

David A. Paterson  
Governor



Deborah VanAmerongen  
Commissioner

**New York State Division of Housing and Community Renewal**  
25 Beaver Street  
New York, NY 10004

April 17, 2009

Honorable Daniel R. Garodnick  
New York City Council  
City Hall  
New York, New York 10007

Honorable Thomas K. Duane  
494 Eighth Avenue  
Suite 503  
New York, New York 10001

Dear Councilman Garodnick and Senator Duane:

I am responding to both of you as the primary contacts in the letter of April 1, 2009 regarding the *Roberts v. Tishman Speyer Properties, L.P.* litigation.

As you state in your letter, this matter clearly has the potential of affecting many thousands of tenants throughout New York City, and, as I am sure you will agree, it may also have an enormous impact on many owners of rent regulated properties. Accordingly, it is imperative that DHCR act with the highest degree of circumspection when addressing the various issues presented by this case.

Although in its March 5, 2009 decision the Appellate Division ruled, in essence, that the luxury deregulation provisions of the rent laws do not apply to apartments in buildings receiving J-51 tax benefits, on March 13, 2009, Justice Gonzalez of the Appellate Division, First Department, issued a temporary stay of the decision while the Court considered a motion by the owner for leave to appeal the case to New York's highest court, the Court of Appeals. On April 7, 2009, the Appellate Division issued an order that granted the owner permission to appeal to the Court of Appeals, and also continued the stay of its March 5 decision pending resolution of the owner's appeal.

Web Site: [www.nysdhcr.gov](http://www.nysdhcr.gov)  
Email address: [dhcrinfo@nysdhcr.gov](mailto:dhcrinfo@nysdhcr.gov)

Page 2

Honorable Daniel R. Garodnick

Honorable Thomas K. Duane

April 17, 2009

Regarding the stay of the original decision, it is important to note that the parties to the case agreed that while the stay is pending the difference between the stabilized rent that would have been charged had the apartment remained regulated and the fair market rent actually charged to any tenant at Stuyvesant Town and/or Peter Cooper Village shall be placed in escrow beginning April 1, 2009. The owner also agreed to stay all eviction proceedings based solely on the market rate status of the tenancy.

Given the stay of the Appellate Division's initial order as well as the non-final nature of the order itself (the decision of the Appellate Division reversed a prior ruling of the lower court that had dismissed the action filed by tenants and sent the matter back for further proceedings) it would be premature for this agency to treat such order as a final resolution of this case by the New York courts. Thus, we believe that several of the courses of action suggested in your letter are, at this point, inconsistent with the current status of this matter.

As you note in your letter, we have, however, provided very detailed information on our website regarding this case and advised tenants who believe they may be affected by the court's ruling to file an overcharge complaint. This latter action reflected our concern over the possibility of an otherwise potentially meritorious claim becoming time-barred as a result of the four-year statute of limitations on overcharge complaints.

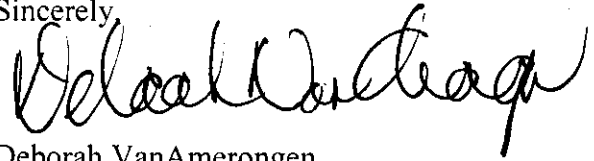
Also, contrary to the information you apparently been given, unless and until the fundamental issue presented by this litigation is finally resolved, we will not be issuing orders deregulating ("high rent/high income" deregulation) or affirming the deregulation ("high rent vacancy" deregulation) of apartments in buildings receiving J-51 tax benefits. To ensure that all such cases are identified, our case processing protocols for High Income/High Rent deregulation cases and overcharge/lease complaints now include a search of the website of the NYC Department of Finance to ascertain the J-51 status of the building. However, we believe that the income verification process for High Income/High Rent deregulation cases should continue in order to avoid the potential confusion for tenants that would arise should the Court of Appeals overturn

Honorable Daniel R. Garodnick  
Honorable Thomas K. Duane

Appellate Division and tenants would then be required to respond to multiple income verifications. We have developed a special notice that will accompany the income verification forms that we send to the tenants that explains the J-51 litigation and its potential impact on the owner's deregulation petition. (Please see attached)

I trust this letter clarifies our views on the *Roberts v. Tishman Speyer Properties, L.P.* litigation, and please be assured that we fully appreciate the significance of this matter for tenants and owners throughout New York City.

Sincerely,



Deborah VanAmerongen

Enclosure

cc: Honorable Scott M. Stringer  
Honorable Rosie Mendez  
Honorable Jose M. Serrano  
Honorable Micah Z. Kellner  
Honorable Deborah J. Glick  
Honorable Linda B. Rosenthal  
Honorable Gale A. Brewer  
Honorable Daniel L. Squadron  
Honorable Brian Kavanagh  
Honorable Liz Krueger  
Honorable Jonathan L. Bing  
Honorable Eric T. Schneiderman  
Honorable Richard N. Gottfried

David A. Paterson  
Governor



Deborah VanAmerongen  
Commissioner

**New York State Division of Housing and Community Renewal**  
**Office of Rent Administration**  
Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433

**SPECIAL NOTICE**

As you may be aware, on March 5, 2009, the Appellate Division, First Department issued a decision in *Roberts v. Tishman Speyer Properties, L.P.* that decision, in essence, precludes an owner who is receiving tax benefits under New York City's J-51 real estate tax abatement/exemption program from removing units from rent regulation through "High Income/High Rent" deregulation. On April 7, 2009, the Appellate Division granted the owner permission to appeal this ruling to the Court of Appeals, New York's highest court.

Although the *Roberts v. Tishman Speyer Properties, L.P.* litigation involves a single building complex, it has the potential of affecting any rent regulated tenant residing in a building receiving J-51 program benefits. While DHCR will be ascertaining the J-51 status of your building, you may also obtain such information by accessing the website of the New York City Department of Finance ([www.nyc.gov.dof](http://www.nyc.gov.dof)).

In view of the fact that the *Roberts v. Tishman Speyer Properties, L.P.* litigation has not been finalized, DHCR is continuing to process owners' petition for deregulation. **THEREFORE, YOU ARE REQUIRED TO COMPLETE AND RETURN THE ACCOMPANYING INCOME VERIFICATION FORM.** However, as mentioned above, DHCR will be ascertaining the J-51 status of your building and, until the issue presented by this litigation has been finally resolved, will not issue an order of deregulation for any apartment in a building receiving J-51 benefits.

Web Site: [www.nysdhcr.gov](http://www.nysdhcr.gov)  
Email address: [dhcrinfo@nysdhcr.gov](mailto:dhcrinfo@nysdhcr.gov)