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MICAH Z. KELLNER
65th Assembly District

February 6, 2009

Hon. Jaclyn A. Brillling
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

RE: Petition for re-hearing of #08-E-0838

Dear Ms. Brillling:

We are writing to petition for a re-hearing of application #08-E-0838 by North Town Roosevelt, LLC to submeter electricity for 510-580 Main Street ('Roosevelt Landings,' formerly known as 'Eastwood') on Roosevelt Island.

We understand and appreciate the laudable environmental goals of submetering as a means of encouraging energy conservation, but we are confident that you will agree that the conversion from mastermetering to submetering was never intended to create significant rent-like increases for subsidized tenants in a building with an electric baseboard heating system. Not only are such increases unfair, but in these tough economic times this is a hardship that threatens the ability of these working families to keep their homes.

Eastwood residents have now received the first of two months of sample billing under the submetering scheme. Having reviewed thirty-six of these sample bills provided to our offices by concerned tenants (a spreadsheet is attached for your review; with personal identifying information redacted), we are seriously alarmed by how expensive the billing is, with some tenants, including Section 8 tenants, receiving bills in excess of \$1000.

Below is a short summary of this initial data showing the five unit types and the average billing these tenants received:

Unit Type	DHCR-Determined Utility Allowance	Average Bill (Actual)
Studio	\$99	\$230.18
One-Bedroom	\$119	\$418.04
Two-Bedroom	\$148	\$442.62
Three-Bedroom	\$178	\$545.97
Four-Bedroom	\$219	\$746.36

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In this petition we hope to raise a number of issues and pose some questions for your consideration.

Tenant Composition

It is our understanding that there may have been an assumption that Eastwood tenants were subject to the protections afforded under the rent stabilization provisions of the NYS Emergency Tenant Protection Act. No tenant at Eastwood is or has ever been rent stabilized.

Eastwood is a former Mitchell-Lama with over 1000 units. The majority of these tenants receive the Section 8 Enhanced ('Sticky') Vouchers. The rest are a mix of Market Rate and Landlord Assistance Program (LAP) tenants. LAP tenants have a special contractual agreement with the landlord that results in rules governing future rent increases and some tenant protections.

Failure of Applicant to Make Basic Energy-Efficiency Improvements

The following conditions exist at Eastwood:

- Electric, baseboard heating is used and units are approximately 33 years-old and not Energy Star rated;
- Building walls are poorly insulated;
- Many heaters can not be regulated, but rather can only be turned to the on or off position;
- Very few thermostats work and do not include temperature readings, but rather indicate ambiguous settings (ex. 1, 2, 3, 4, 5);
- Tenant-conducted survey indicates that over half of tenants have at least one broken or ineffective heating unit;
- No thermometers exist in any of the units;
- Large senior and disabled population cannot reach thermo-controls due to placement at ground-level, with no accommodation provided;
- Home appliances are typically very old and are not Energy Star rated;
- North Town Roosevelt, LLC did replace windows in most units for better insulation, but failed to order covers for air conditioning unit sleeves to keep out the winter draft, instead cardboard was installed, leaving tenants exposed to the elements;
- Limiters have been installed in windows, instead of the more appropriate child guards, which will prevent tenants from opening their windows during the warmer months as an alternative to air conditioning; and
- Hallways and other common areas are unheated resulting in heat leakage from residential units into hallways.

Calculation of Appropriate Rent Reduction Formula (NYCRR 96.2)

We are concerned that the rent reduction formula does not accurately reflect the electric costs resulting from conversion to submetering. The applicant, North Town Roosevelt, LLC, indicated in its application, that the appropriate rent reduction formula would be set "according to the utility allowance guidelines set by DHCR."

As you know, DHCR is charged, as the local public housing authority, to set utility allowance schedules for Section 8 tenants in accordance with federal HUD regulations. These rules limit DHCR to setting the utility allowances based on “the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole and current utility rates.”

Current utility rates are not being used in the DHCR calculation. We have been informed by DHCR that the published allowance calculations assume a rate of \$0.14 cents/kwh. However, the rate of billing on the sample bills Eastwood tenants have received is \$0.18 cents/kwh. DHCR has told us that they are in the process of revising the utility rate allowances to reflect this significantly higher utility rate, but this has yet to be finalized.

We would like to make the PSC aware of the reasons we believe it is inappropriate to develop a schedule through a one-to-one comparison of Eastwood to “the community as a whole,” as was done by DHCR. Eastwood uses an electric baseboard heating system which is incredibly inefficient and not typical of the majority of apartment complexes in the area. This is further compounded by the unique geographical location of this nineteen-story apartment complex, which is situated on an island in the middle of the East River, steps away from the waterfront. Stronger winds and colder temperatures exist on Roosevelt Island than are typically experienced by buildings to the west on Manhattan Island or to the east in Queens. These geographical challenges most severely impact tenants with two or three exposures in their unit.

As well, we believe it is imperative for the PSC to be aware that Eastwood is home not only to a large low-income Section 8 population, but also to a large community of people with disabilities and chronic diseases. This is because Roosevelt Island was originally envisioned as a planned community, and to this day, the Island remains one of the most wheelchair friendly places in New York City. Eastwood has a large number of units that were designed for accessibility and set aside for that purpose. Furthermore, HHC Coler-Goldwater Hospital is the only public hospital in the City, and the first in the nation, to specifically cater to chronic diseases. As a result, Eastwood has an unusually high number of tenants who utilize 24-hour life support medical equipment such as ventilators and oxygen tanks, motorized wheelchairs, and other necessary medical equipment with high electrical usage requirements. One such tenant, Ms. Sharon Stern, was recently profiled in the *New York Times* (“A Life Changed but Not Destroyed by Polio”; January 27, 2009). Her story is an excellent representation of the community in Eastwood who live with the challenges of disability and chronic disease and may be of interest to you. It is attached.

While DHCR has told us that special consideration may be given to senior/disabled households, those with life support equipment, and those with two or more exposures (many units in Eastwood have three exposures), we understand that these accommodations will be capped at an additional \$40/month.

We believe in the principles of submetering, and know that through greater conservation methods, actual usage by tenants undoubtedly improves. However, of the thirty-six bills that we

have collected thus far, only one of them is within the rent reduction schedule (by \$4) for any tenant's unit type. This particular tenant had not understood that this billing cycle was a sample and for informational purposes only. For the entire month prior, this tenant kept the heating units in the off position and burned candles instead of turning the lights on. We have heard other reports of tenants heating their apartments using their gas-powered stoves. These are obviously not desirable solutions, and education efforts at Eastwood about the dangers of these 'energy-reduction methods' continue, but it demonstrates the problem plainly.

Rethinking the Rent Reduction Schedule Process for Eastwood

It seems to us that if this there were not a building with Section 8 tenants, a different procedure would have been followed. As we understand it, the applicant would have had to include its own rent reduction plan in its application, and the PSC would have reviewed it to ensure it was appropriate prior to any approvals.

It is our hypothesis that a plan that was tailored to the unique situation of Eastwood through the careful deliberation of the PSC would have resulted in a more appropriate utility allowance schedule. This leads us to ask the following questions: Why was the applicant not required to submit a rent reduction schedule for the Market Rate and LAP tenants, since these tenants are not subject to HUD regulations? And if such a schedule did result in greater allowances than provided by the DHCR determination, would the PSC have the flexibility to select the more appropriate schedule of reductions for *all* the tenants?

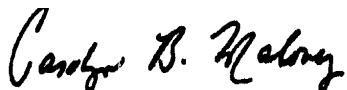
Ultimately our current perspective is that given all of these factors, Eastwood is not an appropriate candidate for submetering. As long as Eastwood continues to utilize an outdated baseboard electric heating system we have a hard time envisioning a safe and reasonable way in which significant conservation efforts on the part of tenants could bring the submetered bills into any acceptable range.

Thank you for your consideration of this petition. Please feel free to contact us with any questions about our request or if you have any other questions.

Very truly yours,



Micah Z. Kellner
Assembly Member



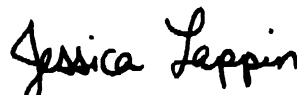
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Alan Smith, Assistant Commissioner, NYS Div. of Housing and Community Renewal
William C. Thompson, Jr., New York City Comptroller
Stephen Shane, President, Roosevelt Island Operating Corporation
Joyce Mincheff, President, Eastwood Residents Association
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