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MICAH Z. KELLNER
65th Assembly District

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Statement of
Assembly Member Micah Z. Kellner
In Opposition of Hardship Application to Demolish
429 East 64 Street and 430 East 65 Street of the
City and Suburban First Avenue Estate
Landmarks Preservation Commission – January 24, 2012

My name is Micah Z. Kellner and I represent the 65th Assembly District in Manhattan, including parts of the Upper East Side, Yorkville, and Roosevelt Island. Thank you to Chair Tierney and to the Commissioners of the New York City Landmarks Preservation Commission (LPC) for the opportunity to testify today regarding the Hardship Application submitted by the owner of 429 East 64th Street and 430 East 65th Street. I urge the LPC to deny this application. If granted, the owner will proceed with their ultimate plans for the demolition of these buildings that are an integral part of the landmarked City and Suburban First Avenue Estate.

After reviewing all the information presented in the expert reports and testimony being submitted by the owner as well as the individuals and groups in opposition, I believe that the LPC will reach the conclusion that the information provided in the application does not support the required criteria for granting an economic hardship.

This owner continuously has fought the designation of these two buildings as landmarks. This matter finally was concluded after a protracted legal battle by the June 24, 2010 decision of the New York State Supreme Court Appellate Division, First Department upholding the LPC's 2006 designation. Even before the court's ruling, the owner attempted to undermine this designation by requesting the two comparative economic feasibility studies, dated February 9, 2009 and May 1, 2010. The timing of these reports clearly demonstrates that the owner's intent is and always has been to reverse the LPC's 2006 determination which found these buildings essential to the historical fabric of the First Avenue Estate, which exemplifies the cultural and social evolution of tenement housing in New York City.

In considering this economic hardship application the LPC must decide if the subject buildings are "Capable of earning a reasonable return." As you are well aware, this is defined as "Having the capacity, under reasonably efficient and prudent management of earning a reasonable return." (N.Y. ADC. LAW § 25-302: NY Code – Section 25-302: Definitions). Under this definition, the owner's claim that a 6% return on investment can not be achieved flies in the face of the reality of the current rental market in the City and especially on the Upper East Side of Manhattan.

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I am sure that the LPC will conclude that based on the owner's actions, they have failed to manage these buildings in the appropriate manner to meet the criteria necessary to prove that a reasonable return cannot be earned. In the application, the owner admits to warehousing the vacant apartments to develop the site. Currently, it is estimated that more than 50% of the 190 apartments are vacant. They claim that the vacant apartments can only be rented for no more than $600 - $888 per month, even if more than $41,000 was invested to renovate each one.

It is difficult for me to understand the owner's conclusions regarding the rents that each apartment can command after an investment of $40,000 for an apartment renovation. My skepticism of the facts arises because under the formula used by the New York State Division of Homes and Community Renewal (DHCR) of 1/40th of the cost of the renovations, the legal base rent for each apartment could be increased by $1,000. They also could be allowed additional vacancy increases. In addition, to the best of my knowledge during the entire time they owned these buildings a hardship application for an increased rent has never been filed with the DHCR.

The owner's scenario for the rental market does not even come close to the one that was described recently in the article, 'RENTING & RAVING, Rates skyrocket as apts. dwindle', *New York Post*, Thursday, January 12, 2012, by Jennifer Gould Keil and Reuven Fenton. The first two sentences in the article clearly dispute the owner's claim for the granting of this Hardship Application by the LPC, "Rents are too damn high – and apartments too damn scarce. Manhattan rents soared 8.6 percent last year – reaching pre-2007-crash highs – while vacancy rates plummeted and residents grabbed apartments at a near-record pace, new industry reports show." It further goes on to describe that the average vacancy rate in Manhattan dropped from 1.16% in 2011 to 0.96%. This was followed by an article on Friday, January 13, 2012 in the *New York Post* by Jennifer Gould Keil, 'Rents to rocket', with the first sentence stating, "New York landlords will be laughing their way to the bank in 2012."

All the evidence and all their actions point to the fact that the owner has willfully mismanaged these buildings in an attempt to hoodwink the LPC into believing that a true economic hardship exists. Because the owner's clear intent is to demolish the two buildings in order to build a much taller tower on the site, they have failed to manage these buildings in a reasonably efficient and prudent manner. This has denied them the ability to earn a reasonable return making this a self-imposed hardship.

These two buildings are an essential part of the history of the City and Suburban First Avenue Estate and New York City and must be preserved. Given the absurdity of the owner's conclusions in the Hardship Application, I believe the LPC, after weighing all the evidence submitted and taking into consideration all the owner's actions, has no other choice than to deny this application.

Thank you for this opportunity to testify today.

KRUGER

Testimony from STATE SENATOR
LIZ KRUEGER

New York State Senate • 26th District

Testimony of State Senator Liz Krueger
Before the Landmarks Preservation Commission
Regarding First Avenue Estate
January 24, 2012

My name is Liz Krueger and I represent the 26th State Senate District, which includes the Upper East Side, East Midtown and Midtown neighborhoods of Manhattan. I regret that because the State Senate is in session in Albany today I am unable to attend in person.

I appreciate the opportunity to express my strong opposition to the building owner's application to demolish 429 East 64th Street and 430 East 65th Street (429 and 430), individually landmarked buildings which were constructed as part of the City and Suburban Homes Company's First Avenue Estate. Based upon my review of the owner's application to demolish 429 and 430, and the analysis conducted by a number of the historic preservation organizations in my community, I believe that owner's claims that he cannot generate a reasonable profit from the properties are entirely disingenuous. Additionally, if this application is approved, it would be devastating to the residents of 429 and 430, set an extremely dangerous precedent, and undermine the entire New York City landmarking process.

The Landmarks Preservation Commission (LPC) found in 1990 that the City and Suburban Homes Company was the most successful of the privately financed, limited-dividend companies that attempted to address the housing problems of the nation's working poor at the beginning of the twentieth century. 429 and 430 reflect both the culture and history of the community in which they are located, as well as a wider movement that aimed to bring better living conditions to all New Yorkers. These buildings served as national examples for the "model tenement" movement in which buildings were designed around an inner courtyard to ensure that every apartment had access to substantial light and air.

I was proud to work with countless residents and community organizations in my district, and my fellow East Side elected officials six years ago, to ensure that 429 and 430 were finally designated as landmarks. The East Side celebrated the LPC's decision in 2006 to rectify the politically motivated determination made by the NYC Board of Estimate in 1990 to override the LPC and exclude the two buildings when the rest of the complex was landmarked. The community thought that its struggle to preserve the homes of more than 200 residents and two key historical buildings was finally complete.

Unfortunately, both during and subsequent to the landmarking process, the owner of 429 and 430 clearly refused to accept that the buildings could not be demolished. While the landmarking application was being considered by the LPC in 2006, the owner intentionally removed many of the unique exterior features on the buildings in order to undermine their historical value. As soon as the 429 and 430 were designated as landmarks by the New York City Council, the owner immediately commenced an extraordinarily expensive unsuccessful multi-year challenge of this designation in the courts. Ironically, the owner is now including close to $400,000 in legal fees that he spent challenging the landmarks designation in his current claim that 429 and 430 cannot be reasonably profitable. While this protracted legal battle was taking place, the owner was creating the necessary conditions in the buildings for the current demolition application by warehousing apartments and letting units deteriorate. As soon as all court appeals were exhausted, the application to demolish 429 and 430 was initially filed with the LPC.

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Much of the information included in the owner's application strains even basic credibility. In order to prove that the buildings cannot produce a sufficient return on investment, the owner is forced to dramatically undervalue the potential rents that can be produced by the units in 429 and 430 and radically overestimate the vacancy rates. It is true that many of the apartments in the buildings are small, rent regulated, and have not been renovated in a number of years. Nonetheless, the owner's statement in the application that the units could only be rented in their current condition for an average of $600 per month (and would still likely have a 10% vacancy rate), or for an average of $888 a month (with a 24% vacancy rate) if they were renovated is preposterous. The only way the owner was able to generate such low monthly rental figures was by baselessly using New York City Housing Authority and Mitchell-Lama buildings as "comparables," and by completely ignoring the many legal ways in which it is possible to substantially increase the rents of rent regulated apartments. While 429 and 430 are older walk-up non-doorman buildings, they are located in a highly desirable section of Manhattan within walking distance to convenient transportation, excellent schools, and thousands of jobs at hospitals and universities located on the Upper East Side.

Having lived in Manhattan and represented the Upper East Side for many years, I find the suggestions that any vacant apartment in the area would be rented for $888 let alone $600, or that it would be difficult to fill such units, to be absolutely ludicrous. Every week my staff and I hear from dozens of constituents who are desperately searching for affordable housing who report being unable to any apartments on the Upper East Side renting for less than $1,500. According to the New York City Rent Guidelines Board, the vacancy rate in Manhattan for rental units in 2010 was 2.76%. Even a cursory glance at any real estate website would reveal that the owner's estimation of the rental potential of the units in 429 and 430 does not reflect the reality of the competitive rental market of Manhattan. If units truly were to be advertised at such rents, residents would be lining up around the block to rent apartments.

Moreover, the fact that the owner of 429 and 430 is withholding more than 50% of the units from the rental market further undermines his argument that the buildings are unable to produce a reasonable return. The owner even states in his application to the LPC that a large number of these units are being kept vacant with future demolition in mind. It is also therefore unacceptable to take into account the total claimed financial loss caused by these vacancies considering the simple fact that they have obviously been kept vacant intentionally!

New York City and the courts have created a process for owners of landmarked properties to apply to the LPC for permission to demolish their buildings only in the extremely limited circumstances in which they were "incapable of earning a reasonable return....under reasonably efficient and prudent management." The hardship application process must be limited to truly distressed properties that cannot generate reasonable profits under any circumstances. The grossly miscalculated rental potential of the buildings in the owner's application, along with the warehousing of more than 50% of the units reveal that any hardship taken on by the management of these two properties has been self inflicted and can be easily corrected.

I urge the LPC to deny this application outright, recognizing its distorted figures, overall negative impact it would have on current residents and the community, as well as the general integrity of the Landmarks Law. Thank you for allowing me to speak on this issue today and I hope the LPC will take into account the many voices that have spoken in opposition to this application.

Nicholas Viest
Chair

Latha Thompson
District Manager

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The City of New York
Manhattan Community Board 8

January 23, 2012

Hon. Robert B. Tierney, Chair
NYC Landmarks Preservation Commission
Municipal Building
One Centre Street, 9th Floor
New York, NY 10007

Re: 429 East 64th Street/430 East 65th Street (between First and York Avenues) – City and Suburban Homes Company, First Avenue Estate – INDIVIDUAL LANDMARK

Dear Chair Tierney:

At the Full Board meeting on Wednesday, January 18, 2012, the board adopted the following resolution regarding **429 East 64th Street/430 East 65th Street (between First and York Avenues) – City and Suburban Homes Company, First Avenue Estate – INDIVIDUAL LANDMARK** – *Paul Selver, Kramer Levin Naftalis & Frankel LLP.* Application is to demolish the buildings, pursuant to RCNY 25-309 on the grounds that they generate an insufficient economic return.

WHEREAS, 429 East 64th Street/430 East 65th Street consist of two six-story walk-up apartment buildings which are located on the west side of York Avenue, between East 64th Street and East 65th Street.
WHEREAS, In April 1990, the Landmarks Preservation Commission landmarked all of the residential buildings on the block, more for their cultural and historical significance than for their architectural importance. [The complex known as the First Avenue Estate.]; this designation was modified in August, 1990 so that the two above buildings were excluded from designation. However, in November, 2006, the two buildings were once again included as part of the individual landmark.
WHEREAS, the applicant claims hardship based on the fact that the income from the two buildings was less than a net annual return of six percent and thus imposed an economic hardship on the applicant.
WHEREAS, this "lack of a reasonable return" is based on the applicant's findings including arguments that the apartments have not been renovated and do not support modern usage and do not contain amenities necessary to meet current market requirements which has meant that many apartments have remained vacant.
WHEREAS the applicant hired Cushman and Wakefield to make an independent analysis of this "lack of reasonable return" and also to suggest ways that the buildings could be brought into full occupancy by upgrading the units within the buildings. The Cushman and Wakefield findings claim that, even with money spent on upgrading the buildings, the applicant's conclusion is correct that the buildings are incapable of earning "a reasonable return" as defined under the Landmarks Law.
WHEREAS the committee finds these claims to be specious.
WHEREAS there is documented evidence that the applicant's opposition to preservation began over two decades ago, including getting the original Landmarks designation overturned by the old Board of Estimate in 1990, defacing the buildings by stripping them of their architectural details, failing the maintain the buildings and by filing lawsuits that they lost at every level of the court system, including at the Court of Appeals.

WHEREAS the Cushman and Wakefield report provided by the applicant to support the applicant's hardship application" has a number of questionable assertions --including low "market rate" rent, the unusually high cost of renovating existing units, and an artificially created scenario of both vacancy rates for apartments and market rates for apartments on the Upper East Side – and thus presents a very self-interested view of what constitutes a "hardship".

WHEREAS this is only the 18th hardship application that has been submitted to the Landmarks Preservation Commission since the Landmarks Law was enacted in 1965 –the bar must not be lowered on what constitutes a "hardship" by approval of this application.

THEREFORE BE IT RESOLVED that this application is disapproved as presented.

This recommendation was approved by a vote of 42 in favor, 0 opposed, 0 abstentions, and 1 not voting for cause.

Sincerely,

Nicholas Viest
Chair

Jane Parshall and David Liston
Co-Chairs, Landmarks Committee

cc: Hon. Michael Bloomberg, Mayor of the City of New York
Hon. Scott M. Stringer, Manhattan Borough President
Hon. Liz Krueger, NYS Senate Member
Hon. Dan Quart, NYS Assembly Member
Hon. Micah Kellner, NYS Assembly Member
Hon. Daniel Garodnick, NYC Council Member
Hon. Jessica Lappin, NYC Council Member

#22 MAS

HISTORIC DISTRICTS COUNCIL

THE ADVOCATE FOR NEW YORK CITY'S HISTORIC NEIGHBORHOODS

232 East 11th Street New York NY 10003
tel **(212) 614-9107** fax (212) 614-9127 email hdc@hdc.org

Statement of the Historic Districts Council
Certificate of Appropriateness Hearing

1/24/2012

Item 22
CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN
127519- Block 1459, lot 22-
419 East 64th St. aka 430 65th St. - Individual Landmark Historic District
A two-story apartment building designed by Phillip H. Ohm, built as part of the model tenement complex City and Suburban Homes First Ave. Estates in 1914-15, and altered in 2006. Application is to demolish the buildings, pursuant to RCNY-25-309 on the grounds that they generate an insufficient economic return.

The Historic Districts Council is the advocate for New York City's designated historic districts and neighborhoods meriting preservation. Its Public Review Committee monitors proposed changes within historic districts and changes to individual landmarks and has reviewed the application now before the Commission.

It has been a long road to landmarking for the City and Suburban Homes, Company, First Avenue Estate. In 1990 the Landmarks Preservation Commission designated the entire block, from First to York Avenue, East 64th to East 65th Streets, a designation that was decreased by the Board of Estimate's removal of the two easternmost buildings in the complex. At the LPC hearing of November 14, 2006, elected officials, Community Board 8, preservationists, residents and neighbors spoke up in favor of reinstating the designation of 429 East 64th Street and 430 East 65th Street as part of the landmarked site. A week later, the commission voted to make the landmark whole again. Now, five years later, the owners seek to tear apart the site once again with an application to demolish these two structures on grounds that they generate an insufficient economic return.

HDC helped find the HRA study & we stand by it.

Given the important history and landmark status of the buildings, this hardship claim should be carefully scrutinized. The report provided by the applicant, who has every reason to make sure the numbers fit their plan, has a number of issues that would make ~~not just real estate experts but~~ almost any New Yorker scratch their head in wonderment: including bizarrely low "market rate" rent and inconsistencies such as ~~the~~ shrinking average unit size from one year to the next. HDC does not find this is a stable foundation for a hardship ruling and demolition. Approval of this application would not only mean the loss of these two landmarked buildings, it would also mean lowering the bar of what counts as a hardship and opening the floodgates to other supposed hardships and further demolitions.

There is one question, how much of the water damage shown in the presentation is the result of work done [illegible] in an attempt to thwart landmarking?

#22 MAS
Revised

THE NEW YORK
LANDMARKS
CONSERVANCY

January 24, 2012

STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY BEFORE THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION REGARDING AN APPLICATION TO DEMOLISH 429 EAST 64TH STREET AKA 430 EAST 65TH STREET ON THE GROUNDS THAT THEY GENERATE AN INSUFFICIENT ECONOMIC RETURN

Good day, Chairman Tierney and Commissioners. I am Andrea Goldwyn, speaking on behalf of The New York Landmarks Conservancy.

The City and Suburban Homes, First Avenue Estate are modest buildings, but these model tenements represent a significant building type in New York City's history, which the Conservancy recognized when we supported designation of the entire complex in 1990 and of the "subject buildings" in 2006.

The application before you today, a request to demolish 429 East 64th Street and 430 East 65th Street based on insufficient economic return, is the first such case in over 20 years, and demands a serious and thorough review. The Conservancy's Public Policy Committee has carefully considered the application materials, has met with the applicants, heard from the opponents, and visited the subject buildings to see the conditions first-hand. Based on this evaluation, we cannot support the application because we do not feel that the applicants have met their burden of proof.

The applicants have presented various scenarios with multiple data points in terms of projected rental income, projected vacancy rates, projected costs, all applied to the mathematical formula required by the Landmarks Law. However, within these scenarios, there are issues that we find unresolved, so we urge the Landmarks Commission to question the following assertions.

The first, and most striking, is the assertion found in the Cushman & Wakefield feasibility study that the projected average monthly market-rate rent for renovated units in the subject buildings would be $600. A key factor is the characterization of the units as inferior, very small, and "atypical to market norms." Our Board and staff who visited the buildings found them in need of repair, but well within the range of what exists at often higher rents in Manhattan and the Upper East Side. According to Citi Habitat's December 2011 Rental Market Analysis the Upper East Side's market average rent at the end of 2011 was $3,296. (Studios $1,786; 1BR $2,384; 2BR $3,299; 3BR $5,713.)

We also question the suggested stabilized vacancy rate, which is presented at 10% in the C&W study. The applicants told us that while the vacancy rate rose for a brief time in the 2009 "test year," it quickly rebounded to more a level more typical for Manhattan. The same Citi Habitats Report indicates that Manhattan's overall vacancy rate declined from 1.34% to 1.27% between Dec 2010 and Dec 2011, and was 1.17% on the Upper East Side.

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A related question is the proposed absorption rate of 51 months, which would lead to lease-up costs of $1,788,600. The applicants tell us that the 51 months is based on the need to renovate units before putting them on the market. Shouldn't we then spread the renovation costs over 51 months instead of the single test year as the applicant proposes?

While the Project Consult report lists repairs required for all of the vacant apartments, we hope that the Commission will have the opportunity to visit each unit to verify, since the consultants, according to their report, inspected only 14 apartments. We also suggest that other, less expensive solutions that might be possible, such as substituting showers for the custom bathtubs listed in the report.

And we hope that the Commission will have the opportunity to visit apartments in other buildings on the same block. The proposed rents and vacancy rates in the subject buildings are in some cases based on those other buildings with the subjects considered less desirable. We have not seen those other buildings, but have been told that they are actually in some ways inferior to the subject buildings, with bathtubs in kitchens and toilets in closets.

Finally, we have worked with these owners before, and found them to be good stewards of other landmarked properties in their portfolio, but in this instance we have to question whether they are in fact operating the property "under reasonably efficient and prudent management," so that these buildings are "capable of earning a reasonable return" as the Landmarks Law defines hardship. They significantly altered the building exterior as re-designation was being contemplated, at a cost estimated to be $450,000 at the time of the DOB permit application. These are funds that might have been applied, at least in part, toward the interior costs proposed today. And, based on photographs, it appears that they then left related interior work unfinished, only adding to today's projected expenses.

While the Landmarks Law relies on a relatively simple mathematical formula to define hardship and while the applicants have provided reams of pages and multiple calculations as they try to reach that conclusion, they have instead raised questions. We hope that the Commission will take advantage of all available resources to examine the assertions presented in the application to determine whether they have in fact met that critical burden of proof. Based on what we have seen, both in the documents and at the building, they do not.

Thank you for the opportunity to present the Conservancy's views.

The Municipal Art Society of New York
MASNYC

Testimony to the Landmarks Preservation Commission
Laurie Beckelman, MAS Board of Directors and Chair of MAS Preservation Committee
Certificate of Appropriateness: 429 East 64th Street, aka 430 East 65th Street - City and Suburban Homes Company, First Avenue Estate - Individual Landmark
January 24, 2012

I am Laurie Beckelman, a member of the MAS Board of Directors and Chair of the Preservation Committee speaking on behalf of the Municipal Art Society of New York. The Municipal Art Society is a private, non-profit membership organization that fights for intelligent urban planning, design and preservation through education, dialogue and advocacy. MAS has been engaged in advocating for the preservation of the City and Suburban Homes Company, First Avenue Estate for decades, and most recently filed an amicus brief in support of the designation in 2010. The two buildings in question, which were built at the turn of the 20th century, are part of the City and Suburban Company's First Avenue Estate model tenement complex and are important for their innovative design as well as in their role in social housing reform.

MAS believes the hardship application before you should be denied because it is not credible. The applicant has failed to present the convincing documentation necessary for the Commission to determine the existence of a hardship. In fact, a study commissioned by FRIENDS of the Upper East Side Historic Districts offers compelling evidence that the properties can generate a sufficient economic return if provided reasonably efficient and prudent management.

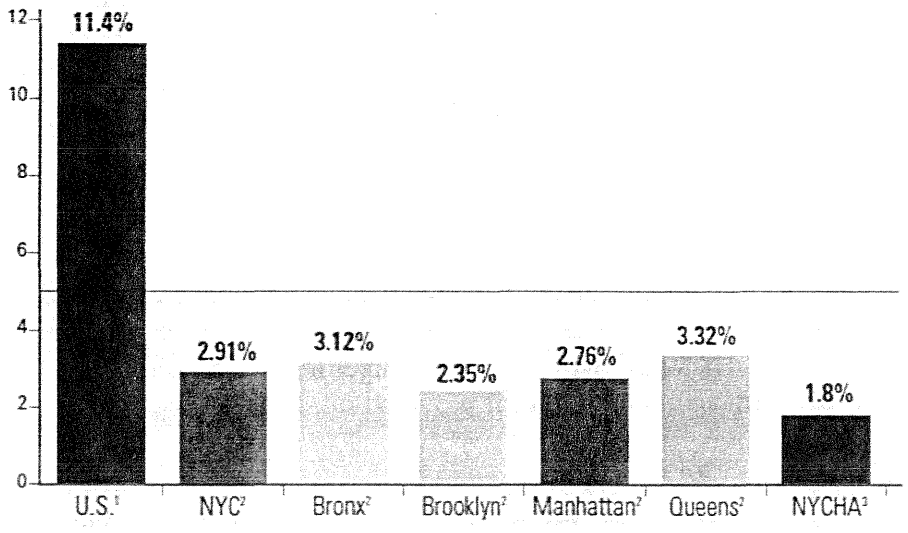
The decision before the LPC today is whether the subject buildings are "*capable of earning a reasonable return*," which is defined as "*having the capacity, under reasonably efficient and prudent management*," of earning a "*net annual return of six per centum of the valuation of an improvement parcel.*" MAS has reviewed and fully supports the findings of economic analysis commissioned by FRIENDS of the Upper East Side and undertaken by HR&A Advisors. That study was extremely conservative in its approach, and likely underrepresents the reality of the Upper East Side's real estate climate. However, even with that cautious approach, the study shows a 13% net annual return versus the applicant's approximately negative 12% return. In short, under reasonably efficient and prudent management it is possible for the buildings to generate a net annual return that is more than double the legal threshold of "reasonable economic return."

Some of the assumptions made by the applicant do not seem to be derived from market data. For example, the applicant has determined that because of the building's "undesirable location" and size of units, the apartments could only garner $600 in rent. That is an astonishingly low rent for any neighborhood in New York City, and particularly in the Upper East Side. In fact, that number is lower than the average of the building's current regulated units ($839/month). The HR&A assumption of $1,500 average rent is based on market data and far more plausible and should be used in the analysis.

In addition to the average rent, the applicant assumes a 10-24% vacancy rate. That rate is exponentially higher than New York City's average 2.76% vacancy rate. In fact, it's higher than the average national housing vacancy rate, which is 11.4%. As a point of comparison, nearly 25% of Detroit's housing units are vacant – and there is a stark difference between the Upper East Side and that city's housing markets.[1] Even HR&A's assumption of a 5% vacancy strikes us as too high and we would recommend using Manhattan's average vacancy rate.

Housing Vacancy Rates

Vacancy rate less than 5% is considered an official housing emergency under New York state law



1-Christie, Les. "Housing Market: 11.4% of All U.S. Homes Are Vacant - Mar. 28, 2011." *CNNMoney - Business, Financial and Personal Finance News*. 28 Mar. 2011. Web. 21 Dec. 2011.

2-New York City Department of Housing Preservation and Development. *Housing New York City 2008*. By Moon Wha Lee. New York, 2011. Print Note: Staten Island's sample size too small for an accurate rate.

3-NYCHA Executive Information System. 7 Dec. 2011. Raw data. NYCHA, New York.

From PlanNYCHA, A Roadmap for Preservation, December 2011.

It would appear that the applicant's financial analysis proves that the owner has not provided "reasonably efficient and prudent management" which is necessary for the Commission to determine the existence of a hardship. The owner has an extremely high rate of vacancy in the buildings, and appears to be warehousing apartments. There were 97 vacant units out of a total of 190 in the test year of 2009, more than 50% of all units when the average vacancy rate in New York City is 2.76%. The owner incurred considerable costs by removing the building's decorative features, historic windows and stuccoing the building pink in order to avoid landmarks designation and likely lowering the property's value. We question whether legal fees for fighting designation can be considered an

[1] Urban Land Institute, 2010 data, accessed at http://www.metrotrends.org/pdf/Detroit_map.pdf.

operating cost, as the owner has asserted.

Finally, the applicant's 2009 test year was at the height of the recession, and not representative of the true rental market over time. According to a recent article in the *New York Times* "*rents have not only rebounded from the depths of two years ago, but are also surpassing the record high of 2007 during the real estate boom.*"[2]

MAS is submitting for the record a list of questions (below) that we believe must be answered by the applicant as part of this application. The questions address discrepancies in the record and request of the applicant additional verified market analysis.

MAS appreciates the Commission's rigorous review of this application and we strongly urge you to deny this application. As you know, the hardship provisions of the Landmarks Law are a safety valve not a loophole, and we believe the applicant has failed to present convincing documentation to determine the existence of a hardship. Saving these buildings will not only preserve an important part of the city's cultural and historical legacy, but also the affordable housing the city so desperately needs. This can be accomplished while providing the owner a reasonable economic return, which was precisely the intention of the philanthropist-developers who first built these landmark model tenements.

Questions for Applicant (The Stahl Organization)

1. Can the owner or LPC provide an independent renovation estimate by assessing conditions in each vacant apartment?
2. Has the owner evaluated market rate rents and vacancy rates at comparable buildings nearby, and not under his ownership?
3. What is the justification for comparing the Subject Buildings to government-subsidized properties?
4. How can the owner explain that the average rent for a regulated unit at $839 is over $200 more than what is projected at market rate, after an investment of over $41,000?
5. Have other renovation scenarios been considered, such as combining vacant apartments for increased market rate rent?
6. Have other opportunities for financial relief been considered, for example, leasing the basement for storage, sub-metering electricity for the building, or transferring development rights?
7. How is the owner advertising their rentals in the adjacent buildings? Do they rely solely on their rental office? Do they use the newspaper? Do they use online resources like Craigslist or StreetEasy?

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[2] Santora, Marc. "*The Lease Is Up, and Now, So Is the Rent*," *The New York Times*, October 14, 2011. Accessed at http://www.nytimes.com/2011/10/16/realestate/rents-in-manhattan-rebound-to-record-highs.html?_r=1&scp=2&sq=rental%20market%20manhattan&st=cse on January 20, 2011.

8. Can Legal Fees for Fighting Designation Included as Operating Cost: The owner vigorously fought the designation of these buildings. The protracted legal battle has wasted money that could have been used to help preserve them.

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LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

Testimony of LANDMARK WEST!
Before the Landmarks Preservation Commission
Regarding 429 East 64th Street/430 East 65th Street
City & Suburban Homes Company – First Avenue Estate
January 24, 2012

LANDMARK WEST! is a not-for-profit community organization committed to the preservation of the architectural heritage and unique character of the Upper West Side.

LW! stands by the Landmarks Preservation Commission's 2006 designation of City & Suburban Homes – First Avenue Estate as an Individual Landmark and together with our colleagues in the preservation community in strongly opposing this hardship application.

The applicant—a developer motivated by the desire to extract the highest possible profit from this site—is pushing the Commission to allow the demolition of a Landmark—one of only a few examples of historically, architecturally and culturally significant affordable housing in the city to be so protected—against the wishes of many of its residents as well as other concerned citizens who care about the physical heritage the Commission is charter-mandated to defend.

Friends of the Upper East Side Historic Districts has made a compelling, highly credible case dismantling the applicant's key arguments and showing that, indeed, a more-than-reasonable rate of return (13%) can be achieved from the Landmark as built—more than twice the threshold for a determination of hardship.

Unlike some past hardship cases approved by the Commission, this is not a case of designation undermining the profitability of a property. What proof does the applicant offer that any hardship is not a direct result of willful mismanagement? Why should the Commission accept the applicant's claims at face value when so many counteracting arguments and unanswered questions have been raised? The burden of proof sits squarely on the applicant's shoulders. There is not sufficient evidence in the record for the Commission to find the applicant's hardship claim credible. Therefore, the application must be denied.

Too often, the city's decision-making bodies feel compelled to approve applications simply because someone has gone to the trouble and expense of filing them. In this case, the applicant has waged an expensive, decades-long war against landmark designation. What if the applicant had invested the same energy and funds in maintaining and marketing this property? This is all the more reason to approach this application with extreme caution. More is at stake here than preserving a pioneering example of socially conscientious housing. At stake is the very foundation of the Landmarks Law and the authority of the Commission to designate landmarks—even in the face of owner opposition—in the best interests of all New Yorkers and future generations.

It's a principle worth fighting for.

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TESTIMONY OF THE
GREENWICH VILLAGE SOCIETY FOR HISTORIC PRESERVATION

City and Suburban Homes Company, First Avenue Estate

Certificate of Appropriateness Application
Individual Landmark, Borough of Manhattan
January 24, 2012

Good morning Commissioners and thank you for the opportunity to testify. My name is Amanda Davis and I'm representing the Greenwich Village Society for Historic Preservation.

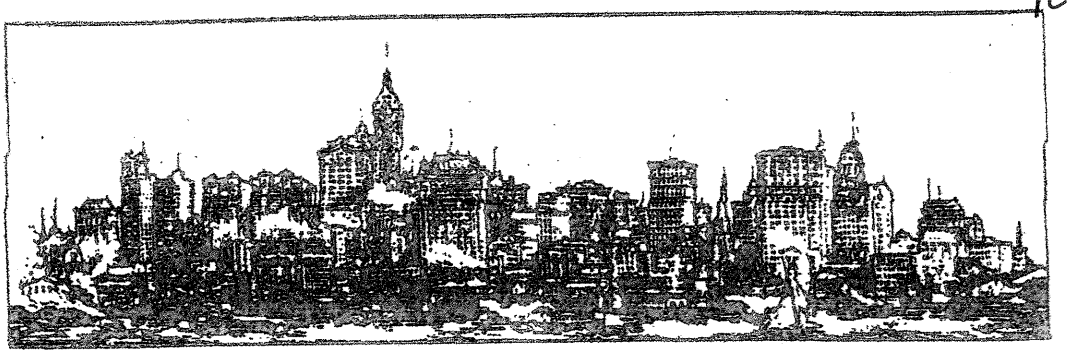
Though it is not our general policy to testify for cases outside our catchment area, our Preservation Committee felt that special consideration should be given to the hardship case at the First Avenue Estate because, if approved, it would set a dangerous precedent throughout New York City. We have not conducted our own findings, but, upon review, we believe that the owner has not presented the convincing documentation needed for the Commission to determine that an economic hardship in fact exists.

The financial numbers presented by the property owner seem questionable; New Yorkers would clearly find it hard to believe that apartments in a prime location on the Upper East Side could not be leased at rents starting at $600, as the property owner claims. In fact, that amount is far below other apartments for lease in the area. Has the owner considered all potential forms of renovation to increase the market rate rent, such as combining vacant apartments to create larger ones? How does the advertising for the rentals in this particular building differ from those in the adjacent buildings? Do they only use their rental office or do they advertise through the newspaper, online sources or social media, as is the case at the City & Suburban Estate at 79th Street? Until acceptable answers to questions such as these are given, the owner's case for economic hardship is unconvincing and highly lacking.

We are strongly opposed to overturning landmark designation when the facts presented by the applicant do not appear to support economic hardship. It should also be noted that the applicant challenged the landmark designation in 1990 and, when fighting re-designation in 2007, was denied at all levels of court. If a hardship is granted, we expect that would only be the case when the clause for hardship as written in the Landmarks Law is followed precisely. In this case, however, given the lack of evidence, we strongly urge the Commission to vote against the applicant's request for economic hardship for the reasons stated above, and to uphold your past designations of this significant city landmark.

Thank you.

RECORD



THE SOCIETY FOR THE ARCHITECTURE OF THE CITY

429 East 64th Street, aka 430 East 65th Street, City and Suburban Homes Company, First Avenue Estate, Individual Landmark, Item # 22
Landmarks Preservation Commission, January 24, 2012

Hardship applications require the most careful scrutiny so as to ensure a fair decision. Those of us who watched the St. Bartholomew's proceedings had to admire the unrelenting attention to detail which led to extraordinary and dramatic revelations, painful and embarrassing to people of faith, that the Rector and Vestry, with the full support of the Bishop, had submitted numerous statements that could not be verified.

Cushman and Wakefield, in their judgment, take the position that the apartments in the landmark have "atypical dimensions compared to market norms" and are an anomaly because "the subject is situated within a market characterized by hi-rise elevator buildings." In assuming that the landmark is obsolete, out of place, and cannot be marketed as housing today they willfully ignore a widespread cultural preference for smaller, older buildings with distinctive character. Not everyone wants to live in the pretty penthouse up in the sky. Landmarks laws have been enacted all over the United States out of a general recognition that the highest and best use in terms of zoning is not invariably the highest and best for the whole *polis*—that is, the political entity ruled by its citizens—indeed, the funny little apartment in the shabby old building in Manhattan has been iconic at least since Truman Capote wrote *Breakfast at Tiffany's* and Paramount took that tale of strange, endearing people surviving in absurdly small studios, and spread it across the world. Small, walk-up apartments in buildings built before the second world war can and do produce sufficient returns when owners correctly identify and approach their market: and the market consists of people, often people starting out in business and students who would find it convenient and exciting to live in central Manhattan but may be exiled to Bushwick, Jersey City and Inwood because of the scarcity and high price of even a tiny Manhattan home. An example of a firm skilled in this market is Eberhart Brothers which advertises studios, one bedrooms and shares for $1,500 to 2,500, most in older walk-up buildings in the blocks east of Third Avenue. The apartments are cleaned and painted, with miniscule kitchens, baths and closets, and the layouts are cramped, inconvenient and even unattractive, reflecting economically driven subdivision of spaces. Nevertheless they are rented, at rates more than double those projected for deregulated apartments in the First Avenue Estate, and judging from the properties managed and the apartments available, Eberhart's vacancy rates are negligible.

In reviewing the applicant's submission, we saw a number of areas where further documentation is urgently needed.

45 CHRISTOPHER STREET APT. 2E, NEW YORK, N.Y. 10014 (212) 741-2628
Ronald Kopnicki, President • Matt McGhee, Treasurer • Christabel Gough, Secretary
The Society for the Architecture of the City, Inc. publishes the review, *Village Views*

Attached to the Wolpert letter, the TC201 2010 form for Block 1459 Lot 22, line 7f reports a "management and administration" expense of $451,337, taken against a gross income of $1,031,611. The 2010 Comparative Economic Feasibility Study cites the resulting negative NOI reported in this document as proof that landmark designation has rendered this property incapable of generating a reasonable return.

In the materials that we saw, we found no discussion of third party management. However, the Wolpert letter does note "an active leasing effort from a full time on-site renting office." A sign identifies this office, located at 415 East 64th Street, as Charles H. Greenthal Management Corp. When we visited there was a notice on the closed door saying that inquiries about vacancies should be made by telephone (not what a customer who had made his way to the door would expect); however, the Greenthal website, www.greenthal.com does list (albeit inconspicuously and without the detail available for other properties) "Rock Properties, 64th – 65th Street First Avenue – York Avenue" in their "apartments for rent" section. We found no mention of a branch office at 415 East 64th.

Our question is, was the $451,337 (reported for Lot 22) a payment to Greenthal, and if so, what services did it cover, since the office is located outside Lot 22 and apparently serves at least all of the Estate, and perhaps other properties as well. Is Greenthal the property manager or only the leasing agent? A breakdown of the activities and expenses of this office should be provided.

If this payment were found to be incorrectly categorized, the reduction of loss at Lot 22 would be rather substantial. On the other hand, if it represents only a fraction of Greenthal's compensation, that compensation may exceed industry norms, depending on the services rendered. The dismal leasing results achieved (24% vacancy in the balance of the property) are significant in that those apartments are used as comparables to demonstrate that Lot 22 would be unprofitable even after a hypothetical renovation.

Stahl concedes that apartments in Lot 22 were kept off the market when vacated. How "active" the leasing effort for the rest of the property has been is questionable. Is there evidence that the vacant apartments were ever advertised? We could not find any listings for them on line.

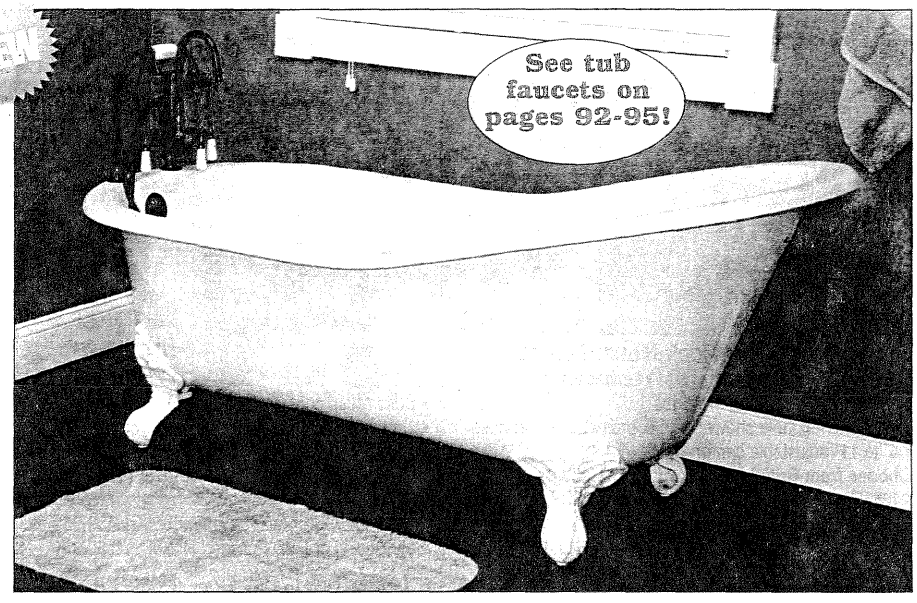
There is also a potential issue with the $61,337 charge for "Security" in the TC201, since the Cushman & Wakefield account of amenities in the building twice states that there is no security (Improvements Description, page 16, 2009 report, Improvements Description, page 12. 2010 report.)

If both the $452,337 and the $61,337 proved to be misplaced, we speculate that the negative NOI could be as little as $50,000, thus well within reach of a solution through a real estate tax abatement.

As others have noted, Cushman & Wakefield indicate in their disclaimer that they do not take full responsibility for the accuracy of their reports in that they have used information provided by ownership without verifying it. We believe that this is standard procedure in Cushman & Wakefield reports, but it should not be overlooked that such reports are advocacy documents not audits.

TUBS

67" SLIPPER BATHTUB



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212651 ..... Our Price 1699.99

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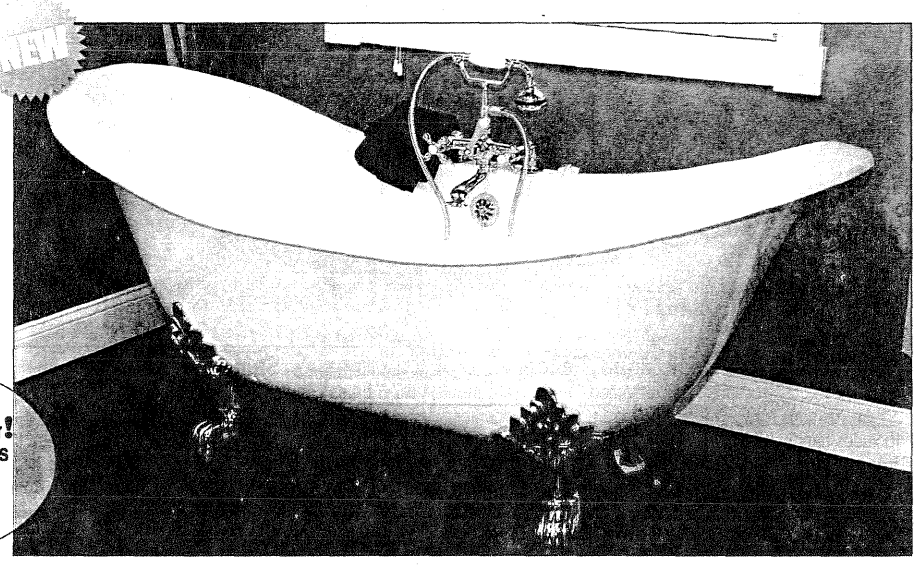
71" DOUBLE SLIPPER BATHTUB



NEW
71" OAL x 31" OAH x 30½" OAW. **Choose from no faucet holes or 7" center deck mount faucet holes with white, chrome, polished brass, satin nickel, bronze with copper highlights or black feet.**

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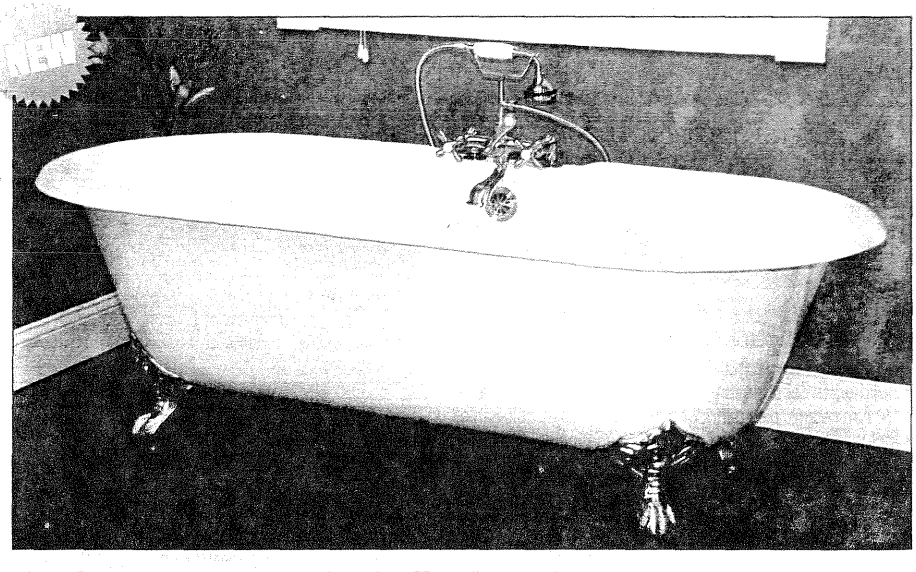

NEW
67" OAL x 22¼" OAH x 30½" OAW. **Choose from no faucet holes or 7" center deck mount faucet holes with white, chrome, polished brass, satin nickel, bronze with copper highlights or black feet.**

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- Slip Avoidance Bottom

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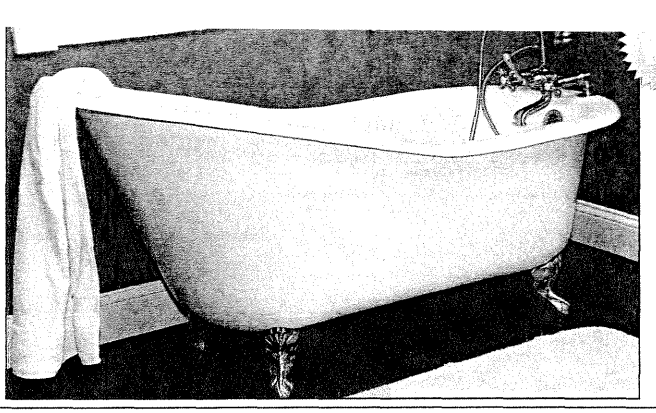

& supply lines on page 96!

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MSRP 2548.00 - 2553.00

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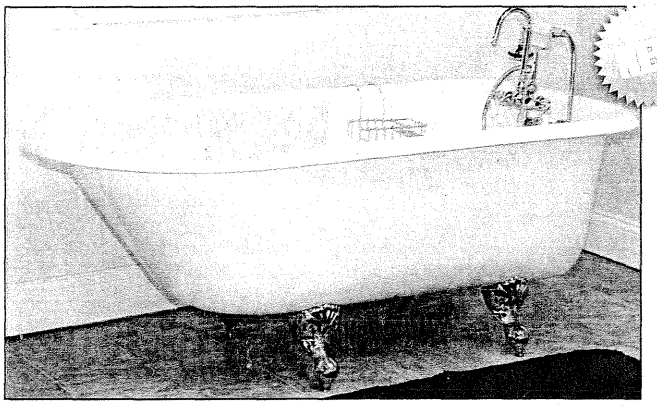

61" ROLLED RIM BATHTUB

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- 12¾" Floor to Overflow Height
- Slip Avoidance Bottom

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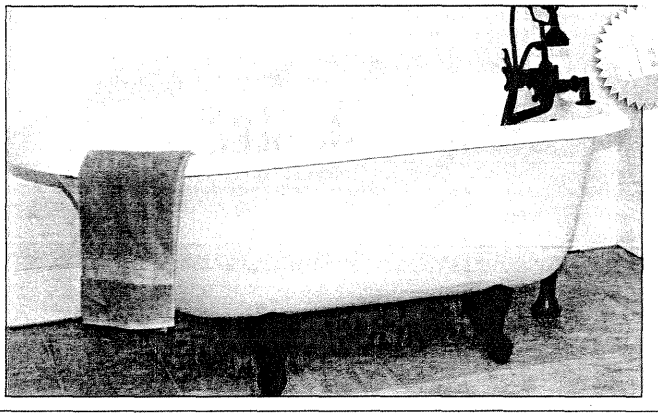

55" ROLLED RIM BATHTUB

- 1⅞" Drain Opening
- 5¼" Floor to Drain Height
- 12¾" Floor to Overflow Height
- Slip Avoidance Bottom

NEW

55½" OAL x 23¼" OAH x 30¼" OAW. **Choose from no faucet holes, 3⅜" wall mount or 7" deck mount faucet holes with white, chrome, polished brass, satin nickel, bronze with copper highlights or black feet.**

MSRP 2242.00 - 2247.00

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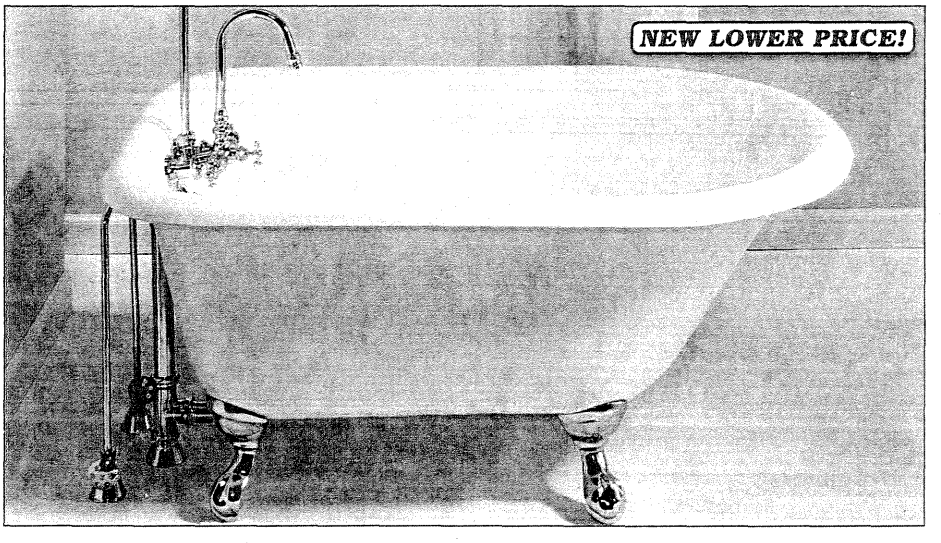

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A	211026	1¾"	3¾"	NA	⅞"	3
		1¾"	4¼"	NA	⅞"	3
B	211025	1¾"	4"	NA	⅞"	3
		1¾"	4½"	NA	⅞"	3½
C	211021	1"	1"	9/16"	1¼"	N
		1¼"	1¼"	⅝"	1¼"	N
D	211019	1¼" diameter		½"	1 1/32"	N
		1½" diameter		½"	1 5/16"	N
E	211022	1½"	1½"	NA	⅛"	N
		1¾"	1¾"	NA	⅛"	NA
F	211020	1⅞" diameter		NA	⅛"	NA
		1¾" diameter		NA	⅛"	NA
G	211023	3 5/16"	⅝"	NA	1⅛"	3"
		4½"	⅝"	NA	1⅛"	3½"
H	211024	6½"	1¼"	NA	¼"	3"
		7"	1¼"	NA	¼"	3½"
J	211030	6½"	1½"	NA	4¼"	NA
K	211027	6⅞"	6"	NA	NA	NA
L	211031	NA	24"	NA	NA	NA
M	211029	2¼"	12"	NA	NA	NA
		4"	10"	NA	NA	NA
		4"	12"	NA	NA	NA
N	211028	NA	5½"	NA	NA	NA

NEWS 12

Opponents Bash Landlord's Hardship Claims

100 protest de-landmarking effort by Stahl York Avenue

By Megan Finnegan Bungeroth

About 100 people crowded into an overheated room at Marymount Manhattan College this week to express solidarity and outrage against an application before Community Board 8's Landmarks Committee. The application is from Stahl York Avenue Company, a division of Stahl Real Estate that owns and manages the City and Suburban First Avenue Estate buildings at 429 E. 64th St. and 450 E. 65th St. Stahl is attempting a feat that has only been attempted 18 times in the past 47 years—they want to strip the buildings of their landmark status in order to demolish them and build a residential high-rise in their place.

The buildings were originally landmarked in 1990, but that designation was soon withdrawn as part of a shady political deal. The Landmarks Preservation Commission (LPC) reinstated their landmark status in 2006, recognizing the buildings not only for their unique architecture but for their cultural significance as the first light-court tenements in the city, offering safe, healthy, well-designed housing to the working poor.

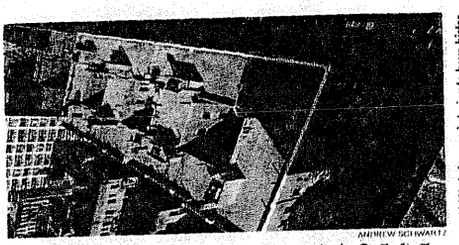
In recent years, Stahl has declined to rent vacant apartments and make repairs to the buildings, and is now claiming hardship in achieving the 6 percent rate of return that LPC sets as the threshold of a fair amount an owner should make.

Paul Selver, an attorney with Kramer Levin Naftalis & Frankel LLP, outlined Stahl's case. He said that, according to two studies commissioned by Stahl, maintaining the buildings, either by simply bringing them up to code or performing large-scale renovations, is not economically feasible and that the properties lost money last year. One study, conducted by Cushman and Wakefield, determined that the average achievable market rent for the modest apartments, many of which are 400 square feet or smaller, is $800-$888, a figure that was roundly disputed at the meeting.

"It is well known that over 50 percent of the apartments in these complexes are now vacant. Suffice it to say that if the owner made even minor repairs to these apartments and rented them rather than warehoused them, they would make the 6 percent return they say they cannot make," said Jane Swanson, reading a letter from City Council Member Jessica Lappin.

Tara Kelly, executive director of Friends of the Upper East Side Historic District, pointed out a footnote in the Cushman and Wakefield report stating that "the information contained in the report [...] has been gathered from sources the appraiser assumes to be reliable and accurate; the owner of the property may have provided some such information." She explained that the appraiser is not responsible for the correctness or completeness of the information. She also noted that in 2008, the average rent for a walk-up studio with no doorman on the Upper East Side was $1,432, alleging that Stahl's estimates are severely deflated.

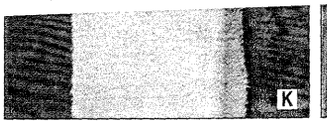
One current resident, Jay Kisner, said that he had listed his apartment, with photos, on Craigslist for $1,300 a month and held up a sheaf of printed email responses eager for more details. Jerry Running, a 16-year resident of 429 E. 64th

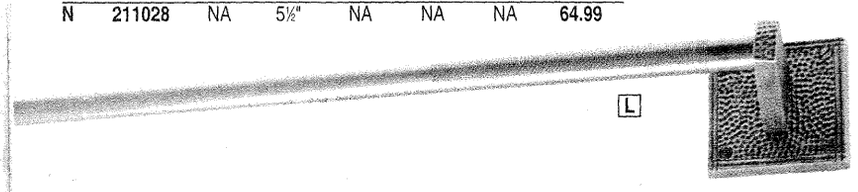


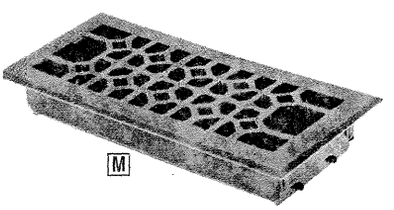
ANDREW SCHWARTZ

Stahl York Avenue is trying to have historic landmark status taken away from City and Suburban First Avenue Estate buildings on 64th Street and York Avenue.

CONTINUED ON PAGE 8







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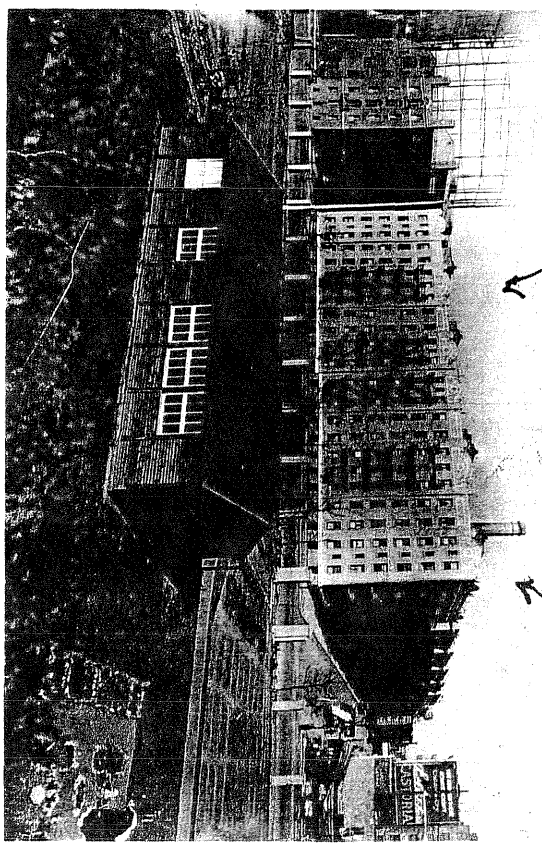

	Item Number	OAH	OA				
A	211026	1¾"	3¾				
		1¾"	4¼				
B	211025	1¾"	4"				
		1¾"	4½				
C	211021	1"	1"				
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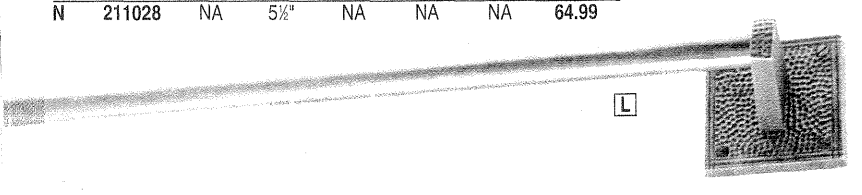
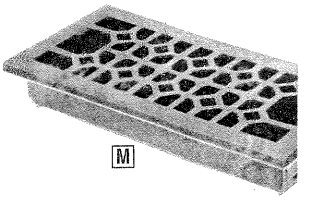
H	211024	6½"	1¼				
		7"	1¼				
J	211030	6½"	1½				
K	211027	6⅞"	6"				
L	211031	NA	24				
M	211029	2¼"	12"	NA	NA	NA	59.99
		4"	10"	NA	NA	NA	64.99
		4"	12"	NA	NA	NA	73.99
N	211028	NA	5½"	NA	NA	NA	64.99





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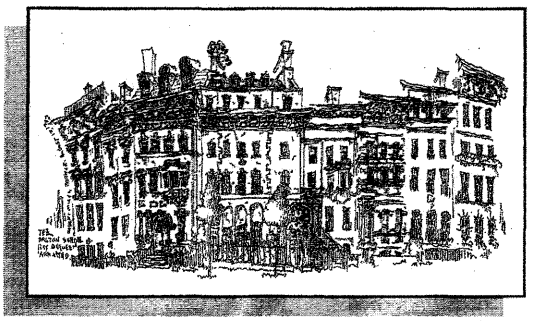

DEFENDERS *of the* HISTORIC
UPPER EAST SIDE
LENOX HILL STATION, PO BOX 768, NEW YORK, NY 10021
Phone: 212 561 0589 Fax: 212 591 6727

January 24, 2012

The Hon. Robert B. Tierney, Chair
Landmarks Preservation Commission
1 Centre Street
New York, NY 10007

Re: City and Suburban Homes Company, First Avenue Estate
Hardship Application

Good afternoon Chairman Tierney and Commissioners,

My name is Teri Slater, Co-Chair of the Defenders of the Historic Upper East Side.

I was a member of the Board of the Coalition To Save City and Suburban, York Avenue Estate for ten years. The battle to save these incredibly important buildings was gut wrenching and hard fought and at times, an emotional roller coaster. I organized a tour at the time which took participants to the Lower East Side Tenement Museum where they experienced conditions in a typical Old Law Tenement, and then to the City and Suburban, York Avenue Estate, the inspired Model Tenement complex. During the trip to City and Suburban, Congressman Bill Green was asked to give a talk on the history of housing in the United States. It was quite a day especially when one had the pleasure of witnessing how visibly moved everyone on the tour was when they visited the occupied apartments and saw how handsome, bright and incredibly functional these buildings were then and of course, still are today.

What is happening currently at the City and Suburban Company's First Avenue Estate is a mirror image of what transpired during the York Avenue Estate battle. There may have been two different owners, but the tactics were nearly identical. Destruction of historic fabric, the warehousing of apartments, the hoped-for demolition by neglect, harassment of tenants which all add up to a self-created hardship of the grossest proportions. Shockingly, the Stahl Company had taken the

outrageous step of damaging and defacing two buildings in this complex in an unsuccessful effort to prevent their re-Landmarking by the Commission. Covering these important buildings with stucco in the vilest shade of pink and installing cheap new windows not only defaces the landmark but the surrounding neighborhood in its entirety.

To file a hardship application under these circumstances is to make a mockery of the Landmarks Law which includes this provision for deserving applicants. In addition, it should be impossible to obtain an alteration permit and act on it in a case like this. There is a loophole here that must be closed without delay and the Landmarks Commission should lead the charge to close it.

We strongly recommend that the commissioners take the opportunity, if they have not already, to visit City and Suburban Company's First Avenue Estate buildings to witness firsthand how the Stahl Company has wantonly damaged one of the City's most important cultural, historic and architectural landmarks.

Defenders strongly urges the Commission to deny the Stahl Company's Hardship Application. There are owners of landmark buildings who may deserve hardship consideration. This owner is not one of them.

Yours truly,

Teri Slater, Co Chair

RECORD
#22 MAS

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Testimony before the New York City Landmarks Preservation Commission
City and Suburban Homes, 429 East 64th Street aka 430 East 65th Street
January 24, 2012

The application is to demolish two 6-story buildings built as part of the model tenement complex City and Suburban Homes First Avenue Estates. The application is pursuant to RCNY 25-309 on the grounds that they generate insufficient economic return.

CIVITAS has reviewed the hardship claim filed by the property owner for First Avenue Estates and is opposed to the application to demolish any buildings within the First Avenue Estates complex.

The First Avenue Estates complex was designated a New York City landmark in 1990, de-designated and then re-designated in 2006 in recognition of its planning and contribution to the cultural history and development of New York City. The Landmarks Preservation Commission designation report for the site states that the First Avenue project can been seen as "an important achievement in the social housing movement." The full-block complex was designed and designated as a unit. CIVITAS feels strongly that it would be a major loss to our Upper East Side community for any buildings within this Progressive Era landmark to be demolished. It is critical that all buildings within the First Avenue Estates complex be properly maintained and remain intact as part of our neighborhood's history of model-tenement innovation and development.

Since the process began to re-designate the buildings in 2006, the applicant has been a poor steward of this important complex in our neighborhood. The applicant stripped the original architectural details from two of the structures in 2006, a slap in the face to the landmarks law. Now the applicant has presented illogical numbers to uphold a claim of economic hardship. It appears that the applicant has created his own economic hardship by a) warehousing many vacant apartments and not making them available to generate income and b) basing his hardship calculations on unrealistically low rental rates. The numbers for the latter are significantly below the market rates of other comparable apartments in our neighborhood.

We encourage the NYC Landmarks Preservation Commission to uphold the landmarks law and deny the property owner's hardship claim.

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TESTIMONY FOR CITY AND SUBURBAN HOMES COMPANY, FIRST AVENUE ESTATE

The two six story apartment buildings designed by Philip H. Ohm and built as part of the model tenement complex, City and Suburban Homes First Avenue Estates, in 1914-1915 is an historic treasure that merits continued protection.

This wonderful complex, with its significant architectural and cultural standing, is a link to our past and a functionary in the present. Each apartment is someone's home. The light and air provided by its unique design gives each occupant high ceilings, tall windows and a delightful courtyard.

The United States is a very young country, and these buildings and others like them, are our "coliseum." We don't have buildings that are 2000 years old, but we have to think of our historic buildings in this light and treat them with the same reverence and take their preservation as seriously as we would the Coliseum.

The owners are claiming economic hardship as a reason to demolish these buildings. However, they have not made their case.

They have been warehousing apartments in these buildings for many years, and by not having full occupancy, have created the situation they are in.

They have significantly overestimated apartment renovation costs and then offer the argument that renovation costs make renovation unfeasible.

Other neighborhood organizations have worked the numbers to show that this is true.

They have claimed that they are not able to charge enough rent to counter their expenditures, but a simple perusal of the New York Times real estate section or a search on streeteasy.com shows this to be patently false.

This is about Mr. Stahl wanting penthouses and river views and the purchase prices that that kind of property yields, but Mr. Stahl will just have to look for that somewhere else. Not only, shouldn't he build that on this site, but he probably couldn't build that on this site. His renderings of such a building are so out of keeping with the architecture in the neighborhood and on the block, that it could never be approved.

We support the Stahl York Avenue Company's need to make a profit, but we don't support their need to make a windfall profit by tearing into the nation's historical fabric, breaching the Landmarks Preservation Commissions trust, disrupting the community and its residents and destroying property in a vengeful, cavalier manner.

In fact, Mr. Stahl should be make to restore the exterior of these buildings to their original state and right the wrong committed by his own hand as he systematically destroyed their facades.

Please deny the application to tear down these buildings.

Thank you.

Sincerely,

Michele Birnbaum
President

RECORD

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Testimony Regarding the Hardship Application for 429 East 64th Street and 430 East 65th Street: City and Suburban Homes Company, First Avenue Estate

January 24, 2012

My name is Andrew Dolkart. I am an architectural historian, the James Marston Fitch Associate Professor of Historic Preservation and Director of the Historic Preservation Program at the Columbia University School of Architecture, Planning and Preservation. I have been intimately involved with City and Suburban Homes since the late 1980s, when the First Avenue and York Avenue Estates first became a preservation issue. As part of this initial preservation issue, a undertook research on City and Suburban and, with an oral historian colleague, wrote *A Dream Fulfilled*, a book detailing with the history of the City and Suburban organization. Since then, I have done extensive research on progressive housing in general, teach about model tenements in my New York City architecture courses, and have led a preservation studio on the issue of preserving progressive housing.

The cultural and historical significance of City and Suburban's First Avenue Estate, in its entirety, is now a given, supported by landmark designation and court cases. The issue before you today is hardship. A key issue in a hardship application is the owner's ability to make a six percent return. The owner's claims that the maximum rentals that he could get from rehabilitated apartments in these two York Avenue buildings would be under $700, due to size and location is a neighborhood that is inconvenient and not in demand is patently absurd. These two City and Suburban buildings are located in a prime area with a mix of housing ranging from speculative tenements, to model tenements, to middle-class housing, to luxury buildings. The apartments sit amidst one of America's leading medical and educational agglomerations, and is only a few blocks to the north of the luxurious Sutton Place enclave. This is a place New Yorkers love to live.

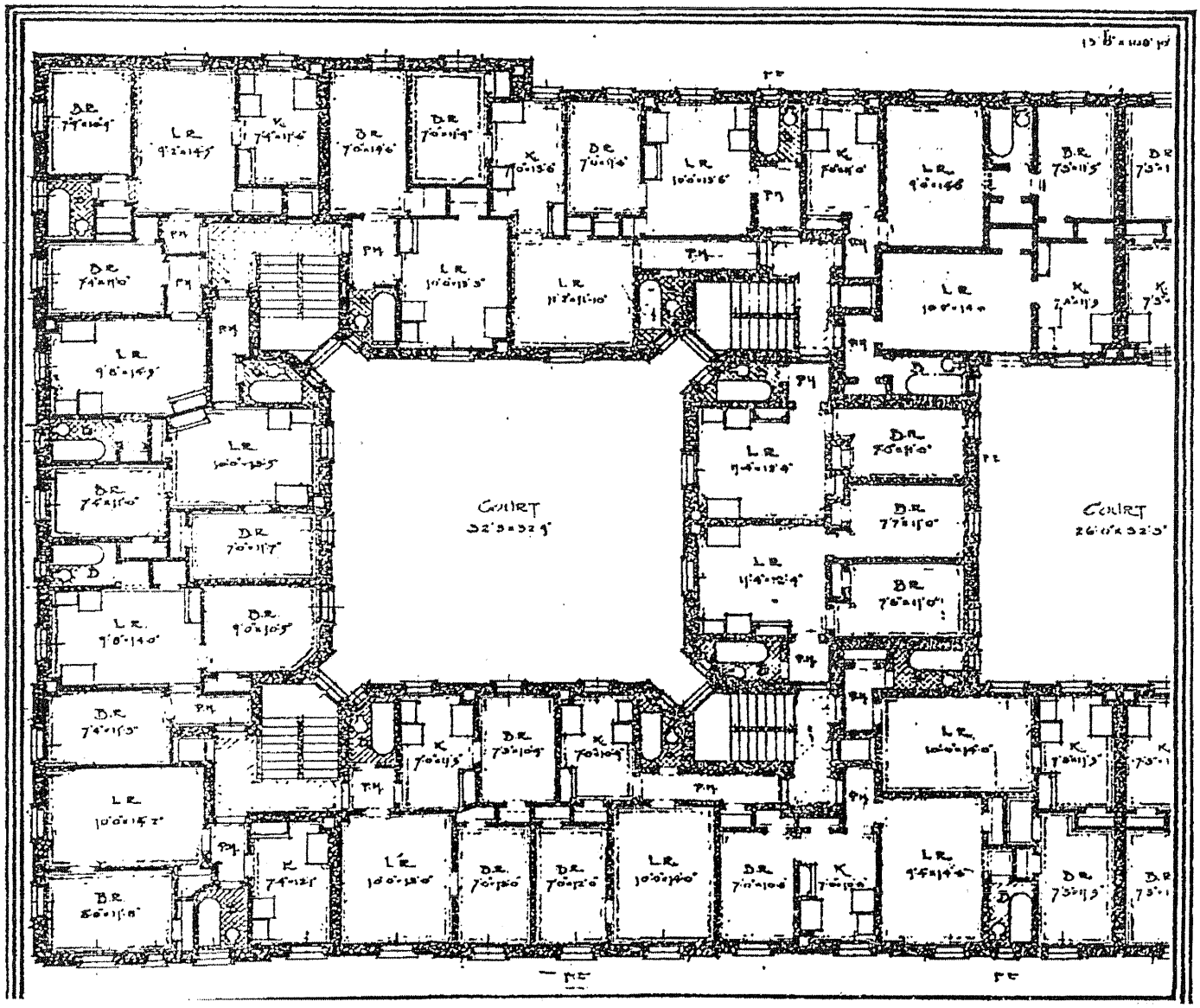
But what about comparable rentals? What are similar apartments in similar buildings in the neighborhood renting for. To make this comparison, we are lucky, because a half mile north of the First Avenue Estate buildings is City and Suburban's other full-block complex of model tenements, the York Avenue Estate. This was an endangered property, where an owner also claimed that buildings needed to be demolished because they were deteriorated and could not generate adequate profit. Yet look at this rental property today. Under a new owner with pride in the buildings, these have become well-rented and popular places to live and rents are at market level. Buildings in the York Avenue Estate were erected at the same time as those in the First Avenue Estate and Philip Ohm, architect of the East 64th and 65th Street buildings, that are the

subject of today's hearing, designed eight buildings on 78th and 79th Streets, including several with a courtyard arrangement similar to that for the buildings at 64th and 65th Streets. Just by examining the owner's website where rentals are advertised, it is clear that these are economically viable units. As each older unit is vacated, it is rehabilitated with new kitchen and bathroom. Rents for studios are about $1600, while one-bedrooms are going for about $1900. This is far more than the possible rents that have been claimed for East 64th and 65th Streets, yet the buildings of the York Avenue Estate are even farther east and north.

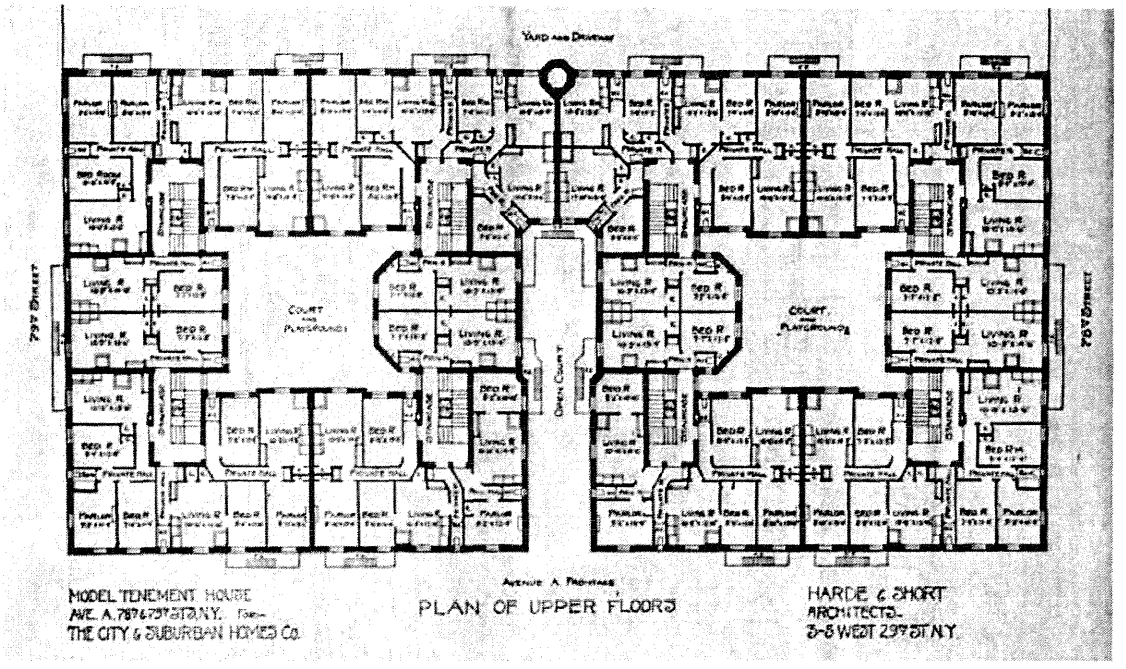
Similarly other model tenement complexes are doing very well despite their small apartments, At City and Suburban's Jones Apartments on East 73rd Street between First and York Avenues, a studio rented last week for $1600 and one-bedrooms in 2011 were going for up to $1750. The East River or Cherokee Apartments, with very small units on East 77th and 78th Streets have coop and rental units. The studio and one-bedroom coop have been selling for approximately $300,000, while rentals for one bedrooms are at a rate of about $2200 per month and a two-bedroom rented last year for $3200. The Emerson, on the really out-o- the-way location of Eleventh Avenue and West 53rd Street was an abandoned building a decade ago, but was rehabilitated, using historic preservation tax credits, and is now low- and moderate-income housing, with combined apartments. And the oldest model tenements in the city, the Home and Tower buildings in Cobble Hill, remain popular, with the owner considering a coop conversion.

Certainly, the small model tenement apartments are not for everyone, but for New York's large number of single people and childless couples the are still excellent, sought after housing, just as their builders hoped they would be.

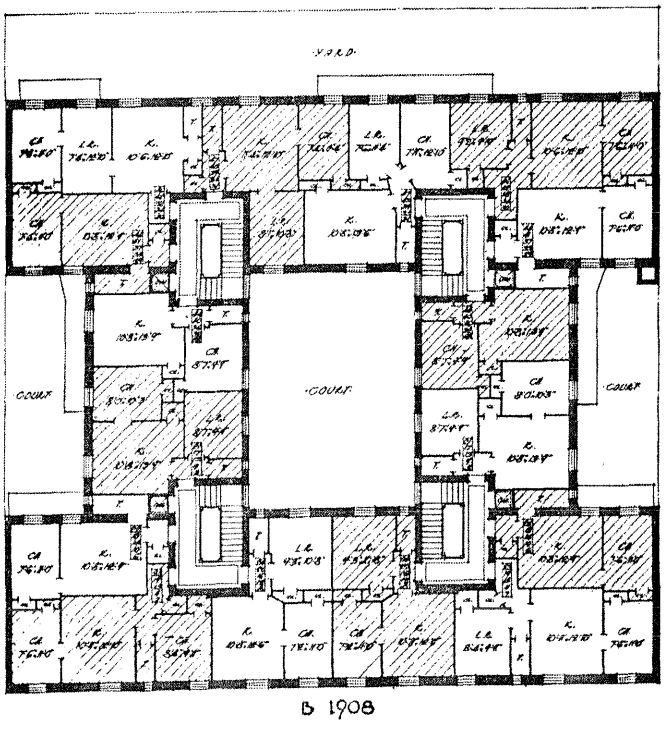
Record



City and Suburban Homes, First Avenue Estate
429 East 64th Street plan

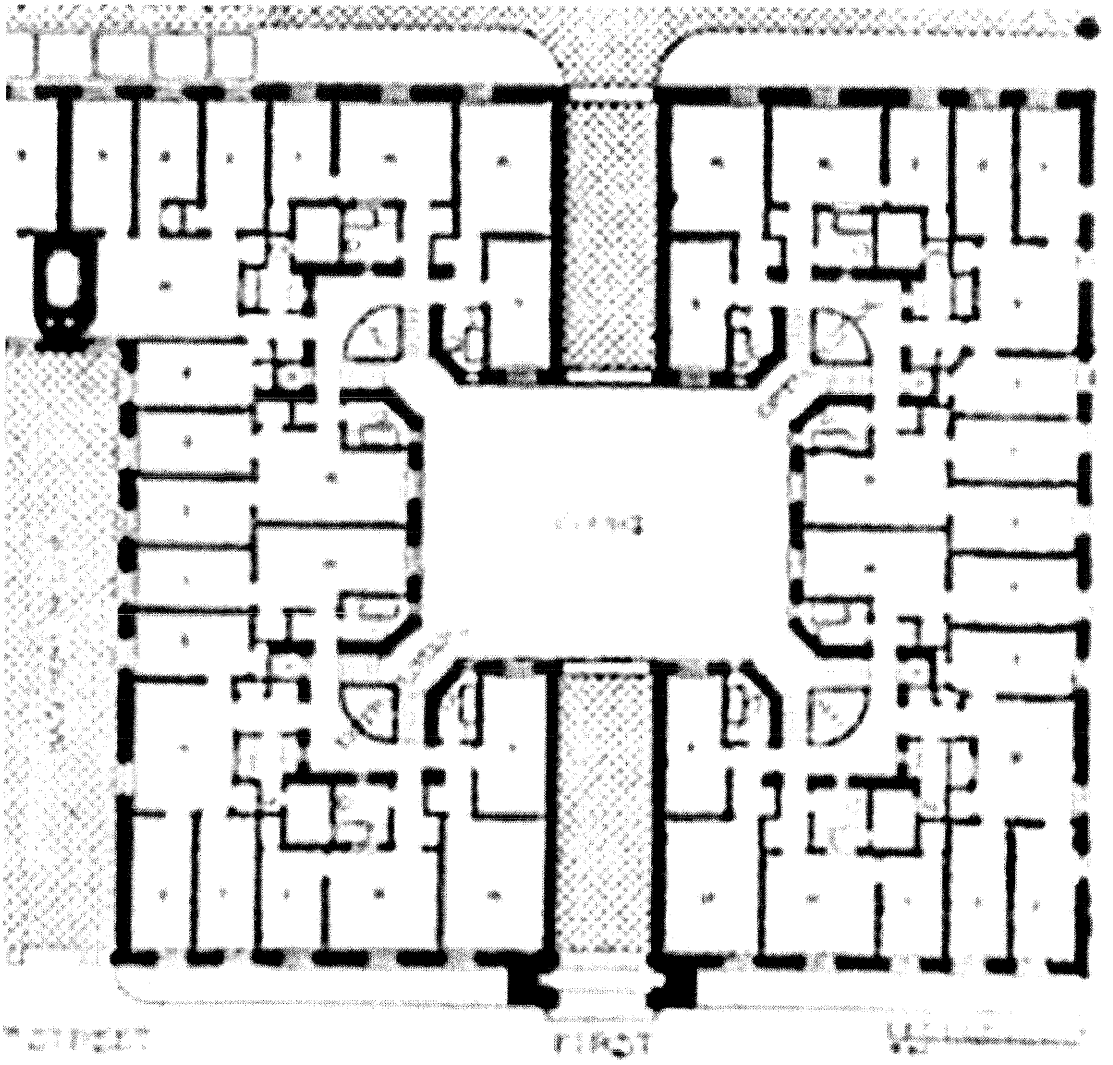


City and Suburban Homes, York Avenue Estate
1470-1492 York Avenue Harde & Short, 1902-03



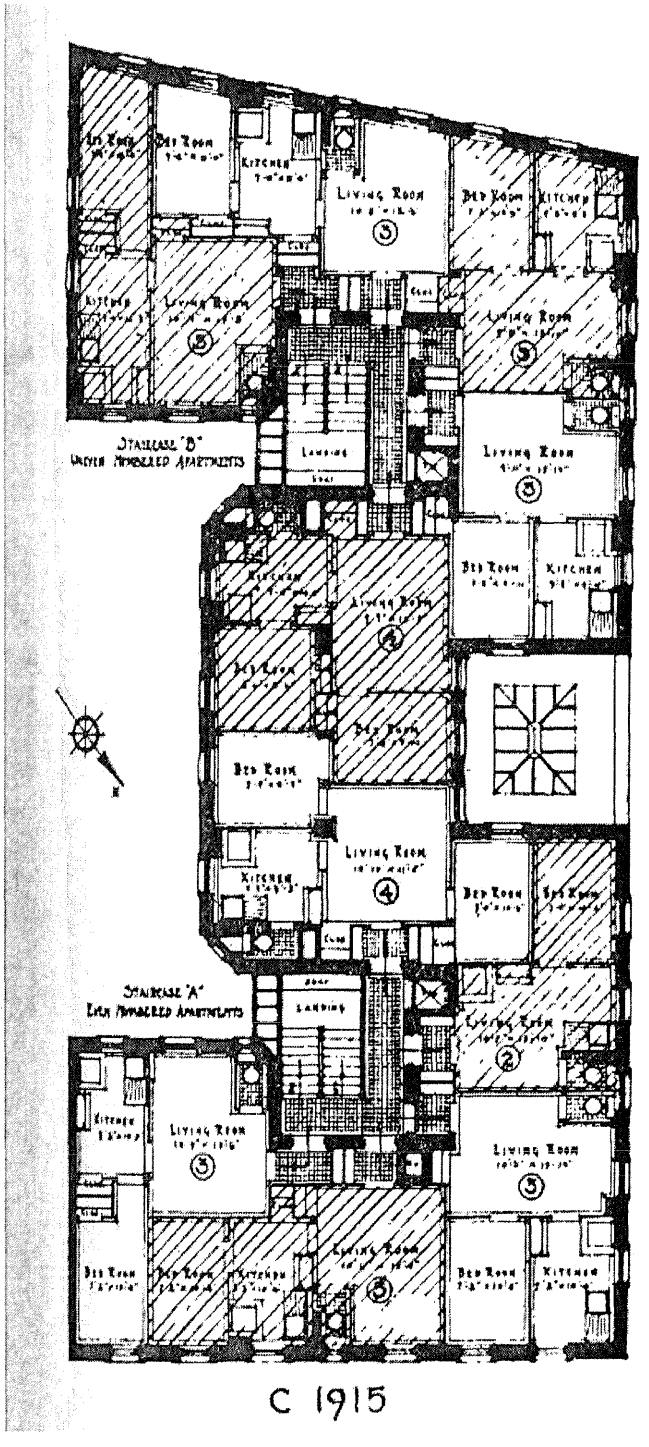
City and Suburban Homes, York Avenue Estate
511-515 East 78th Street, Philip Ohm, 1907

Note similar size and scale to 429 East 64th Street and 430 East 65th Street
Rehabilitated studios renting for about $1600 and one-bedrooms for about $1900



East River Houses
East 77th and 78th Streets at Cherokee Place
Henry Atterbury Smith, 1909-11

Today, this four-building complex is a cooperative with rental units. Street East reports sales of one bedrooms in 2011 of $328,500 and $366,666. Rentals for one-bedroom units average just under $2000; with a tywo bedroom renting for $3200.



The Emerson
Eleventh Avenue and 53rd Street
Grosvenor Atterbury, 1915

An abandoned model tenement, rehabilitated into low- and moderate-income housing, with combined units.