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October 10, 2013

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

Re: City and Suburban Homes Co., First Ave. Estate
429 East 64th St. / 430 East 65th St., Manhattan
Block 1459, Lot 22

Dear Chair Tierney:

This letter and the accompanying documents are submitted in further support of the application on behalf of the Stahl Organization (the "Applicant") for a certificate of appropriateness pursuant to Administrative Code § 25-309 to allow the buildings located on the above premises (the "Subject Buildings") to be demolished on the ground that they are not capable of earning an annual return of 6 percent on their assessed value, which is the hardship test set forth in the Landmarks Law.

This submission specifically addresses issues that arose during the June 11, 2013 hearing on this application. Appendix A to this letter sets forth our responses to two questions that were posed by Commissioners during that hearing. The first part of this letter discusses the June 11, 2013 report and testimony of HR&A Advisors, Inc. ("HR&A") on behalf of Friends of the Upper East Side Historic Districts. HR&A's presentation warrants particular attention because, to date, it represents the only evidence in the administrative record that attempts to systematically refute, on the basis of allegedly "comparable" properties and dollars and cents analysis, our showing of economic hardship. As discussed below, in seeking to show that the Subject Buildings are capable of earning a reasonable return, HR&A has used unreliable evidence and made unwarranted assumptions. Therefore, its conclusions regarding the economic viability of the Subject Buildings should be rejected. The final part of this letter summarizes the evidence we have submitted in support of this hardship application and offers some concluding arguments.

The June 11, 2013 HR&A Report

HR&A has submitted two reports and has testified at the Commission hearings in opposition to this hardship application. HR&A's first report, dated January 24, 2012, states that, in order to estimate the return that the Subject Buildings could have earned in the 2009 test year, it assumed that the buildings' vacant apartments would be repaired and improved sufficiently to render them legally habitable and it adopted the Gleeds New York ("Gleeds") estimate of the cost of this "Minimum Habitability" scenario, i.e., \$4,018,385. It also adopted Cushman and Wakefield's ("Cushman's") estimate of the maintenance and operating costs associated with this scenario. HR&A went on to review recent listed rents for apartments in nine walk-up apartment buildings on the Upper East Side and the City and Suburban York Avenue Estate on East 79th Street. It found that the average listed rents for these nine walk-up buildings were \$1,610 for a studio apartment, \$1,884 for a one-bedroom unit and \$2,254 for a two-bedroom unit. According to HR&A, the average listed rents for the York Avenue Estate were \$1,442 for a studio, \$1,810 for a one-bedroom and \$2,235 for a two-bedroom. Using these "comparables" and applying a single 12.5 percent reduction to account for the poorer layouts and overall condition of the apartments in the Subject Buildings, HR&A projected that, in 2009, the Subject Buildings' vacant apartments could have been leased for an average monthly rent of \$1,336 for a studio apartment, \$1,616 for a one-bedroom unit and \$1,964 for a two-bedroom unit, which would represent rents in excess of \$50 per rentable square foot. HR&A also assumed a 5 percent vacancy loss for these units. On the basis of all these assumptions, HR&A concluded that in the 2009 test year the Subject Buildings could have earned an annual return of approximately 13 percent on their assessed value.

In response to HR&A's 2012 report, we pointed out that (i) HR&A's discussion of "comparable" apartments was of limited probative value because it did not include information on the size of these apartments or their rents on a square foot basis; (ii) a number of HR&A's comparable apartments had a significantly higher level of finish and amenities than the apartments in the Subject Buildings; (iii) in contrast to the comparables provided by Cushman in support of this application, HR&A relied on listed rents rather than actual completed lease transactions; (iv) HR&A did not take into account the fact that allowable rents in the Subject Buildings are limited by rent regulation; and (v) HR&A's assumption of a 5 percent vacancy loss ignored the particular conditions in the Subject Buildings and the much higher vacancy rate in the other buildings that are part of the City and Suburban First Avenue Estate. HR&A attempts to respond to some of these criticisms in its 2013 report. However, for the reasons set forth below, its arguments are flawed and unpersuasive.

At the outset, it is important to note that HR&A and the Applicant appear to be in agreement on several key issues surrounding this hardship application. Both sides agree that the appropriate method of estimating the stabilized rate of return on the Subject Buildings during the 2009 test year is the methodology that the Commission employed in its consideration of the hardship application of KISKA Developers, Inc. for the properties located at 351, 352 and 353 Central Park West. Under the KISKA methodology, the rate-of-return denominator is determined by using the so-called "cost approach" and therefore equals the property's assessed value for the test year plus 45 percent of the hard costs expended to repair and upgrade the property. The rate-of-return numerator equals the property's estimated net operating income during the test year, taking into account a depreciation factor of 2 percent or the actual depreciation shown on tax returns for the test year and real estate taxes that are also calculated using the cost approach. In addition, there is no disagreement between HR&A and the Applicant as to the basic facts surrounding the Subject Buildings. Both sides agree that they are 6-story walk-up apartment buildings which were constructed in the early 20th Century, are wholly lacking in modern amenities and contain very small apartments with an average rentable square footage of about 371 square feet. Finally, based on HR&A's 2013 report, both sides now agree that the rents that could have been achieved in the Subject Buildings' vacant apartments in the 2009 test year were constrained by rent regulation and, for each unit, would have equaled the lesser of the achievable market rent and the allowable regulated rent.

Notwithstanding these areas of agreement, in its 2013 report and testimony, HR&A continued to contend that, in the 2009 test year, the Subject Buildings were capable of earning a return on assessed value in excess of 6 percent. This conclusion is premised on HR&A's continued assertion that (i) after being rendered habitable at a cost of about $4 million, the Subject Buildings' 97 vacant apartments could have achieved an average rent of approximately $50 per rentable square foot and (ii) upon achieving a stabilized occupancy, the Subject Buildings would have experienced a vacancy and credit loss of 5 percent. We have shown in our previous submissions and we demonstrate again herein that both of these assumptions by HR&A are based on inaccurate or misleading data and flawed analysis. Cushman's conclusions that, under the most viable full-occupancy scenario, which would have involved capital expenditures of almost $17 million, vacant apartments in the Subject Buildings could have achieved rents of no more than $40 per square foot and the buildings would have experienced a vacancy and collection loss of at least 10 percent are based on much more reliable evidence and are far more credible.

(i) Capital Expenses and Achievable Rents:

- In its reports, HR&A has imputed average rents per apartment in its comparable buildings directly to the apartments in the Subject Buildings rather than calculating and applying rents on a per square foot basis , which is the metric that real estate professionals uniformly use in expressing and comparing residential rents. It is now apparent why HR&A has done so – in its 2013 report it concedes that the "comparable" apartments that it examined are significantly larger than the apartments in the Subject Buildings, which have an average size of only 371 feet. Although HR&A's 2013 report provides, for the first time, information on apartment size, it compares the size of the comparable and subject apartments on the basis of gross building square footage rather than rentable square footage and it claims that, by this measure, its comparable apartments are, on average, about 15 percent larger than the subject apartments. First, the accompanying letter of Gregg Wolpert of the Stahl Organization states that information obtained from Department of Finance records indicates that, measured by gross square footage, HR&A's comparable apartments are, on average, about 23 percent larger than the apartments in the Subject Buildings. Furthermore, the accompanying Cushman letter explains that gross building square footage is an inferior method of measuring and comparing the size of apartments because (i) prospective tenants evaluate an apartment on the basis of its rentable space and (ii) the efficiency factors of New York City residential buildings, i.e., the relationship between rentable and gross square footage, vary widely. Cushman points out that, while typical walk-up apartment buildings have a rentable to gross efficiency factor of about 90 percent, the Subject Buildings have an efficiency factor of only 83 percent. A comparison of HR&A's comparable apartments and the subject apartments on the basis of gross square footage is therefore of limited usefulness and calls into question the reliability and persuasiveness of HR&A's entire analysis. In any event, it is undisputed that, by any measure, HR&A's "comparable" apartments are significantly larger than the apartments in the Subject Buildings.

- Having conceded the significant size disparity between its comparable apartments and the subject apartments, HR&A, incredibly, refuses to make any specific downward adjustment in its projection of achievable rents in the Subject Buildings in order to account for this disparity. Instead, HR&A asserts in its 2013 report (pg. 6) that any claim that potential renters are deterred by small apartment is "unproven." In support of this assertion, it points to the recent attention given to so-called "micro-apartments." HR&A's contention regarding the irrelevance of apartment size to a prospective renter is simply not credible. In the accompanying letter, Cushman affirms an essential fact with which every member of the Commission would undoubtedly agree – the size of an apartment has a significant impact on its marketability and its achievable rent.

- As to micro-apartments, they presently exist in concept only and, consequently, there is no concrete evidence regarding market demand for such units or their achievable rents. Furthermore, the micro-apartment concept bears absolutely no resemblance to the apartments in the Subject Buildings. In July 2012, New York City issued a Request for Proposals to design, construct and operate the City's first micro-apartment building on City-owned land on East 27th Street. In order to facilitate construction, the City will waive currently applicable zoning restrictions on apartment size, which will enable the apartments to contain between 250 and 370 square feet. It is our understanding that this pilot project will also receive substantial public subsidies. Occupancy of this building is expected in 2015. The winning micro-apartment design features ample storage, including overhead loft space and a full-depth closet and a kitchen containing a full-height pantry and a full-height refrigerator. It will have a generous floor-to-ceiling height of 9 to 10 feet and a Juliette balcony that provides the unit with substantial light and air. The new micro-apartments will be located in an elevator building that uses pre-fabricated modular construction and includes a roof-top garden, a tenant lounge on each floor, as well as laundry, fitness, tenant storage and bicycle storage facilities. These modern and efficient living environments with many tenant amenities are in no way comparable to the Subject Buildings and their tiny, cramped walk-up apartments. It is ludicrous to suggest that the existence of this single pilot project and the interest it has engendered in any way means that prospective tenants are likely to embrace, or even ignore, the tiny size, awkward layouts and lack of amenities in apartments in the Subject Buildings. For all these reasons, HR&A's refusal to adjust its projected rents for the subject apartments to account for their significantly smaller size in relation to HR&A's comparable apartments cannot be justified.

- In addition to being significantly larger, HR&A's comparable apartments have superior finishes and more amenities in comparison to the subject apartments. The accompanying Wolpert letter states that, according to Stahl Organization research (which is undisputed by HR&A), many of HR&A's comparable apartments include such things as granite countertops, stainless steel appliances, dishwashers, marble bathrooms and clothes washers and dryers. The Market Rehab scenario that Cushman analyzed involved improvements to the Subject Buildings and their vacant apartments designed to make the vacant units habitable and reasonably marketable, but far from luxurious. Even under this scenario, which, according to Cushman, would have produced the highest return of any scenario that was examined, but still far short of a 6 percent return on assessed value, the vacant apartments in the Subject Buildings would not have been upgraded to the level of HR&A's comparable buildings. According to Gleeds, this Market Rehab scenario would have entailed hard costs of about $16.7 million for 97 vacant apartments. Significantly, in calculating the rate-of return for the Subject Buildings, HR&A did not utilize the $16.7 million cost associated with the Market Rehab scenario, but instead used the approximately $4 million cost that Gleeds estimated for the alternative Minimum Habitability scheme, which involved only the work in vacant apartments that would have been required to render those units legally habitable. The accompanying Gleeds letter explains that the Minimum Habitability scheme excluded much of the work that was part of the Market Rehab scenario, including the replacement of apartment windows, new electrical systems to support modern appliances and electronic equipment, new kitchen appliances and new fixtures and ceramic tile in bathrooms. The Minimum Habitability scheme would have produced apartments in the Subject Buildings that were far inferior to HR&A's comparable apartments with respect to finishes and amenities and certainly would not have justified HR&A's projected rents of more than $50 per square foot. As discussed, the Market Rehab scenario also would not have brought the apartments in the Subject Buildings up to the level of many of HR&A's comparables or justified HR&A's projected rents. However, if

HR&A had merely used the more realistic $16.7 million cost of the Market Rehab scenario in its financial analysis and left all of its other assumptions unchanged, the resulting rate of return on the stabilized operation of the Subject Buildings would have been less than 6 percent on assessed value.

- HR&A's projection of market rents for the Subject Buildings should also be dismissed because the rents that it cites for its comparable apartments are listed or asking rents rather than actual rents resulting from completed lease transactions. Cushman has noted that in 2009 actual rents in New York City fell short of asking rents and rent concessions, typically in the form of one or two months of free rent, were quite common. Submitted herewith is a letter from Paul Korngold, an attorney who specializes in real estate tax matters. Mr. Korngold states that he has examined information compiled by the Department of Finance ("DOF") and the Real Estate Board of New York concerning recent annual DOF filings that have been made for eight of the comparable buildings that HR&A discusses in its reports. These filings show the residential gross square footage of these buildings and, for the relevant year, either the actual rental income received in the building or a DOF calculation of imputed income in the building to reflect stabilized occupancy that is based on actual rental income provided by the property owner. According to the Korngold letter, the information in these filings shows that, in 2009, the actual or imputed rents in the relevant buildings averaged between $35 and $40 per gross building square foot, depending upon whether a 5 percent or 10 percent vacancy and collection loss is assumed. If one further assumes that each of these buildings has a 90 percent rentable square foot to gross square foot efficiency factor, which, according to Cushman, is typical of walk-up apartment buildings, the actual or imputed rent per rentable square foot in these buildings ranged between $38 and $44, again depending on whether a 5 percent or 10 percent vacancy and collection loss is assumed. Rents of this magnitude are not consistent with HR&A's projection of market rents in excess of $50 per square foot for the subject apartments, particularly given the superior level of finishes and amenities in these comparable apartments and the fact that HR&A has assumed improvement costs for the Subject Buildings that are commensurate only with a Minimum Habitability scenario.

- While the actual rents achieved in HR&A's comparables do not support HR&A's rent projections for the Subject Buildings, they are fully consistent with Cushman's projection that, under the Market Rehab scheme, the Subject Building's vacant apartments could have achieved market rents of approximately $40 per square foot in the 2009 test year. As discussed in our prior submissions and summarized in the accompanying Cushman letter, Cushman's projection is based on its examination of actual completed lease transactions in the 2009 test year in a number of Upper East Side apartment buildings. These transactions included (i) leases of apartments in the other buildings in the First Avenue Estate, which are somewhat larger and have better layouts than the subject apartments, where rents averaged $43 per rentable square foot; (ii) leases for 14 apartments in walk-up, non-doorman buildings located between East 60th Street and East 84th Street, where rents per square foot averaged $45.76 for studio units, $33.14 for one-bedroom apartments and $36.57 for two-bedroom units; (iii) leases for 9 apartments in elevator, non-doorman buildings located between East 63rd Street and East 79th Street, where the average rent per rentable square foot was approximately $42; and (iv) leases for 115 elevator, doorman buildings located between East 60th Street and East 82nd Street, where the average rents per square foot were $48.74 for studios, $46.54 for one-bedrooms and $47.75 for two-bedrooms. After Cushman made appropriate rental adjustments to these comparable units to account for their superior layouts, services and amenities, it reasonably projected an average market rent of $40 per square foot for the vacant units in the Subject Buildings in 2009 under the Market Rehab scenario.

(ii) Vacancy and Collection Loss:

- HR&A's projection of a 5 percent vacancy rate for the Subject Buildings under stabilized occupancy is based entirely on City-wide vacancy statistics. In the accompanying letter, Cushman explains that projections of building-specific vacancy rates should be based on the particular circumstances surrounding that property rather than City-wide statistics. Furthermore, the Wolpert letter notes that City-wide vacancy statistics tends to understate actual vacancy rates, a fact that has been acknowledged by the City. In addition, in its estimate of revenue for the Subject Buildings, HR&A failed to identify any separate collection loss. Therefore, HR&A's projection of a total revenue loss factor of only 5 percent for the Subject Buildings is not credible.

- Cushman's projection of a 10 percent vacancy and collection loss factor under the several scenarios that it considered is based on the specific circumstances of the Subject Buildings and is therefore more reliable than HR&A's estimate. These buildings are more than 100 year old 6-story walk-up structures with apartments that are tiny, awkwardly laid out and devoid of modern amenities. They are located a greater distance from subways and retail services than many families and older persons wish to be. As a result, the apartments in the First Avenue Estate tend to attract a younger, relatively transient population and therefore experience significant tenant turn over. Although at one time, many tenants in the First Avenue Estate were students or staff of the large educational and healthcare institutions located in the surrounding neighborhood, in recent years all of these institutions have constructed their own modern staff housing facilities where tenants receive direct or indirect rent subsidies. Consequently, today few prospective tenants of the First Avenue Estate are

> affiliated with these institutions. Despite the fact that other buildings in the First Avenue Estate are subject to an active leasing program, in recent years they have had vacancy rates in excess of 20 percent, with even higher levels of vacancies in their 5^{th} and 6^{th} story walk-up apartments. In addition, collection losses in the Subject Buildings are significant, with about 20 percent of the tenants in arrears on their rent at any time. All of these factors support Cushman's assumption of a somewhat higher than usual vacancy and credit loss for the Subject Buildings.

In summary, in its 2012 and 2013 reports, HR&A concludes that, if a mere $4 million dollars had been spent to repair and upgrade the 97 vacant apartments in the Subject Buildings in 2009 in order to render them legally habitable and no money had been spent on base-building improvements, these apartments could have been rented for about $50 per rentable square foot with a vacancy and collection loss factor of only 5 percent. These assumptions are incredible as a matter of common sense; they also cannot stand up to the rigorous economic analysis that Cushman has performed and the close scrutiny they should be given. As previously noted, HR&A's submissions and testimony represent the only evidence in the administrative record that attempts to systematically refute, on the basis of allegedly "comparable" properties and dollars and cents analysis, our showing of economic hardship. For all the foregoing reasons, HR&A has utterly failed in this effort. Therefore, the record in this proceeding is devoid of any evidence which undermines the Applicant's persuasive showing that, during the 2009 test year, the Subject Buildings were incapable of earning a 6 percent return on assessed value "under reasonably efficient and prudent management."

Conclusion

It is beyond dispute that the Landmarks Law places a heavy burden on the owner of a landmarked property to establish that it is entitled to hardship relief. Under the law, in order to establish a hardship the applicant must demonstrate that, under reasonably efficient and prudent management, the relevant property is not capable of earning a "reasonable return," which is defined as a 6 percent return on its assessed value. This statutory test is divorced from economic reality in several respects. First, the Department of Finance uniformly assesses properties improved with multiple dwellings at 45 percent of their full market value. Therefore, a 6 percent return on the assessed value of an apartment building is equivalent to a return on full market value of less than 3 percent, which would not be deemed an acceptable rate of return by investors in New York City real estate. Furthermore, where, as here, significant physical improvements must be made to a property in order for it to be fully occupied so that its income potential is maximized, only a fraction of the full cost of such improvements – equal to 45 percent of hard construction costs – will be reflected in increased assessed value. This increase in assessed value will not take into account any of the substantial soft costs associated with these improvements for such things as professional fees, permit fees, insurance and financing charges. Cushman has advised that, for a building renovation, soft costs can constitute up to one half of the total project cost. Under such circumstances, there is an even wider disparity between a return based on earnings measured against assessed value and the substantially lower return that results when identical earnings are measured against the full investment in the property.

In short, in a case such as this, in order for an owner to establish that the landmark designation prevents its property from generating a "reasonable return," as defined by the Landmarks Law, it must actually demonstrate that the landmark designation makes the property incapable of earning a return on investment that is far below what real estate investors would deem reasonable and acceptable. Under these circumstances, in considering the Applicant's hardship application it is incumbent upon the Commission to evaluate the evidence in the administrative record in a manner that is fair and reasonable and gives realistic consideration to the actual circumstances that affect the ownership and operation of residential real estate in New York City, such as the real cost of labor and materials, vacancy and collection losses based on actual on-site conditions and current market preferences for New York City residential apartments. It is only by doing so that the Commission can ensure that the Landmarks Law does not deprive the Applicant of its constitutionally-protected right to make "economically beneficial" use of the subject property. See Lingle v. Chevron U.S.A. Inc., 544 U.S. 528, 538 (2005); Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978). We submit that a fair, reasonable and realistic evaluation of all the evidence submitted in this matter must lead to the conclusion that, in the 2009 test year, the Subject Buildings, under reasonably efficient and prudent management, were incapable of earning a 6 percent return on assessed value.

Prior to summarizing this evidence, we would note that the economic hardship that arises in this case is based on a unique set of circumstances. Therefore, the approval of this hardship application would not establish a broad precedent that would provide support for numerous other hardship applications. As we have shown, the other residential buildings that comprise the First Avenue Estate have always been maintained and operated by the Applicant with a goal of maximizing their rental income. Although these other properties are also modest walk-up buildings (with the exception of one elevator building) that are more than 100 years old, they have been marginally profitable and, therefore, were not included in this hardship application. The Subject Buildings are different. In 1990, after the Commission designated the entire First Avenue Estate a landmark, the Board of Estimate, exercising its then statutory authority to review Commission determinations, modified the landmark designation to exclude the Subject Buildings. Consequently, the Applicant reasonably believed that it was free to plan for and pursue a redevelopment of the subject property. In the late 1990s, almost 10 years after the Board of Estimate's action and with the Subject Buildings still unlandmarked, the Applicant took the first concrete steps in furtherance of such a redevelopment and began keeping vacated apartments in the Subject Buildings unleased and empty. It continued to maintain the Subject Buildings as required by law and provide full services to the remaining tenants; however, it did not repair or maintain vacated apartments and it did not make any significant capital investments in the properties. In 2006, with more than 50 apartments in the Subject Buildings now vacant, some for a number of years, the Applicant advised Commission staff of it redevelopment plans, whereupon the Commission promptly re-designated the Subject Buildings. The Applicant commenced litigation challenging the re-designation because it did not believe that the Subject Buildings met the standards for landmarking set forth in the Landmarks Law and because an abandonment of its longstanding plan for a redevelopment of the property would have been economically untenable. When this litigation proved unsuccessful, the Applicant filed a hardship application with the Commission.

This hardship application is premised on these unique circumstances. Under a program of continuous operation and maintenance, the aging walk-up apartment buildings in the First Avenue Estate are, at best, marginally profitable. However, the Applicant having embarked years ago on a lawful and economically rational plan for the redevelopment of the subject property in reasonable reliance on a determination by the body vested at the time with final authority over questions of land use in New York City, it simply is not possible to make the substantial investment that would be required to return the Subject Buildings to full occupancy and earn a reasonable return from such an endeavor.

As discussed in our previous submissions, Cushman has analyzed a number of scenarios involving the restoration and full re-occupancy of the Subject Buildings. These scenarios ranged from merely repairing and upgrading the 97 apartments in the Subject Buildings that were vacant in 2009 in order to render them legally habitable to a complete gut renovation of the Subject Buildings, including the installation of elevators and the creation of new and larger apartments. The costs associated with each scenario were estimated by Gleeds and ranged between about $4 million for the Minimum Habitability scheme and more than $25 million for the gut renovation scenario. These cost estimates take into account the special conditions in the Subject Buildings that would increase repair and renovation costs, including the absence of elevators, cramped stairways and other common areas and the lack of space for the storage and staging of equipment and materials. However, the Gleeds estimates cover only hard costs and therefore exclude the substantial soft costs associated with such work. There has been no concrete evidence offered to show that any of these cost estimates are unreasonable. Furthermore, most of the Commissioners and senior Commission staff have now visited the Subject Buildings and seen for themselves their overall condition, their lack of amenities, the cramped and awkward apartment layouts and the need for significant repairs and improvements to the vacant units in order to make them even minimally habitable.

Although one or more opponents of this application has suggested that the Applicant's own affirmative conduct, including the installation several years ago of 125 new and larger windows in vacant apartments, may have contributed to the cost of repairing and restoring vacant units to occupancy, such a claim is completely unsubstantiated. The accompanying Wolpert letter states that the current conditions in unoccupied apartments are very similar to the conditions that existed when they were vacated by their last occupants. Any appliances or fixtures that have been removed from these units were so old or in such poor condition that their replacement would have been required before the units could have been re-occupied. Furthermore, the new windows that were installed in vacant apartments actually served to decrease the costs associated with the Market Rehab scenario, which produced the highest return on assessed value of any scenario that was analyzed, albeit less than 6 percent. The accompanying Gleeds letter states that, under the Market Rehab scheme, the 125 new windows would be retained and the 317 remaining original windows in the vacant apartments would be replaced. Therefore, the previous replacement of 125 windows in the vacant apartments significantly reduced the estimated cost of window replacement. According to the Gleeds letter, this savings would far outweigh the minimal cost associated with refinishing interior walls around the 125 new windows, which has yet to be done.

For each repair / renovation scenario that was analyzed, Cushman estimated maintenance and operating costs, which have not been challenged by HR&A or otherwise seriously discredited. Cushman also projected achievable market rents for each scenario, which were based upon verified actual rents in a number of comparable buildings, including the other buildings in the First Avenue Estate, and appropriate adjustments thereto to account for differences in location, condition and level of amenities. Cushman's estimates of market rents ranged between $20 per rentable square foot for the Minimum Habitability scenario and $46 per rentable square foot for the gut renovation scheme. All of these rent projections were amply supported by the comparables that Cushman produced and analyzed. Our submissions conclusively showed that, under each scenario for returning the Subject Buildings to full occupancy, the achievable rents as constrained by the applicable rent regulations would have been insufficient to generate a 6 percent return on the subject property's assessed value as properly adjusted to account for the hard construction costs associated with each scheme.

In conclusion, we have shown that, even under the low "reasonable return" threshold set forth in the Landmarks Law, in light of the substantial investment that would be required to restore the Subject Buildings to full occupancy under any feasible scenario, it is not possible to earn a reasonable return on the assessed value of these properties. Furthermore, neither HR&A nor any other entity or individual has offered credible and persuasive evidence that refutes this showing. We therefore urge the Commission to grant this hardship application.

Very truly yours,

Paul D. Selver

cc: Mark A. Silberman

APPENDIX A

Responses to Commission Questions at June 11, 2013 Hearing

1) During the hearing, Dana Martinez of Gleeds discussed his cost analysis of the "Market Rehab" scenario for the Subject Buildings, which involved building-wide capital improvements and repairs and upgrades to vacant apartments to make them both code compliant and reasonably marketable. Mr. Martinez testified that, taking into account the 110 apartments that were vacant when he inspected the buildings in 2011, the estimated cost of the Market Rehab scenario was approximately $17.4 million (specifically, $17,369,474). Commissioner Goldblum asked us to determine the cost of the Market Rehab scheme on a rentable square foot basis. The Subject Buildings contain a total of 190 apartments with a net rentable area of 70,406 square feet, which represents an average of 371 rentable square feet per apartment. Therefore, the estimated cost of the Market Rehab scheme equals approximately $247 per rentable square foot.

2) At the hearing, Commissioner Perlmutter asked us to provide further information on the leasing program for apartments in the other buildings in the First Avenue Estate. These other buildings are served by an on-site rental office which is located on East 64th Street and is open and staffed by a rental agent Mondays through Fridays from 8:00 a.m. to 4:00 p.m. During other hours, prospective tenants can inquire about available apartments at the offices or website of the property manager, Greenthal Properties, which is one of Manhattan's largest managers of residential buildings. Persons who inquire about available apartments in the First Avenue Estate at the on-site rental office or with Greenthal can either be shown available apartments immediately or schedule a showing at another time, including evenings or weekends. In addition to the on-site rental office and Greenthal, apartments in the First Avenue Estate are frequently rented through word-of-mouth referrals by existing tenants of these buildings and employees of other properties owned or managed by the Stahl Organization.

John T. Feeney, Jr.
Executive Director
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October 10, 2013

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1177 Avenue of the Americas
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**RE: Submission to Landmarks Preservation Commission
429 East 64th Street / 430 East 65th Street
New York, NY
Cushman & Wakefield Rebuttal**

Dear Mr. Selver:

In response to your request and our conversations with our mutual client, the following is a reiterization of salient facts, as well as additional commentary about the HR&A Report in opposition to the hardship application for the above captioned property, dated June 11, 2013.

SUMMARY OF SUBMISSIONS

Cushman & Wakefield (C&W) prepared its Comparative Economic Feasibility Study in 2009 to determine the potential return which the subject property would generate. Based on continued rental use following a building wide capital improvement and an in-unit renovation to the vacant apartments, the economic return was determined to be 1.190 percent. Excluding the building-wide capital expenditure, which was found to negatively impact achievable rental rates, resulted in a return of 0.614 percent. C&W determined that the subject property was incapable of generating a reasonable return as improved, as defined by the New York City Administrative Code.

C&W further concluded that the imposition of the landmark designation has rendered the property incapable of generating a sufficient and competitive economic return. Subsequently, you requested that C&W estimate economic returns based upon various scenarios including:

1) a limited capital expenditure to cure fire safety conditions resulting in units with minimum habitability;
2) modification of the minimum habitability scenario to reflect more accurate costs determined by Gleeds; and
3) the analysis using the average rents for similar walk-up units and vacancy rates as found in buildings on the same city block.

In no scenario did C&W determine that the subject was capable of generating a reasonable return. A summary of C&W's findings previously submitted is presented below:

SUMMARY CHART						
	Capital Expenditure Building-Wide Base	Capital Expenditure In-Unit	Concluded Rent/SF	Concluded Rent/Month	Occupancy	Feasibility Result
Economic Feasibility - 2009 Test Year						
Scenario I	$10,530,225	$4,620,000	$40.00/SF	$1,235/Unit	90.00%	1.190%
Scenario II	$0	$4,620,000	$35.00/SF	$1,081/Unit	90.00%	0.614%
Economic Feasibility - 2010 Test Year						
Scenario III	$0	$2,325,000	$19.43/SF	$600/Unit	90.00%	-2.871%
Sensitivity Analysis - 2010 Test Year						
Scenario IV	$0	$4,018,385	$19.43/SF	$600/Unit	90.00%	-12.229%
Scenario V	$0	$4,018,385	$28.76/SF	$888/Unit	76.00%	-11.77%

THE HR&A REPORT

The HR&A report focused its market research on two factors: residential vacancy rates and residential rental rates. Much of the market research emanates from market reports published by CitiHabitats, Prudential Douglas Elliman, and MNS. The HR&A report presents information for periods between 2007 and through the second quarter of 2011. Herein, we focus only upon 2009, the "test year" for this hardship application.

HR&A details CitiHabitats' reported average rent for Upper East Side studio units which was $1,432 per month for calendar year 2009; $1,787 per month for one-bedroom units; and $2,363 per month for two-bedroom units. These rent levels, combined with an analysis of 2007-2011 listings within area buildings, set HR&A's basis for a reconciled conclusion of market rent, which averaged $1,508 per unit per month for the subject's vacant units.

The HR&A rent estimate is misleading for several reasons. HR&A's testimony focused on their selected listings which was only one part of their analysis, having used several brokerage reports. Firstly, publications for **average** rent levels **are not** reconciled to the subject, whose units are not representative of average apartments on the Upper East Side when measured by size, design or finishes. The subject units are smaller than average, with atypical layouts, room sizes and electric amperage. Prudential Douglas Elliman's 2009 market report generated data using average studio sizes of 530 square feet and one-bedroom sizes of 786 square feet. There is no logical reason to default to an average published rate for the subject property. Secondly, the average rental rates are not effective rents that consider the rent concessions prevalent in 2009. Lastly, the HR&A conclusion of $1,508 per month cannot be achieved since many individual units' legal rent will not grow to the concluded market estimates needed to sustain the HR&A average without greater in-unit renovation costs.

An analysis of the last legal rents for the 45 vacant units at 429 East 64th Street indicates that (based on Gleeds/Project Consult's in-unit recoverable renovation costs) the average monthly legal rent will increase only to $1,374 per month. Even allowing for a 3.0 percent one-year renewal rent increase, results only in a rent of $1,415 per month on average. Similarly, legal rents within the 39 vacant units at 430 East 65th Street would reach only $1,477 per month. To achieve average rents of $1,508 per unit per month, additional capital expenditures would be required, altering the calculation for real estate taxes and the denominator in the HR&A economic analysis. Furthermore, the attendees of the LPC hearings ardently challenged the efficacy of the renovation costs; however, if these costs are mitigated, even lower legal rents for vacant units would result.

The HR&A comparable analysis also uses rent listings from area walk-up apartment buildings as of 2010 and 2011. There is no adjustment for a listing price discount; no reduction for the growth in reported rents between 2009 and 2011, reported to be 11 to 20 percent; and no reduction for concessions. Finally, there is no adjustment to account for the smaller subject unit sizes compared to the market norms.

HR&A maintains no adjustments are warranted for variations in unit site. This is a fundamental aspect of an economic analysis. Prospective tenants may not measure units, but intuitively understand the functional size of rooms and apartments. As a measure of economic performance, size is critical.

In defending its erroneous treatment of unit size, HR&A provides a rebuttal using gross building area. This is a matter of convenience for HR&A, as it strips away the very feature that highlights the economic differential between assets. The use of gross building area for comparison purposes assumes all buildings have a similar efficiency, as measured by the relationship of net rentable area to gross building area. This is not the case.

Charted below is a compilation of measurements drawn from NYC buildings for which we reviewed architectural plans. This chart clearly illustrates that the ratio of net rentable area to gross building area varies significantly for new construction as well as renovations of existing buildings.

ZONING AREA CALCULATIONS

No.	Address	Property Type	Site Size	Zoning District(s)	ZFA (SF)	GBA (SF)	NRA (SF)	NSA (SF)	NA/GBA (%)
1	Confidential Brooklyn, NY	New Rental Construction	14,290	M1-2/R6A	38,583	43,936	37,760	-	85.94%
2	Confidential New York, NY	New Condo Construction	10,217	C1-5A/R10A	119,817	126,792	-	108,343	85.45%
3	Confidential Queens, NY	New Condo Construction	5,000	M1-5/R9	39,796	44,959	-	38,321	85.24%
4	Confidential New York, NY	New Condo Construction	8,684	R10A w/ C1-5 overlay	127,661	136,300	-	120,044	88.07%
5	Confidential New York, NY	New Condo Construction	7,551	R8B	22,074	22,453	-	20,743	92.39%
6	Confidential Brooklyn, NY	New Condo Construction	41,425	M1-2/R6B/MX-8	82,850	86,993	-	80,877	92.97%
7	Confidential New York, NY	Comm'l Loft Conversion	12,553	C6-2		68,206		65,640	96.24%
8	Confidential New York, NY	Office Building Conversion	16,508	C6-4A/M1-5M	165,080	205,943	-	177,145	86.02%
9	Confidential New York, NY	Comm'l Loft Conversion	20,090	Tribeca Mixed-Use/M1-5	100,450	185,190	-	175,000	94.50%
10	Confidential New York, NY	Rental to Condo Conversion	7,833	R8B	31,332	57,419	47,321	-	82.41%
11	Confidential New York, NY	Comm'l Loft Conversion	18,675	C6-2A/C6-4A	142,919	118,484	-	101,527	85.69%
12	Confidential New York, NY	Comm'l Loft Conversion	4,000	Special LM/C5-5	60,000	47,050	-	42,750	90.86%
13	Confidential New York, NY	Rental to Condo Conversion	15,637	C1-7	94,135	144,516	-	127,872	88.48%
	MIN	**New Construction**							**85.24%**
	MAX								**92.97%**
	AVERAGE								**88.34%**
	MIN	**Conversion**							**82.41%**
	MAX								**96.24%**
	AVERAGE								**89.17%**

The subject has numerous entrances, hallways and stairwells. Its design produces proportionately less net rentable area compared to typical walk-up buildings of lower density. In our experience, residential floor plates of typical walk-up buildings yield a rentable area of 90 to 92 percent of gross building area, when there is one interior stairwell and one entrance. The subject's net rentable area is 83 percent of its gross building area. New construction and renovations from commercial use to residential use typically result in a range of 85 to 93 percent efficiency, despite large amounts of common area amenities. C&W previously demonstrated the subject units have an average size of 371 square feet. This is significantly smaller than the average size of the apartments in the other buildings in the First Avenue Estate (450 square feet) or the apartments in the City and Suburban York Avenue Estate on East 79th Street (459 square feet).

The lack of adjustment by HR&A for relative size and the use of gross building areas as the basis of comparison is inappropriate and misleading.

A final consideration regarding size of the subject apartments as it relates to an emerging trend for micro-apartments. There are no similarities between the subject units and modern designed micro-apartments, which offer high ceilings, loft space, and built-in storage. Other than some initial media coverage, there is no market evidence that these type units will be accepted by tenants in the market. Manhattan's average apartment size is already among the smallest in the nation, which serves a tenant base consisting of people generally moving into the city from other locales. Economic feasibility must be supported by economic activity, and there is no meaningful trend in the market for investors seeking to convert properties to micro-units, nor demand from tenants warranting addition to supply. In addition, micro-apartment developments presently under construction have significant government subsidies, including development sites granted for nominal amounts, and are not indicative of market rate transactions or normal market forces.

HR&A refers to their comparables as "409 rent transactions." In contrast, they are clearly listings of units for rent and not concluded lease transactions. Of the 409 "transactions," 133 were for the application year of 2009.

The LPC should consider the following when reviewing the HR&A report:

- Derivation of market rents based on both listings data and average published rates, fails to produce a meaningful comparison to the subject.
- Failure to consider the relationship between permitted legal rents versus market rent estimates.
- No consideration to adjust for the size and quality of the subject units.
- No consideration of the discount to listing rates in 2009 or concessions prevalent in the market.

THE 2009 C&W BASE SCENARIO

Rent Levels

C&W concluded to a market rent estimate of $40.00 per square foot for the subject's vacant units based on the proposed level of building-wide and in-unit capital expenditures. C&W compared the subject units to apartments in other structures within the City and Suburban complex. These units had superior finishes, layouts/room dimensions and were marginally closer to subway access, and retail along First Avenue.

Additional C&W Rent Estimate Support (previously provided)

Below is a summary of **actual** lease transactions within buildings in proximity to the subject with confirmed rents and square footages. These units are almost universally located within elevator buildings. They range from $43.30 per square foot to $48.66 per square foot on average. As recognized in data from reports used in the HR&A analysis, elevator buildings command a rent premium of 16 percent while doorman buildings command a 25 percent premium on average in 2009 (Source: CitiHabitats Year End 2009 Black and White Report). Recognizing that the two categories (elevator building with doorman) often co-exist for statistical generation, we consider a negative adjustment of 10 to 15 percent appropriate for these categories. All rent levels have been confirmed with the brokerage firm handling the transactions.

2009 Summary of Rents 2.5 to 4 Room Apartments – Below 16th Fl				
	2.5 Rooms	3 Rooms	3.5 Rooms	4 Rooms
Total Square Footage	5,560	37,218	15,977	9,915
Total Number of Units	10	51	19	9
Overall Monthly Rent	$ 22,547	$ 134,310	$ 58,570	$ 37,800
Overall Avg. Annual Rent/SF	$ 48.66	$ 43.30	$ 43.99	$ 45.75
Overall Avg. Annual Rent/Unit	$ 27,056	$ 31,602	$ 36,992	$ 50,400
Overall Avg. Monthly Rent/Unit	$ 2,255	$ 2,634	$ 3,083	$ 4,200

On an unadjusted basis, rents range from $43.30 to $48.66 per square foot. Applying a negative adjustment of 10-15 percent produces an adjusted range of $36.81 to $43.79 per square foot prior to consideration of unit layouts, finishes and amenities. The C&W conclusion of $40.00 per square foot is again found to be reasonable. In contrast, HR&A's rent estimate, applied to the actual vacant units in the subject buildings, exceed $50 per square foot, a premium greater than 25 percent over C&W's well supported conclusion.

In addition to the comparable set of rents included in our February 2009 report and the data above, we compiled a set of data to use as additional comparable properties in projecting rents. Below is a summary of 14 apartments in walkup, non-doorman buildings between East 60th and East 84th Streets for which we confirmed both actual rental and square footage information. These comparable rents range from $37.23 per square foot to $38.99 per square foot.

	Studio	1.0 Bedroom	2.0 Bedroom
Adjusted Avg. Annual Rent/SF	$ 38.99	$ 37.23	$ 38.20
Adjusted Avg. Monthly Rent/Unit	$ 1,778	$ 2,390	$ 3,923

These supplemental rental analyses, all of which contain comparables which have been documented and discussed in greater detail in the hearings and prior submissions, confirm that C&W's February 2009 report correctly projected post renovation rents for the then 97 vacant units in the Subject Buildings at $40.00 per square foot.

EXPLANATION OF THE C&W 2009 VACANCY AND COLLECTION LOSS ESTIMATE

Residential vacancy rates in New York City vary across property classes but have been historically low, below 5.0 percent as measured by the Housing and Vacancy Survey, published triennially. Again, we do not believe application of an average market rent or vacancy level is appropriate for the subject units. There are two factors impacting gross revenue flows to a landlord comprised in the estimate for vacancy and credit loss. The first is actual vacancy within a property, which is a function of location, quality, condition, and the competitive position within its asset class. The subject is well below average in terms of its competitive position to attract tenants. Even based on the building-wide and in-unit renovations, the subject units are small with dysfunctional, non-ADA or Code compliant bathrooms, and room sizes that do not meet NYC HPD affordable housing requirements. The subject, as well as other buildings that are part of the City and Suburban complex, experiences above average vacancy and turnover. The presence of so many like-kind apartments on the same city block negatively affects occupancy for the subject units. According to a study by the Stahl Organization, during a 10-month period in 2011, 55 new tenant leases were signed in the adjacent buildings, while 42 tenants vacated their units within the same period, resulting in nominal net absorption.

Creditworthiness of tenants is also a factor in vacancy and credit loss. Rent stabilized tenants falling in arrears are not immediately evicted. Slow or nonpayment of rents impacts budgeted and actual receipts and must be considered as part of a credit loss.

A combination of vacancy (5.0 to 7.5 percent) and credit loss (2.5 to 5.0 percent) is appropriate for the subject asset. High turnover rates coupled with tenants who refuse to pay a final month's rent would have an 8.3 percent impact ($1/12^{th}$) on revenue for a unit. Furthermore, forfeited security deposits do not make up for rent arrears or nonpayment.

The information provided by HR&A concerning leasing activity in the buildings it identified as comparables is inconsistent with its assumption of a 5 percent vacancy loss in the subject buildings. According to HR&A, its 9 comparable buildings contain a total of 199 units. However, HR&A listed 133 units in these buildings, or about two-thirds of all the units, as available for lease in 2009. It also stated that, over the four year period that was examined, 409 units were listed for lease in these buildings. Listings of this magnitude are indicative of a significantly higher vacancy rate in these comparable buildings than 5 percent.

The C&W conclusion for vacancy and credit loss is reasonable given the history of the subject property, and its primary like-kind competition on the same block. Average vacancy rates published by NYC have no meaningful comparison to the subject, which is not an average property as measured by condition, size, and building infrastructure.

The C&W conclusion of vacancy and credit loss of 10 percent considers:

- The rent conclusion of $40.00 per square foot
- Vacancy in other walk-up buildings on the block
- Degree of turnover and movement of tenants from upper to lower floors
- Downtime to improve/renovate units upon a tenant vacating.
- The number of tenants currently and historically in arrears, as well as prospects for slow and missed payments

The downtime to improve/renovate units allows for routine work such as painting and repairs in order to lease the units to new tenants. The capital estimates determined by Gleeds did not include a budget for in-unit upgrades and repairs for the units then occupied in 2009, many of which had not received upgrades in many years. These occupied units will undoubtedly experience turnover and, without significant upgrades, the units which are already inferior to its competition would be even harder to rent. This further supports C&W's conclusion for a 10 percent vacancy and credit loss.

In an economic analysis, the consultant must consider the interrelated conclusions used in the model. The C&W model utilizes:

- Estimated rents at the upper end of the range in the market for apartments adjusted to the subject post renovation.
- A vacancy and credit loss that considers the design of the subject, its small units and 6 story walk-up construction. It takes into account arrears and nonpayment, downtime between leases, frequent move ins-outs by upwardly mobile tenants, and the condition of the apartments post renovation.
- Operating expenses which consider the historic expenses at the subject, and comparable expenses with consideration to increased occupancy levels. Variable expenses such as painting and supplies were increased to reflect a stabilized occupancy rate of 90 percent.

Challenges made to Gleeds' renovation estimates, while unsubstantiated by the facts, fail to account for resultant impact on legal rents that may be charged in the future. Challenges to lower C&W's rent and vacancy and credit loss estimates while advocating lower renovation costs result in opposite economic results including lower legal rents, poorer quality units and greater vacancy, such as evident in the test year.

An economic analysis that defines feasibility is one which should attract investment capital, willing to undertake risk for an appropriate return. Advocates of higher rents at the subject coupled with lower vacancy, and lower expenses assume a model that requires a much larger capital investment than investors would be willing to make for this asset class and would not satisfy the risk/return analysis used by such investors.

HR&A produced no evidence of actual leases to counter the conclusion of $40.00 per square foot. In fact, in an affidavit submitted by Paul Korngold, Esq., it is clear that actual rents in HR&A's comparable buildings are close to, or at, $40 per square foot. Compiling listings for apartments in superior buildings, with larger size and better finishes is not appropriate. Furthermore, with no adjustment for condition, size and concessions evident in the 2009 market, its analysis is rendered meaningless. HR&A made its rent conclusions based on unadjusted listings and without regard to the reality of legal rent calculations. Its subsequent submissions appear engineered to protect its erroneous initial estimate, which remains unsupported. Applying HR&A's rent conclusion to the vacant units yields an average "taking rent" in excess of $50.00 per square foot which is over 25 percent above the market rent concluded to by C&W.

C&W's Economic Feasibility Study and subsequent sensitivity scenarios requested by the Commission, were developed in accordance with applicable consulting standards of the Uniform Standards of Professional Appraisal Practice, and the Code of Ethics and Certification Standards of the Appraisal Institute. C&W adhered to the accepted principles and methodologies routinely used by qualified professionals and market participants. HR&A's analysis does not conform to these principles and methodologies and therefore is not credible or reliable.

CONCLUSION

Given the analyses undertaken in this process, Cushman & Wakefield, Inc. believes our projections to be reasonable and indicative of typical investor trends as of 2009.

Sincerely,

John T. Feeney
Executive Director
Valuation & Advisory

The **Stahl**
Organization

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October 10, 2013

Mr. Robert B. Tierney
Chairman
New York City Landmarks Preservation Commission
1 Centre Street, 9th Floor
New York, N.Y. 10007

Re: City and Suburban Homes Co., First Avenue Estate
429 East 64th Street and 430 East 65th Street, Manhattan
Block 1459, Lot 22, a/k/a The "Subject Buildings"

Dear Chairman Tierney,

This letter is submitted by the Stahl Organization in support of its application for permission to demolish the Subject Buildings on the ground of economic hardship. We believe that, together with our prior submissions in support of that application, we have now, through this letter, additional information provided by our outside counsel, our 3rd party appraisal and valuation firm, and our 3rd party construction cost consultant, introduced overwhelming and compelling evidence that the subject property is incapable of earning the statutorily required annual return of 6 percent on its assessed value. We understand there is strenuous opposition to our application from neighbors who do not want to see new high rise construction in their neighborhood that could potentially temporarily disrupt their routines and permanently disrupt their views, as well as from elected officials and several preservation groups. Nevertheless, we urge the Commission to objectively examine the vast amount of evidence we have submitted which supports our hardship application and demonstrates that much of the information offered by opponents is irrelevant, inaccurate, incomplete, and/or misleading.

The June 11, 2013 report and testimony of HR&A Advisors, Inc. ["HR&A"] failed to provide any persuasive evidence that the Subject Buildings are capable of earning the statutory return. HR&A acknowledged that its original 2012 report in opposition to our application was flawed because it did not take into account that, irrespective of the market rentals projected for the buildings' vacant apartments, new tenants cannot be charged more than the legal maximum rent permitted for any unit by rent regulation. Furthermore, in its 2013 report and testimony, HR&A acknowledged that the "comparable" apartments cited in its 2012 report were significantly larger than those in the Subject Buildings, but it nevertheless refused to make the necessary downward rental adjustments that a competent appraiser would undoubtedly make to account for this size differential. Relying on gross square foot data rather than the more relevant rentable square foot information routinely used by real estate professionals, HR&A's 2013 report states that the average size of its comparable apartments is 15% greater than the average size of the apartments in the Subject Buildings. Our review of data compiled by the Department of Finance indicates that HR&A has understated this disparity and that its comparable apartments are actually about 23% larger, on average, than the Subject Buildings' apartments. In any event, it is undisputed that there is a significant difference between the size of the units in HR&A's comparable buildings and the apartments in the Subject Buildings. Incredibly, HR&A asserts in its report that this size differential was not sufficiently important or material to warrant market rental price adjustments.

HR&A did not offer any new comparable properties in its latest report and testimony. To review HR&A's prior submission, out of the 9 properties cited in its original January 2012 report[1], more than 80% of the 409 "comparable" market rental listings[2] were from 3 buildings: 340 East 61st Street, 342 East 62nd Street, and 322-24 East 61st Street. These buildings have virtually <u>no</u> characteristics similar to the Subject Buildings except that they are walk-ups. Notwithstanding, HR&A testified at the June 2013 hearing that "the comparables we looked at in every way, <u>levels of finish</u>, are extremely similar" (*transcript pg.86*). This is a patently inaccurate statement. For example, 340 East 61st Street, which accounts for more than 25% (104 out of 409) of HR&A's "asking rent" comparable units, has granite countertops, cherry wood kitchen cabinets, stainless steel appliances, and marble bathrooms. Some units even have Bosch washers and dryers [Exhibit A]. 342 East 62nd Street, which accounts for more than 37% (154 out of 409) of HR&A's "asking rent" comparable units, has high ceilings with exposed brick walls, hardwood floors, granite tiled kitchens, and marble tiled bathrooms [Exhibit B]. 322-24 East 61st Street, which accounts for

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[1] 1 of these 9 properties is actually a condominium building with some apartments periodically available for lease. Most competent valuation experts would automatically disqualify use of condominium apartment units as a fair comparable to units in a rental building.

[2] These listings covered the 4 year period from August 2007 through August 2011.

more than 17% (71 out of 409) of HR&A's "asking rent" comparable units, has high end kitchens with stainless steel appliances, dishwashers, microwaves, and hardwood floors throughout [Exhibit C]. According to Department of Buildings ("D.O.B.") filings that we reviewed, many of the apartment renovations in HR&A's "comparable" buildings were complete gut renovations. In stark contrast, under the Market Rehab scenario that was analyzed by our consultants and produced the highest rate of return, albeit less than the 6% on assessed value that is required by the Landmarks Law, the Subject Buildings would have been repaired and renovated to a level to make their vacant apartments code compliant and reasonably marketable, but far from luxurious. Certainly, there is nothing in any Stahl submission suggesting that, under any scenario that was analyzed;[3] we would install washers and dryers, microwaves, dishwashers, granite, marble, etc. in any of these units.

Not only are the apartments in the HR&A "comparable" buildings far superior to those in the Subject Buildings, the base buildings themselves are superior in quality and amenities. In addition to (and in order to accommodate) interior apartment renovations, most of the comparable buildings have had significant upgrades to base building systems, such as electrical and plumbing upgrades in order to be positioned to provide better amenities. A search of D.O.B. records indicates at least 94 alteration filings in these 9 buildings (average of 10.5 per building) covering items such as façade replacement, roof and parapet replacements, structural repairs to floors, structural work to footings and columns, new partitioning and plumbing, new stair openings, replacement of boilers and gas burners, installation of fire suppression systems, and environmental abatement in plaster on walls and ceilings. Alterations of this scope were not contemplated for the Subject Buildings.

There are significant reasons why the owners of the buildings used as HR&A comparables might make such extensive improvements. None of these 9 buildings are landmarks, and 8 of the 9 buildings have excess air rights that could be used for future development. Almost all of these building sites are also adjacent to other developable parcels, which could be merged to create larger future development sites. For an unlandmarked property with significant redevelopment potential, there is a real economic incentive for removing apartments from rent stabilization by making major capital improvements that

[3] The Applicant's construction cost consultant, Gleeds New York, was asked to price repairs and renovations whose scope ranged from minimally code compliant to moderately accessorized, none of which come close to approaching the level of finishes and amenities contained in HR&A's comparable buildings and apartments. The Gleeds renovation scopes and budgets were, in turn, utilized by Cushman & Wakefield to determine appropriate rent levels in the various analyses submitted to the Commission.

allow for significant rent increases and ultimately allow the building to be easily vacated. In the absence of hardship relief, the landmarking of the Subject Buildings eliminates this option and removes any economic incentive to "over-improve" these properties, as may have been done in the case of a number of HR&A's comparable buildings.

The location of HR&A's "comparable" buildings should also be addressed. It is noteworthy that 6 of these 9 buildings are located between 1st and 2nd Avenues, which provides significantly easier access to Upper East Side amenities and services, most notably Lexington Avenue subway access, and the business district. 7 of the 9 buildings (and all 3 of the buildings containing 80+% of HR&A's rental comparables) are south of the Subject Buildings, which also provides greater proximity to the 59th Street express stop on the Lexington Avenue subway line, proximity to businesses and employment, and a myriad of shopping alternatives. In HR&A's June 2013 testimony, it stated that "You'll see that our comparables in our 2012 report were virtually all to the north in part because to the south is the legendary super-luxury neighborhood of Sutton Place, but also, you start to quickly enter into the most dense job intensive central business district in the United States in Midtown Manhattan" (*transcript pg.77*). An examination of HR&A's 2012 report reveals that this statement is simply untrue, as virtually all of the "comparable" buildings are further south (not north) from the Subject Buildings, and all are further west as well. We would further note that HR&A made no attempt to include in its analysis of comparable buildings the other 15 buildings in the First Avenue Estate (of which 14 are walk-up buildings). These other buildings are located on the very same block as the Subject Buildings and, as we have shown in our previous submissions, they represent the most relevant comparable properties to the Subject Buildings.[4]

In its 2013 report, HR&A reaffirmed its prior position that a vacancy and collection loss factor of only 5% should be assumed in a hardship analysis of the Subject Buildings. In contrast, for the Market Rehab scenario, our financial consultant, Cushman & Wakefield, projected a 10% vacancy and collection loss. The large number of listings available in HR&A's comparable buildings actually undermines HR&A's position on this issue. According to HR&A, in the 9 "comparable" buildings containing a combined 199 residential units, 133 units were listed for lease in the 2009 test year (with 409 units listed for lease over the

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[4] HR&A's stated reason for ignoring the other First Avenue Estate buildings is that they are also owned by the Stahl Organization, which has no incentive to lease the units, or lease them at the highest possible rent. As we have stated in previous submissions, Stahl has no economic incentive not to maximize the rental income from these other buildings, which have been landmarked for many years and are not the subject of this hardship application.

4 year period that was examined), which represents two-thirds of all of the units being available for lease. Similarly, HR&A claimed that 329 units were listed for lease in the 3 buildings containing 80% of the total listings over this 4 year period, an average of 82 units per year, despite the fact that these buildings contain a total of only 84 residential units[5]. In other words, in these comparable buildings, on average, every single apartment is listed as vacant and available every year for 4 years. These numbers, which frankly defy credibility, certainly do not support HR&A's projected 5% vacancy factor for the Subject Buildings, which would also include collection loss, free rent periods, and renovation-related down time. A 5% vacancy/collection loss factor in HR&A's comparable buildings would equate to roughly 1 unit per building per year not generating rent based on an average of 22 apartments per building, which is dramatically less than the listed-for-rent figures cited by HR&A. This statistic casts serious doubt on the reliability of HR&A's vacancy data and, indirectly at least, on the rents for these units that have been cited by HR&A, which are discussed below.

Further, HR&A's use of a 5% vacancy loss factor is inconsistent with the fact that the Subject Buildings are 6 story walk-ups. Only 1 of HR&A's 9 "comparable" buildings contains 6 stories, and that building contains only 24 apartments. In our previous submissions, we addressed the difficulty in leasing the upper floors of walk-up units[6] (and the related rental discounts necessary to attract tenants to these floors), and the disproportionate vacancy in the upper floors in the other 14 walk-up buildings in the First Avenue Estate. Almost 2/3 of the vacancies in these other buildings are in apartments on the 4th, 5th, and 6th floors. One woman who testified at the June 2013 hearing in opposition to our application, the president of the cooperative building on 65th Street near York Avenue, cited the building adjacent to hers, at 1221 York Avenue, as a more typical example of occupancy levels in the neighborhood. That building is also a 6 story walk-up, and is one block north of the Subject Buildings. She noted that, "As far as I can tell, they're fully rented .... they have always been fully rented" (*transcript pg. 121*). Putting aside the likely bias of the resident of a building where views could be blocked by a redevelopment of the subject property, the facts pertaining to 1221 York Avenue, which is also owned by the Stahl Organization, are quite different: While the 1st, 2nd and 3rd floors of this building are close to full occupancy, the upper 3 floors routinely have vacancies in excess of 20%. Therefore the building routinely has total vacancy in excess of

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[5] City records incorrectly indicate that one of HR&A's comparable buildings, 322-24 East 61st, contains 32 units. We have confirmed through inspection and third party appraisal that the building contains 40 units, and have made the appropriate adjustments in our analysis.

[6] See Wolpert letter to Chairman Tierney dated October 11, 2012

10%, and this figure excludes collection losses, construction time for renovations, or other free rent incentives, all which would make the effective vacancy and collection loss percentage significantly greater.

In support of its projection of a 5% vacancy and collection loss for the Subject Buildings, HR&A ignores the vacancy statistics for its own comparable buildings as well as the specific circumstances of the Subject Buildings and, instead, relies exclusively on published citywide vacancy statistics. Such reliance is misplaced. In fact, the City's vacancy data, which is used to provide a basis for the continuation of rent regulation, tends to yield artificially low vacancy rates. First, the City ignores many vacancies. For example, the City does not count units that are temporarily vacant because they are being repaired or renovated. In addition, a landlord's refusal to divulge the reason for a vacancy is sufficient to remove said unit from vacancy statistics. The Mayor's own previous study on this issue, titled "Housing New York City 2008," cited an additional 138,000 units as vacant over and above the City's "statistical" vacancy. This represents close to 7% of all of the rental apartments in New York City.

Rather than examining inapplicable and misleading citywide statistics, proper appraisal methodology dictates that one must also look at the microeconomic conditions of the immediate neighborhood to evaluate vacancy rates. We have previously submitted to the Commission a detailed vacancy analysis for the 796 apartments in the 14 other walk-up buildings within the First Avenue Estate. Despite an active leasing program for these buildings, in 2009 they had a vacancy rate in excess of 20%. These 796 walk-up units on the same block and adjacent to the Subject Buildings represent almost ten times as many units as are contained in all 9 of HR&A's so-called "comparable" buildings. With respect to the neighborhood surrounding the First Avenue Estate, it is important to note that the three largest employers and space occupiers in this neighborhood -- Rockefeller University, Memorial Sloan Kettering Hospital, and New York Presbyterian Hospital – have all built their own housing facilities in recent years, all of which are either directly or indirectly subsidized. These buildings are all modern "ground up" high rise developments with elevators, views, and modern amenities. Memorial Sloan Kettering at one time leased more than 50 apartments in the First Avenue Estate, but with the completion of their own housing facilities no longer leases any units in that complex. Similarly, employees of and students at these institutions used to be the largest base of prospective tenants for First Avenue Estate apartments, but are now rarely interested in leasing apartments there. These conditions in the immediate neighborhood are far more relevant to a projected vacancy loss in the Subject Buildings than general citywide vacancy rates.

Another factor that affects vacancy rates in the First Avenue Estate is apartment turnover. Tenants who live in these small walk-up apartments that are devoid of modern amenities often do not stay there for long periods of time. This turnover problem is in fact underscored by the HR&A comparable walk-up properties. As previously discussed, according to HR&A's own data, these buildings have had huge numbers of available apartments in relation to their size. Further, the turnover experienced at the First Avenue Estate is not inconsistent with citywide averages. The New York City Rent Guidelines Board has noted that "half of all the two million apartments in the city fall under rent stabilization, and over 100,000 of these units become vacant each year."[7] This suggests that 10% of units under rent stabilization (100,000/1,000,000) become vacant each year.

Citywide vacancy statistics, even if they were an accurate reflection of actual vacancy, do not address the total economic loss that must be deducted from the projected income of the Subject Buildings under any given scenario. For example, even at present below market rental rates, approximately 20% of the tenants in the Subject Buildings are in arrears on their rent and are subject to legal proceedings. Although it is difficult to predict the ultimate financial loss caused by these arrearages, such a situation, together with other credible evidence in the record, undoubtedly suggests that a stabilized vacancy and collection loss allowance of 10%, which was utilized by Cushman & Wakefield in its analysis of the Market Rehab scenario, is extremely reasonable if not overly conservative.

With regard to projected rents in the Subject Buildings, in its June 2013 submission HR&A continued to ignore the basic difference between <u>asking</u> rents and <u>actual</u> signed leases, and it is clear from the sheer number of listings that owners of the "comparable" buildings can ask for as much rent as they want, and as often as they want, but none of these <u>asking</u> rent levels necessarily correspond to actual rents based on signed leases, including any rent concessions granted.[8]

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[7] www.Housingnyc.com

[8] In a previous submission, we pointed out that, for HR&A's comparables, the average asking rent for studio apartments was 12% <u>greater</u> than for 1 bedroom apartments, and the average asking rent for 2 bedroom apartments was only 2% greater than for studio apartments, all of which demonstrates the unreliability of HR&A's asking rent data.

On the basis of the unreliable asking rents in its comparable buildings, HR&A projected that in 2009 the vacant apartments in the Subject Buildings could have achieved "market" rents exceeding $50 per square foot [Exhibit D], despite the fact that the Subject Buildings would be improved to a significantly lower standard than these comparables and despite the Subject Buildings' location far removed from the retail and transportation hubs of the Upper East Side. HR&A assumed monthly rental rates of $1,335.58 for studio apartments, $1,615.90 for one bedroom apartments, and $1,963.86 for 2 bedroom apartments in the Subject Buildings[9]. Applying these rents to vacant units in the Subject Buildings produces an average rent per leasable square foot of $51.09. Even after attempting to utilize the lesser of market rate or allowable legal rent, HR&A arrived at rents in excess of $50.00 per square foot for the Subject Buildings. Despite this incontrovertible evidence, in its testimony at the June 2013 hearing, HR&A stated that it utilized rental assumptions and rates even lower than Cushman & Wakefield, which is simply untrue. In its written submission, HR&A indicates that it projected rents in the Subject Buildings of $38 per square foot. However, this figure represents an average for all 190 apartments in the Subject Buildings, including apartments occupied by existing tenants with stabilized leases and vacant units to which its above-market rental estimates are applied. It is undisputable that, for vacant apartments in the Subject Buildings, HR&A projected rents in excess of $50 per leasable square foot, which is not supported by its own comparables or any other evidence in the administrative record. In contrast, under the most viable Market Rehab scenario, Cushman & Wakefield projected average market rents for the vacant units of about $40 per square foot, which yields average rents for all 190 units of about $35 per square foot.

HR&A's average market rent for the Subject Buildings is actually 2% greater than the legal rent for those vacant units under rent regulation after a hypothetical renovation. Incidences wherein market rents are greater than legal rents for vacant units are generally associated with luxury rental properties, and were not the norm for this type of asset in 2009; nor are they currently. We have already documented that the majority of apartments leased in the balance of the First Avenue Estate were done so with preferential rents, wherein the legal rents registered with DHCR were significantly discounted.

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[9] We have submitted to the Commission a detailed analysis of actual contract rents achieved for all of the other walk-up buildings and apartments in the First Avenue Estate, which averaged $1,248 per month in 2009 despite these apartments being 23% larger than those in the Subject buildings. The $1,248 per month average rent represents a rent of less than $33 per leasable square foot.

HR&A's conclusion is also inconsistent with industry statistics covering calendar year 2009. A study complied by the New York City Rent Guidelines Board found that: "In 2009, Manhattan property owners collected an average rent that was 16.7% below DHCR's average legal rent for the borough" [Exhibit E].

HR&A has presented a great deal of information, written and orally, at the two hearings on our hardship application. However, the conclusions that it reaches regarding the Subject Buildings are not supported by the purported "facts" that have been presented. As discussed, HR&A's "comparable" apartments are located in nicer walk-up buildings, in better locations, with superior finishes compared to the Subject Buildings. It has failed to make normal appraisal or valuation adjustments to comparable rents based on unit size, location, physical condition, number of floors, and amenities. Furthermore, HR&A has relied on asking rents for these "comparable" units and has never disclosed the actual rents achieved for these units. Our research suggests that the actual rents achieved in these buildings are significantly lower than asking rents and, in fact, support Cushman & Wakefield's market rent conclusion. The accompanying submission by Paul Korngold, Esq., who specializes in real estate tax matters, analyzes the actual rental revenues achieved in these buildings based on tax filings with the Department of Finance and concludes that such revenues are substantially less than the asking rents cited by HR&A. In addition, HR&A declined to consider the actual rents and vacancy levels in the immediate neighborhood of the Subject Buildings, and has completely ignored information on 796 apartments contained in 14 walk-up buildings on the same block as the Subject Buildings. In short, HR&A's analysis and its conclusions are inaccurate, misleading and devoid of credibility.

In contrast, our consultants from Cushman & Wakefield, the nation's preeminent appraisal and valuation services firm, presented the Commission with accurate and objective analyses of various scenarios for the repair, improvement and full occupancy of the Subject Buildings, which were based on their own experiences appraising and providing feasibility studies for more than 50,000 units of moderate income housing. Unlike HR&A, Cushman utilized actual data from its extensive database, including actual rents achieved through signed leases. Unlike HR&A, Cushman also performed its own thorough inspection of vacant units both in the Subject Buildings, and other vacant units in the 14 other adjacent walk-up buildings comprising the balance of the First Avenue Estate.[10] In contrast to the authors of the HR&A reports, our Cushman

[10] Incredibly, HR&A never even asked to inspect the vacant units in the Subject Buildings that it was hired to value.

consultants are experienced, accredited MAI appraisers who operate under a strict set of ethical guidelines. As discussed, Cushman's economic analyses are extremely conservative in that they utilize higher market rents than are justified by either HR&A's comparables, or rents achieved on the same block, and they rely on careful cost estimates provided by Gleeds New York, a leading cost consultant, which exclude soft costs, environmental remediation costs, and many normal industry standard contingencies.

Finally, we feel compelled to address several comments from persons opposing our hardship application which alleged that (a) Stahl has somehow acted deviously or unscrupulously with regard to its plans to redevelop the subject property, (b) Stahl has not made good faith attempts to lease apartments in the balance of the First Avenue Estate, and (c) Stahl has stopped maintaining the Subject Buildings which caused them to fall into disrepair, adding to the cost to restore these units under the hardship computations. The Subject Buildings, which were not landmarked until 2006, represent a highly developable site with more than 200,000 square feet of development rights. Based on its prudent business judgment, many years before the Commission raised the prospect of landmarking Stahl began the process of not re-tenanting vacating units in the Subject Buildings, expecting that we would be able to someday demolish the existing 100 year old walk-ups and replace them with a state-of-the-art high-rise apartment building. No tenant was ever forced, coerced or incentivized to vacate his or her apartment. Apartment turnover is very common on this block due to the nature of 100 year old walk-ups, the lack of amenities, and in the case of the Subject Buildings, the small size of the units. During this process, essential services have always been provided to the remaining tenants and necessary maintenance and repairs have been performed. Any reduction of repairs and maintenance expenses over this time period was proportional to occupancy levels, as the fewer the number of tenants, the lower the number of service calls there were. In many instances, apartments were vacated in extremely poor condition, sometimes due to tenant neglect (hoarders, elderly who could not care for their apartments, etc.), but in most instances due to the age and obsolescence of the building and building systems. When certain Commission members inspected the vacant units, the most significant change in their condition from the time that they were vacated was only a coat of dust that accumulated in the intervening years. Where certain appliances were removed, they were as much as 50 years old, and would have been removed under any scenario. Stahl emphatically denies that it did anything to further contribute to the poor condition of these units, and despite conclusory allegations to the contrary, no one has provided any credible evidence in support of such a claim.

Opponents have also made unsubstantiated claims that Stahl does not attempt to lease apartments on the balance of the block, and therefore LPC should ignore rent levels and vacancy statistics for the neighboring walk-up buildings in the First Avenue Estate. These claims somehow assume that Stahl, for whatever reason, does not want to make money owning real estate, let alone pay for its considerable mortgage against these buildings. Nothing could be further from the truth. As already discussed in my 2012 letter, the leasing and management agent for the First Avenue Estate has a full time leasing office on-site, and even when the agent is not available, appointments can be made to see vacant units. The fact that the vacancy percentage needle does not move materially on this block is a function of apartment turnover more than it is renting up apartments. While numerous prospective tenants visit the on-site office, and we have been able to successfully lease approximately 50 or more apartments per year, the overwhelming majority of these prospects do not end up leasing an apartment, with the main reasons being: too small, cannot walk up several flights of stairs, not in price range, failed credit check, and last but not least, people who either never came back for a second visit and/or never returned calls from the on-site leasing agent. Those who do end up leasing apartments in the First Avenue Estate often leave as soon as they find or can afford a better apartment. Inasmuch as these apartments on the balance of the block are larger and in better condition than the apartments in the Subject Buildings, even following any feasible renovation scheme, it is difficult to imagine a scenario under which the vacancy rate in the Subject Buildings could be less than, or that rent per square foot could exceed, what now exists on the balance of the block. Even under the most conservative of scenarios and assumptions, we believe the evidence supports this statement. Most anyone who wants to live in this neighborhood and who has a choice in living arrangements chooses a building with an elevator, or a building whose bedrooms can comfortably fit a queen sized bed, or a building with some level of amenity space. Prospective renters, as market participants, establish the rent and vacancy levels for this product and not the owner, as suggested by our opponents.

In conclusion, the expert testimony submitted by HR&A in opposition to our hardship application is faulty, unreliable, and misleading. It utilized apartment "comparables" which are in almost no way comparable, and even ignored the substantive actual data on those buildings and apartments in favor of "asking" rents. It utilized citywide vacancy formulas and statistics without regard to actual conditions at the subject site, the adjacent buildings, or even in the very buildings that they held out to be comparable. Their testimony can, in no way, be reasonably relied upon to find an absence of hardship. If anything, correcting HR&A's errors, filling in its omissions, and exposing its lack of objectivity supports the conclusion that a genuine hardship exists for the Subject Buildings. Similarly, there can be little doubt that testimony from residents and neighbors who opposed our application was motivated by their desire to not have a potential new building compromise the views from their own apartments, their concerns about the inconvenience of relocating from the Subject Buildings to a different apartment within First Avenue Estate, or the mistaken belief that they will be evicted from the Subject Buildings and not offered comparable or better housing on the same block and at the same rent.

In contrast, Cushman & Wakefield, with construction cost support from Gleeds, has performed a myriad of analyses under different renovation and lease-up scenarios, and has concluded in <u>every single analysis</u>, that the statutory return to avoid a hardship cannot be achieved. They have analyzed the data as any prudent valuation professional (or investor or lender) would, taking into account actual market conditions as well as legal constraints. The only conclusion to be drawn from this is that in the 2009 test year the Subject Buildings were incapable of earning a reasonable return as defined by the Landmarks Law. For all of these reasons we urge the Commission to approve our hardship application.

Very truly yours,

Gregg S. Wolpert

Exhibit A

STREET EASY

Building: 340 East 61st Street in Lenox Hill

340 East 61st is a charming walk up building between 1st and 2nd Ave in the heart of Midtown East. The building has a laundry room and a live in super. This building is close to the 4, 5, and 6 Subway station. Most apartments in this building feature: bleached plank hard wood floors, recessed lighting, granite countertops, stainless steel appliances, cherry wood cabinetry, crown and baseboard molding, marble bathrooms, and exposed brick walls. Some of these apartments have premium Bosch washer and dryers. For more info, pics, and floor plans please go to www.iconrealtymgmt.com Pet policy: Pets OK, Dogs OK, Cats OK Apartment Features and Amenities · Granite countertops · Stainless steel appliances · Cherry wood cabinets · Crown and baseboard moldings · Marble bathrooms

Lenox Hill

Past sales

Owned by 340 EAST 61 LLC
20 units
5 stories
Built in 1910

Exhibit B

STREET EASY

Building: 342 East 62nd Street in Lenox Hill

This six floor, 24 unit pre-war building is located in the Upper East Side. This building, with studios, one, and two bedroom units, has a laundry with heating and hot water arrangement. All units have high-ceilings with exposed brick walls and hardwood floors, granite tiled kitchen with marble tiled bathrooms.

Manager: Sky Management

Rental
Lenox Hill

Past rentals

Owned by OHEB 62 ASSOCIATES LL
24 units
6 stories
Built in 1910

Exhibit C

STREET EASY

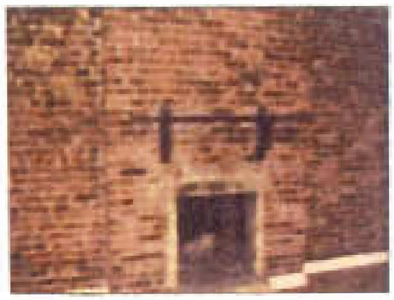
NYC: Manhattan: All Upper East: Lenox Hill

326 East 61st Street

$2,000

Rental
Lenox Hill

1 bed



this is a really cute apt! one bdrm will fit a double or queen size bed. two storage units...one in the bedroom and one in the kitchen. living room has fireplace and exposed brick . you can put a small table in the kitchen. heat and hot water are included in the rent. no laundry. cable ready. apt building is just steps away from: bloomingdales, merchants, johnny rockets, dangerfield's, east river cafe and bed bath and beyond! this is a walk up (4 flights) building! if you are even slightly interested in this cute apt in a fantastic area. call or email paul immediately!

Building Amenities

Storage Available

Listing Amenities

Fireplace

Storage Available

Additional Details at rentmanhattan.net

Listed at Rent Manhattan by Rent Manhattan

Price increased $200 about 10 months ago
475 days on market in StreetEasy

429 East 64th Street / 430 East 65th Street

Unit	HRA Advisors Mkt Rate Rent	Sq Footage	Price Per Sq Ft
1A	$ 1,615.90	409	$ 47.41
3A	1,615.90	387	50.11
4A	1,615.90	387	50.11
5A	1,615.90	409	47.41
6A	1,615.90	387	50.11
1B	1,615.90	411	47.18
2B	1,335.58	285	56.23
4B	1,615.90	411	47.18
5B	1,335.58	285	56.23
6B	1,335.58	285	56.23
2C	1,963.86	450	52.37
2C	1,615.90	368	52.69
3C	1,615.90	368	52.69
4C	1,963.86	450	52.37
5C	1,615.90	368	52.69
2D	1,615.90	402	48.24
3D	1,335.58	313	51.20
3E	1,615.90	385	50.37
6E	1,615.90	378	51.30
1F	1,335.58	390	41.09
1F	1,335.58	288	55.65
2F	1,335.58	390	41.09
2F	1,335.58	288	55.65
3F	1,335.58	288	55.65
5F	1,335.58	288	55.65
1G	1,615.90	373	51.99
3G	1,615.90	397	48.84
4G	1,615.90	373	51.99
5G	1,615.90	373	51.99
2H	1,335.58	312	51.37
3H	1,335.58	312	51.37
4H	1,335.58	312	51.37
1I	1,335.58	282	56.83
2I	1,335.58	294	54.51
2I	1,335.58	282	56.83
4I	1,335.58	294	54.51
4I	1,335.58	282	56.83
6I	1,335.58	294	54.51

Unit	HRA Advisors Mkt Rate Rent	Sq Footage	Price Per Sq Ft
1J	1,615.90	393	49.34
5J	1,615.90	393	49.34
6J	1,615.90	384	50.50
2K	1,335.58	307	52.21
2K	1,615.90	376	51.57
4K	1,615.90	376	51.57
5K	1,335.58	307	52.21
6K	1,335.58	307	52.21
6K	1,615.90	376	51.57
1L	1,335.58	289	55.46
4L	1,335.58	289	55.46
6L	1,335.58	289	55.46
2M	1,615.90	399	48.60
3M	1,615.90	399	48.60
4M	1,615.90	399	48.60
5M	1,615.90	399	48.60
5M	1,615.90	368	52.69
2N	1,335.58	289	55.46
3N	1,335.58	289	55.46
6N	1,335.58	289	55.46
1O	1,615.90	404	48.00
2O	1,615.90	384	50.50
5O	1,615.90	384	50.50
6O	1,615.90	404	48.00
1P	1,335.58	312	51.37
1P	1,615.90	438	44.27
2P	1,335.58	312	51.37
3P	1,335.58	312	51.37
4P	1,615.90	438	44.27
5P	1,335.58	312	51.37
6P	1,335.58	312	51.37
	$ 102,942.46	24,179	

Average Price Per Sq. Ft.	$	51.09
Median	$	51.37

Average Sq. Footage		350
Average Rent	$	1,491.92

429 East 64th Street / 430 East 65th Street

Unit	HRA Advisors Lesser of Market or Legal Rent	Sq Footage	Price Per Sq Ft
1A	$ 1,615.90	409	$ 47.41
2A	1,294.01	409	37.97
3A	1,615.90	387	50.11
4A	1,615.90	387	50.11
5A	1,615.90	409	47.41
6A	1,615.90	387	50.11
1B	1,615.90	411	47.18
2B	1,335.58	285	56.23
4B	1,615.90	411	47.18
5B	1,335.58	285	56.23
6B	1,335.58	285	56.23
1C	1,900.79	450	50.69
2C	1,963.86	450	52.37
2C	1,615.90	368	52.69
3C	1,615.90	368	52.69
4C	1,963.86	450	52.37
5C	1,615.90	368	52.69
2D	1,615.90	402	48.24
3D	1,335.58	313	51.20
1E	1,591.89	378	50.54
3E	1,615.90	385	50.37
4E	1,462.57	385	45.59
5E	1,413.66	385	44.06
6E	1,615.90	378	51.30
1F	1,335.58	390	41.09
1F	1,335.58	288	55.65
2F	1,335.58	390	41.09
2F	1,335.58	288	55.65
3F	1,335.58	288	55.65
5F	1,335.58	288	55.65
1G	1,615.90	373	51.99
3G	1,615.90	397	48.84
4G	1,615.90	373	51.99
5G	1,615.90	373	51.99
6G	1,393.08	373	44.82
6G	1,451.64	397	43.88
2H	1,335.58	312	51.37
3H	1,236.48	403	36.82
3H	1,335.58	312	51.37
4H	1,335.58	312	51.37
1I	1,335.58	282	56.83
2I	1,335.58	294	54.51
2I	1,335.58	282	56.83
4I	1,335.58	294	54.51
4I	1,335.58	282	56.83
6I	1,335.58	294	54.51

Unit	HRA Advisors Lesser of Market or Legal Rent	Sq Footage	Price Per Sq Ft
1J	1,615.90	393	49.34
5J	1,615.90	393	49.34
6J	1,615.90	384	50.50
2K	1,335.58	307	52.21
2K	1,615.90	376	51.57
4K	1,615.90	376	51.57
5K	1,335.58	307	52.21
6K	1,335.58	307	52.21
6K	1,615.90	376	51.57
1L	1,335.58	289	55.46
4L	1,335.58	289	55.46
4L	1,579.16	389	48.71
6L	1,335.58	289	55.46
1M	1,447.03	399	43.52
2M	1,615.90	399	48.60
3M	1,615.90	399	48.60
4M	1,615.90	399	48.60
5M	1,615.90	399	48.60
5M	1,615.90	368	52.69
2N	1,335.58	289	55.46
3N	1,335.58	289	55.46
3N	1,412.70	392	43.25
5N	1,430.86	289	59.41
6N	1,335.58	289	55.46
1O	1,615.90	404	48.00
2O	1,615.90	384	50.50
2O	1,393.91	404	41.40
3O	1,515.73	384	47.37
5O	1,615.90	384	50.50
6O	1,614.50	384	50.45
6O	1,615.90	404	48.00
1P	1,335.58	312	51.37
1P	1,615.90	438	44.27
2P	1,335.58	312	51.37
3P	1,335.58	312	51.37
4P	1,615.90	438	44.27
5P	1,335.58	312	51.37
6P	1,335.58	312	51.37
	$ 125,080.47	30,000	

Average Price Per Sq. Ft.	$ 50.03	Average Sq. Footage	357
Median	$ 51.37	Average Rent	$ 1,489.05

from 1991- 2001, the difference between RPIE and DHCR rents decreased by almost two-thirds, from a difference of 15% between the two in 1991 to a difference of 5.6% in 2001. However, since that time, the gap has grown almost every year, to a current difference of 19.2%, as indicated by the average I&E rent of $1,020 and DHCR's average stabilized rent of $1,262.[3] This gap between collected and legal rent indicates that building owners are not collecting the full amount of their legal rent rolls (see graph on previous page).

At the borough level, the gap between collected and legal rent varies widely. In 2009, Manhattan property owners collected an average rent ($1,383) that was 16.7% below DHCR's average legal rent for the borough ($1,659), while owners in the other boroughs collected average rents that were 19.1% lower than legal rents in Queens, 21.4% lower in Brooklyn and 23.4% lower in the Bronx. At least part of this differential in the boroughs is due to preferential rents, usually offered when the legal stabilized rent exceeds the market rate for the area.[4]

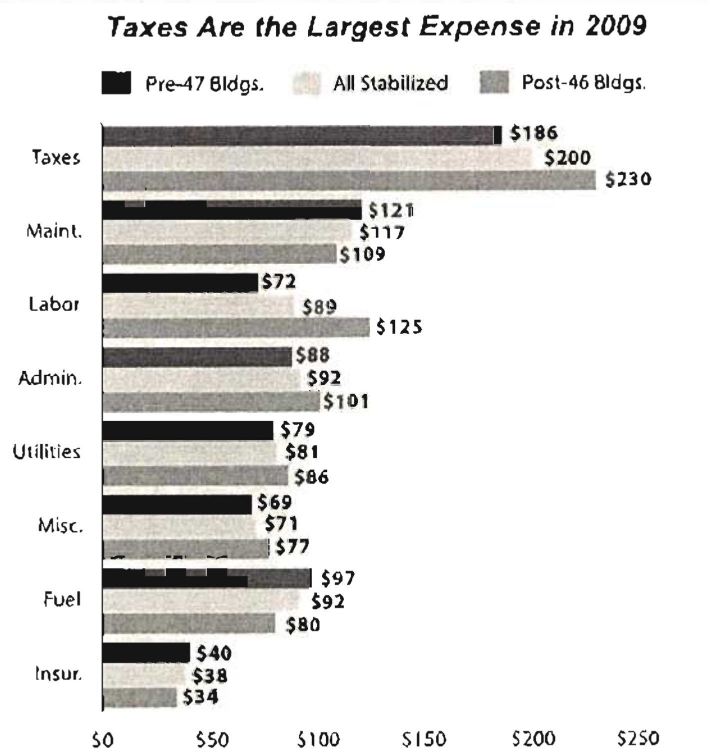
Another benchmark that can help place RPIE rent data in context is the RGB Rent Index, which measures the overall effect of the board's annual rent increases on contract rents each year. As the table on the previous page shows, during most of the 1990's and 2000's, average rent collection increases were higher than the renewal lease increases allowed by the RGB's guidelines. However, this year's study shows a shift to a higher rent collection index with the RGB rent index up 7.5% and RPIE rent collections up by 1.2% between 2008 and 2009 (adjusted to a calendar year).[5] This shift from the previous three years, when RPIE rent collection increases were greater than the rent index increase, may be due to owners' inability to increase collectible renewal rents by the maximum guideline permitted or increases in vacancy and collection losses.

A longer view of the three indices shows that overall, DHCR legal rents have grown faster than either collected rents or RGB rent guidelines from 1990 to 2009. During that period, DHCR adjusted legal rents increased 127.4%; RPIE collected rents increased 123.6%; and the RGB Rent Index increased 123.9% (these figures are not adjusted for inflation).[6]

Operating Costs

Rent stabilized apartment buildings incur several types of expenses in order to operate efficiently. RPIE filings include data on eight categories of operating and maintenance (O&M) costs: taxes; labor; utilities; fuel; insurance; maintenance; administrative; and miscellaneous costs. However, in contrast to revenues, this data does not distinguish between expenses for commercial space and those for apartments, making the

Average Monthly Expense per Dwelling Unit per Month



Source: NYC Department of Finance, 2009 RPIE Filings

2009 by borough, and for the City as a whole.

Median citywide income in 2009 was $947. At the borough level, Manhattan had the highest median income, at $1,327, followed by Queens at $971, Brooklyn at $853 and the Bronx at $819. (For rent and income averages and medians by borough and building age and size, see Appendices 3 and 4.)

Comparing Rent Measurements

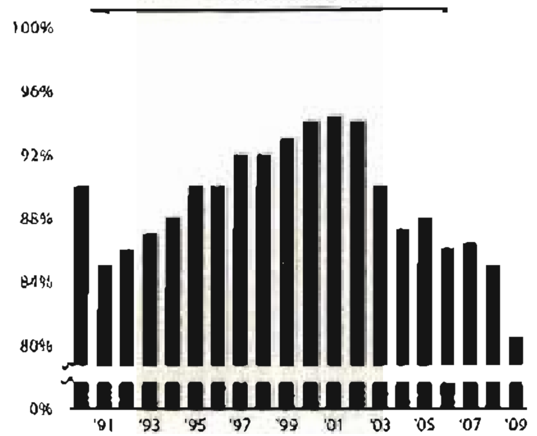
Another data source, the NYS Division of Housing and Community Renewal (DHCR) annual registration data, provides important comparative rent data to the collected rents stated in RPIE filings. A comparison of the collected RPIE rents to the DHCR rents is a good indicator of the overall rental market and reflects both how well owners are able to collect the rent roll and the prevalence of vacancies.

Rents included in RPIE filings are different than DHCR figures primarily because of differences in how average rents are computed. RPIE data reflects actual rent collections that account for vacancies or non-payment of rent. By contrast, DHCR data consists of legal rents registered annually with the agency. Since DHCR rent data does not include vacancy and collection losses, in most years these rents are generally higher than RPIE rent collections data. Furthermore, RPIE information includes unregulated apartments in buildings containing rent stabilized units. Also, the RPIE information reflects rents collected over a 12-month period while DHCR data reflects rents registered on April 1, 2009. In sum, despite the anomalies between the two rent indicators, the difference between RPIE rents and DHCR rents is a good estimate of vacancy and collection losses incurred by building owners, and the relative change in the gap is one way of estimating the change in such losses from year to year.

In comparing annual RPIE and DHCR average rents from 1991 to 2004, the gap between the two contracted steadily during that time period. In fact,

Average Monthly Citywide Collected Rents as a Share of Average Monthly DHCR Legal Registered Rents, 1990-2009

Percentage of Legal Rent Collected Decreased in 2009



Source: DHCR Annual Rent Registrations; NYC Department of Finance, 1990-2009 RPIE Filings

Rent Comparisons, 1990-2009

RGB Rent Index and DHCR Rent Grew Faster Than 2008-09 RPIE Collected Rent

	RPIE Rent Growth	DHCR Rent Growth (Adjusted)§	RGB Rent Index (Adjusted)Ø
90-91	3.4%	4.1%	4.1%
91-92	3.5%	3.0%	3.7%
92-93	3.8%	3.0%	3.1%
93-94	4.5%	2.4%	2.9%
94-95	4.3%	3.1%	3.1%
95-96	4.1%	4.1%	4.5%
96-97	5.4%	4.6%	5.2%
97-98	5.5%	3.3%	3.7%
98-99	5.5%	3.7%	3.8%
99-00	6.2%	4.4%	4.2%
00-01	4.9%	5.3%	5.0%
01-02	4.0%	4.4%	4.5%
02-03	3.6%	6.9%	4.1%
03-04‡	-	1.6%	5.5%
04-05	4.6%	5.8%	4.6%
05-06	5.6%	7.2%	4.3%
06-07	6.5%	6.0%	4.2%
07-08	5.8%	5.9%	4.7%
08-09	1.2%	5.4%	7.5%
1990 to 2009*	123.6%	127.4%	123.9%

* Not adjusted for Inflation
§ See endnote 4 Ø See endnote 6
‡ See endnote 7
Sources: DHCR Annual Rent Registrations; NYC Department of Finance, 1990-2009 RPIE Filings

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October 11, 2013

Hon. Robert B. Tierney, Chairman
New York City Landmarks Preservation Commission
One Centre Street, 9th Floor North
New York, New York 10007

Re: **City and Suburban Homes Co., First Avenue Estate**
429 East 64th St. / 430 East 65th St., Manhattan

Dear Chairman Tierney:

This letter is submitted in support of the application of the Stahl Organization for permission to demolish the above-referenced buildings on the grounds of economic hardship. The Stahl Organization has asked us to address the following issues that arise from the cost reports concerning several scenarios for the repair and/or renovation of the subject buildings that we previously prepared and submitted to the Commission.

Comparison of the "Minimum Habitability" and "Market Rehab" Schemes

Among the repair/renovation scenarios that we previously analyzed were so-called "Minimum Habitability" and "Market Rehab" schemes. In connection with both schemes, each of the 110 apartments in the subject buildings that were vacant when we performed our analyses was inspected and placed into one of four levels depending on its condition, with Level 1 representing the best condition and Level 4 representing the worst condition. The Minimum Habitability scheme involved making only those repairs to each vacant apartment that were necessary to render the apartment legally habitable, without regard to its resulting marketability. A Level 1 apartment required only some lead paint abatement, paint and plaster repairs and electrical work to render it code compliant and legally habitable. A Level 2 apartment required Level 1 work and some kitchen or bathroom improvements. A Level 3 apartment required Levels 1 and 2 work plus more extensive wall and/or floor repairs or replacement. A Level 4 apartment, of which there were only five, required a complete gut renovation due to previous fire, water damage or neglect. We estimated the total cost of the Minimum Habitability scenario to be $4,556,932.

The Market Rehab scheme involved significantly more work than the Minimum Habitability scheme, consisting of both building-wide capital improvements and apartment repairs and upgrades that would be necessary to render the subject buildings' vacant apartments both legally habitable and sufficiently appealing to potential tenants to make them reasonably marketable. We estimated the cost of this scheme to be $17,379,464. Our cost estimates for both the Minimum Habitability and the Market Rehab scenarios included only hard costs and therefore excluded the substantial soft costs associated with such work for items such as architectural and engineering services, permitting, expediting, special inspections, insurance, real estate taxes and other owner direct costs.

The Market Rehab scheme included the following work that was not part of the Minimum Habitability scheme:

1) Replace all original windows in vacant apartments (317) that had not recently been replaced
2) Provide new electrical service and electrical risers and panels
3) Provide new plumbing risers (Sanitary, Storm, Domestic Hot Water and Domestic Cold Water
4) New Gas riser and new gas fired domestic hat water heater
5) Fire Protection standpipes
6) Repair / repaint fire escapes
7) Repairs / painting of core areas
8) Kitchen replacement including appliances in all renovation levels
9) Bathroom fixture replacement in Levels 2 and 3
10) New ceramic bathroom tile in Levels 2 and 3
11) Additional wall and ceiling repairs in all levels
12) Replace radiators in Level 2, 3 and 4
13) Intercom in each apartment
14) Reorientation of bathrooms in Levels 2, 3 and 4

Based on the above, the Market Rehab scheme would have produced apartments that were not luxurious, but were reasonably marketable. The Minimum Habitability scheme involved significantly less work and expense than the Market Rehab Scheme and, in many cases, would have produced apartments that, while code compliant and legally habitable, would not have met current minimum standards for marketable apartments.

Window Replacement

Our inspection of the vacant apartments in the subject buildings revealed that 125 original windows had recently been replaced with new and larger windows. The installation of these larger windows required the removal of surrounding wall finishes and the installation of new headers. At the time of our inspection, the interior walls surrounding these new windows had not yet been refinished. In both the Minimum Habitability and Market Rehab schemes, a relatively modest expense of between $750 and $1,000 per window was included to cover the refinishing of these interior walls.

In the Minimum Habitability scheme, no additional windows were replaced. However, in the Market Rehab scheme, the 317 remaining original windows in the vacant apartments were replaced at an estimated cost of $1,718,690 or $5,422 per window. This estimate for window replacement includes (i) labor for the removal of the existing windows and frames, which are quite old and insulated with asbestos-laden caulking material, thereby requiring controlled environmental conditions; (ii) the purchase price of new windows and frames; (iii) labor associated with installation of the new windows and frames, including the installation of exterior flashing around the windows to prevent water penetration; iv) the repairs to interior wall finishes disturbed by the replacement and v) repairs / replacement of lintels above the new windows. The previous replacement of 125 windows therefore reduced the estimated cost of window replacement in the Market Rehab scheme by about $677,717.

Special Conditions

We had previously explained that, under all of the scenarios that were examined, the cost of work at the subject buildings would be greater than the cost of comparable work in many other buildings due to the special conditions in the subject properties, including (1) the need to manually deliver materials up to six stories via the eight narrow staircases in these buildings, which would significantly increase the cost of union labor, (2) the lack of adequate storage space on the properties, (3) the cramped working areas in apartments and circulation areas, and (4) the need to purchase and install custom replacement fixtures in the tiny and awkwardly laid out bathrooms. Repair and renovation costs would also increase for all the scenarios except a gut renovation scheme because of the need to work in partially occupied buildings, which necessitates that building and apartment access and all services be maintained at all times.

We have been asked to explain our assumptions that work at the subject buildings would involve union labor and would require that materials be carried up multiple flights of stairs instead of being delivered to each floor or the building roof by way of equipment such as a crane or hydraulic lift. In our cost estimates, we assumed that union labor would be used because the special conditions in these buildings require skill levels generally found only in union workers. For example, as previously mentioned, the old windows in the subject buildings contain asbestos-laden caulking material. Furthermore, lead paint is prevalent throughout the buildings. Union abatement companies tend to have superior capabilities and superior access to skilled abatement personnel. Employing union labor assures the availability of a sufficient number of skilled workers at the required times. Furthermore, it is very difficult to staff the same job with both union and non-union tradespeople. Doing so generally requires the staging of work, which tends to increase costs and lengthen work schedules.

Equipment such as a crane or hydraulic lift would not significantly reduce the cost of work at the subject buildings. Because of the very limited areas in and around the subject buildings available for the storage and staging of materials, multiple deliveries would be required. Consequently, any equipment that was used to move materials into the buildings would have to be kept on site for a number of days, which would entail significant expense. Delivering materials to building roofs would require the use of a crane and would still necessitate manual deliveries to each apartment. Additionally, storage at the roof level could be problematic because the roof may not have the structural capacity for this storage, the material would have to be protected from the elements and the material would have to be secured to prevent it from blowing off the roof. Delivering material to each floor would involve the use of a hydraulic lift and would require that materials travel through apartment windows, which would have to be removed for this purpose. Furthermore, if a hydraulic lift was used to deliver materials to only one apartment per floor, a significant amount of manual distribution to other apartments through the building core would still be required.

In conclusion, the special conditions in the subject buildings would necessitate the use of union labor in order to ensure that work was completed properly and efficiently and would result in higher than usual costs for any repairs or renovations that were performed on these properties. The use of a crane or hydraulic lift to move materials into the buildings would not produce significant cost savings.

Respectfully
GLEEDS New York

Dana Martinez, PE
Vice President

Cc: Albert Fredericks – Kramer Levin Naftalis & Frankel
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* ALSO ADMITTED IN CT & NJ

October 10, 2013

Mr. Robert B. Tierney, Chairman
New York City Landmarks Preservation Commission
1 Centre Street, 9th Floor
New York, New York 10007

Re: City and Suburban Homes Co., First Avenue Estate
429 East 64th Street and 430 East 65th Street
Block 1459, Lot 22, Manhattan
a/k/a The "Subject Buildings"

Dear Chairman Tierney:

This letter is submitted in connection with the pending application of the Stahl Organization for permission to demolish the Subject Buildings on the ground that they are not capable of earning a reasonable return. I have been requested by Stahl to offer my comments as to information contained in records of the New York City Department of Finance regarding the actual residential rental revenue obtained from eight Manhattan rental properties. I understand that these rental properties have been cited as market "comparables" by opponents of Stahl's application.

I have been admitted to practice law in the State of New York and the Southern and Eastern Districts of the United States District Court since 1977 and I am also admitted to practice law before the Supreme Court of the Unites States. I have an extensive background in New York City real estate taxation. Our predecessor law firm was established in 1949 and the firm's primary focus since that date has been on New York City real estate tax matters. We currently represent over 2,500 properties in the City of New York in real estate tax related matters, not only in real estate tax certiorari but in various real estate tax assessment issues. I am a past president of the Real Estate Tax Review Bar Association, a Bar Association that deals exclusively with New York City real estate tax matters and I am also a former adjunct instructor of law at New York Law School. I have tried real estate tax matters in both the New York State Supreme Court and in the Appellate Division. I presently serve as Chairman of the Law Committee of the Associated Builders and Owners of Greater New York, as well as being a director of the New York State Builders Association, the Associated Builders and Owners of Greater New York and the Real Estate Tax Review Bar Association.

I have been asked to set forth the approximate rents per square foot that were actually received on eight of the "comparable" residential rental properties cited by opponents of Stahl's application, which are identified on the attached Exhibit A. In order to determine the rents, I examined two publicly available websites to obtain my information.[1]

The first website is maintained by the Real Estate Board of New York ("REBNY"). It is my understanding that REBNY has obtained through a Freedom of Information Law request, copies of all income and expense filings made to the Tax Commission of the City of New York on form TC201. In order to obtain a reduction in assessed value, a taxpayer is required to file an application for correction with the Tax Commission of the City of New York. If the property is an income producing property, such as an apartment building, the owner must complete the TC201 income and expense statement setting forth the annual rents for the building. These filings also show the gross square footage of the building, including any non-residential square footage. The income and expense statements are certified and sworn to as true by the owner and if the information contained on the forms is not accurate, the owner is subject to criminal prosecution. In addition, in the event the property is assessed at one million dollars or more, the income and expense statement is required to be certified by a certified public accountant.

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[1] I was actually asked to discuss nine residential properties. However, one of these properties is a residential condominium and the same information that is available for rental properties is not required to be produced and, consequently, is not available for condominiums.

We are attaching as Exhibit A a schedule marked "Stahl York Comparable Rental Properties Based on REBNY". In most cases, you will see the income set forth thereon is for the 2009 calendar year. Where a TC201 was not available to the Real Estate Board and does not appear on their web site, we have utilized income from earlier years. You will further see that in each bracketed section, we have set forth a vacancy factor of 5% and 10%. At the bottom of the page we have made a compilation listing of these rents based upon the actual rents provided to the City of New York. For all of the buildings, assuming a 10% vacancy factor, the amounts set forth represent an average of $36.87 per gross square foot. Assuming a 5% vacancy factor, the amounts set forth would equal average rents of $34.93 per gross square foot. The bottom bracketed amount shows buildings where the income was available only for the 2009 year and in that case, the average rent per gross square foot was $38.19 assuming a 10% vacancy factor and $36.18 assuming a 5% vacancy factor. In those properties that had ground floor retail space, both the retail income and retail floor area are deducted from the analysis (which deduction is again performed in the analysis of the records from the Department of Finance which is discussed below).

In addition to the amounts set forth on the REBNY website, we also examined the records of the New York City Department of Finance. Owners of income producing properties are required to file with the Department of Finance on an annual basis a real property income and expense (RPIE) statement. Although the exact numbers contained in those documents are confidential and not available for public disclosure, the Department of Finance does set forth their estimate of what a fully stabilized income in the building would be based upon an examination of the actual income set forth by the owners in the annual RPIE filings.

On January 15 of each year, the Department of Finance sends to each owner (and posts on their website) a notice of assessment where it sets forth the income of the property upon which they are calculating the assessed value. We have examined those numbers for 2009 for the eight comparable buildings set forth on the attached schedule which is marked "Stahl York Comparable Rental Properties Based on Department of Finance". Again, similarly to the schedule based on the TC201 Tax Commission filings obtained by REBNY, for each of the properties we have assumed a vacancy rate of either 5% or 10%. If you examine the bottom of the page, you will see that the average rent per gross square foot was $39.90 if a 10% vacancy factor is assumed and $37.80 if a 5% vacancy factor is assumed.

In summary, there can be no question that under all circumstances, and assuming vacancy factors of between 5% and 10%, the actual 2009 residential rents in the comparable buildings ranged between $34.93 and $39.90 per gross square foot.

Finally, in order to estimate the actual 2009 rents of these comparable properties on the basis of rentable square footage, we assumed that each building has a rentable to gross square footage efficiency factor of 90%. Assuming such an efficiency factor and a vacancy factor of between 5% and 10%, the 2009 residential rents in these building would have equaled between $38.81 and $44.33 per rentable square foot.

I hope this information is helpful in making a fair and rational determination in this matter.

Very truly yours,

Paul J. Korngold

Encl.
PJK:ac

EXHIBIT A

Stahl York Comparable Rental Properties

Based on REBNY

#	Property Address	RPIE Year	Total Income	Vacancy	Occupied Units	Stories	Income per Occupied Apt	Monthly Rent per Occupied Apt	Gross Apt SF (occupied)	Rent per SF (Gross)	*Net Apt SF (Occupied)	Rent per SF (Net)
1	340 East 61st Street	1/8 - 12/8	$217,925.00	5.00%	19.0	5	$11,469.74	$955.81	9,035	$24.12	8,131	$26.80
	340 East 61st Street	1/8 - 12/8	$217,925.00	10.00%	18.0	5	$12,106.94	$1,008.91	8,559	$25.46	7,703	$28.29
2	342 East 62nd Street	1/9 - 12/9	$449,528.00	5.00%	22.8	6	$19,716.14	$1,643.01	10,393	$43.25	9,354	$48.06
	342 East 62nd Street	1/9 - 12/9	$449,528.00	10.00%	21.6	6	$20,811.48	$1,734.29	9,846	$45.66	8,861	$50.73
	The total income excludes $60,000 of retail income. There is approximately 1,000 square feet of retail space and the rent was estimated at $60 PSF.											
3	404 East 63rd Street	1/7 - 12/7	$307,401.00	5.00%	15.2	5	$20,223.75	$1,685.31	8,294	$37.07	7,464	$41.18
	404 East 63rd Street	1/7 - 12/7	$307,401.00	10.00%	14.4	5	$21,347.29	$1,778.94	7,857	$39.12	7,071	$43.47
	The Total Income reflected in the 2007 RPIE excludes $20,498 of retail income. There is approximately 1,000 square feet of retail space.											
4	347 East 65th Street	1/8 - 12/8	$314,359.00	5.00%	19.0	5	$16,545.21	$1,378.77	8,607	$36.52	7,746	$40.58
	347 East 65th Street	1/8 - 12/8	$314,359.00	10.00%	18.0	5	$17,464.39	$1,455.37	8,154	$38.55	7,339	$42.84
	The total income excludes $60,000 of retail income There is approximately 1,000 square feet of retail space and the rent was estimated at $60 PSF.											
5	326 East 61st Street	1/9 - 12/9	$272,128.00	5.00%	19.0	5	$14,322.53	$1,193.54	8,142	$33.42	7,327	$37.14
	326 East 61st Street	1/9 - 12/9	$272,128.00	10.00%	18.0	5	$15,118.22	$1,259.85	7,713	$35.28	6,942	$39.20
	The Total Income reflected in the 2009 RPIE excludes $45,130 of retail income. There is approximately 2,100 square feet of retail space											
6	304 East 62nd Street	1/9 - 12/9	$407,724.00	5.00%	25.7	5	$15,895.67	$1,324.64	14,383	$28.35	12,945	$31.50
	304 East 62nd Street	1/9 - 12/9	$407,724.00	10.00%	24.3	5	$16,778.77	$1,398.23	13,626	$29.92	12,263	$33.25
	The Total Income reflected in the 2009 RPIE excludes $112,921 of retail income There is approximately 3,374 square feet of retail space.											
7	322-24 East 61st Street	1/9 - 12/9	$794,902.00	5.00%	38.0	5	$20,918.47	$1,743.21	20,273	$39.21	18,246	$43.57
	322-24 East 61st Street	1/9 - 12/9	$794,902.00	10.00%	36.0	5	$22,080.61	$1,840.05	19,206	$41.39	17,285	$45.99
	Total For all 7 Buildings		$2,763,967.00	5.00%	158.7		$17,421.79	$1,451.82	79,126	$34.93	71,213	$38.81
	Total For all 7 Buildings		$2,763,967.00	10.00%	150.3		$18,389.67	$1,532.47	74,961	$36.87	67,465	$40.97
	Total For Buildings with a 2009 RPIE		$1,924,282.00	5.00%	105.5		$18,248.29	$1,520.69	53,191	$36.18	47,871	$40.20
	Total For Buildings with a 2009 RPIE		$1,924,282.00	10.00%	99.9		$19,262.08	$1,605.17	50,391	$38.19	45,352	$42.43

* 90% of gross square footage

Stahl York Comparable Rental Properties

Based on the Dept. of Finance

#	Property Address	RPIE Year	Total Income	Vacancy	Occupied Units	Stories	Income per Occupied Apt	Monthly Rent per Occupied Apt	Gross Apt SF (occupied)	Rent per SF (Gross)	*Net Apt SF (occupied)	Rent per SF (Net)
1	340 East 61st Street	2009	$236,934.00	5.00%	19.0	5	$12,470.21	$1,039.18	9,035	$26.23	8,131	$29.14
	340 East 61st Street	2009	$236,934.00	10.00%	18.0	5	$13,163.00	$1,096.92	8,559	$27.68	7,703	$30.76
2	342 East 62nd Street	2009	$493,871.00	5.00%	22.8	6	$21,661.01	$1,805.08	10,393	$47.52	9,354	$52.80
	342 East 62nd Street	2009	$493,871.00	10.00%	21.6	6	$22,864.40	$1,905.37	9,846	$50.16	8,861	$55.73
	The total income excludes $60,000 of retail income. There is approximately 1,000 square feet of retail space and the rent was estimated at $60 PSF.											
3	404 East 63rd Street	2009	$340,191.00	5.00%	15.2	5	$22,380.99	$1,865.08	8,294	$41 02	7,464	$45.58
	404 East 63rd Street	2009	$340,191.00	10.00%	14.4	5	$23,624.38	$1,968.70	7,857	$43.30	7,071	$48.11
	The Total Income excludes $20,498 of retail income. There is approximately 1,000 square feet of retail space.											
4	347 East 65th Street	2009	$325,590.00	5.00%	19.0	5	$17,136.32	$1,428.03	8,607	$37.83	7,746	$42.03
	347 East 65th Street	2009	$325,590.00	10.00%	18.0	5	$18,088.33	$1,507.36	8,154	$39.93	7,339	$44.37
	The total income excludes $60,000 of retail income. There is approximately 1,000 square feet of retail space and the rent was estimated at $60 PSF.											
5	326 East 61st Street	2009	$341,255.00	5.00%	19.0	5	$17,960.79	$1,496.73	8,142	$41.92	7,327	$46.57
	326 East 61st Street	2009	$341,255.00	10.00%	18.0	5	$18,958.61	$1,579.88	7,713	$44.24	6,942	$49.16
	The Total Income excludes $45,130 of retail income. There is approximately 2,100 square feet of retail space.											
6	304 East 62nd Street	2009	$463,652.00	5.00%	25.7	5	$18,076.10	$1,506 34	14,383	$32 24	12,945	$35.82
	304 East 62nd Street	2009	$463,652.00	10.00%	24 3	5	$19,080.33	$1,590.03	13,626	$34.03	12,263	$37.81
	The Total Income excludes $112,921 of retail income. There is approximately 3,374 square feet of retail space.											
7	322-24 East 61st Street	2009	$813,827.00	5.00%	38.0	5	$21,416.50	$1,784.71	20,273	$40.14	18,246	$44.60
	322-24 East 61st Street	2009	$813,827.00	10 00%	36.0	5	$22,606.31	$1,883.86	19,206	$42.37	17,285	$47.08
8	400 East 64th Street	2009	$201,140.00	5.00%	15.2	5	$13,232.89	$1,102 74	5,965	$33.71	5,369	$37.46
	400 East 64th Street	2009	$201,140.00	10.00%	14.4	5	$13,968.06	$1,164.00	5,652	$35.59	5,087	$39.54
	We applied a per square foot rent of $100 for the estimated 1,000 square feet on the corner of 64th and 1st. The remaining 1,100 square feet was estimated at $60 PSF.											
	Total		$3,216,460.00	5.00%	173.6		$18,501.35	$1,541.78	85,092	$37 80	76,582	$42.00
	Total		$3,216,460.00	10.00%	164.7		$19,529.20	$1,627.43	80,613	$39.90	72,552	$44.33

* 90% of gross square footage