

# IMPACT

## BUILDING & REALTY NEWS

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SERVING WESTCHESTER AND THE MID-HUDSON REGION

JANUARY 2010

### THE HANLEY REPORT



#### **“A Hat Trick” for the Lashins Family –and the Building and Realty Institute (BRI)!**

By JEFF HANLEY  
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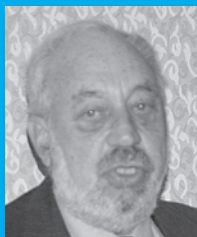
### CO-OP CONDO CORNER



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#### **Kent Manor – An Analysis of the “Vested Rights Issue”**

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## BRI Elects Its Slate of Officers for 2010

### *Eric Lashins Elected President of Building and Realty Group*

By Jeff Hanley, IMPACT Editor

ARMONK—The Builders Institute (BI)/ Building and Realty Institute (BRI) of Westchester and the Mid-Hudson Region recently announced the elections of its officers for 2010.

Eric Lashins, president of Lashins Development Corp. of Armonk, was elected president of the BI/BRI at the association's Board of Trustees' meeting on Dec. 3 in North White Plains. He is the third member of his family to serve as president. His father, Edward Jr., and his grandfather, Edward Sr., were also presidents of the building, realty and construction industry group. Eric Lashins replaces Ken Nilsen of Pelham. Nilsen was president from 2007 through 2009.

Eric Lashins, an Armonk resident, has been an active member of the BI/BRI. He served as vice chair of the association's Home Builders Advisory Council (HBAC) from 2007 to 2009.

In 2005 and 2006, Eric Lashins was vice chair of the organization's former Residential Builders Advisory Council (RBAC). He also served as a board member of the association's Commercial Builders Advisory Council (CBAC) from 2002 through 2004.

The component associations of the BI/BRI also recently announced their respective election results for 2010. The elections were conducted at the association's General Membership Meeting on Nov. 12 in White Plains.



Eric Lashins was recently elected president of the Builders Institute (BI)/ Building and Realty Institute (BRI) for 2010. Pictured after the association's election of officers in North White Plains on Dec. 3 are, from left to right, Susan Fasnacht, secretary-treasurer, BI-BRI; Lashins; Ken Nilsen, past president, BI-BRI; and Albert Annunziata, executive director, BI-BRI.

#### **Co-op and Condo Group Selects Its Officers**

Diana Virrill of the Hastings House Tenants Corporation was elected to her seventh term as chair of the Cooperative and Condominium Advisory Council (CCAC) of the BRI.

The CCAC represents more than 400 cooperatives and condominiums. Those buildings are composed of more than 25,000 shareholders and unit own-

ers. Jane Curtis was elected to her seventh term as vice chair. Virrill and Curtis have both served on a series of CCAC and BRI sub-committees. The CCAC also elected Joe Fernandez, the principal of CJF Realty of Peekskill, to a third term as a vice chair.

#### **Houlihan Named Chair of Apartment Owners Group**

Jerry Houlihan, a senior associate  
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## BRI Sets Annual Economic Symposium for Jan. 14

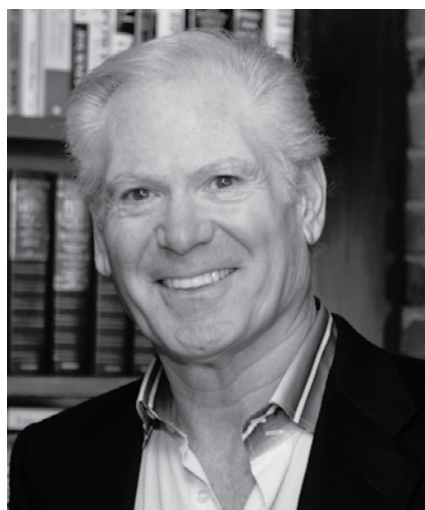
By Jeff Hanley, IMPACT Editor

WHITE PLAINS—"An Economic Outlook for 2010" is the topic of the next General Membership Meeting of the Building and Realty Institute (BRI).

The meeting is scheduled for Thursday, Jan. 14, beginning at 6:30 p.m. The conference, which will serve as the BRI's Annual Economic Symposium, will be at the Crowne Plaza Hotel in White Plains.

Dr. Robert Goodman, an economic consultant for Putnam Investments, will be the guest speaker. Goodman is a member of Putnam's Business Advisory Group, a panel of experts that specialize in economic, business and personal financial topics. He also serves as a consultant and Putnam spokesperson before broker, financial service and business groups. He is consistently quoted in the media and appears frequently on the Cable News Network (CNN). He is also a regular guest host on CNBC's "Squawk Box."

Goodman is also the author of the



Dr. Robert Goodman

book "Independently Wealthy – How to Build Financial Security in the New Economic Era." He has also been a Senior Economic Advisor and Managing Director at Putnam Investments. He joined the firm in 1989.

Before joining Putnam, Goodman was Chief Economist with J. & W. Seligman & Co., Inc. He has also served as an Economist at Citibank and the Federal Reserve Bank of New York.

"We are pleased and very excited to have Dr. Goodman as our keynote speaker," said Albert Annunziata, executive director of the BRI. "He has an excellent reputation and we are anticipating an outstanding presentation."

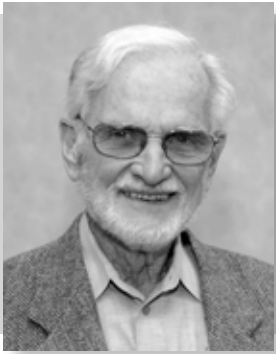
The meeting is open to members of the BRI and its affiliate organizations, the Apartment Owners Advisory Council (AOAC), the Cooperative and Condominium Advisory Council (CCAC) and the Advisory Council of Managing Agents (ACMA). Non-members are also welcome. Reservations are being accepted at (914) 273-0730.

The BRI is a building, realty and construction industry membership organization. The association has more than 1,700 members in 14 counties of New York State.



CO-OP  
CONDO  
CORNER

By HERB ROSE



The Economic Hardships Will,  
Once Again, Pass!

This too shall pass. Survival mostly depends on spending less and taking in more. Somewhere near 60 percent of a co-op's budget is taxes and mortgage. It's no secret that everyone's property is worth less than it was two-to-three years ago. Since tax assessments have some relationship to value, a Real Estate Tax Appeal—commonly known as a Certiorari Proceeding—might yield a very pleasant refund. This tax appeal can be undertaken without cost, since the attorneys who do this work have fees that are contingency-based. That is, the charge for the service is part of the recovery—no recovery, no fee! And, while you're at it, check whether you are overpaying sales tax on gas and electricity. One out of every three buildings is paying too much and you should apply for a refund. In addition, refinancing your mortgage may be possible at today's lower rates. Since your building mortgage is a commercial mortgage, the refinance process is a little complicated. It's certainly worth looking into.

**Energy Costs**  
Heating and energy costs are third in line to budgetary costs. "Everyone talks about the weather but nobody does anything about it" is typical of the heating situation.

**"In this weird season, when the outside temperature is as much as 72 degrees, the heat is still blasting! Turn it off—a small amount of good sense is worth real dollars!"**

On Thanksgiving Day, I visited a luxury building. The occupants actually had to run the

air-conditioning to eliminate the excessive building heat! Checking around, this is not unusual, even as we get into the colder winter months. There are, no doubt, shareholders/residents who may prefer to walk around their overheated units naked or lightly dressed. They should be discouraged from this practice. It is suggested that 30 percent of heating expenditures are waste! There are numerous ways to stop this burning of money. First, the superintendent needs to be educated and given incentives to keep heating at a sane level. The use of an easily accessible, outside thermometer on the superintendent's window will add sanity to heat adjustment. New York City's heat regulations call for heat from Oct. 1 to May 31, from 6 a.m. to 10 p.m., when the outside temperature is below 55, to be at a level of 68 degrees. In this weird season, when the outside temperature is as much as 72 degrees, the heat is still blasting! Turn it off - a small amount of good sense is worth real dollars! Costs might be trimmed a little by a closer monitoring of bills and heating hours. Turn out unnecessary lighting and limit heating time and tempera-

ture to the legal minimum. **Other Areas** Repairs are an area that can break the budget. There is a tendency for leniency in hard times. I may sound like "Scrooge" or a heartless ogre, but remember that when one shareholder doesn't pay, that share must be

**"Repairs are an area that can break the budget. There is a strong motivation to defer various kinds of maintenance of the property, which might be practical in some situations. When the repairs are absolutely unavoidable, buy the whole job. You can't come out ahead buying parts of the repair."**

strong motivation to defer various kinds of maintenance of the property, which might be practical in some situations. When the repairs are absolutely unavoidable, buy the whole job. You can't come out ahead buying parts of the repair. Payments for taxes, repairs and everything else should be signed "in-house," with no delegation of this authority to outsiders. Fees for services such as stock transfers, sales and rentals need to be set at realistic levels. Many buildings provide official services, including credit checks, at cost or less. Closings of apartment transfers should be done "in-house" to capture the income. And, finally, collecting maintenance must overcome the ten-

paid by everyone else. **Herb's Hints:**  
1) Draw blinds or drapes at night to cut the cold when the outside temperature sinks below 45 degrees.  
2) Replace ordinary incandescent bulbs with new fluorescent bulbs for economy. **Editor's Note: Herb Rose is a co-op and condo consultant. He is also a member of the board of directors of The Cooperative and Condominium Advisory Council of Westchester and the Mid-Hudson Region (CCAC). Rose can be reached at hrose47563@aol.com. The CCAC, an affiliate organization of The Building and Realty Institute (BRI), is at (914) 273-0730.**

THE HANLEY  
REPORT

By JEFF HANLEY  
Associate Director, Building and Realty Institute (BRI)/IMPACT Editor



"A Hat Trick" for the Lashins Family  
—and the Building and Realty  
Institute (BRI)!

ARMONK—One can't help but think of a phrase associated with hockey when reviewing the recent election of Eric Lashins as president of the Building and Realty Institute (BRI). In hockey, a player scoring three goals during one game is always credited for recording "a hat trick." The Dec. 3 election of Lashins is a hat trick, of sorts, for the Armonk resident and his family. Lashins, president of Lashins Development Corp. of Armonk, is the third member of his family to serve as president of the BRI. His father, Edward Jr., and his grandfather, Edward Sr., were also presidents of the building, realty and construction industry group. Like his father and grandfa-

ther, Lashins has been an active member of the BRI. He served as vice chair of the association's Home Builders Advisory Council (HBAC) from 2007 to 2009. In 2005 and 2006, he was vice chair of the organization's Residential Builders Advisory Council (RBAC). He also served as a board member of the association's Commercial Builders Advisory Council (CBAC) from 2002 through 2004. The election of Eric Lashins, and the election of other BRI officers, is a leading story in this month's issue of IMPACT. And, considering the dedication the Lashins family has shown to the BRI, it is also "a third goal" for the association, as well as the industry it serves. A full report on the BRI's elections is

on page one. Other leading reports in this edition include:  
• A report in Co-op and Condo Corner on how buildings and complexes can help ride out the recent economic downturn. Herb Rose, a longtime BRI member and contributor to IMPACT, wrote the report.  
• A review in Counsel's Corner on the recent judicial ruling involving the Town of Kent in Putnam County. The article reviews how the town is being held liable for delaying a local townhouse project. The report was prepared by Finger and Finger, A Professional Corporation, of White Plains. The firm is chief counsel to the BRI.  
• Our annual Year-In-Review Section. The report re-

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## Special Commentary:

# A New Deal for Westchester County

WHITE PLAINS—While attending the inauguration ceremony of our new Westchester County Executive, Robert Astorino, on January 3, I was aware that I had rarely been in a crowd filled with so much hope, enthusiasm and good feeling.

For sure, the new County Executive has a lot on his plate. Astorino's inaugural speech, exhibiting a political frankness, wisdom, humility and humor that belied his young years, perceptively noted at one point that he may never be as popular during his term as he was on inauguration day. That may turn out to be true, but Astorino has the tools and the talent to get the job done - and done well.

Astorino has the ability to reshape Westchester County government into a far more leaner, efficient, meaningful level of government. From the federal level on down, government is supposed to provide for the common defense and promote the general welfare. In this, it has to be responsive and responsible.

There are employees in Westchester County government (and other levels of government) who practice the MDR approach to government service. MDR is "minimum daily requirement." There is no room, no toleration for this thinking any longer. Astorino realizes this and is dedicated to changing that mind set.

Eliminate programs and services that don't work and waste taxpayer money. Keep and improve programs that work and

enhance the lives of people and that improve and enhance the business climate of the county. Companies employ people and that employment generates badly-needed revenue.

Jobs and people are the two major components of any strong, sustainable economy. Yet the economy has suffered from inordinately high taxes and regulatory overkill without rhyme or reason. This is a direct result of the lack of will and vision on the part of government leaders to provide a fair and balanced environment that does justice to economic, environmental and quality-of-life concerns.

Sadly, and all too often, good citizens, taxpayers and property owners suffer at the hands of so-called leaders who, in the wake of the anti-development fervor of NIMBY's, ignore their own zoning and land use laws and run roughshod over property rights and entrepreneurship.

I believe that Astorino recognizes the need for responsible action and responsibility for all our actions, on both the private and public sectors' parts. Rank demands a sense of obligation, a sense of responsibility, a sense of duty. The French call it "noblesse oblige." It's a concept that's fallen out of favor. I believe Astorino is calling us back to it.

—Albert A. Annunziata, Executive Director, Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI)

## Rent Guidelines Board Decides Its Tentative 2010 Schedule

By Jeff Hanley, IMPACT Editor

WHITE PLAINS—The Westchester County Rent Guidelines Board recently announced its tentative schedule of public hearings and deliberations for 2010.

The hearings and deliberations are part of an annual process that the board conducts as it considers rent increases for multi-family buildings and complexes affected by the Emergency Tenant Protection Act (ETPA).

The board reaches its decision after three hearings and a deliberation session. The decision of the board later this year will affect lease renewals for the term from Oct. 1, 2010 to Sep. 30, 2011.

The schedule of hearings for 2010 was decided upon by the board at its Jan. 11 meeting at the White Plains offices of the Division of Housing and Community Renewal (DHCR). The schedule that was announced is:

- Public Hearings—Mount Vernon, June 7; Yonkers,

- June 8; White Plains, June 9.
- Deliberations—White Plains, June 15 and June 17 (if necessary).

The board did not decide on times and locations. That information will be announced in the weeks ahead, officials said.

### A Call for Help

"As we do each year, we urge members of the realty industry to save these dates," said Albert Annunziata, executive director of the Apartment Owners Advisory Council (AOAC), a realty industry membership association that represents more than 300 owners and managers of multi-family buildings and complexes throughout Westchester. "We need the help of our members in stressing the continued increases in operating expenses that owners and managers are facing."

Annunziata added that full information on the process will be sent to AOAC members in the weeks ahead.



**THE CCAC MEETS**—The Board of Directors of the Cooperative and Condominium Advisory Council (CCAC) met on Dec. 1 in North White Plains. Pictured at the meeting, from left to right and sitting, are board members Carl DiMaio and Jane Curtis. Pictured, from left to right and standing, are Diana Virrill, CCAC chair, and Sarah Hughes, board member. The CCAC represents more than 400 co-ops and condos.



**AN ACMA CONFERENCE**—The Advisory Council of Managing Agents (ACMA) held a membership meeting on Nov. 30 in White Plains. The conference focused on issues ACMA will face in 2010. Pictured during the meeting are, sitting, from left to right, Peg Conover and Pat Kinsey, members of the Cooperative and Condominium Advisory Council (CCAC), an affiliate of ACMA. Pictured, standing, from left to right, are Ken Finger, chief counsel, Building and Realty Institute (BRI); David Amster, ACMA chair; Jeff Stillman, ACMA vice chair; John Bonito, ACMA vice chair; and Jane Curtis, vice chair, CCAC. ACMA represents more than 30 property management firms in the Westchester and Mid-Hudson Region.



**ELECTION TIME**—The elections of Officers and Directors for the component organizations of the Building and Realty Institute (BRI) were held at the association's Nov. 12 General Membership Meeting in White Plains. Pictured during the meeting are, from left to right, Carl Finger, Esq., counsel, BRI; Jason Schiciano, Levitt-Fuirst Associates, insurance manager, BRI; Herb Rose, board member of the Cooperative and Condominium Advisory Council (CCAC) of the BRI; and Albert Annunziata, executive director, BRI. A report on the process is featured on page one.



Guest Commentary:

# The Westchester Housing Settlement and What It Means

By Alexander H. Roberts,  
Member, Tarrytown Moderate Income Housing Board

WHITE PLAINS—The Westchester County Housing Settlement breaks new ground in the fight against racially segregated housing in Westchester County and radically changes the county's role in land use. The following are frequently asked questions about the complicated 39-page settlement.

**Was the lawsuit brought based on racial segregation?**

No. The Anti-Discrimination Center of Metro New York brought a "False Claims" case against Westchester County based on a Civil War-era statute. The so-called "Lincoln Law" is intended to prevent fraud against the taxpayers of the United States by making sure that federal contractors do what they have contracted to do. Whistleblowers may act as "private attorney generals" on behalf of the United States. The lawsuit alleged that Westchester County fraudulently obtained over \$50 million from the Department of Housing and Urban Development for affordable housing and municipal improvements.

**What was the nature of the false claims?**

As part of its obligation to be eligible to receive \$51.6 million in federal money between 2000 and 2006, the county had to certify that it had "affirmatively furthered fair housing" and would do so in the future. This certification should have been based on an analysis of "impediments to fair housing choice based on race or municipal resistance." The Anti-Discrimination Center alleged that the County failed to do any of these things when it came to barriers based on race or municipal resistance. The County took the position that inadequate income, not race, was the major impediment to fair housing choice. Based on the law, each time the county took the federal money, its certification violated the act and constituted a false claim against the government.

**What does the settlement require from Westchester County?**

The settlement commits the county to ending residential racial segregation in the county. On a unit-specific-level, it requires the county to spend \$51.6 million to develop 750

units of affordable housing. At least 630 homes must be located in the 31 most segregated towns and villages-Irvington among them—as well as up to 120 in villages and towns with less pronounced segregation.

While Sleepy Hollow, with its 45 percent Hispanic population, is not subject to the settlement, some of the affordable housing could be located in less-segregated areas like Tarrytown. But at least 175 units must be developed in the most segregated areas before even one unit developed in Tarrytown could be counted toward the county's obligation. For decades, the County has claimed that it was powerless to compel the development of affordable housing, citing Home Rule. For the first time, the Settlement Order—compliance with which will be overseen by the federal court—requires the county to acknowledge that it does have the authority to act to override exclusionary zoning when such zoning interferes in the broad public interest in the creation of affordable housing, especially when such housing is designed to help end residen-

tial segregation. The county is obliged to use these legal tools where necessary.

**Why didn't the County fight the lawsuit at trial?**

The county decided to settle rather than risk trial because Federal District Judge Denise Cote ruled in a partial summary judgment that the county "utterly failed" to meet its "affirmatively furthering" fair housing obligations during the lawsuit

county to develop at least 50 percent of the units as rentals for households with annual income under \$63,000 for a family of four. The rest may be for-sale units to households with incomes up to about \$85,000. Ten percent of the total units must be rentals to very low-income households of up to about \$52,000 (family of four).

**Does the Settlement require that all of the units be rented**

With its legal legs cut out from under it, the county faced potential treble damages liability that could have cost \$150 million.

period covering 2000-2006. She further determined that each and every certification that Westchester County signed to receive the federal funding was "false or fraudulent." With its legal legs cut out from under it, the county faced potential treble damages liability that could have cost \$150 million.

**How significant will be the impact of the development required by the settlement?**

While the Settlement commits the county to sue municipalities, if necessary, to overcome opposition to the affordable units, the pace of development is no more than between 100 and 150 units per year for seven years. Most observers see little impact in a county with 350,000 units and 120,000 acres in the 31 most segregated towns and villages.

**How does the Settlement Define "Affordable Housing?"**

The settlement commits the

**or sold to African-Americans or Hispanics?**

No. The Settlement only requires the units to be affirmatively marketed throughout the metropolitan area. The key is a fair and open process so that anyone interested gets a fair chance.

**Where is Westchester County now in the Settlement Process?**

The U.S. Court's order attached to the Settlement requires the county to develop a blueprint by the end of January, 2010, with "specificity" on how it plans to implement development of the units (the "implementation plan"). Watch for intensive meetings on the issue by the County Executive, Board of Legislators and stakeholders.

**Editor's Note: The above article was printed with permission from the Hudson Independent.**

## Westchester and Putnam County Realtor Organizations Merge

WHITE PLAINS—The Westchester County Board of Realtors, Inc. (WCBR) and the Putnam County Association of Realtors, Inc. (PCAR) have merged to become the Westchester Putnam Association of Realtors, Inc. (WPAR).

The merger was effective Nov. 1, following approvals by both memberships at general meetings on Oct. 13 in Putnam County and Oct. 27 in Westchester, spokesmen said.

The merger brings together about 400 members from Putnam and 6,900 from Westchester for a combined total of about 7,300 Realtors and members of allied real estate occupations, ranking the new Westchester Putnam Association as the 30th largest local Realtor association among more than 1,400 such organizations nationwide, officials added.

Spokesmen said that WPAR's headquarters will

remain those of the former WCBR at the Pavilion Shopping Center in White Plains. The organization will also maintain the Brewster offices of the former PCAR as a branch office for servicing Realtors in northern Westchester, Putnam, and Dutchess counties. WPAR, a not-for-profit organization, is now the sole owner of the Westchester-Putnam Multiple Listing Service, Inc., a separately incorporated business organization whose service area includes the Bronx, Westchester, Putnam and Dutchess counties.

Realtor Leah Caro, president of the former WCBR, will continue as president of WPAR through 2010. Former PCAR president Eileen Barrett will serve in the new position of "Vice President, Putnam" of WPAR, and other Putnam County Realtors will serve on the new Board of Directors.

After the vote at WCBR's annual meeting in October, **Continued on page 8**

### Creating a Greener Tomorrow... ...One Neighborhood at a Time.



**CPC**, the leader in multi-family financing solutions, is once again leading the way with its new **Green Financing Initiative**. This innovative program combines quick and easy financing solutions for property owners with *Simple, Sensible and Sustainable* solutions to retrofit existing multifamily buildings.

**SIMPLE** one-stop financing options combined with government incentive programs and subsidies. Construction loans with permanent take outs available. Permanent loans available through enhanced Freddie Mac product.

**SENSIBLE** suggestions for retrofitting existing buildings with cost-effective rehabs. We'll conduct an energy audit of your building and work with you to take it from there.

**SUSTAINABLE** alternatives to inefficient systems including air sealing, properly sized boilers, heat and hot water controls, better fixtures, upgraded ventilation and more. The more you conserve, the more you save.

For more information about CPC's *Green Financing Initiative*, please contact Sadie McKeown at (914) 747-2570 or [smckeown@communitypc.com](mailto:smckeown@communitypc.com). Visit us at [www.communitypc.com](http://www.communitypc.com).



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## COUNSEL'S CORNER

By Kenneth J. Finger,  
Carl L. Finger and  
Daniel S. Finger

Finger & Finger, Chief Counsel,  
Building & Realty Institute (BRI)



WHITE PLAINS—As many of you may be aware, at the Nov. 12 General Membership Meeting of the Building and Realty Institute (BRI), Charles V. Martabano presented the Institute with a discussion of the recent and not so recent history of the litigation surrounding the Town of Kent (Putnam County).

An analysis of the Appellate Division opinion in the case of Kent Acres Development Co., Ltd., v. City of New York, et al., ("the Kent Manor case"), the case presented at the meeting, reveals the importance of this especially as said case since it pertains to the issue of "Vested Rights."

We should use this decision not only as a source of support for the proposed "Vested Rights" legislation being supported by the BRI, but also as a precedent for future cases that may be brought in efforts to enforce the rights of builders, developers and others against municipalities who would attempt to circumvent and infringe upon those rights.

### Key Points

In his presentation, Martabano discussed the case and presented a detailed history of the litigation, including the facts that gave rise to and provided support for the Plaintiffs' claims of conspiracy and damages. In addition, Martabano discussed the recent settlement of the case, including not only how it was arrived at but also some of the future ramifications of the settlement in terms of damages.

In listening to Martabano and in analyzing this case, it is apparent that the decision of the Court directly relates to the building and realty industry's on-going discussions on the issue of "Vested Rights" and it further underscores the necessity for that legislation. It is interest-

ing that the Court came upon a set of facts that goes to the heart of the "Vested Rights" issue and that the Court's decision so eloquently describes the rationale behind the BRI's position.

Initially, in its decision in Kent Acres Development Co., Ltd., v. City of New York, et al., 41 A.D.3d 542, 841 N.Y.S.2d 108 (2nd Dept. 2007), the Court discussed the specific facts and history of this case and, based on those facts, went on to state that:

[u]nder the particular circumstances of the instant case, the Supreme Court properly directed the Town to consent to the participation of Kent Acres and Lexington in the POPP. As properly found by the Supreme Court, by entering into the 1989 Stipulation of Settlement, Kent Acres, the Town – through its Planning Board (see Town Law §§ 60, 65) – and the homeowners' group unequivocally and knowingly agreed to discontinue the then-pending proceeding in exchange for the downsizing of the Project and the Plant as well as all necessary approvals following that reduction. By the stipulation of settlement, which was "so-ordered" on December 21, 1989, the Town approved the revised and reduced development Project. Pursuant to the Town's approval and its legally-issued permits, Kent Acres, and then Lexington, demonstrated a commitment to the purpose for which the approvals were granted by commencing construction, effecting substantial changes in the land and incurring substantial expenses to further the development Project.

The Court's rationale demonstrates that in a situation such as the present one, where a town enters into an agreement with regard to a development and the developer takes certain actions based on that agree-

ment, the town must abide by the agreement and grant all approvals as they agreed. The BRI has championed this exact issue in its pursuit of legislation on the issue of "Vested Rights."

If enacted, the "Vested Rights" legislation would help avoid this type of confusion and/or bad faith by requiring municipalities to adhere to the approvals granted and to apply the laws as they existed at the time of said approvals. The Court expanded further on this rationale by associating the Developer's rights under the 1989 agreement as contractual. The Court stated:

the Town...failed to comply with the gist of its contractual obligations under the so-ordered stipulation of settlement, when it declined through its counsel to consent to Kent Acres' participation in the POPP in 1999. Participation in the new POPP had become essentially a condition precedent to the completion of the Town's previously-approved Kent Acres development as agreed upon under the stipulation of settlement.

### An Important Step

Under the Court's rationale, the Town was, and remains, contractually bound to provide the developer with all necessary approvals for the developer to complete the project. The Court's recognition of the contractual rights of a developer in "Vested Rights" circumstances is an important step and an important aspect of the "Vested Rights" philosophy. The Court concluded with a discussion of the breaches by the Town and the resulting damages incurred by the Developer, stating:

In light of the actions and substantial expenditures by Kent Acres and Lexington in relying upon the Town's position and previous approvals, the Su-

## Kent Manor—An Analysis of the "Vested Rights Issue"

preme Court properly annulled the Town's determination to withhold consent to the Plant's inclusion in the POPP. The record amply supports the conclusion that Kent Acres and Lexington not only had sufficiently committed the land to the use authorized by the approvals and permits prior to the Town's change of position (see Bower Assoc. v. Town of Pleasant Val., 2 N.Y.3d 617, 627, 781 N.Y.S.2d 240, 814 N.E.2d 410; Town of Orangetown v. Magee, 88 N.Y.2d 41, 52-53, 643 N.Y.S.2d 21, 665 N.E.2d 1061; Matter of Lombardi v. Habicht, 293 A.D.2d 474, 475-476, 740 N.Y.S.2d 101), but Kent Acres had been conditionally approved by the DEP to participate in the POPP, and to construct on-site and off-site mechanisms to

reduce the level of phosphorous consistent with the DEP's watershed protection program.

Because the Developer had, relying on the approvals of the Town, taken actions and made substantial expenditures based thereon, the Court determined that the Town was not entitled to refuse the additional approvals (for inclusion in the POPP) that the Developer required.

### Highlighting the Need

This case not only highlights the necessity for "Vested Rights" legislation so as to avoid unnecessary and protracted delays and litigation, but it also provides a framework and basis for "precedent" (at least in similar circumstances) upon which future cases may be based.

*Continued on page 9*

## BRI Elects Its Officers for 2010

*Continued from page 1*

with Houlihan-Parnes/iCap Realty Advisors of White Plains, was elected chair of the Apartment Owners Advisory Council (AOAC) of the BI-BRI. Houlihan will be serving his fourth term. Camille Sprio, the principal of Camille Realty of Bedford, was re-elected vice chair for a fifth term.

### Property Managers Elect Their Officers

The Advisory Council of Managing Agents (ACMA) of the BI-BRI re-elected David Amster, a principal of Prime Locations of Yonkers, as its chair. Amster will chair ACMA for the fourth consecutive year. Amster served as chair of the BRI's Negotiating Committee during the association's Labor Contract Negotiations with Local 32-BJ Service Employees International Union (SEIU) in 2006.

The council also re-elected Jeff Stillman, a principal of Stillman Management of Mamaroneck, and John Bonito, a principal of Garthchester Realty of Scarsdale, as vice chairs. Stillman will serve his fourth term. Bonito has been a vice chair since 2003. Both Stillman and Bonito are former chairs of ACMA.

### Homebuilders Select Their Officers

Bob Bossi, the principal of Northern Westchester Builders of Katonah, was elected chair of the Home Builders Advisory Council (HBAC) of the BI-BRI. Bossi is entering his fourth term. He has been a member of the BI-BRI since 1977.

The HBAC also elected Doug Esposito of Esposito Builders of Peekskill as vice chair. Esposito has held that position since 2004.

### Messer to Lead Remodelers

Eric Messer, the principal of Sunrise Building and Remodeling of Briarcliff Manor, was re-

elected chair of the Remodelers Advisory Council (RAC) of the BI-BRI.

Messer will be serving his fourth term in 2010. He has been a member of the BI-BRI since 1987. He has served on several sub-committees of the association. He has been a member of the BI-BRI Board of Trustees since 2002.

The RAC also re-elected Chuck Pateman, a principal of C.M. Pateman and Associates of Irvington, as its vice chair. Pateman has held that role since 2007. He is a former vice president of the BI-BRI. A member of the BI-BRI since 1997, Pateman has also been chair of the group's Residential Builders Advisory Council (RBAC). Bob Rossi, a principal of Carpet Giant of Ossining, was also re-elected as a vice chair of RAC. He will be entering his second term in 2010.

### Commercial Builders Appoint Their Officers

The Commercial Builders Advisory Council (CBAC) of the BI-BRI re-elected Edward Lashins Jr. as its chair. Lashins is the principal of Lashins Development Corp. of Armonk.

The CBAC also re-elected Lee Lasberg of Lasberg Construction Associates of Armonk as its vice chair. Lasberg has served in that role since 2003.

### BI-BRI Officers

BI-BRI officials also announced the association's slate of senior officers for 2010.

Nilsen will serve as chairman/immediate past president of the BI-BRI. Amster, Bossi, Houlihan, Ed Lashins, Messer and Virrill will all serve as vice presidents. Susan Fasnacht of WSP-Sells of Briarcliff Manor will be secretary-treasurer.

The BI-BRI is a building, realty and construction industry membership organization. The association has more than 1,700 members in 14 counties of New York State.

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Managing Partner



# BRI Holds Its Annual Holiday Reception

By Jeff Hanley, *IMPACT* Editor

OSSINING—More than 95 members of the local building, realty and construction industry attended the recent Holiday Reception of the Building and Realty Institute (BRI).

The Dec. 10 event at the Travelers Rest in Ossining was a huge success, according to Carl DiMaio, chairman of the BRI's Special Events Committee.

"We were very pleased to have had the response we had," said DiMaio. "We are grateful to those who participated and who helped to mark a special time of the year."

Albert Annunziata, executive director of the BRI, served as Master of Ceremonies for the event. Among those attending were BRI President Ken Nilsen, BRI Chairman Gus T. Boniello and BRI President-Elect Eric Lashins.

Music was provided by Bijoux. The band features Sue

Larsen of White Plains, a well-known vocalist in the New York metropolitan area.

DiMaio and Annunziata acknowledged the sponsors of the reception for their support:

- AL-LANCE Wood Flooring Inc.
- Barhite and Holzinger
- Elefante and Persanis
- Finger and Finger, A Professional Corporation
- Garthchester Realty
- Levitt-Fuirst Associates
- Parish and Weiner, Inc.
- Prime Locations
- Riddell and Associates
- Shamberg Marwell Davis and Hollis P.C.
- Sir Speedy of Pleasantville
- Stillman Management



Pictured during the reception portion of the event are, from left to right, Eric Lashins, president-elect of the BRI; his wife Ilenia, and Ken Fuirst, Levitt-Fuirst Associates, insurance manager for the BRI.

Photos by Barbara Hansen



Pictured after the Introductory Program of the event are, from left to right, Myron Marcus, associate counsel, BRI; John Marwell, Esq., BRI member; and Albert Annunziata, executive director, BRI.



Event Chairman Carl DiMaio is pictured during the Dinner Portion of the reception with his wife, Annette.



Pictured prior to the Dinner Portion of the event are Marin Milio and Carmelo Milio, a member of the board of directors of the Apartment Owners Advisory Council (AOAC) of the BRI.



Members were welcomed by BRI staff during the Registration Process of the event. Pictured, from left to right, are Hillary Messer, BRI member; Eric Messer, chairman of the Remodelers Advisory Council (RAC) of the BRI; and Ken Nilsen, president, BRI.



Pictured during the Reception Portion of the program are, from left to right, Doug Esposito, BRI board member; Jill LaRocque; Vera Esposito, wife of former BRI President Richard Esposito; and Brett LaRocque, BRI board member.



Eva Lupica and Bob Lupica of J.P. McHale Pest Management are pictured dancing to the music of Bijoux.



Discussing a variety of issues affecting the local building and realty industry are, from left to right, Ken Finger, chief counsel, BRI; Clifford Davis, Esq., BRI member; and Tom DeCaro, BRI board member.



Matt Persanis, labor counsel to the BRI, is pictured with his associate, Barbara Curtis, during the Introductory Portion of the event.



Ron Pierantoni of The Fibar Group of Armonk and Cathy Sama of the International Facility Management Association (IFMA) are pictured after the dinner portion of the program.



# A Look Back at 2009

By Jeff Hanley, *IMPACT* Editor

**ARMONK**—Members of the local building, realty and construction industry attended more than 40 meetings and seminars sponsored in 2009 by the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).

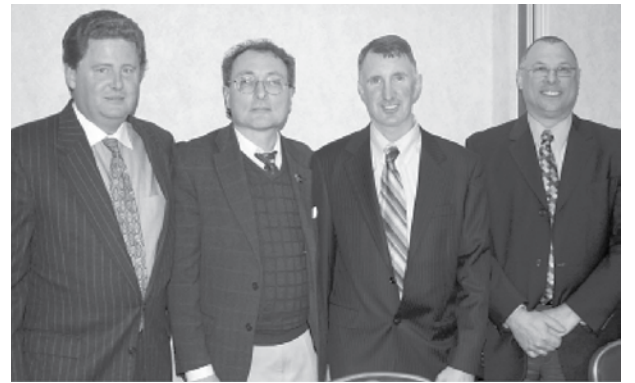
The BRI and its affiliate organizations, the Apartment Owners Advisory Council (AOAC), the Cooperative and Condominium Advisory Council (CCAC) and the Advisory Council of Managing Agents (ACMA), sponsored conferences that covered a range of issues relevant to the building and realty industry. Photos of some of those meetings are below.



**EXAMINING FORECLOSURES** – Foreclosures and their effects on the building and realty industry were examined at a joint meeting of the Building and Realty Institute (BRI) and the Westchester County Board of Realtors (WCBR). Pictured at the Feb. 12 meeting are, from left to right, Gil Mercurio, chief executive officer, WCBR; Mark Boyland (speaker), president, Westchester-Putnam Multiple Listing Service (WPMLS); Ken Finger, chief counsel, BRI; and Albert Annunziata, executive director, BRI.



**A CCAC BOARD MEETING** – The board of directors of the Cooperative and Condominium Advisory Council (CCAC) met on Feb. 9 to help plan the association's agenda for 2009. Pictured at the meeting, from left to right and sitting, are board members Joe Fernandez, Sarah Hughes and Carl DiMaio. Pictured, standing, from left to right, are Jason Schiciano, Levitt-Fuirst Associates (insurance manager for the CCAC); and board members Angelo Ponzi and Jane Curtis. The CCAC represents more than 400 co-ops and condos in the Westchester and Mid-Hudson Region.



**DEALING WITH THE DOWNTURN** – “How Building and Real Estate Companies Are Coping With The Economic Downturn” was the topic of the April 16 General Membership Meeting of the Building and Realty Institute (BRI). More than 50 building and realty industry members attended the event. Pictured during the meeting, from left to right, are Michael O'Reilly, Paradigm Associates; Albert Annunziata, executive director, BRI; Damien Quinn, president, Celtic Business Supplies; and Bruno Pasqualucci, vice president of sales, Mohawk Kitchens and More.



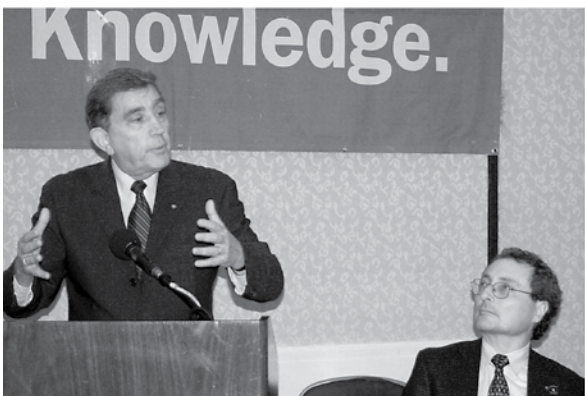
**ADDRESSING KEY ISSUES** – “The Challenges to the New York Metro Region!” was the topic of the May 14 General Membership Meeting of the Building and Realty Institute (BRI). Richard Ravitch, the principal of Ravitch Rice and Company, LLC and the former chairman of the Metropolitan Transportation Authority (MTA), was the guest speaker. Pictured at the event are, from left to right, Ken Nilsen, president, BRI; Ravitch; and Albert Annunziata, executive director, BRI.



**A CCAC MEMBERSHIP MEETING** – “Subletting – Examining the Ramifications to Your Building” was the topic of the May 4 membership meeting of the Cooperative and Condominium Advisory Council (CCAC). Pictured at the conference are, from left to right, Albert Annunziata, executive director, CCAC; panel members Jason Schiciano, insurance manager, CCAC; Carl Finger, Esq., counsel, CCAC; and Herb Rose, CCAC board member. More than 50 members of the council attended the event.



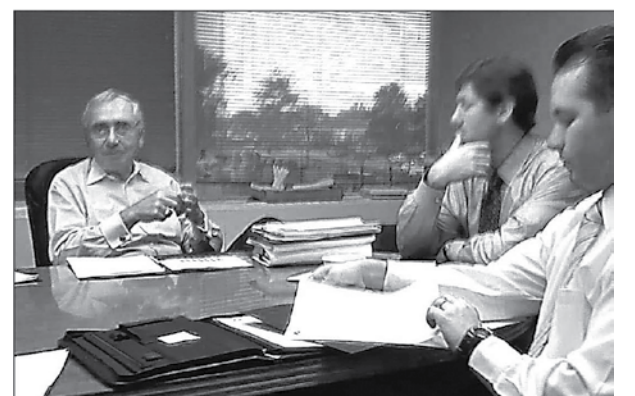
**EXAMINING THE EFFECTS OF THE STIMULUS FUNDS** – “What Can the Westchester and Hudson Valley Region Expect From the Federal Stimulus Funds?” was the topic of the March 19 General Membership Meeting of the Building and Realty Institute (BRI). Pictured during the meeting are, from left to right, Ken Finger, chief counsel, BRI; Ken Nilsen, president, BRI; Albert Annunziata, executive director, BRI; Ross Pepe (speaker), president, Construction Industry Council (CIC); and Frank McArdle (speaker), senior advisor, General Contractors Association of New York.



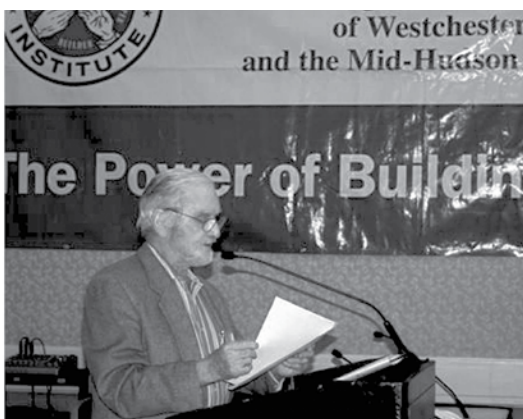
**A LOOK AT “WESTCHESTER 2025”** – Westchester County Executive Andy Spano is pictured at the podium while speaking on the county's Westchester 2025 initiative at the June 11 General Membership Meeting of the Building and Realty Institute (BRI). Albert Annunziata, executive director of the BRI, is also pictured.



**A DISCUSSION ON “WESTCHESTER 2025”** – Pictured discussing details of Westchester County's 2025 initiative are, from left to right, Westchester County Executive Andy Spano; Warren Heit, BRI member; Nat Parish, BRI member; and Gil Mercurio, chief executive officer, Westchester County Board of Realtors (WCBR). The 2025 program was the topic of the June 11 General Membership Meeting of the Building and Realty Institute (BRI).



**GROUP 458 MEETS** – New York State Workers' Compensation Safety Group 458 of the Builders Institute (BI) held its annual meeting on May 27 at the Yonkers offices of group manager Levitt-Fuirst Associates. Officials announced that group members received a 25 percent dividend for their participation in the group. Pictured at the meeting are, from left to right, Levitt-Fuirst staff members Alan Fuirst, Ken Fuirst and Jason Schiciano.



**ENERGY ISSUES** – The Oct. 8 General Membership Meeting of the Building and Realty Institute (BRI) reviewed energy options for members of the building, realty and construction industry. More than 50 BRI members participated in the program. Herb Rose (speaker) of Herb Rose Consulting of New York is pictured during the conference.



**A REVIEW OF THE BEDBUG SCENARIO** – The Sep. 14 Membership Meeting of the Cooperative and Condominium Advisory Council (CCAC) reviewed problems associated with bedbugs in multi family buildings and complexes, as well as in commercial properties. Pictured during the question-and-answer portion of the meeting are, from left to right, Albert Annunziata, executive director of the CCAC and Jim McHale Jr. (speaker), a principal of J.P. McHale Pest Management Inc. More than 50 CCAC members, as well as members of the Apartment Owners Advisory Council (AOAC) and the Advisory Council of Managing Agents (ACMA), attended the conference.



**EXAMINING THE REVALUATION PROCESS** - The Sep. 17 General Membership Meeting of the Building and Realty Institute (BRI) examined the effects of the proposed property tax revaluation process on Westchester County. Pictured at the event are, from left to right, Amy Allen, managing director, advocacy and international business, Westchester County Association (WCA); Gil Mercurio, chief executive officer, Westchester County Board of Realtors (WCBR); Lee Kyriacou (speaker), executive director, New York State Office of Real Property Services; Ken Nilsen, BRI president; and Albert Annunziata, executive director, BRI.



# Simone Announces Availability of Major Warehouse/Office Complex in the Bronx

NEW YORK—Simone Development Companies recently announced that one of the largest warehouse distribution facilities in the Bronx, with more than 204,000 square feet of space, is now being marketed for lease as warehouse, office and biotech space.

The complex, which is at 1776 Eastchester Road in the Pelham Bay section of the Bronx, is currently occupied by Old London Foods, makers of Melba toast and other snack foods. Old London Foods is moving its bakery operations from the site at the end of 2010,

at which time the space will be available for occupancy, officials said.

The two-story building, which is owned by Simone, features 204,015 square feet of warehouse and office space. The 10,000 square feet of existing office space in the build-

ing is expandable. The building has 121,961 square feet on the first floor and 82,054 square feet on the second floor. There is also a 15-bay trailer loading area on the site.

Situated on seven acres adjacent to the 42-acre Hutchinson Metro Center office complex, 1776 Eastchester Road offers easy access to major highways. It is 20 minutes to Manhattan and 10 minutes to Southern Westchester. It is also less than a mile from four major medical institutions—the Albert Einstein College of Medicine, Montefiore Medical Center, Jacobi Medical Center and Calvary Hospital, officials said.

“This property offers tremendous potential for a number of commercial uses. As a warehouse facility it is without equal in terms of location and ease of access. It is also an excellent location for offices given its proximity to the Hutchinson Metro Center,” said Joseph Simone, president of Simone Development Companies and developer of the Hutchinson Metro Center.

“With four major hospitals less than a mile away and a growing base of medical practices at the Hutchinson Metro Center, this property is ideally situated for conversion to a biotech research center,” he added.

Simone noted that the Old London property is near the site of the 911 Call Center that New York City is constructing just north of the Hutchinson Metro Center property. He said that construction of the 911 Call Center, which is scheduled to begin in March, will result in major infrastructure improvements to the immediate area, including a new public road that will offer MTA bus service.

There will also be upgrades to electrical power transmission in the area.

“The construction of the 911 Call Center will be a major boost for commercial properties in the immediate area, including the Old London site,” Simone said.

## A Familiar Role

Simone is no stranger to transforming commercial properties into successful developments in the Bronx. In 2001, Simone and his development team acquired the former Bronx Developmental Center just off the Hutchinson River Parkway and transformed it into one of the region’s most successful office projects, the Hutchinson Metro Center.

The center provides businesses, medical practices and government agencies with a unique combination of Class A space, world-class amenities and one of the most convenient locations in the region, officials said. The first phase of 460,000 square feet of space was completely leased in less than 18 months after completion. The second phase, the 280,000-square-foot Tower One, features nine stores of office space on four levels of covered parking. It is more than 40 percent leased, with the majority of tenants being medical practices, spokesmen added.

“We’ve enjoyed great success with the Hutchinson Metro Center and intend to build on that success with the Old London property. There are few commercial properties on the market today that offer so many potential uses with such an excellent and accessible location,” Simone said.

# The Club at Briarcliff Manor Names Ullo VP of Sales

BRIARCLIFF MANOR—Kathleen Ullo has been appointed vice president of sales for Integrated Development Group, LLC, the company recently announced.

Integrated Development Group (IDG) has two projects under development - The Club at Briarcliff Manor, a luxury senior housing community planned for 2013 occupancy in Briarcliff Manor, and 850 Lake Shore Drive, a luxury community for seniors slated to open in 2012 in Chicago’s Streeterville area.

“Kathleen has a stellar experience in sales and will be instrumental in conveying the unique qualities of The Club at Briarcliff Manor to our future residents who are very discerning,” said Matt Phillips, president and chief executive officer of IDG, the developer of the \$350 million community.

Before joining the IDG team, Ullo served as vice president of sales for Equity Marketing Services Inc., a nationwide real estate marketing company. In that role, she supervised a variety of new condominium/town home and single family projects in various locations throughout the country, officials said.

Ullo began her career in nursing. She made the transition to the retirement niche in real estate sales while working for Life Care Services Inc., where she oversaw sales and marketing for a retirement community in suburban Chicago for six years. In 1990, she joined The Charles H. Shaw Company in Chicago as vice president of sales and marketing/management broker.

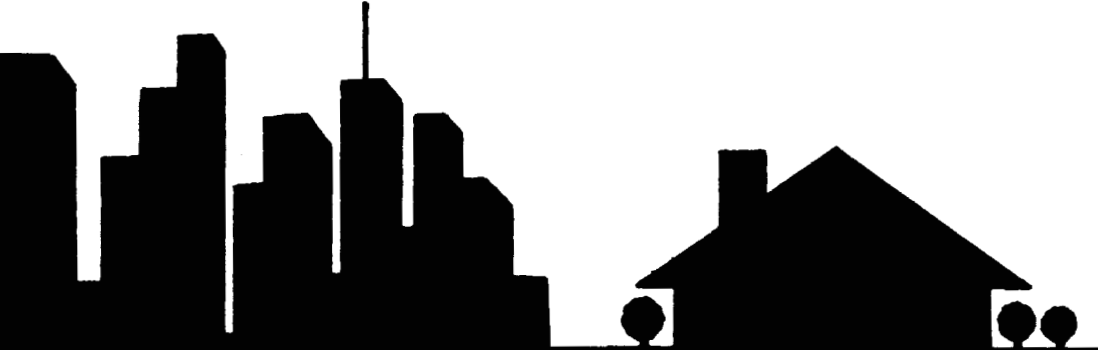
Over the next 15 years, she managed sales, marketing, advertising and brokerage for a

variety of retirement/real estate developments, ranging from senior cooperative housing to mixed-use developments.

## Specifics

The Club at Briarcliff Manor will feature 325 Independent Living residences, world-class amenities and services and a 60-unit Supportive Living Center, where a licensed and professional staff will provide assisted living, memory support and skilled nursing care on-site 24 hours a day, spokesmen said.

The community is comprised of two residential “villages” complemented by the Clubhouse; Aquatics, Spa and Fitness Center; tennis courts; walking paths; landscaped grounds and a pond. Officials said that entrance fees for the residences, which are 90 percent refundable, will start at \$750,000.



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# Westchester and Putnam County Realtor Organizations Merge

Continued from page 4

Caro said: “The new WPAR will have a larger membership and financial base and will be better able to provide high quality services in both counties. This is a true union of the strengths of both organizations into an entity that is capable of doing more for the region’s Realtors than either organization can accomplish alone.”

Barrett added: “The Putnam County Association of Realtors would like to extend its heartfelt appreciation to the Westchester County Board of Realtors, its officers, directors and members for their warm welcome. We are confident that the new organization will

be mutually beneficial to the entire Realtor community, and we look forward to the opportunities that this merger will create.”

Chief Executive Officer P. Gilbert Mercurio said that “the merger easily flowed from a long history of friendly collaboration between the two Realtor organizations. We jointly owned the multiple listing service, engaged in public policy advocacy together, and cooperated on many other fronts, plus the Westchester and Putnam County real estate markets have become more closely tied together. It was the right move at the right time.”



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# NAI Friedland Realty Closes Local Transactions

YONKERS – NAI Friedland Realty recently announced that its Office, Retail and Industrial Divisions closed 12 lease and sale transactions in Westchester County and the Bronx in September and October.

The combined deals represent more than 130,000 square feet of space.

The Office Division completed two transactions:

- The sale of 43,700 square feet at 1 Labriola Court in Armonk for \$4.7 million. Executive Directors Carl Silbergleit and Ellen Benedek negotiated on behalf of the seller, SEMX Corporation. Officials added that 30 Clairmont LLC purchased the property, which is on four acres.
- The lease of 10,749 square feet at 580 White Plains Road, Tarrytown for \$6.315 million. Silbergleit and Benedek brokered the deal

between RXR Realty (landlord) and Children’s Corner Learning Center (tenant). Silbergleit and Benedek represented the tenant.

The Retail Division completed five transactions:

- A 25-plus year lease of 11,000 square feet at 870 Central Park Avenue, Scarsdale. Retail Director John Williams represented Elias Laurenzatos (landlord) and Walgreen’s (tenant).
- A 10-year lease of 2,000 square feet at 2356 University Avenue, Bronx. Retail Associate Rick Stassa represented both the landlord and tenant, Mi Gente Salon. The asking rent was \$3,750 per month plus utilities, officials said.
- A five-year lease of 3,000 square feet at 207 North Avenue, New Rochelle. Executive Vice President Robin

Herko, executive vice president Steve Lorenzo, and Retail Associate David Scotto represented the landlord, 207 North LLC, and the tenant, Bella Beauty Supply. The asking rent was \$27 per square foot, spokesmen said.

- A lease option for 2,000 square feet at 1335 North Avenue, New Rochelle. Williams brokered the deal between Vincent Giuffini (landlord) and Tiffany’s Nail & Spa (tenant).
- A lease of approximately 1,200 square feet at 1365 Sixth Avenue, New York. Gene Meer, president of the Manhattan satellite office, brokered the deal for the tenant, Liberty Travel.

The Industrial Division completed five transactions:

- The sale of 22,000 square feet at 236 Grandview Avenue, Yonkers for \$1.75 mil-

lion. Senior Executive Vice President Ross Schneiderman and Executive Director Steve Komspun brokered the deal between K’hal Adath Jeshrun, Inc. (seller) and Antiochian Orthodox Church (purchaser).

- The Sale of 16,000 square feet at 138-140 Columbus Avenue, Tuckahoe for \$1.625 million. Schneiderman brokered the deal between Jerlau Realty LLC (seller) and Giovanni’s Portale (purchaser).
- The sale of a 20,000 square feet complex at 18 Sargent Place, Mount Vernon for \$1.7 million. Herko, Lorenzo, and Scotto represented both Sargent Crown Realty (seller) and Autumn Properties (purchaser).
- A five-year lease of 3,000 square feet at 44 Columbus Avenue, New Rochelle. Clinton brokered the deal between 44 Columbus Ave LLC (landlord) and The Radiator Store (tenant). Clinton represented the owner. The asking rent was \$3,000 per month.
- A one-year lease of 2,000 square feet at 151 Ludlow Street, Yonkers. Clinton represented both the landlord, 151 Ludlow St LLC, and the tenant, Azo Rep-

tiles. The asking rent was \$2,000 per month.

“Even in these very difficult times there are deals to be made. A broker must approach each transaction with a realistic understanding of market conditions so they can adequately convey them to his or her client,” said Tony Lembeck, NAI Friedland Realty’s chief operating officer. “Friedland’s brokers are ready to fill every vacancy in Westchester, Rockland, Putnam and the Bronx. We are actively canvassing each market on a regular basis in order to keep our finger on the pulse of what is going on in our areas of expertise.”

NAI Friedland Realty, founded in 1970, is a full-service commercial real estate firm covering the entire metropolitan New York area, with a majority of its business in Westchester County and the Bronx, but additionally in Putnam and Rockland counties, New York City, Connecticut and New Jersey, officials said.

Headquartered in Yonkers, Friedland also maintains a satellite office in Manhattan. The company has four divisions -- Retail, Industrial, Office and Residential/Development. The firm is a member of NAI, the only managed network of commercial real estate firms in the world, officials added.

## Builders, Developers and Land Owners:

### The Builders Institute of Westchester,

a professional trade association over 1,200 members strong and serving builders, contractors and suppliers vital to the county’s housing needs for over 60 years, is reaching out to offer you a

### RARE OPPORTUNITY—

On September 22nd, the Westchester County Board of Legislators approved a **settlement in a fair housing lawsuit**. As part of this settlement, Westchester County has **committed to build 750 units of affordable housing** in 31 municipalities. The units can be rental or ownership.

This presents an opportunity for developers and land owners to get county assistance in obtaining municipal approvals of development projects in these communities.

- ✓ *If you have vacant land...*
- ✓ *If you have development proposals pending...*
- ✓ *If you have existing units...*

(Accessory apartments, small multi-family houses are a possibility, too)

***This is an opportunity to jump start the difficult housing development market and land use approval process in Westchester County.***

The Builders Institute will consolidate all responses from interested owners and developers and submit them to the County for consideration.

***If you have land, development proposals or existing buildings that you feel may be a possibility for such housing*** and wish to consider making all or some of the units affordable, in conjunction with the county’s settlement obligations, please contact the Builders Institute of Westchester.



The Builders Institute of Westchester  
80 Business Park Drive, Suite 309  
Armonk, NY 10504  
Phone: 914-273-0730  
Fax: 914-273-7051

## Kent Manor – An Analysis of the “Vested Rights Issue”

*Continued from page 5*

The developers in the Kent Manor case have endured almost 20 years of delays and litigation since the stipulation resolving the original litigation that ostensibly allowed them to proceed with the development. The unnecessary delays and departures from normal and customary procedure (solely for the purpose of delay) are unjust and should not be tolerated.

### A Similar Scenario

In a case similar to the Kent Manor case, Downey Farms Development Corp. v. Town of Cornwall Planning Board, the Court, by Justice Elaine Slobod, in a decision dated April 16, 2008, declared that the petitioner in this matter was entitled to Vested Rights. Specifically, the Court decided that the petitioner was entitled to proceed with its subdivision under the zoning laws as they existed prior to the change in those zoning laws which gave rise to this litigation.

While the wrongful acts of the Town of Cornwall took place over the course of two years, as opposed to the almost 20 for the Town of Kent, the effect was the same. A developer’s project was unnecessarily and illegally delayed.

### Logical Reasoning

Through the Vested Rights Bill, municipal authorities will be required to examine applications, such as the one in this case, for the correct reasons (i.e. safety, compliance with codes, etc.), and not solely for political ones. While in some

cases the Court has granted Vested Rights relief, a developer, however, should not have to endure years (or decades, as in the Kent Manor case) of potentially costly litigation to obtain the same relief and protection that would be provided by the Vested Rights Bill.

Codifying the Court’s decision in the Kent Manor case into legislation, as the BRI has proposed and was submitted by Assemblyman Adam Bradley, would provide protection for builders, developers and citizens from abuses by municipalities in issuing, rescinding or denying applications and changing or modifying zoning or other laws after plans had been filed under the conditions set forth in the proposed Vested Rights Bill.

This course of conduct that we have seen municipalities engage in all too often would be precluded by the “Vested Rights” legislation. Municipalities would no longer be permitted to engage in the types of conspiratorial tactics evident in the Kent Manor case aimed only at preventing this project from being completed and rendering the property in question unusable. One can hope that cases like this one will provide the impetus for Albany to finally pass this much-needed legislation.

***Editor’s Note: Finger and Finger, A Professional Corporation, is chief counsel to the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI). The firm is based in White Plains.***



# Republicans Select 2010-2011 Leadership Team for Westchester County Board

WHITE PLAINS—James Maisano, Westchester County Legislator for District 11, and Gordon A. Burrows, County Legislator for District 15, will take on the posts of Minority Leader and Minority Whip, respectively, spokesmen for the Republican Party recently announced.

Maisano, who represents about half of New Rochelle and all of Pelham, began his seventh two-year term on Jan. 1. He has previously served as Minority Leader (2003); Minority Whip (2002, 2008, 2009); Co-Chair of the Rules Committee (2003); Chair of the Public Works Committee (2000-2001); Chair of the Inter-

governmental Relations Committee (2004-2005); and Chair of the Long Island Sound Committee (1998-2007). He has also served on the Legislation and Environmental Committees for the past 12 years.

“The Republican caucus is committed to reforming county government by promoting initiatives to reduce spending, lower taxes and consolidate operations,” said Maisano. “We look forward to working in a bipartisan way to improve the quality of life in Westchester.”

Burrows has served his district since winning a special election in 2005 in a district that includes part of Yonkers and all of

the Village of Bronxville. During his current term, he serves on the Public Safety and Government Operations committees.

Burrows said: “I look forward to working with the new majority legislative leadership and with County Executive Rob Astorino to consolidate government expenditures and reduce taxes.”

Burrows served on the Yonkers City Council for 10 years, seven of those years as Majority Leader.

County Legislators Bernice Spreckman, District 14 and newly elected First District Legislator John Testa are the other two Republican members of the board.

# Lammie Earns Appointment at Churchill Corporate Services



Danielle Lammie

STAMFORD, Conn.—Churchill Corporate Services has announced the appointment of Danielle Lammie of Stamford as its newest Director of Business Development in the Connecticut and Westchester County regions.

Company officials said that Lammie will be the main contact for clients seeking temporary housing, furniture rental and home staging needs.

Lammie is a veteran of the business community in the Westchester and Fairfield

County (Conn.) region. She is well-known for her previous roles in the office technology sector, officials added.

Spokesmen for Churchill Corporate Services said that the firm makes transitions for companies and their employees “an easy process.” The company, officials said, has more than 30 years of experience. It ranks among the premier providers of corporate housing services nationally, officials said.

The firm, officials added, has achieved its level of “phenomenal growth by meeting the ever-changing needs of its customers and offering flexible housing options.” Spokesmen said that Churchill is the largest provider of corporate apartments throughout New York, New Jersey and Connecticut.

Company officials added that the firm’s “broad choice of corporate housing, inbound destination counseling and furniture rental, with delivery, conveniently address all the needs of executives.”

# Jenkins and Williams to Lead County Legislature; Democratic Caucus Elects Abinanti and Myers to Leadership Roles

WHITE PLAINS—The Democratic Caucus of The Westchester County Board of Legislators recently announced that Legislator Ken Jenkins (D-Yonkers) will serve as the new chairman of the board.

The caucus also announced that Legislator Lyndon Williams (D-Mount Vernon) will serve as the new vice chairman.

The formal floor vote of all legislators for these positions occurred at the charter meeting of the Legislature earlier this month.

Under the leadership of both Jenkins and Williams, the board will move Westchester in a new direction, taking steps to create a

more open, accountable and inclusive legislative process, Democratic spokesmen said.

“We are one board, united behind the common purpose of getting Westchester County back on track and creating a government that operates in a more efficient and transparent manner to meet the needs of all its residents,” Jenkins said.

He added: “In the face of tough economic times, our newly elected leadership is committed to working with the new County Executive and all of our municipal officials to revive the economy, provide much-needed tax relief to our residents and to operate

a lean and efficient regional government.”

Spokesmen added that the Democratic Caucus solidified its commitment toward new leadership by electing Legislator Thomas Abinanti (D-Greenburgh) as its Majority Leader and head of the Democratic Caucus and Legislator Judy Myers (D-Mamaroneck) as its Majority Whip.

“In this body, we may belong to different parties, but we serve a common interest – the residents of the county of Westchester,” said Abinanti. “We stand united and pledge to work together to build a future worthy of the constituents that we serve.”

# High Point of Hartsdale Appoints Stillman Management

MAMARONECK—Stillman Management Inc. of Mamaroneck recently announced that it has been appointed to manage the High Point of Hartsdale facility.

High Point is a 500-unit condominium complex. The property is comprised of five buildings on a landscaped hillside.

Stillman Management has a portfolio of more than 10,000 condominium and cooperative units in Westchester County, lower Connecticut and the Bronx. Founded more than

30 years ago, the company’s principals have more than 75 years of combined real estate management, sales and construction experience, company officials said.

Officials said that the firm provides a wide range of “back-office services,” on-site visits by property agents and full “account executive attention” to each client’s needs. Every property is assigned a principal, an account executive, a property manager, an administrative assistant and a book keeper.

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# Private Investment Group Acquires The Canyon Club

ARMONK—The Canyon Club, a private country club in Armonk, has been acquired by an investment group that plans to renovate the club and rebuild its membership, officials recently announced.

Spokesmen said that renovations were scheduled to begin immediately and that the club will reopen for the 2010 season.

Canyon Club Partners II, LLC of New York City purchased the 156-acre country club from a seller who has owned the property since 1974, spokesmen said. The transaction was completed on Dec. 4. The purchase price was not disclosed. Carl Austin of Austin Corporate Properties was the broker representing the seller, officials added.

Just minutes off of I-684 on Route 22, The Canyon Club features a 6,356 yard; an 18-hole, par 70 championship golf course; a 60,000 square foot clubhouse; 14 Har-Tru tennis courts and an Olympic-

size swimming pool. The clubhouse provides catering services for private and corporate functions, wedding receptions and bar/bat mitzvahs with ballroom seating for 350 guests. There is also an outdoor cocktail terrace overlooking the golf course and surrounding hills, featuring what officials termed as "spectacular sunsets."

The new owners have hired Troon Golf, the leader in upscale golf course management, development and marketing to manage the club. Headquartered in Scottsdale (Arizona), Troon Golf is the world's largest golf management company. The firm has properties in 31 states and 26 countries. Thirty eight Troon Golf properties enjoy a Top 100 ranking by national or international publications. The 2009 British Open was held at a Troon managed property, the legendary Turnberry in Scotland.

"We are delighted to have prestigious Troon Golf on board as the club's manage-

ment firm as we move forward rapidly with our plans to reposition the club as a full service country club with an outstanding golf course, excellent pool and tennis facilities, first-rate food and beverage and many other amenities," said Jeffrey B. Mendell, a principal in the club's new ownership.

The club will continue to be a private club and memberships are currently available and open to the general public. Membership information for the 2010 season will be announced shortly, officials added.

"My partners and I are committed to offering a complete

country club lifestyle, with a family orientation, at an affordable price," said Mendell.

"As a long-time resident of Armonk, I am particularly pleased to be involved in the revitalization of this country club, which has been such an important part of the local community for nearly four decades."

## Co-op and Condo Group Sets Its Next Meeting

WHITE PLAINS—"A Review of Current Legislative Initiatives—How They Could Affect Your Complex" is the topic of the next membership meeting of the Co-operative and Condominium Advisory Council (CCAC).

The meeting is scheduled for a 6:30 p.m. start on Jan. 27. It will be at the Crowne Plaza Hotel in White Plains.

The event will feature Glenn Riddell of The Riddell Group of Albany as its keynote speaker. Riddell is a well-known lobbyist throughout New York state, CCAC officials said.

"Our membership will receive an update on what legislative items the CCAC is watching and what items we should all be concerned with," said Diana Virrill, chair of the CCAC. "We are urging our members to attend this meeting. As always, we will need their help to help fight legislation that will affect the local co-op and condo sector in a negative way."

Albert Annunziata, executive director of the CCAC, added that the event will also provide members of the association with an opportunity to voice their concerns on aspects affecting the local co-op

and condo community.

"We are ready, as we always are, to hear the concerns of the CCAC membership," he said. "It is so very important for us to receive that type of input."

The meeting is open to all members of the CCAC. It is also open to members of the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI), an affiliate organization of the CCAC.

CCAC officials said that reservations are being accepted at (914) 273-0730.

The CCAC is a building and realty industry membership association. Based in Armonk, the organization represents more than 400 co-ops and condos. The association marked its 30th anniversary in 2009. It was formed as a resource for elected board members of co-ops and condos. The mission of the CCAC is to broaden and sharpen the knowledge of board members to help meet the challenges of running their respective buildings and complexes, spokesmen said.

Officials added that the CCAC helps its members with a variety of educational, informational, lobbying and referral services.

## "A Hat Trick" for the Lashins Family—and the Building and Realty Institute (BRI)!

*Continued from page 2*

views the more than 40 meetings and seminars sponsored by the BRI in 2009.

- A report and a photo montage of the BRI's Annual Holiday Reception on Dec. 10 in Ossining.

- A Development Case Study on The Preserve at

Greenburgh, a neighborhood of 17 townhouses under construction along Knollwood Road in Greenburgh.

On behalf of the staff of IMPACT and the BRI, here are our best wishes for a happy, healthy and prosperous 2010. Enjoy the issue!

## Development Case Study:

# The Preserve at Greenburgh Quickly Attracts Buyers

WHITE PLAINS—Dozens of potential buyers flocked to the recent Grand Opening of The Preserve at Greenburgh, a neighborhood of 17 townhouses under construction along Knollwood Road in Greenburgh.

Twenty-five percent of the units have already sold, according to project spokesmen.

Buyers at The Preserve have the rare opportunity to customize the interior of the three- and four-bedroom homes, selecting items such as kitchen cabinets and countertops, moldings, flooring and built-in lighting. The three-story homes range in size from 2,900 square feet to 3,300 square feet. Prices start at \$690,000, project officials said.

Joseph Cerrato of Better Homes and Gardens Rand Re-

alty has been named the exclusive sales broker for the townhouse community.

"The Preserve offers a high-quality product with prices that reflect today's market, which is very attractive to prospective buyers," said Barry Graziano, manager of Better Homes and Gardens Rand Realty's White Plains office. "The builders are focusing all of their attention and efforts to quality craftsmanship with fine details that offer an amazing product. Buyers can customize a variety of details, such as countertops and quality cabinets, and can even choose to put in an elevator. It's no surprise that these units are selling so quickly."

The Preserve at Greenburgh's residences have walk-out lower levels opening onto large patios overlooking the

woods surrounding the homes. Every townhouse has a two-car garage. The new homes are a short drive from downtown White Plains and the shops and restaurants along Route 119.

Two model homes are available for viewing by appointment only, officials said.

Better Homes and Gardens Rand Realty, founded in 1984, is the top real estate brokerage in the Greater Hudson Valley, with 22 offices serving Orange, Ulster, Sullivan, Rockland, Westchester, Putnam and Dutchess counties, company spokesmen said.

Based on market share, Rand is first in Orange and Rockland and third in Westchester. The company has more than 800 sales associates, spokesmen added.

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