



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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By Fax (212) 935-4514 And Email

David Berkey, Esq.
Perry Mintz, Esq.
Gallet Dreyer & Berkey, LLP
845 Third Avenue, 8th Floor
New York, New York 10022-6601

Re: **East Midtown Plaza**

Dear Messrs. Berkey and Mintz:

This Office has reviewed the documents distributed by the sponsor (*i.e.*, the Board) of the proposed privatization plan for the above-referenced Mitchell-Lama cooperative corporation, including the unauthorized "Little Black Book" and accompanying cover letter dated March 25, 2008, and the March 27, 2007 memorandum from Board member Larry Weiner on corporation letterhead. As further described below, we have determined that the vote scheduled for April 9, 2008 must be postponed for at least 30 days, in order to allow the sponsor to submit an amendment disclosing its distribution of unauthorized documents and correcting any material misrepresentations or omissions contained in those documents.

First, neither of these documents were submitted to, much less reviewed by this Office before their distribution. Such conduct by the sponsor is impermissible.

Second, the Board's statement in its March 25 cover letter to the shareholders that the "transfer tax does not apply to us" and the follow-up statement on page 2 of the "Little Black Book" that "[i]t is contemplated that EMP will not incur transfer taxes by reason of withdrawal when privatization goes into effect" are at odds with the Black Book itself, in which sponsor states that "[t]here can be no assurance . . . that such transfer taxes do not apply or that the New York State Department of Taxation and Finance and the New York City Department of Finance will not contend that such transfer taxes apply." Offering Plan at xvi (Special Risk No. 28). In addition, we have recently learned that the New York City Department of Finance (the "DOF") has required the Trump Mitchell-Lama cooperatives in Brooklyn to file real property transfer tax returns. Sponsor has already received an opinion letter from DOF that the tax applied in a situation where the corporation was dissolving and reconstituting. Sponsor does not have a letter saying that the tax is inapplicable to the situation where the corporation's certificate is being amended. Now that DOF has required submission of a tax return of two Mitchell-Lama coops

which left the Mitchell-Lama program via the same method proposed in the East Midtown Plaza Offering Plan, it is at best dangerously misleading to state that the tax does not apply to East Midtown. Because the tax liability will, if imposed, be substantial, its possible applicability cannot be cavalierly dismissed, as the Board's statements do.

Third, Director Weiner's suggests in his March 27 memorandum, on corporation letterhead, that the special risks section of the Offering Plan should be treated as equivalent to the "possible Special Risks of crossing the street," which are "so small that most people ignore them," such as the possibility that "a Con Edison steel plate will . . . electrocute you" or "that you will . . . have a heart attack and fall under a bus." March 27, 2008 Weiner Memo at 2. In so doing, Mr. Weiner has, apparently on behalf of the sponsor, effectively informed all shareholders that the special risks should not be taken seriously. 13 NYCRR § 18.3© provides the exact opposite.

Given the seriously misleading or incomplete information contained in these unauthorized documents, we do not believe that a fair and informed vote can take place. Further, given the seriousness of the subject matter of these documents, your proposed letter is insufficient to remedy the situation. This must be done via an amendment to be submitted and reviewed by this Office.

I will be out of town from Monday through Thursday but will be in contact with the office.. In my absence, you may contact Marissa Piesman at (212) 416-8102.

Very truly yours,

Kenneth E. Demario
Bureau Chief