 terms of HPD overseeing a co-op?

25 MS. WALPERT: It's- -

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COUNCIL MEMBER MARK-VIVERITO:

[Interposing] The Mitchell-Lama Co-op?

MS. WALPERT: It's similar but not quite the same. We have less oversight over Penn South than we do over the Mitchell-Lama.

COUNCIL MEMBER MARK-VIVERITO:

Okay.

MS. WALPERT: By statute.

COUNCIL MEMBER MARK-VIVERITO:

Okay, I was just curious about the structure, because I have a couple in my district, but thank you.

CHAIRPERSON DILAN: If there are no more questions, I will ask the vote on all three items be coupled, and ask the clerk to call the roll.

COMMITTEE CLERK FINN: Kevin Finn, Committee Clerk, roll call on the Committee on Housing and Buildings. Council Member Dilan.

CHAIRPERSON DILAN: I vote aye.

COMMITTEE CLERK FINN: Brewer.

COUNCIL MEMBER BREWER: Aye with pleasure.

COMMITTEE CLERK FINN: Comrie.

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COUNCIL MEMBER COMRIE, JR.: Aye.

COMMITTEE CLERK FINN: Fidler.

COUNCIL MEMBER FIDLER: Aye.

COMMITTEE CLERK FINN: Jackson.

COUNCIL MEMBER JACKSON: Aye on
all, aye on all.

COMMITTEE CLERK FINN: James.

COUNCIL MEMBER JAMES:

Congratulations and aye on all.

COMMITTEE CLERK FINN: Mark-

Viverito.

COUNCIL MEMBER MARK-VIVERITO: Aye

on all.

COMMITTEE CLERK FINN: Mendez.

COUNCIL MEMBER MENDEZ: Aye.

COMMITTEE CLERK FINN: Crowley.

COUNCIL MEMBER CROWLEY: Aye.

COMMITTEE CLERK FINN: Lander.

COUNCIL MEMBER LANDER: Aye.

COMMITTEE CLERK FINN: Williams.

COUNCIL MEMBER WILLIAMS: May I be
excused to explain my vote?

CHAIRPERSON DILAN: Council Member
Williams to explain his vote.

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2 COUNCIL MEMBER WILLIAMS: Thank
3 you. First, congratulations to Penn South, and
4 I'm proud to support all of these resolutions, in
5 particular the resolution calling for renewal and
6 strengthening of the rent laws, I know there was a
7 deal made for them to renew it. However, if it is
8 not strengthened, I think the Governor has failed
9 us and the leaders in Albany have failed us, and
10 the Mayor's silence is palpable and I believe he
11 is failing us as well. Thank you. Aye on all.

12 COMMITTEE CLERK FINN: Oddo.

13 CHAIRPERSON DILAN: Council Member
14 Oddo.

15 COMMITTEE CLERK FINN: Oddo.

16 CHAIRPERSON DILAN: You are
17 recognized for purposes of your vote.

18 COUNCIL MEMBER ODDO: I am voting
19 no on the resolution.

20 CHAIRPERSON DILAN: Which one?

21 COUNCIL MEMBER ODDO: On rent
22 regulations. I'm abstaining on the amicus brief,
23 and yes on the other.

24 CHAIRPERSON DILAN: I don't believe
25 Council Member Lander was called for the purposes

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of his vote.

FEMALE VOICE: Yes he was.

CHAIRPERSON DILAN: He was?

FEMALE VOICE: Yes.

CHAIRPERSON DILAN: Okay.

COUNCIL MEMBER LANDER: I didn't realize we were voting also on the pre-considered reso to join in the amicus on the case in my district.

CHAIRPERSON DILAN: Yes.

COUNCIL MEMBER LANDER: Which is wonderful and I just want to say thank you to you and to the members of the Committee for helping the tenants in supporting the tenants in my district.

CHAIRPERSON DILAN: Yes, it was explained at the outset of the proceedings.

COUNCIL MEMBER LANDER: I apologize, I was out in the hall. Thank you is all I'm trying to say.

CHAIRPERSON DILAN: No, no problem. There's no problem with the statement. Okay, so I ... what we're going to do is, we're going to hold ... if I could have ... if I could ask the Committee to

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2 come to order just for one second. We're going to
3 hold the roll open for the members who have not
4 yet voted. All members that have voted and
5 signed, they're free to go. There is ... Finance
6 has asked me to just announce that they are close
7 to voting, and they need the members of this
8 Committee who are on Finance to go help them make
9 a quorum. And then we'll hold the vote open for
10 as long as it permits, because there may be
11 another Committee following us, and then at that
12 time this Committee will be adjourned. [crosstalk]

13 COMMITTEE CLERK FINN: Council
14 Member Rivera.

15 COUNCIL MEMBER RIVERA: I vote aye
16 on all.

17 [crosstalk]

18 COMMITTEE CLERK FINN: Ulrich.

19 COUNCIL MEMBER ULRICH: I vote no on
20 Reso 700, I abstain on the pre-considered reso,
21 and I vote yes on Reso 813.

22 COMMITTEE CLERK FINN: The final
23 vote in the Committee on Housing and Buildings,
24 Reso 813, thirteen in the affirmative, zero in the
25 negative and no abstentions; Reso 700, twelve in

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2 the affirmative, two in the negative and no
3 abstentions; and the pre-considered reso, twelve
4 in the affirmative, zero in the negative and two
5 abstentions.

6 CHAIRPERSON DILAN: The Committee
7 on Housing and Buildings is now adjourned.

C E R T I F I C A T E

I, Richard A. Ziats, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature _____

Date June 3, 2011