

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART R

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CARLENA CASTILLO, YAHAIRA ABREU,
KILEY ROMAN, ALICIA RODRIGUEZ,
DORA PERDOMO, TANIA HIDALGO OVELLE,
WINELL TORRES, EVELYN RIJO,
VLADIMIR MORALES and IVETTE NICOLAS

INDEX NO. L&T 981-19

Petitioners,

STIPULATION OF SETTLEMENT

-against-

NUSSBAUM REALTY COMPANY LLC,
RICHARD NUSSBAUM, ERIC NUSSBAUM,
NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT,
NEW YORK CITY DEPARTMENT OF BUILDINGS
and NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE,

Respondents.

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Petitioners Carlena Castillo (Apt. 4B), Yahaira Abreu (Apt. 4C), Winell Torres (Apt. 5F),
and Evelyn Rijo (Apt. 6B), Respondents Nussbaum Realty Company, LLC; Richard Nussbaum;
and Eric Nussbaum; and DHPD agree to the following Stipulation and consent order regarding
the subject building, located at 99 Marble Hill Avenue, Bronx, NY 10463.

1. Petitioners’ pending motion is hereby resolved.
2. The Court’s Order to Correct dated June 28, 2019, as modified by the parties’
stipulation dated December 7, 2020 (the “Consent Order”), shall remain in force and effect,
subject to the modifications set forth in this stipulation. Respondents acknowledge proper
service of the Consent Order as so modified. A copy of the December 7, 2020 stipulation is
attached hereto as Exhibit 1.

Apartment Repairs

3. The Consent Order is modified to include all outstanding violations of record at Apartments 4B, 4C, ^{#3 ok} ~~4E~~, 5F, and 6B of the subject building (collectively, “the Premises”), together with the following common-area violations: #16969912 (water leak in boiler room, 5/13/2024); #16915153 (roach infestation of basement, 4/19/2024); #17016187 (water leak over sixth floor public hallway, 5/31/2024); #17016191 (exposed electrical wiring, sixth floor public hallway, 5/31/2024). Respondents shall also correct all violations found by the HPD inspection of Apartment 5F scheduled for July 15, 2024 (which inspection may be rescheduled by Petitioners and HPD).

4. Respondents shall correct all outstanding HPD violations at the Premises, and the above-referenced common area violations, as set forth in Exhibit 2, as follows: Any Class “C” violations within 7 days; Class “B” violations within 30 days; and Class “A” violations within 90 days. The time periods provided in this paragraph shall commence upon the first date of access to the applicable unit as arranged pursuant to this Stipulation, other than for common area violations. All remedies contemplated by the Consent Order for failure to correct any violation shall remain available. Upon default, Petitioners may seek civil penalties as provided in the Consent Order, as applicable, and Respondents reserve all defenses to such claims.

5. Extermination of cockroaches, mice, rats, or any other “pests” as defined by the HMC shall be conducted in compliance with the Integrated Pest Management Practices required under N.Y.C. Administrative Code section 27-2017.8 and to the extent otherwise required by law. As reasonably possible, Petitioner further agrees to conduct monthly pest management in the buildings’ common areas in compliance with NYC Administrative Code § 27-2017.8, which requires, among other provisions, eliminating points of entry and passage for pests. Promptly

following the execution of this Stipulation, the parties shall schedule an exterminator visit to Apartments 4B and 4C, which shall be dedicated to those apartments, and shall not be part of the exterminator's regularly scheduled monthly visits to the subject building. To the extent possible, Respondents' exterminator shall examine each such apartment for points of entry and passage for pests. If possible, Respondents will identify the person or company providing extermination services at least three days before any exterminator visit.

6. Remediation of mold shall be conducted in accordance with the work practices required under NYC Administrative Code § 27-2017.9, N.Y.C. Admin. Code § 24-154, Labor Law Article 32, and all other applicable law in the State of New York. Nothing herein shall impose any less stringent requirement upon requirements than set forth by applicable law.

7. All correction of violations shall be made in a workmanlike manner.

8. With respect to each violation regarding water leaks (including violations calling for roof repairs) that has been cited in the Consent Order, including those cited in the Consent Order as originally issued on June 19, 2019, and in the modified Consent Order dated December 7, 2020, to the extent possible, Respondents shall identify in writing the sources of the water leak in question, and provide documentation that such source was repaired, as a condition to such violation being deemed corrected.

9. Petitioners agree to provide required access for Respondents to remedy the presently existing HPD violations, on dates to be agreed by the parties through counsel. Unless otherwise agreed by the applicable parties, access shall be provided from 9 a.m. to 5 p.m. on each access date, provided that if work does not begin by 11 a.m., the applicable Petitioner shall be excused from providing further access on the applicable date.

Elevator Repairs

10. Within 10 days of the date of this Stipulation, Respondents shall remove garbage from the elevator pit and remove loose items from the top of building elevator; secure the elevator machine room door at the subject building with a lock; and clear all obstacles preventing the door to the door lock monitoring cabinet from closing, as discussed on pages 21, 22, and 25 of the elevator survey report, dated April 3, 2024, by Hubert H. Hayes, Inc. (the “Hayes Report”). A copy of the Hayes Report is attached hereto as Exhibit 3.

11. To the extent possible, Respondents shall provide documented monthly maintenance to the building elevator, with the first monthly maintenance visit to be made within 30 days of the date of this Stipulation. No visit by any elevator technician in response to any defect or elevator service problem shall be considered “monthly maintenance” for purposes of this paragraph.

12. Petitioner shall maintain the elevator at the subject building in working order. Within 60 days of the date of this Stipulation, Respondents shall complete all repairs (items 1 through 12) listed in the “Maintenance Evaluation” section in page 6 of the Hayes Report, and items 1 through 5 listed at the bottom section of page 10 of the Hayes Report.

13. Within 45 days of the date of this Stipulation, Respondents shall provide a copy of a plan prepared by an elevator contractor for all repairs and/or equipment replacement set forth in the “Recommendations” section (items 1 through 9 on pages 9-10) of the Hayes Report.

14. Within 90 days of the date of this Stipulation, but no earlier than 60 days after the date of this Stipulation, Respondents shall provide access to the building elevator and elevator machine room to an inspector of Petitioners’ choice, to confirm compliance with this Stipulation.

15. Within 40 weeks of the date of this Stipulation, Respondents shall complete all repairs and/or equipment replacement set forth in the in the “Recommendations” section (items 1 through 9 on pages 9-10) of the Hayes Report. After completion of such repairs and/or equipment replacement, Respondents shall provide access to the building elevator and elevator machine room to an inspector of Petitioners’ choice, to confirm compliance with this Stipulation.

16. Respondents shall provide further access to the building elevator and elevator machine room to an inspector of Petitioners’ choice, for additional inspections upon reasonable prior notice.

17. Respondents’ compliance with each of the repair and/or equipment replacement tasks listed in the Hayes Report and referenced above shall be treated as the correction of a “C” violation for purposes of this Stipulation, including assessment of any civil penalties for non-compliance.

Elevator Accommodations

18. Within 45 days of the date of this Stipulation, Respondents shall install ramps at the building front steps, such ramps to have a width of a least 36 inches and otherwise comply with applicable law, that enable tenants to enter the subject building without climbing steps; provided, however, that such installation shall be subject to any and all applicable New York City Department of Buildings rules and requirements.

19. For the duration of any elevator service outage, Petitioners shall receive a 15% abatement of the applicable contract rent, such abatement to be calculated based on the applicable monthly rent and, for outages for part of any month, calculated *pro rata* based on the

number of days of the outage; provided that the parties reserve their respective rights and defenses as to whether any such outage has occurred.

Janitorial Services

20. Within 30 days of the date of this Stipulation, Respondents shall comply with Article 13 of the Housing Maintenance Code, including, without limitation, by providing a full-time janitor and/or superintendent; or 24-hour janitorial services, as required by law. Within 30 days of the date of this Stipulation, Respondents shall provide Petitioners' counsel with an affidavit that confirms the name and residence of the person or entity in charge of janitorial services, and confirms (to the best of the affiant's knowledge) that Respondents are complying with Article 13 of the Housing Maintenance Code with respect to the subject building.

Boiler

21. Within 7 days of the date of this Stipulation, Respondents shall identify, in writing, the cause of any and all smoke and/or gas emissions into apartment 6B between December 2022 and March 2024, and provide written documentation of repairs made to correct such conditions.

22. Respondents shall schedule an inspection of the boiler and boiler room at the subject building by the New York City Department of Buildings within 30 days of the date of this Stipulation, subject to the DOB's availability, and shall provide access for such inspection. Respondents shall correct any and all boiler conditions identified in such inspection as required by applicable law and regulation.

Rent Abatement, Rent Reduction Order, Legal Fees

23. In consideration and settlement of the present Petitioners' claims in this proceeding to date against Respondents with prejudice, Respondents agree to waive all late fees alleged to be

due from Petitioners and provide the Petitioners with a rent abatement credit equal to eight (8) months' rent calculated at Petitioners' current monthly rent. All credits contemplated by this paragraph shall be effective immediately.

24. For purposes of calculating the above-referenced abatements, the current monthly rents for Petitioners are as follows:

- i. Carlana Castillo (4B): \$1,478.34 per month;
- ii. Yahaira Abreu (4C): \$1,294.06 per month;
- iii. Winell Torres (5F): \$1,006.87 per month; and
- iv. Evelyn Rijo (6B): \$1,184.81 per month.

25. The parties acknowledge that the New York State Division of Housing and Community Renewal (DHCR) has issued two rent reduction orders, under docket numbers KQ 410037 B and KV 410003 B. Within 15 days of the date of this stipulation, Respondents shall adjust Petitioners' rent balances to reflect all reductions ordered by DHCR.

26. Respondents' counsel shall provide Petitioners' counsel with updated rent ledgers reflecting the credits and balances provided herein by August 15, 2024.

27. All claims to attorneys' fees to date are hereby settled for a settlement payment of \$12,000.00. Respondents shall make such payment by bank check or certified check, payable to Bronx Legal Services. Within ³⁰~~10 business~~ days of the date of this Stipulation, Respondents shall deliver such payment to the office of Bronx Legal Services, 369 East 148th Street, Second Floor, Bronx, New York 10455, Attn: Chiansan Ma.

28. Respondents agree to provide access on a monthly basis to DHPD's inspectors to monitor Respondents' compliance with this Order. Access may be arranged between the parties or their counsel, but Respondents are to provide access at least once per month.

29. Should Respondents default on any of these terms, either party may move the Court for appropriate relief based on affidavits or affirmations from someone with personal knowledge. The parties reserve their respective rights to oppose any such motion.

30. Respondents' attorney shall send attorneys for Petitioners and DHPD status updates monthly, commencing July 21, 2024, by email to CMA@LSNYC.ORG and BASSM@HPD.NYC.GOV. Respondents' status updates shall include updates regarding Respondents' compliance with this Order, including, without limitation: the status of the elevator repairs and/or equipment replacement provided herein, and related accommodations; the provision of janitorial services; the status of any outstanding boiler repairs; any and all apartment and common area repairs completed since the last update; further access needed for Respondents to complete outstanding repairs; and the scheduling of any inspections provided for herein. The parties shall otherwise communicate in good faith to facilitate compliance with this Stipulation.


31. This Stipulation shall be binding upon all respective Parties, their heirs, assigns, executors, administrators, and successors-in-interest to their property.

32. This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

33. Either party may submit this Stipulation ex-parte to be "so-ordered."


34. Any facsimile or electronic transmittal of original signature versions of this Stipulation shall be considered to have the same legal effect as execution and delivery of the original document, and shall be treated in all manner and respects as the original document including filing of same with the Civil Court.

Dated: July 15, 2024



Bronx Legal Services
By: Chiansan Ma
Attorney for Petitioners

Attorney for DHPD



Singh & Rani, LLP
By: Bikram Singh, Esq.
Attorney for Respondents

SO ORDERED: _____


Hon. Jack Stoller

J.H.C.