



April 21, 2010, Bronx, NY— This morning, City Council Speaker Christine Quinn, Bronx Borough President Ruben Diaz, Jr., and City Council Member Fernando Cabrera stood with dozens of Bronx tenants, attorneys from Legal Services NYC-Bronx (LS-NYC Bronx) and advocates from the Urban Homesteading Assistance Board (UHAB) and the Northwest Bronx Community and Clergy Coalition (NWBCCC) to announce a new legal strategy that could serve as a valuable weapon for tenants living in distressed apartment buildings that are going through foreclosure. A motion being filed today by LS-NYC Bronx, on behalf of tenants living in a portfolio of ten distressed apartment buildings, argues that once a foreclosure action is initiated, and a court-appointed receiver is in place, the mortgage holder can be held liable for maintaining building conditions. (Photo: Speaker Quinn with Borough President Diaz, Council Member Cabrera, LS-NYC Bronx Housing Unit Deputy Director Jonathan Levy, building tenants and community activists)

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#### **Press Coverage:**

*New York Times* April 20, ["Bid to make Banks Fix Crumbling Bronx Properties"](#)

Associate Press via NPR, April 21, ["NYC Tenants in Defaulted Properties Demand Fixes"](#)

*Village Voice* April 21, ["Tenants in 'Worst Landlords' Bronx Buildings Take Wall Street—Not Their Landlord—to Court"](#)

Bronx News Network, April 21, ["Understanding the Players in the Milbank Securitization Portfolio"](#)

News 12 Bronx, April 21, ["Building Disrepair Angers Tenants, Officials"](#) (video)

*Daily News*, April 22, ["Judge to Rule on Maintenance Responsibilities for Foreclosing Properties"](#)

*City Limits*, April 22, ["New Legal Push for Foreclosure Victims"](#)

GlobeSt.com, April 22, ["Tenants Demand Lender Pay for Repairs"](#)

*Riverdale Press*, April 29, ["Tenants say receiver has let buildings deteriorate in K'bridge"](#)

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The case concerns ten distressed apartment buildings housing more than 500 families. The portfolio has been in a steady state of decline since its owner, a private equity firm known as Milbank Real Estate, defaulted on its \$35 million mortgage. In March of 2009, the mortgage holder, a \$3 billion commercial mortgage-backed security trust controlled by Wells Fargo and serviced by LNR Partners, Inc., initiated foreclosure proceedings. The foreclosure judge appointed a receiver who is charged with collecting rents and managing the properties, but due to the high number of vacancies in the buildings, along with the already severely distressed conditions in most of the units, the income from rent collection is not adequate to properly maintain the portfolio.

The tenants have endured horrible living conditions since Milbank over-leveraged their buildings. Water leaks, hazardous

molds, cracked and peeling lead paint, collapsing ceilings, broken locks on entrance doors, useless intercoms, rat and roach infestations, busted boilers, and electrical fires are commonplace throughout the portfolio.



Milbank Real Estate purchased the rent stabilized properties in 2007 during the height of the real-estate bubble. Advocates questioned the financial sustainability of the \$35 million mortgage debt, and placed the portfolio on their “watch list” of potentially troubled buildings. “These tenants deserve better-- they pay their rent, work hard, and are suffering because of irresponsible lending practices by Wells Fargo, and irresponsible management by their previous landlord,” said Teresa Anderson, NWBCCC President. “Wells Fargo and other irresponsible banks and landlords will soon learn that when you mess with one tenant in the Bronx, you mess with all of us.”

LS-NYC Bronx attorneys hope that this legal strategy will force Wells Fargo and their agent, LNR Partners, Inc., to invest enough of their considerable resources into the portfolio to bring conditions back up to acceptable levels. “The Milbank tenants have suffered the consequences of Wall Street’s reckless lending practices for too long,” said Jonathan Levy, Deputy Director of the LS-NYC Bronx Housing Unit. “The lenders must be held accountable for the costs of repairing the damage.”

If the Milbank case is successful, it will bring badly needed relief to tenants at a time when a record number of apartment buildings are heading into foreclosure. According to a report released earlier this year by UHAB, there are more than 4700 apartments in NYC in foreclosure as a direct result of irresponsible lending and investment by private equity companies and banks.

“As properties like these move into foreclosure tenants are left in a state of limbo, not knowing who is responsible for critical repairs,” said City Council Speaker Christine C. Quinn. “Through this lawsuit, we’re saying that lenders must be held accountable for the properties they helped finance. No family should have to live in deplorable conditions because of the unsustainable investments that someone else made.”

“Yet again we are forced to tell a bank to pay attention to the needs of tenants when they sell a portfolio of apartments in the Bronx,” said Congressman José E. Serrano. “We had the same message during the Ocelot fight, and we were right then, as we are now. The tenants of Milbank Houses have a powerful new tool in a recent court decision that allows them to press the lender to ensure that the properties are adequately maintained. And this is the crux of the issue—we cannot have buildings falling apart as legal wrangling takes place over ownership or foreclosure. Tenants are entitled to housing that is safe and decently maintained. I applaud the many tenants of these buildings who organized themselves, the advocates who worked tirelessly on their behalf, and the lawyers from Legal Services NYC who are now bringing suit to ensure these tenants have decent and safe housing.”

The City Council recently created a Task Force on Financially Distressed Rental Housing to monitor problems resulting from the continued fallout of the housing market crash, and perform rapid response when these problems threaten the welfare of building tenants. Chaired by Council Members Erik Martin Dilan, Inez Dickens and Annabel Palma, and HPD Commissioner Rafael Cestero, the Task Force is focused on finding alternative solutions to the issues posed by overleveraged buildings across the five boroughs. It is currently exploring opportunities to close legal and policy gaps through federal, state and local legislation, encourage banks and other lenders to work with developers and property owners to realistically appraise buildings, and find appropriate plans to deal with specific problems at individual buildings.

“The conditions the tenants are facing in the ten Milbank buildings are a risk for tenants across the city,” said Councilmember and task force co-chair Inez E. Dickens. “This lawsuit aims to protect tenants in the Milbank buildings and could be used to protect tenants in other buildings in similar situations.”

“Our task force is looking for broad policy solutions, but we are also working hard on behalf of tenants in severely distressed buildings like the ones in the Milbank portfolio,” said Housing and Buildings Committee chair and task force co-chair Erik Martin Dilan. “We need to make sure that when the owners walk away, the lenders are responsible for providing funding to keep the buildings in a habitable condition.”

“I joined the task force because I am greatly concerned about tenants living in distressed and overleveraged housing, both in my district and throughout the city,” said Council Member and task force co-chair Annabel Palma. “Conditions like the ones tenants are facing in these ten buildings are unacceptable and we need the lenders to fully accept the responsibility of maintaining these buildings.”



"When Wells Fargo was in financial distress the taxpayers came to their aid to the tune of \$25 million dollars. With nearly 400 units and over 3,000 violations under Milbank properties in my district, I'm asking that Wells Fargo demonstrate the same concern for the hundreds of residents living in deplorable living conditions," said Council Member Fernando Cabrera.

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