

STUYVESANT TOWN–PETER COOPER VILLAGE TENANTS ASSOCIATION

A Volunteer Organization Representing Our Community's Tenants Since 1971

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Stuyvesant Town Tenants Association Lawsuit Challenges State Agency on Rent Increases for All Rent-Regulated Tenants

In the interest of all New York State rent-regulated tenants, the Stuyvesant Town–Peter Cooper Village Tenants Association (“STPCV TA”) has filed a lawsuit against the New York State Division of Housing and Community Renewal (“DHCR”).

The lawsuit seeks a judgment to nullify DHCR’s recently promulgated Reasonable Cost Schedule (“RCS”) for major capital improvements (“MCIs”) as violating the provisions of the Housing Stability and Tenant Protection Act of 2019 (“HSTPA”). MCIs are costs that housing owners may pass on to tenants and which become part of the base rent. They are a useful tool for owners to increase rents even during the term of a lease.

The STPCV TA contends that the MCI costs determined by the agency are not in fact reasonable, and that they include items not eligible for MCIs and which do not appear in the schedule, among other defects.

The suit, known as an Article 78, was filed on May 27, 2021, in New York State Supreme Court by attorney Seth Miller of Collins, Dobkin & Miller on behalf of the STPCV TA. The suit affects all current and future rent-regulated tenants in the state.

Keeping rents affordable is a paramount concern of the STPCV TA. Over decades, the community’s rents have been increased permanently by the cost of items that do not fit the requirements of an MCI. Nevertheless, DHCR has seen fit to approve them and thus undermine the available affordable housing stock in the community and elsewhere in the city and several counties.

“For too long, rent-regulated tenants everywhere have been taken advantage of—and even defrauded—by owners and a state agency given to rubber-stamping any costs submitted to it, knowing full well tenants would be bearing the costs forever. DHCR must create a new Reasonable Cost Schedule that is in line with the letter and intention of the HSTPA,” said Susan Steinberg, President of the Stuyvesant Town–Peter Cooper Village Tenants Association.

Background

The HSTPA required DHCR to set forth a new Reasonable Cost Schedule for MCI rent increases. For decades DHCR had allowed such increases based on costs submitted by housing owners and did not properly limit the type of work that could potentially qualify as an improvement. The new law allowed rent increases based only on “a schedule of reasonable costs”; the costs were to be a maximum amount.

DHCR published the Reasonable Cost Schedule in the form of two Operational Bulletins. Where the HSTPA sets a ceiling on MCI rent increases by limiting them to the increases appearing on a finite schedule, DHCR’s new regulation permits rent increases based on costs for items that do not appear on any schedule of reasonable costs, allows rent increases for costs that are above the amounts on the schedule, and does not ultimately fit the settled definition of “reasonable costs” as that term was intended by the HSTPA. In other words, it does not fit the intent of the HSTPA.

The prior system permitted, and indeed incentivized, exorbitant rent increases without regard to the reasonableness of the cost involved, for unnecessary work undertaken merely as an end-run around the limits on regulated rents. In one of the worst examples, DHCR granted the landlord of 215 East 68th Street in Manhattan a rent increase of \$200.03 per room, plus retroactive arrears of \$7,001.05 per room, based on the owner’s

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expenditure of \$56,681,111.53 on adding an entirely new “terra cotta rainscreen system” to a rent-stabilized building.

Action following passage of the law in 2019

Tenants and their advocates tried to work with DHCR at in-person meetings and by testifying at the agency’s mandated public hearing. Despite the testimony of tenants, tenant advocates, elected officials, legislators, and even owners, bolstered by an item-by-item review of every proposed cost by an expert, the agency dismissed all objections.

“When the State Legislature passed the Housing Stability and Tenant Protection Act in 2019, we implemented a reasonable cost schedule meant to cap MCIs and ensure they remain just that—reasonable. I am proud to stand with the Stuyvesant Town–Peter Cooper Village Tenants Association as they fight to ensure our legislative intent is safeguarded. Protecting tenants and our affordable housing stock will be critical for our future as we all work together to ensure our City’s recovery from the pandemic is equitable,” said **State Senator Brad Hoylman** (27th Senate District).

“Major Capital Improvements create a perverse incentive to hike rents in rent-stabilized apartments. That’s why I fully support the decision taken by the Stuyvesant Town–Peter Cooper Village Tenants Association to file a lawsuit against DHCR in an effort to call out the agency’s attempt to amend existing state laws through regulatory backdoors and evade their duty to implement the historic housing reforms we passed two years ago,” said **State Senator Gustavo Rivera** (33rd Senate District). “Last year, I testified against DHCR’s reasonable cost schedule loopholes, and I will continue to defend our State’s laws and stand with rent-stabilized tenants who for far too long have been taken advantage of by unscrupulous landlords.”

“Agency rule making must advance the implementation of a law, not curtail it. Unfortunately, the regulations promulgated by the Division of Homes and Community Renewal are riddled with loopholes that go against the will of the Legislature in enacting the Housing Stability and Tenant Protection Act (HSTPA), and create opportunities for the same type of profiteering off of the Major Capital Improvement system that the HSTPA was written specifically and unambiguously to outlaw. I applaud the Stuyvesant Town–Peter Cooper Village Tenants Association for taking the lead on behalf of a million-plus rent-stabilized New Yorkers to challenge problematic actions by DHCR, which violate the HSTPA,” said **Assembly Member Harvey Epstein** (74th Assembly District).

“The Housing Stability and Tenant Protection Act was a landmark moment for tenants across the state by providing protections against runaway rent increases. It’s essential that we uphold and protect the intention of the law. Thank you to the Stuyvesant Town–Peter Cooper Village Tenants Association for fighting on behalf of tenants,” said **City Council Member Keith Powers** (4th City Council District).

“The very thrust of the MCI reforms in the Housing Stability and Tenant Protection Act of 2019 was to correct abusive, pro-landlord practices in DHCR’s administration of the program. Legislators were as angry as tenants were about the agency’s practices of rubber-stamping landlord applications and authorizing rent increases whether they were consistent with the law or not. With these regulations the Cuomo administration has demonstrated that they don’t intend to change their practices, the legislature be damned,” said **Michael McKee**, Treasurer, Tenants Political Action Committee.

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<https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=TKZPrwZsPawJV4NIBIQzMA==&system=prod>

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