



Legislation Text

File #: Res 0840-2011, **Version:** *

Preconsidered Res. No. 840

Resolution authorizing the Speaker to file amicus briefs on behalf of the Council (i) in support of the defendant tenants in the judicial proceedings captioned *Dime Savings Bank of Williamsburgh v. 262-272 45th St. Owners Group LLC* (Index No. 8211/2010, Kings County) and *National Bank of New York City v. 296 5th Avenue Group, LLC* (Index No. 29057/09, Kings County), for the purpose of supporting those tenants' motions which request that the court in each case order the court-appointed mortgage foreclosure receiver to cure conditions constituting violations of City and State housing maintenance laws on the subject property and the plaintiff bank to advance the funds necessary for the receiver to comply with his obligations, at the Supreme Court, Appellate Division, and/or Court of Appeals level; and (ii) in other foreclosure cases in which the same relief is appropriate.

By Council Members Lander, Gonzalez, Dilan, Dickens, Palma, Jackson, The Speaker (Council Member Quinn), Gennaro, Comrie, Fidler, Koppell, Mendez, Nelson, Reyna, Rose, Sanders Jr., Williams, Chin and Gentile

Whereas, In 2009 National Bank of New York City commenced a mortgage foreclosure proceeding against the owners, tenants, and others affiliated with 296 5th Avenue in the Park Slope neighborhood of Brooklyn; and

Whereas, In 2010 The Dime Savings Bank of Williamsburgh commenced a mortgage foreclosure proceeding against the owners, tenants, and others affiliated with 262-272 45th Street in the Sunset Park neighborhood of Brooklyn; and

Whereas, Both cases are currently pending in New York State Supreme Court, Kings County; and

Whereas, In both cases the court has appointed a receiver, who is responsible for, among other things, keeping the subject properties in good repair; and

Whereas, On May 6, 2011, the defendant tenants in each case made a motion asking the court to order the court-appointed receiver to cure conditions constituting violations of the City's Housing Maintenance Code (HMC) in the premises and the plaintiff bank to advance the funds necessary for the receiver to comply with his

obligations; and

Whereas, According to the tenants' moving papers, each property is in extremely poor repair: the Park Slope building has 96 outstanding housing violations, the Sunset Park property has 352 outstanding housing violations, and one of the Sunset Park buildings has been placed into the City's Alternative Enforcement Program, which targets the most distressed properties in the City; and

Whereas, The court-appointed receiver is required to prioritize his expenditures of rents and other income from the properties for which he is responsible on correcting immediately hazardous and hazardous violations of the housing maintenance laws, pursuant to Section 1325 of the Real Property Actions and Proceedings Law; and

Whereas, The Multiple Dwellings Law (MDL) and the HMC require owners to keep their properties in good repair, and the definitions of "owner" in Section 4(44) of the MDL and Section 27-2004(a)(45) of the HMC include a receiver; and

Whereas, The tenants further allege that the rent rolls of each property are insufficient to fund all necessary repairs; and

Whereas, Like many tenants in New York City, the tenants of these properties are suffering from a receiver's inability to pay for much-needed repairs because of a lack of sufficient funds to achieve compliance with housing maintenance requirements; and

Whereas, Tenants in distressed multifamily dwellings should not be victimized by violations of housing maintenance laws and be made to suffer poor housing conditions due to lending and borrowing decisions in which they did not participate; now, therefore, be it

Resolved, That the Council of the City of New York authorizes the Speaker to file amicus briefs on behalf of the Council (i) in support of the defendant tenants in the judicial proceedings captioned *Dime Savings Bank of Williamsburgh v. 262-272 45th St. Owners Group LLC* (Index No. 8211/2010, Kings County) and *National Bank of New York City v. 296 5th Avenue Group, LLC* (Index No. 29057/09, Kings County), for the

purpose of supporting those tenants' motions which request that the court in each case order the court-appointed mortgage foreclosure receiver to cure conditions constituting violations of City and State housing maintenance laws on the subject property and the plaintiff bank to advance the funds necessary for the receiver to comply with his obligations, at the Supreme Court, Appellate Division, and/or Court of Appeals level; and (ii) in other foreclosure cases in which the same relief is appropriate.

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