

IMPACT

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SERVING WESTCHESTER AND THE MID-HUDSON REGION

JUNE / JULY 2012

THE HANLEY REPORT

Defining the Diverse Roles of the Building and Realty Institute (BRI)

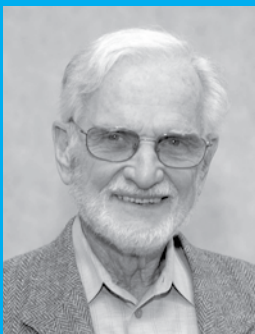
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Guidelines Board OK’s Miniscule Increases of 1.25% and 2.25% for the 2012-2013 Lease Term

By Jeff Hanley, IMPACT Editor

WHITE PLAINS—In a move termed by realty industry officials as incomprehensible, the Westchester County Rent Guidelines Board recently decided on what those spokesmen cited as “paltry and insupportable” rent increases for renewal leases affected by the Emergency Tenant Protection Act (ETPA).

Owners and Managers of ETPA properties can offer tenants a 1.25 percent increase for a One-Year Lease or a 2.25 percent increase for a Two-Year Lease.

The board reached that decision during its June 27 Deliberation Session at the Westchester County Courthouse in White Plains. The session, at times,

featured chaos and confusion as the board deliberated. The increases affect renewal leases between Oct. 1, 2012 and Sep. 30, 2013. No additional components—such as Minimum Increases or Low Rent Guidelines—were issued by the board.

“The intent of the Emergency Tenant
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Institute Granted Extension:

Building Industry Critique of DEC’s Proposed Wastewater Regs Reveals Flaws, Concerns

ARMONK—The Builders Institute (BI), one of the largest independent construction trade associations in New York State, made full use of an extension of time granted to it to critique more fully the implications of the Department of Environmental Conservation’s (DEC’s) recently-released draft regula-

tions on wastewater system design for mid-level development projects.

“We are very privileged, proud, and pleased to be able to share our comprehensive report with the DEC and with any and all parties interested in our review,” said Albert Annunziata, executive director of the BI.

“Despite our often pointed criticisms of the DEC regulations, it is our basic policy that the building industry here in Westchester seeks, as a matter of good business, good sense and as a matter of what’s the right thing to do, to protect surface water and groundwater quality.

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Construction Compensation Insurance Group Announces a 30% Dividend; Real Estate Group Reports a 20% Dividend

By Jeff Hanley, IMPACT Editor

YONKERS—New York State Workers Compensation Group 458 – the compensation insurance group of the Builders Institute (BI) – recently announced a 30 percent dividend for the policy year ending June 29, 2011.

The dividend was announced at the group’s Annual Meeting on May 21 at the offices of Program Manager Levitt-Furst Associates of Yonkers. The dividend is in addition to the maximum 25 percent advance discount that group members are eligible to receive, spokesmen said.

Spokesmen added that the group has now had 59 consecutive years of dividends.

Group 458 was formed in 1951. More than 800 construction industry members participate in the program. Contractors, Sub-Contractors, Suppliers and Renovation/Remodeling companies are eligible for the group, spokesmen added.

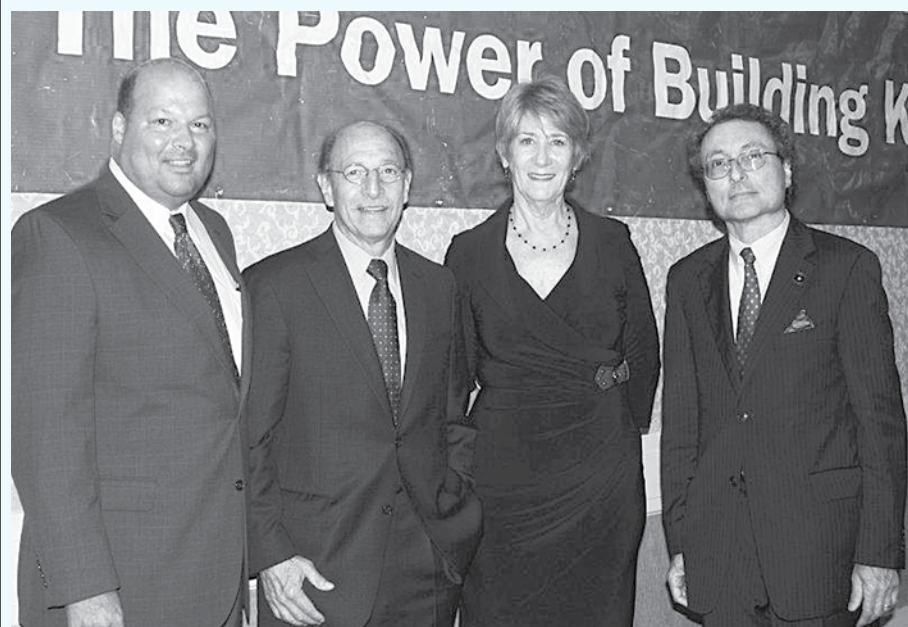
Group 530 Announces Its Dividend

New York State Workers Compensation Group 530, the compensation insurance group for the Cooperative and Condominium Advisory Council (CCAC), the Apartment Owners Advisory Council (AOAC) and the Advisory Council of Managing Agents (ACMA) of the Building and Realty Institute (BRI), recently announced a 20 percent dividend for the policy year ending June 1, 2011. The dividend is in addition to the maximum 20 percent upfront discount.

The announcement was made at the group’s Annual Meeting on May 10 at the offices of Group Manager Levitt-Furst Associates. More than 500 co-

operatives, condominiums, apartment buildings and office buildings participate in the program, spokesmen said. Group 530 was formed in 1990.

THE BRI MEETS IN JUNE—

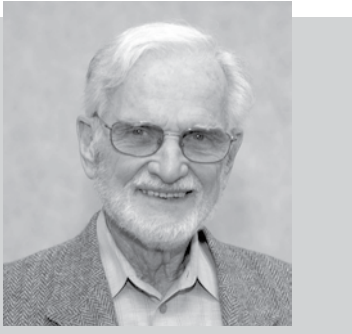


The Building and Realty Institute (BRI) held its latest General Membership Meeting on June 13. “An Update on the Construction of the New Tappan Zee Bridge” and “The Westchester Land Trust: Bringing a Fresh Perspective with a Real Estate and Development Background” were the topics of the conference. Pictured during the event are, from left to right: Michael Beldotti, president, BRI; Ross Pepe, president, Construction Industry Council (CIC) and the speaker for the presentation on the new Tappan Zee Bridge; Candace Schaefer (speaker), executive director, Westchester Land Trust; and Albert Annunziata, executive director, BRI. More than 60 participants attended the meeting at the Crowne Plaza Hotel in White Plains.

Photo by Myron Marcus

CO-OP
CONDO
CORNER

By HERB ROSE



NEW YORK—What will you do with the extra money that your building has accumulated due to the lower price of electricity?

Since late in 2010, the price of electricity has sunk to bar-

ty costs have supplied you with a windfall.

Why have electric prices come down, while the rest of the costs of building operations are relentlessly going up? Natural gas pricing is the simple

Incredibly, some Co-ops and
Condos are afraid to file for the
overpayment! It's your money
that you have overpaid - you are
entitled to get it back!

gain levels, with costs substantially less than what has been budgeted.

Electricity is priced in two parts, Delivery and Product. Delivery is regulated and fixed so that just about everyone pays the same 10 cents kWh price for delivery from Con Edison, while the cost of product - Electricity is deregulated - can vary and also be shopped.

Whether you buy from an Energy Services Company (ESCO, an Alternate Supplier) or Con Edison, rates have sunk to about 50 or 60 percent of what they were, pre-2010. You don't have to be a rocket scientist to realize that your electrici-

answer. Large parts of electric generation use natural gas as boiler fuel to make electricity. Natural gas is at a historic low and drives the cost of creating electricity down.

Tracking the Data

How much is your building ahead due to lower prices? Compare all of 2011 to all of 2010 and the answer will be obvious. Since 2012 is only partially in, you could compare January to May 2010 to January to May 2012.

In past years, the Public Service Commission (PSC) has enabled Con Edison to make its returns on investment

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from delivery and freed it from generating obligations. As a result, Con Edison has sold most of its generating capacity and promoted buying electricity from ESCO's.

Programs such as “Power Your Way” with discounts of seven percent for the first two months of alternate buying are a heavy inducement to switch. ESCO's are listed on Con Edison's Web Site, as well as linked to the PSC.

Listed ESCO's are a curious lot, ranging from Con-Ed Solutions to at least one operated from an apartment in North Miami. Some ESCO's are also Generators, but the overwhelming majority are “middle men” who purchase and resell the power. Price comparisons are difficult because of the initial two months' discount and the separation of delivery and power.

The Survey Said

A survey of various billings for April 2012 showed the following prices (remember that delivery at about 10Cents per kWh is in addition to these figures):

- ESCO: 7.92 Cents per kWh
- Con Edison Small User Billing: 6 cents per kWh
- Con Edison Large User Billing: 5.3 cents per kWh, 5.4

cents per kWh

In addition to the fact that current prices are lower than 2010, there is a large variance in prices. The 7.92 cents per kWh is almost 1/3rd higher than Con Edison's Small User Billing.

About 1/3rd of the bills charge higher Sales Tax than is

no raise in maintenance. Why not segregate the advantage dollars of lower electric costs and add it to reserves for that new boiler, pointing, or any of the countless projects that are needed?

There is a large temptation to merely use the windfall as way of lowering main-

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maintenance, but reserves make
more sense.

necessary. New York State collects about \$9,000,000 in excess Sales Tax each year and only about \$3,000,000 is refunded. Refunds are available by application only and can go back three years. Some tax billing is more than double the legal rate, according to studies!

Incredibly, some Co-ops and Condos are afraid to file for the overpayment! It's your money that you have overpaid - you are entitled to get it back!

Now, what to do with the windfall? There isn't a building that can't use extra money. However, here is an opportunity to create reserves with

tenance, but reserves make more sense.

Herb's Hints:

- 1) “Ditto” for gas!
- 2) Close blinds and/or window shades and save on HVAC costs!

Editor's Note: Herb Rose is a Co-op and Condo Consultant. He is a member of the Board of Directors of The Cooperative and Condominium Advisory Council of Westchester and the Mid-Hudson Region (CCAC). He can be reached at hrose47563@aol.com. To contact the CCAC, call (914) 273-0730.

THE HANLEY
REPORT

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



Defining the Diverse Roles of the
Building and Realty Institute (BRI)

ARMONK – One of the many positive experiences of being with the Building and Realty Institute (BRI) is working on the incredible diversity of topics that our staff covers on a daily basis.

The BRI, with more than 1,500 members in 14 counties of New York State, represents virtually every sector of the local building, realty and construction industry. Accordingly, our association regularly faces a wide range of subjects that are critical to our membership and industry. A look at this edition of IMPACT offers a definitive example:

- A Page One Report on the decision of the Westchester County Rent Guidelines Board and its effects on the Apartment Owners Advisory Council (AOAC) of the BRI.
- A Page One Story on the

dividends recently released from New York State Workers Compensation Groups 458 and 530 of the BRI.

- An update on how the proposed Wastewater System Design Standards proposed by the New York State Department of Environmental Conservation (DEC) are posing problems for moderate-level development projects. The report is also on Page One.
- An article from Original Energy on the benefits for multi-family buildings and complexes of converting from Oil to Natural Gas.
- A report from the National Association of Home Builders (NAHB) on its list of “Improving Housing Markets.”
- An analysis in Co-op and Condo Corner on what buildings and complexes

should do with their respective savings from energy usage. Herb Rose authored the review.

- A summary in Tech Talk on common questions businesses have regarding the Internet and its usage. Andrea Wagner wrote the analysis.
- A report on the inaugural Martin Berger Memorial Scholarships that were recently issued by The Westchester Foundation, an affiliate organization of the BRI. The scholarships were presented to two Westchester County students on June 27. The program is named in honor of Berger, a past president of the BRI. Berger, who also served as Chairman of The Westchester Foundation, died last September.

Enjoy the issue – and the remaining days of summer!



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In memory of Developer & Philanthropist Martin Berger:

Alexander Hamilton High School Seniors Are the Inaugural Recipients of Builders Institute/Foundation Scholarship Awards

ELMSFORD—An intimate and enthusiastic awards ceremony was held on June 27 at the offices of Robert Martin Company LLC (RMC) to launch an annual scholarship program for college-bound students who demonstrate academic excellence and economic need.

The grants are in memory of Martin S. Berger, chairman and co-founder of RMC. Berger passed away last September.

Berger was active in many worthy social causes. He was Chairman of The Westchester Construction Industry Foundation. He was also a long-time member and Past President of The Builders Institute of Westchester and the Mid-Hudson Region, the Foundation's governing body. The Trustees of both the Institute and the Foundation recently and unanimously approved the annual scholarship program in his memory, association officials said.

Berger had a particular fondness for the Elmsford-Greenburgh area, as many of RMC's commercial and residential buildings were located there and contributed so much to the economy and the quality of life of the area, event officials said.

His son, Greg Berger, a managing director and partner with RMC, hosted the small ceremony to convey \$3,500 in checks to both John Varkey and Arun Nair, seniors at Alexander Hamilton High School,

toward their educational expenses at SUNY Stony Brook and The Philadelphia School of Pharmacy, respectively.

"This is truly a feel-good moment," said Mike Beldotti, president of the Builders Institute, who attended the ceremony. "It is very gratifying to help, even in a small way, these fine young men in their pursuit of higher education in two very demanding and difficult fields."

Also in attendance were Builders Institute and Foundation Trustees Eric Abraham and Tom DeCaro, Hamilton High School officials Rosemary Young and Monica Ahearn, and representatives of the families of both students.

Rounding out the attendees were Albert Annunziata and Jeff Hanley, staff to the Institute and the Foundation.

"I know that my father would have been very pleased and flattered with this scholarship program, and if he could have been here today, he would have been deeply touched by the goodwill and genuine appreciation shown by all. He was always a firm believer in the good that people can do for other people and never forgot that he was blessed with the means to accomplish just that. This scholarship program in his name is a wonderful affirmation of that belief," Greg Berger said.

—An IMPACT Staff Report



Photo by Barbara Hansen

Builders, Students Beaming at First Annual Martin S. Berger Scholarship Ceremony: Pictured, from left to right, Greg Berger, developer; John Varkey and Arun Nair, seniors at Alexander Hamilton High School at Elmsford; and Mike Beldotti, president, Builders Institute. Each student received \$3,500 toward their college education.

Guidelines Board OK's Miniscule Increases of 1.25% and 2.25% for the 2012-2013 Term

Continued from page 1

Protection Act (ETPA) calls for the Guidelines Board to consider all of the costs and the respective increases that owners are facing related to the local real estate market," said Albert Annunziata, executive director of the Apartment Owners Advisory Council (AOAC). "In our opinion, the board, specifically the Public Members on the board, did not follow the intent of the statute."

He added: "The guidelines simply do not allow owners to keep up with the many cost increases that they are facing. We are obviously disappointed in this confusing and bizarre decision, to say the least."

The AOAC, in its presentations to the Guidelines Board, provided many exhibits showing that Westchester's Apartment Owners and Managers required fair rent increases, as

Continued on page 11



Photo by Jeff Hanley

THE ANNUAL MEETING OF GROUP 530 — New York State Workers Compensation Group 530 of The Building and Realty Institute (BRI) held its Annual Meeting on May 10. Pictured during the event are, from left to right, John Bonito (board member, Group 530); Jason Schiciano, president, Levitt-Fuirst Associates, manager of Group 530; Jeff Stillman (board member, Group 530); and John Holzinger (board member, Group 530). A report on the event is on page one.



Photo by Jeff Hanley

GROUP 458 HOLDS ITS ANNUAL MEETING — New York State Workers Compensation Group 458 of The Builders Institute (BI) held its Annual Meeting on May 21. Pictured at the event are, from the center point of the table, left to right, Ken Fuirst, president, Levitt-Fuirst Associates, manager of Group 458; Darryl Fredericks, Levitt-Fuirst Associates; Eric Messer, board member, Group 458; and Jerry Haber, board member, Group 458. A page one report features details on the event.



Photo by Jeff Hanley

The Cooperative and Condominium Advisory Council (CCAC) held its Spring Membership Meeting on June 4. "How to Prepare New Board Members For Their Respective Duties" and "How to Run Your Board Meetings More Effectively" were the topics of the conference. Pictured during the event are, from left to right, Ken Finger, chief counsel, CCAC; Diana Virrill, chair, CCAC; and Albert Annunziata, executive director, CCAC. The CCAC represents more than 400 co-ops and condos. It is an affiliate organization of The Building and Realty Institute (BRI).

Building and Realty Industry Study:

100 Housing Markets on NAHB's "Improving List"

WASHINGTON, D.C.—The list of housing markets showing measurable and sustained improvement held virtually unchanged in May at 100, down from 101 in April, according to the National Association of Home Builders (NAHB's)/First American Improving Markets Index (IMI).

The number of states represented on the list also held firm from the previous month, at 35 (including the District of Columbia). Communities in New York State on the list were Buffalo (65); Glens Falls (66); Poughkeepsie (67); and Rochester (68), the study said.

The index identifies metropolitan areas that have shown improvement from their respective troughs in housing permits, employment and house prices for at least six consecutive

months. While 83 metros held onto their previous places on the IMI and 17 new ones were added to the list in May, 18 metros dropped from the list, for a net loss of one, NAHB officials said.

Metros newly added to the list in May include such geographically diverse places as Phoenix; Bowling Green, Ky.; Bend, Ore.; and Lubbock, Tex., the study said.

"The fact that there are 100 markets in 34 states and the District of Columbia represented on the improving list illustrates that all housing markets are local, and that the national headlines often don't apply to what's happening in a specific metropolitan area," said NAHB Chairman Barry Rutenberg, a home builder from Gainesville, Fla. "In places where employ-

ment is firming up, along with the demand for new homes, the main factors weighing down the housing market continue to be access to credit (for both builders and buyers) and the difficulty of obtaining accurate appraisals on new construction."

"The overall number of markets on the IMI continued to plateau in May, with more than a quarter of all U.S. metros still showing signs of improvement," said NAHB Chief Economist David Crowe. "Many of these are relatively small markets in terms of their population and building volume, which is why their improvement is barely registering on the national scale as of yet."

Crowe added that the report is seeing some shifting of markets on and off the list, primarily "due to small, seasonal house

price changes in areas that have had flat, stable prices rather than a boom-and-bust cycle."

Positives

"The fact that the number of improving metros continued to hold its own with 100 entries in May shows that there are many places across the country where confidence and consumers are returning to the housing market," said Kurt Pfotenhauer, vice chairman of First American Title Insurance Company.

The IMI is designed to track housing markets throughout the country that are showing signs of improving economic health. The index measures three sets of independent monthly data to get a mark on the top improving Metropolitan Statistical Areas, NAHB offi-

cials said.

The three indicators that are analyzed are employment growth from the Bureau of Labor Statistics, house price appreciation from Freddie Mac, and single-family housing permit growth from the U.S. Census Bureau. NAHB uses the latest available data from these sources to generate a list of improving markets. A metropolitan area must see improvement in all three areas for at least six months following their respective troughs before being included on the improving markets list, according to NAHB spokesmen.

A complete list of all 100 metropolitan areas currently on the IMI, and separate breakouts of metros newly added to, or dropped from the list in May, is available at www.nahb.org/imi.

Critique of Proposed Wastewater Regs Reveals Flaws, Concerns

Continued from page 1

The important thing is that we support regulations necessary to achieve those objectives and to oppose those that are unnecessary, redundant, costly and with no meaningful cost-to-benefit payback," Annunziata added.

Among the points made in the comprehensive 9-page report is that the use of new technology proven to be effective scientifically and economically in other states should be acknowledged, welcomed and embraced by the DEC in its various regulations, standards and practices.

Coordination with New York City Imperative

Although the DEC report does illustrate some movement toward "alternative systems," the BI's critique calls on the DEC to work with the New York City Department of Environmental Protection (DEP) to allow alternative systems in the massive NYC Watershed Region in northern Westchester, Putnam and other Hudson Val-

ley counties.

It appears that the NYC DEP is using its own "rulebook" to hamper development and redevelopment by unilaterally

tion trenches, the BI report said.

It is a fact that properties in the NYC Watershed that are currently un-approvable could

"It is our basic policy that the building industry here in Westchester seeks, as a matter of good business, good sense and as a matter of what's the right thing to do, to protect surface water and groundwater quality. The important thing is that we support regulations necessary to achieve those objectives and to oppose those that are unnecessary, redundant, costly and with no meaningful cost-to-benefit payback."

—Albert Annunziata, Executive Director, Builders Institute (BI)

dismissing recent proven technologies that provide superior wastewater treatment in a smaller footprint, even smaller than traditional width absorp-

tion trenches, the BI report said. It is a fact that properties in the NYC Watershed that are currently un-approvable could

supply, according to the report.

The report expresses specific concerns that certain of the DEC provisions will needlessly add to the already significant up-front engineering costs of development. In some instances, excessive requirements may have unintended adverse economic impacts which could totally preclude development of smaller sites, the report cites.

"Some of DEC's 2012 regulations pose the very real possibility of unfunded and/or unreasonable mandates on builders, some of which are definitely not cost-effective and would hinder much-needed real estate development and redevelopment in Westchester, the Hudson Valley and the state," said Annunziata. "In so doing, such an unintended consequence effectively quashes the thousands of jobs that would go

with that building activity, jobs that are so badly-needed in New York."

While the "feedback" on these draft DEC standards was termed "light" statewide, the BI was reportedly the only construction trade association in the state to formally submit a substantial and comprehensive critique of those regulations, association officials said.

The BI critique was conducted by John Watson, PE and Richard Williams, PE, of IN-SITE Engineering, Surveying & Landscape Architecture, PC of Carmel.

Copies of the report are available free of charge by contacting the BI at (914) 273-0730. The report is also available, via written request, through FAX at (914) 273-7051.

—An IMPACT Staff Report

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REPRESENTING THE REALTY INDUSTRY – Owner Representatives Carol Kope and Ken Finger are pictured on June 21 while addressing the Westchester County Rent Guidelines Board. Kope and Finger addressed the board during its first Deliberation Session at the Westchester County Courthouse in White Plains. A full report on the Guidelines Process is on Page One.

Photos by Barbara Hansen

COUNSEL'S CORNER

By **Kenneth J. Finger, Esq.,**
Carl L. Finger, Esq., and
Daniel S. Finger, Esq.
Finger & Finger, Chief Counsel,
Building & Realty Institute (BRI)



Courts Continue to Uphold Business Judgment Rule On Subletting Routines and On Additional Key Issues

WHITE PLAINS—In the recent case of *Bregman v. 111 Tenants Corp.*, 943 N.Y.S.2d 100 (App. Div. 2012), the Appellate Division First Department reached three important conclusions pertaining to the right of a Cooperative's Board of Directors to dictate subletting rules.

The Court concluded that the Plaintiff had not provided adequate documentation to prove her case, that the Cooperative could not create classes of shares where certain shareholders possessed unfettered rights not granted to others, and third, that the Cooperative's Board of Directors business judgment was entitled to deference.

Plaintiff sought to sublet the apartment without the permission of the Board based on a purported agreement with the prior holder of unsold shares. The court concluded that the Plaintiff, who sought to sublet her apartment, had not provided any documentation that would support her claim that she maintained an unfettered right to sublet her apartment. There are numerous cases relating to the rights of "holders of unsold shares" which, of late, have dealt with the issues of documentation, or the lack thereof, and the impact on claims of status as "holders of unsold shares."

Though not cited by the Court, these cases are consistent with the concept that in order to sustain such a claim, that status must be documented and that the claim is a contrac-

tual issue requiring such documentation.

An Important Matter

The second and much more fundamental holding of the Court requires attention. The Court held that "even if plaintiff had been granted such preferential unfettered sublet rights, Business Corporations Law § 501(c)—which provides that "each share [issued by a corporation] shall be equal to every other share of the same class"—precludes any such special subletting rights (see *Wapnick v. Seven Park Ave. Corp.*, 240 A.D.2d 245, 658 N.Y.S.2d 604 [1997]; see also *Krakauer v. Stuyvesant Owners*, 301 A.D.2d 450, 753 N.Y.S.2d 367 [2003])."

The Court went on to find that "we view the directive of Business Corporations Law § 501(c) as not limited to unequal treatment in proprietary leases or bylaws. It precludes the proposition, advanced by plaintiff, that a shareholder purchasing common shares may, by contract with the cooperative, obtain special rights that could not be granted in the corporate documents themselves."

Interestingly, in this section of the decision, the Court essentially limited the authority of the Board by interpretation of the Business Corporations Law.

Finally, in a sweeping view of the Board's authority, subject no doubt to the above references, the Court held that "the board here was prompted by a legitimate interest in the welfare of the cooperative: maximizing owner residency

and therefore the value of the shares. It is therefore authorized to adopt a resolution in furtherance of that interest... Moreover, while a board may not deliberately single out individuals for harmful treatment (*Levandusky*, 75 N.Y.2d at 538, 554 N.Y.S.2d 807, 553 N.E.2d 1317), if a board of directors becomes aware of a situation or conduct of a particular shareholder that it considers contrary to the interests of the cooperative generally, there is no prohibition against the board's adoption of a policy protective of those broader interests, even if the policy is responsive to a single shareholder's situation or conduct."

Similarly, the District Court in Nassau County recently upheld a Cooperative's Board of Directors' refusal to approve a sublet. The Court stated that: "the Court rejects Respondent's claims that Petitioner acted arbitrarily or committed fraud. Respondents purchased the cooperative in 2004. There is no mandatory obligation in the Proprietary Lease for the Petitioner to approve a sublet. Paragraph 14 in the Proprietary Lease is clear that subletting is subject to the approval

of the Board subject to "which consent shall not be unreasonably withheld." The Court finds that the Petitioner acted appropriately in not approving the sublet and there is no violation of the business judgment rule. The actions of the Board were appropriate and subject to the business judgment rule which this Court finds no reason to vacate. See *Matter of Levandusky v. One Fifth Avenue Apartment Corp.*, 75 N.Y.2d 530, 554 N.Y.S.2d 807 (1990).

In the case at bar, Petitioner acted for the legitimate welfare of the cooperative and thus its actions were reasonable. See also *Chambers v. 15 Beach Owners, Inc.*, 221 A.D.2d 400, 633 N.Y.S.2d 1016 (2nd Dept 1995). *First Buckingham Owners Corp. v. Tamburo*, 32 Misc. 3d 1238(A), 938 N.Y.S.2d 226 (Dist. Ct. 2011)."

Factors

The recent spate of cases relative to subletting and otherwise challenging the Board's authority may be linked to the economic forces at work today. With shareholders "under water" yet with expanding families and other issues, the need to sublet has increased. Con-

versely, the tightening of bank requirements regarding rentals and sublets when financing cooperatives may be causing Boards to take more care in the implementation of their sublet policies and to adhere to strict limits.

Nonetheless, it appears that the Boards are well within their business judgment to implement such policies and should take comfort as they go forward that Courts will respect their judgment in such matters.

Other Issues

The Courts continue to uphold the business judgment rule in other ways, as well. In another case, the Supreme Court of New York County upheld the Board's authority to finance a window replacement project. In that case, the Court particularly upheld the Board's decision where it was alleged that the project could have been done for no cost via a grant, but was, instead, the subject of borrowing and an anticipated assessment. The Court held that:

Defendant's decisions regarding the window replacement project are protected by the business judgment rule, which provides that the court should defer to a cooperative board's determination [s] "so long as the board acts for the purposes of the cooperative, within the scope of its authority and in good faith." *Levandusky v. One Fifth Avenue Apartment Corp.*, 75 N.Y.2d 530, 538 (1990); *Accord* 40 West 67th Street Corp v. Pullman, 100 N.Y.2d 147, 153 (2003); *Pelton v. 77 Park Avenue Condominium*, 38 AD3d 1, 7-9 (1st Dept 2006). Under the business judgment rule, the court will not inquire as to

Continued on page 9



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Building & Realty Industry Profile:

Spinnaker Thriving Despite the Slow Economy

NORWALK, Conn.—Despite a sluggish economy and a slowly improving commercial real estate leasing market, Spinnaker Real Estate Partners recently announced that it has been aggressively moving ahead with a series of major lease transactions totaling approximately 1.4 million square feet of space, with an aggregate lease value exceeding \$415 million.

Prominent companies which have signed leases with Spinnaker Real Estate Partners include NBC Sports, Chelsea Piers, Gartner Inc. and WWE.

At the same time, the Connecticut-based real estate company recently opened a new flagship 212-unit Embassy Suites Hotel and the 205-unit Laurel Apartments in downtown St. Louis during late 2011. And, the company has also been investing in other new urban re-development projects in St. Louis and in Portland (Oregon), officials added.

Spinnaker's properties in Fairfield County (Conn.) have been the focus of significant media attention of late, officials said. Late last year, NBC Universal's NBC Sports Group announced that it would relocate its global headquarters of NBC Universal Sports into the former Clairol headquarters property in Stamford (Conn.), which is owned by Spinnaker and its partners, including Steven Wise Associates and the Connecticut Film Center. The 265,000 square foot long-term lease was one of the largest leases of recent memory signed in Connecticut, officials added.

NBC Universal, which is looking to take occupancy in late 2012, was aided by state tax incentives, particularly those that relate to the digital film industry. The 32-acre property will be home to NBC Sports, NBC Olympics, NBC Sports Digital, the recently launched NBC Sports Network and Comcast Sports Management Group. The NBC Sports Group will build state-of-the-art studio space at the facility. In addition, it will also build studio space for the National Hockey League (NHL) at the property. In total, the project will create 450 new jobs in Stamford, officials said.

The NBC Sports deal follows the earlier mega lease transaction with Chelsea Piers for approximately 400,000 square feet of space at that property. The lease was also one of the largest signed in the state. Chelsea Piers, known worldwide for its dynamic mix of sports, recreation and entertainment on New York City's West Side, is bringing the same type of destination-oriented recreational facilities to Stamford that exists in Manhattan. The facility will be opened in July, according to spokesmen.

In one of the largest lease renewals in the last few years in the Tri-State New York metro

region, Spinnaker and its partner, Soundview Farms LLC, completed a long-term lease extension in Stamford of nearly 213,000 square feet for the corporate headquarters of Gartner Inc., a global leader in information technology research.

Other Activity

In other leasing activity at Spinnaker properties in Fairfield County:

- Nearly 75,000 square feet of leases were signed at the Lock Building at 20 Marshall Street in Norwalk.
- World Wrestling Entertainment leased 66,000 square feet of warehouse space at 345 Ely Avenue in Norwalk.
- Several leases totaling 76,000 square feet were signed at 300 Wilson Avenue in Norwalk.
- In another one of the largest lease renewals in the area, Spinnaker and its partners extended a lease for 65,000 square feet of space to a subsidiary of Olympus Corporation of the Americas, Gyrus ACMI Inc. The 146,000 square foot building is at 300 Stillwater Avenue in Stamford.
- A 21,700 square foot lease was signed on Main Street in Bridgeport (Conn.) to one of the nation's largest private charitable organizations, the Annie E. Casey Foundation.

Clayton H. Fowler, chairman and chief executive officer of Spinnaker Real Estate Partners, stated: "In a tough economy, I'm proud that our team, along with our partners, has worked hard to procure some of the most notable real estate transactions in the region."

Spinnaker's recent grand opening of the Embassy Suites Hotel and the Laurel Apartments is part of the rapidly emerging Mercantile Exchange (MX) District under development in downtown St. Louis. The complex will also include 35,000 square feet of retail space and the National Blues Museum, a 23,000 square foot interactive facility that is expected to open in 2013, thus completing a \$170 million development, company officials said.

Among its West Coast holdings, the company's 34-acre Hoyt Yards project in Portland made news last year with the announcement that the mixed-use development - which is located in Portland's Pearl District - earned the nation's highest environmental award, a Platinum rating by the U.S. Green Building Council's Neighborhood Development (LEED-ND) system. It was one of the first such distinctions awarded to any real estate project in North America, officials said.

Officials added that The Hoyt Yards development has transformed what were once old Burlington Northern Railroad rail yards and abandoned ware-

houses into a modern urban neighborhood that is home to mixed-use condominium buildings, restaurants, coffee shops, boutiques, art galleries, offices and a number of public parks.

In another new urban re-development project closer to the Tri-State Region, Spinnaker recently received approval of plans for 20 North Street, a mixed-use building in South Norwalk featuring 107 rental apartments with street-level retail and restaurant space.

BOMA Salutes "Giants of the Industry" At Its 21st Annual Hall of Honor Dinner

BioMed Realty Trust and PepsiCo Receive Hall of Honor Awards

TARRYTOWN—Members of Westchester County's commercial real estate industry joined together on May 3 to honor BioMed Realty Trust and PepsiCo at the 21st Annual Hall of Honor Awards Dinner of the Building Owners and Managers Association of Westchester (BOMA).

The two companies were recognized for their contributions to Westchester's economy, event officials said.

BioMed Realty was the first institutional real estate organization to recognize the potential of the life science industry in Westchester when it acquired The Landmark at Eastview in 2004, event officials noted. Last year, BioMed Realty acquired the Ardsley Park Life Science Campus.

Event officials added that, for more than 20 years, PepsiCo has played a key role in Westchester's economy. Last year, Pepsi Beverages Company announced a renewal and expansion to occupy the entire 540,000-square-foot building in Somers that houses the company, making it the largest lease transaction in Westchester's history, officials said.

Regional Case Study:

Mack-Cali Announces Lease Expansion at Harborside Financial Center

EDISON, N. J.—Mack-Cali Realty Corporation recently announced that The Bank of Tokyo-Mitsubishi UFJ, Ltd. (BTMU), a subsidiary of Mitsubishi UFJ Financial Group, has signed a 17-year, three-month, 100,274-square-foot expansion lease at Harborside Financial Center in Jersey City.

The transaction brings the bank's total leased space to 261,957 square feet. The expansion lease is for space at the 725,600-square-foot Harborside Plaza 3.

Harborside Financial Center is a "city within a city," comprised of five state-of-the-art Class A office buildings totaling 3.1 million square feet, retail shops, a variety of dining

Spinnaker Real Estate Partners is a second generation real estate company that is primarily engaged in the acquisition, ownership, and management of major commercial and residential properties in Connecticut, New York, Oregon and Missouri.

Founded by a predecessor organization in 1950, Spinnaker Real Estate and its affiliates have completed more than \$1.5 billion of acquisition, development or re-development. In

the last 20 years, the firm and its predecessor have owned or developed in excess of 3,250,000 square feet of commercial real estate and over 5,000 multi-family and single family units nationwide. Guided by a steadfast commitment to sustainable and green building, the company's urban re-development projects focus on place-making and creating vibrant communities that connect business, people, housing, jobs and recreation, company officials said.

Accepting the award for BioMed Realty Trust was Laura Wozniński, senior director, leasing and development. Accepting the award for PepsiCo was Jeff Randolph, vice president, global real estate.

Remembering Charlie Brown

BOMA also presented a special President's Award to the late Charlie Brown of C.W. Brown Inc., who suddenly passed away last June. Brown was an active member of the BOMA Westchester Board, serving as the Allied Representative for many years. During that time he played a key role in the Chapter's continued growth and success, officials said. Renee Brown, chief executive officer of C.W. Brown, accepted the award on behalf of her late husband.

In addition to the Hall of Honor kudos, awards were also presented for The Best of BOMA Signature Awards. The awards recognize excellence in property management. The winners were:

- *Best Green/Sustainability Initiative*: 360 Hamilton Avenue, White Plains. Owner/

Manager: Reckson, a Division of SL Green Realty

- *Comeback Building of the Year*: Westchester Medical Pavilion, 311 North Street, White Plains. Owner/Manager: North Street Community, LLC
- *Best Tenant Fit-Out*: Privilege Underwriters, 4 South Broadway, White Plains.
- *Best Engineer*: Chuck Sehring, RXR Realty

BOMA Westchester is Westchester's leading professional organization dedicated to meeting the needs of building owners, property managers and allied professionals and tradespeople, association officials said. The organization is an affiliate of BOMA International, the oldest and largest association of the office building industry, with more than 100 federated associations in the U.S. and around the world.

The 17,000-plus members of BOMA International own or manage more than nine billion square feet of commercial properties in North America and abroad, association officials added.

options, planned luxury multi-family rental towers and land, providing what officials termed as "an ideal development opportunity." The complex is currently 97.3 percent leased.

The tenant was represented in the transaction by Fred Smith and Curtis Foster of Cushman & Wakefield.

Mitchell E. Hersh, Mack-Cali president and chief executive officer, said: "We are delighted that The Bank of Tokyo-Mitsubishi continues to expand its

presence at this premier waterfront complex. This transaction demonstrates our ability to build long-term relationships with leading global businesses."

Mack-Cali Realty Corporation is a fully integrated, self-administered, self-managed real estate investment trust (REIT) providing management, leasing, development, construction and other tenant-related services for its Class A Real Estate Portfolio, officials said.

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Report:

US Energy Group’s BEMS Named a Top Money-Saving Product

FRESH MEADOWS, N.Y.—US Energy Group’s Building Energy Management System (BEMS) has been selected as a 2012 Top Money-Saving Product by Buildings Magazine, company officials recently announced.

Selected from out of 150 products, the BEMS was specifically chosen for the ability to significantly reduce fuel consumption in large residential and commercial buildings, officials said. The BEMS reduces fuel usage by 15-to-30 percent, with payback in two years, spokesmen added.

“We are honored to be selected as a Money-Saving

Product,” said Jerry Pindus, chief executive officer (CEO) of US Energy Group. “US Energy Group’s BEMS provides property managers with ultimate control, significant savings and peace of mind.”

Officials said that the BEMS integrates information from both indoor and outdoor temperature sensors to reduce boiler runtime and maintain the desired indoor temperature. The system cycles the boiler more efficiently, reducing fuel usage significantly.

For examples in the metro New York area, officials said, after installing the US Energy Group BEMS, the building at

40 Worth Street reduced annual fuel usage by 23.7 percent. Other examples cited include:

- 300 East 46th Street reducing fuel usage by 22.10 percent;
- 1560 Broadway reducing fuel consumption by 27.46 percent;
- 230 Fifth Avenue reducing fuel usage by 17.43 percent;
- 322 Eighth Avenue decreasing fuel consumption by 21.19 percent;
- 730 Fifth Avenue reducing fuel usage by 25.9 percent.

“US Energy Group’s BEMS utilizes the most innovative technology to harness information for ultimate building en-

ergy management solutions,” said David Unger, chief operating officer of US Energy Group. “Buildings run more efficiently, and owners save money.”

The BEMS is available from US Energy Group and its authorized agents, company officials said. Prices are determined after a complimentary site-survey and vary based on the number and size of the buildings, oil tank access, and on the options selected. Estimates and demonstrations can be scheduled through info@use-group.com, officials added.

Spokesmen added that, with over 30 years in the industry and over 3,500 system instal-

lations, US Energy Group has earned a reputation for product quality and personalized customer support.

Founded in 1978 by Pindus, US Energy Group is a metro-New York based building energy management solutions firm. The company develops and integrates energy control, monitoring and analysis hardware and software systems for large residential and commercial properties. With the company’s products and services, building owners save money, conserve energy and enhance tenants’ comfort, company officials said.

Empire Access MLS and Greater Hudson Valley MLS Merge To Become “The Hudson Gateway Multiple Listing Service”

New Name Follows Recent Merger of Three Local Realtor Boards

WHITE PLAINS—The Empire Access MLS, serving the Bronx, Westchester, Putnam and Dutchess counties, has merged with the Greater Hudson Valley MLS, serving Rockland, Orange, Sullivan and Ulster counties, to create the new Hudson Gateway Multiple Listing Service (HGMLS).

The announcement was made in early June.

The merger reflects last year’s historic merger of the Westchester Putnam Association of Realtors (WPAR), the Rockland County Board of Realtors (RCBR) and the Orange County Association of Realtors (OCAR) into the new Hudson Gateway Association of Realtors (HGAR).

“The new HGMLS will provide a broader view of the or-

ganization’s role for real estate agents and the general public in the area,” said HGMLS President Gary Leogrande. “Our agents will now be able to access listings in eight counties through the lower Hudson Valley, providing even more choices for homebuyers.”

HGMLS now includes more than 1,500 real estate firms stretching from the Bronx to

the most rural northern areas of Dutchess and Ulster counties, officials said.

“Access to real estate information is what multiple listing services are all about for real estate agents and consumers. With this new name, we are poised for growth as our region expands,” added Leogrande.

The HGMLS currently offers approximately 24,000

properties in its database and is owned by HGAR. It is among the top 50 largest MLS’s in the country, officials said.

HGAR is a not-for-profit trade association covering more than 9,000 real estate professionals doing business in Westchester, Putnam, Rockland and Orange counties, officials added.

Houlihan-Parnes Realtors Announces Metro Area Deals

WHITE PLAINS—Houlihan-Parnes Realtors, LLC recently announced the placement of a \$2,000,000 first mortgage on the 17,390 square foot Ardsley Shopping Center at 717-

725 Saw Mill River Road in Ardsley.

Officials said that the five-year, non-recourse loan has a fixed rate of 4.50 percent, with a 30-year amortization sched-

ule. The loan, closed with a local bank, is pre-payable throughout the term on a declining scale. The borrower has an option to extend the loan for an additional five years,

spokesmen added.

The borrower was represented in the transaction by Elizabeth Smith of Goldberg Weprin Finkel Goldstein LLP. Title was provided by Jim Ma-

loney of Chicago Title.



Officials also announced:

- That Richard Hendey of Houlihan Parnes Realtors represented the seller in the sale of a building at 419-

Continued on page 10

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Developer of Hudson Landing in Kingston Wins Prestigious Award

KINGSTON—AVR Homebuilders, the developer of Hudson Landing, a planned sustainable mixed-use community on 500 acres on the Hudson River shoreline in Kingston, has been awarded top honors by the U.S. Environmental Protection Agency (EPA) in Washington, D.C. for its commitment to protecting the environment and promoting the ENERGY STAR program.

AVR Homebuilders was one of only two residential developers in the nation to be honored recently by the EPA as a 2012 ENERGY STAR Partner of the Year – New Home Builder, officials said.

AVR, which is one of the region’s leading home building companies, was recognized by the EPA for its commitment to reducing greenhouse gas emissions through the construction of ENERGY STAR-certified homes, officials added.

The prestigious national award was presented to the Yonkers-based company at a ceremony on Mar. 15 in Washington, D.C.

Background

Hudson Landing, a development that officials termed as a linchpin in the revitalization of the City of Kingston, calls for the construction of approximately 1,750 units of housing. Those units will include a variety of single family homes, townhomes, condominiums, apartments, and live-work units with supporting retail space.

Hudson Landing will be developed in a “Traditional Neighborhood” design featuring tree-lined streets, attractive and diverse architecture, a bustling village green with shops and services, and all within walking distance of a resident’s front door, officials said.

Located on a former brickyards and quarry property, Hudson Landing will offer a mile-long Riverfront Promenade, more than 350 acres of open space, gorgeous vistas of the Hudson River and mountains and a commitment to sustainable living through energy conservation, a reduced car-

bon footprint and ENERGY STAR-certified residences, officials said.

An ENERGY STAR partner since 2006, AVR was honored by the EPA for its work in building energy-efficient new homes that meet ENERGY STAR guidelines. To date, AVR has built a total of 374 ENERGY STAR-certified homes in the New York metropolitan region, company spokesmen said.

The 2012 Partner of the Year award winners were selected from approximately 20,000 organizations that participate in the ENERGY STAR program. AVR, which won in the New Home Builder category, joins a host of major national and international corporations recognized by the EPA for their participation in the ENERGY STAR program, including PepsiCo, General Motors, Boeing, Toyota, Samsung Electronics, 3M, Sharp Electronics, Merck and Colgate-Palmolive.

“As we celebrate the 20th anniversary of the ENERGY STAR program, EPA is proud to recognize AVR Homebuilders with the 2012 ENERGY STAR Partner of the Year Award for New Home Builders,” said EPA Administrator Lisa P. Jackson. “AVR Homebuilders and all our ENERGY STAR award winners are building an energy-efficient future for America’s families by developing ENERGY STAR-certified homes that reduce energy costs and protect the environment.”

Mark Eickelbeck, chief operating officer of AVR Homebuilders, said: “We are greatly honored to be recognized by the U.S. EPA as one of the nation’s leaders in the design and construction of energy-efficient homes. This award is a tremendous achievement for our company and is a testament to our ongoing commitment to building quality homes that are environmentally friendly and energy efficient.”

Eickelbeck added: “AVR is proud to provide extra value to our customers by building energy-efficient homes that earn the ENERGY STAR certification. Homes built to ENERGY STAR

standards are more comfortable, plus they ensure long-term savings on energy bills while protecting the environment.”

Eickelbeck said that ENERGY STAR-certified homes use substantially less energy for heating, cooling, and water heating. Homeowners in ENERGY STAR-certified homes can expect to save about \$200-to-\$400 annually on their utility bills. Over the past 20 years, American families and businesses have saved nearly \$230 billion on utility bills and prevented greenhouse gas emissions equal to those from

Homeowners in ENERGY STAR-certified homes can expect to save about \$200-to-\$400 annually on their utility bills.

more than 350 million vehicles with help from ENERGY STAR, officials said.

Goals

The goals and objectives of the ENERGY STAR program are implemented throughout every phase of the design and construction of ENERGY STAR Homes built by AVR, which include high-efficiency features that conventionally built homes don’t have. The home’s exterior shell is made as airtight as possible using advanced framing techniques, and a combination of spray foam, rigid and batt insulation. Energy-efficient windows and doors are installed, along with additional caulking and sealing of all the joints and seams. Each ENERGY STAR Home built by AVR features high-efficiency heating and cooling systems with their own fresh air supply from the exterior, which makes a more efficient and healthier home, according to officials.

Other important features, officials added, that are included in ENERGY STAR Homes built by AVR are whisper green bathroom fans in every unit to help the home breathe and ventilate to the outside, and a complete water management system to protect the roof, walls, and foundation from water damage.

The home is completed with the installation of the required ENERGY STAR-certified lighting and appliances.

Officials said that the final and crucial step in building an ENERGY STAR Home is an independent energy inspection conducted by a home energy rater certified by the EPA. When a home passes inspection, the results are printed on a familiar blue ENERGY STAR sticker that is presented to each homeowner.

AVR was recognized by the EPA for working with a “Home Energy Rater” to provide tech-

nical training for construction staff and subcontractors to ensure that its staff understands ENERGY STAR construction methods and quality controls, company officials said.

Earning Praise

The EPA also lauded AVR’s efforts in ensuring that its sales staff is well trained and fully versed on ENERGY STAR-certified homes. AVR sales personnel are trained to conduct hardhat tours of home models and to be able to point out the benefits of ENERGY STAR certified homes throughout the building process, according to company spokesmen.

AVR Homebuilders, which is a division of AVR Realty Company, LLC, currently has six ac-

tive home development properties, all of which are in the greater New York metropolitan area and will be built to ENERGY STAR standards. In addition to Hudson Landing, the communities include:

- Overlook Pointe, featuring a total of 263 condominiums and townhomes on the Hudson River waterfront in West Fishkill.
- Valeria, a planned 147-unit townhome community in Cortlandt Manor.
- Powell Cove Estates, a 202-unit condominium development being built on the East River waterfront in North College Point, Queens.
- The Meadows at Yaphank, a mixed-use master planned sustainable community with 850 residential units on 300 acres on Long Island that will include a mix of residential, retail, office/flex space and restaurants, as well as a hotel.
- Southampton Meadow Estates, a planned community of 48-single family homes on 52 acres in Southampton.

For more than 45 years, AVR Realty has built a reputation for identifying intrinsic real estate value in a wide range of properties. To date, AVR has built, acquired, and developed more than 30 million square feet of commercial and residential space. AVR’s portfolio includes office complexes, shopping centers, corporate and industrial properties, apartment complexes, residential communities and hotels, company officials said.

Guiding Eyes Partners with Divney Tung Schwalbe on White Plains Training Center Renovation/Landscaping

WHITE PLAINS—Guiding Eyes for the Blind recently partnered with Divney Tung Schwalbe (DTS) in a project to completely renovate and enhance the exterior landscape of the school’s White Plains Training Center.

The firm’s staff and partners contributed the design plans, plants and shrubs, as well as the muscle to create an inviting and welcoming entrance to the center, officials recently announced.

On a picture-perfect day in May, the DTS team worked tirelessly to complete the project.

At day’s end, Kevin J. Plunkett, Westchester County’s deputy county executive, presented the company with an official certificate acknowledging the firm’s contribution.

Sue Dishart, Guiding Eyes vice president of marketing and development, said: “We are so proud of the work we do at Guiding Eyes. Thanks to the tremendous support from Divney Tung Schwalbe, we can now also be proud of this building and its beautiful landscape. They have truly made a difference for our

clients and staff.”

Officials said that the finished lawn and flower beds contain a mix of flowering trees, deciduous and evergreen shrubs, perennials, and evergreen groundcovers to create both a visually stunning garden for pedestrians walking by, as well as a multi-sensory experience for Guiding Eyes blind clients who enter and exit the Center almost daily.

The partnership with DTS was a natural fit, project officials said. Founded in 1972, DTS is

a team of land use professionals who help clients envision and achieve successful and responsible development projects. The DTS staff includes land planners, engineers, landscape architects and engineering technology professionals with considerable experience in conceiving and implementing intelligent land use solutions for development projects, officials added.

Guiding Eyes for the Blind is an internationally-accredited, nonprofit guide dog school founded in 1954 to enrich the

lives of blind and visually impaired men and women by providing them with greater independence, dignity and expanded horizons of opportunity through the ability to travel safely. It is one of the foremost guide dog schools in the world, graduating more than 7,500 guide dog teams, officials said.

In addition to its Training Center on Grand Street in White Plains, Guiding Eyes for the Blind’s headquarters is in Yorktown Heights, with additional facilities in Patterson (N.Y.).





By Andrea Wagner
Wagner Web Designs, Inc.

TECH TALK

Questions and Answers for the “Non-Techy’s” Among Us

YORKTOWN HEIGHTS—I get a lot of inquiries from prospective clients wanting to understand the constant barrage of technology thrown at them.

If the media frenzy regarding websites and social media leave you feeling like you cannot get ahead without spending

a free site and see if you are comfortable with it before you link it to your site. Use wordpress.com, bravenet.com or blogger.com.

Can you get me to the top of Google? How does Google rank me? Those questions irk me. That is like asking, how do you make a million dollars? What search words do you want to come up high with? Do you want a paid position (pay per click) or

products without you.

Okay, so how much do I need to spend? I told you I have no money! You do not have to start with a professional designer to launch. Create a FREE or really inexpensive website using ready-made templates at DoolID.com, Intuit, Weebly.com or Godaddy’s Website Tonight. Set up FREE profiles on LinkedIn, Merchant Circle, Yelp and Manta.com. You can use Fa-

cebook as a launching pad, as well. If you use Facebook, keep it professional - do not use it for personal pictures of grandma’s birthday, as well as your landscaping business. You can also use a cheap online business card (and logo designer) such as VistaPrint.

How can I SELL online without spending a fortune in startup costs? Use an existing online store. Etsy.com is an online market-

place for handmade and vintage goods. Use Ebay and Overstock.com to sell almost anything.

Editor’s Note: Andrea Wagner has been creating websites for small business for over 14 years. Contact her for design, redesign, updates for your site, SEO or to discuss creating a Social Media Campaign for your business. Her web address is www.wagnerwebdesigns.com.

...in today’s business market having a website is the modern equivalent of a listing in the phone book.

a fortune, that your business will slip away into web oblivion, never to be found amongst the millions (a billion now?) of webpages on the Internet, then this column is for you.

Below are the most common questions and answers that any non-techy can understand. No need to stand there at your next networking meeting with that glazed look in your eyes!

I have a good website. Do I still need to have a blog and use Twitter and Facebook? The answer is, quite simply, no. All the marketing geniuses out there are probably shaking their heads at me right now, but if you do not have the time nor inclination to engage at least a few times a week, and offer some interesting commentary, leave it alone. It is far worse to have a link from your website to your blog or Facebook page with nothing there. You should update your site with dynamic info on a regular basis and keep your customers coming back there. Same with twitter. If you do want to blog, start with

an organic listing? If it’s not a niche phrase, don’t expect to get close to the top, especially if you have a brand new site, a site that is not optimized, or a plan on marketing your site. Before asking your web designer or SEO consultant to spend an hour or more educating you, GOOGLE this info. It is FREE. You can then educate yourself enough to give your web designer specific and realistic goals to optimize your site for a decent chance at a higher ranking.

I have a startup business; do I really NEED a website? Can you help me but I have no money. I can help you out of my office door! Seriously, in today’s business market having a website is the modern equivalent of a listing in the phone book. A business card gives contact information but nothing more. When people get a referral to a business, the first thing they do is look online for basic information. Your website will help you sell your ideas, services and

Mack-Cali Announces Its Annual Meeting Results

EDISON, N.J.—Mack-Cali Realty Corporation recently announced the voting results of its Annual Meeting of Stockholders.

The meeting was on June 5 at the Hyatt Regency Jersey City on the Hudson, in Jersey City.

Stockholders elected Mitchell E. Hersh, Alan S. Bernikow and Irvin D. Reid, all three directors who were nominated for election, to the company’s Board of Directors. Each will serve a three-year term.

Stockholders approved, on

a non-binding advisory basis, the compensation of the company’s executive officers as described in the firm’s proxy statement for the 2012 Annual Meeting, officials said.

Stockholders also ratified the re-appointment of PricewaterhouseCoopers LLP as the company’s independent registered public accounting firm for the fiscal year ending Dec. 31, 2012.

Mack-Cali Realty Corporation is a fully integrated, self-administered, self-managed real estate investment trust (REIT). The company provides man-

agement, leasing, development, construction and other tenant-related services for its Class A Real Estate Portfolio, officials said.

Spokesmen added that Mack-Cali owns, or has interests in, 277 properties. Those properties are primarily office and office/flex buildings in the Northeast totaling approximately 32.2 million square feet. The properties enable the company to provide a full complement of real estate opportunities to its diverse base of more than 2,000 tenants, officials said.

Courts Continue to Uphold Business Judgment Rule On Subletting Routines and On Additional Key Issues

Continued from page 5 the reasonableness of a cooperative board’s decision, but that rule is “is not an insuperable barrier,” *Barbour v. Knecht*, 296 A.D.2d 218, 224 (1st Dept 2002), as further judicial scrutiny is triggered in instances of breach of fiduciary duty, as evidenced by fraud, self-dealing, unlawful discrimination, bad faith or other misconduct by the Board, see *40 West 67th Street Corp v. Pullman*, supra at 155–157; *Perlinder v. Board of Managers of 411 East 53rd Street Condominium*, 65 AD3d 985 (1st Dept 2009); *Pelton v. 77 Park Avenue Condominium*, supra at 8–9; *DeSoignies v. Cornasesk House Tenants’ Corp*, 21 AD3d 715, 718 (1st Dept 2005).

Cannings v. E. Midtown Plaza Hous. Co., Inc., 33 Misc.

3d 1216(A), 941 N.Y.S.2d 536 (Sup. Ct. 2011)

A Strong Ally

The business judgment rule continues to be a powerful ally of cooperative and condominium boards in rendering policy and other decisions on behalf of their shareholders and unit owners. However, consideration must always be given to the statutory requirements as demonstrated in *Bregman v. 111 Tenants Corp.*, 943 N.Y.S.2d 100 (App. Div. 2012).

Editor’s Note: The authors are attorneys with Finger and Finger, A Professional Corporation. The firm, based in White Plains, serves as Chief Counsel to the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).

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Provident Bank Establishes Business Banking Team in Westchester

MONTEBELLO—Provident Bank, a subsidiary of Provident New York Bancorp, recently announced that it has hired Robert J. Torra to lead its newly established Business Banking Team in Westchester County.

Torra joins the firm as Senior Managing Director, Business Banking. He will be responsible for leading the team to build and cultivate business banking relationships. Business banking clients typically have between \$500,000 and \$5 million in annual sales.

Provident Bank entered Westchester County in 2007 and has focused its business on the commercial banking segment.

“We saw a significant gap in the banking service available to the commercial client that Prov-

ident Bank is particularly suited to serve,” said Carl Capuano, senior vice president, commercial and business banking market leader. “Now that we have been in this market for several years, we are prepared to provide this same level of service to business banking clients. Robert was the perfect choice to lead this effort.”

Torra has more than 20 years of experience in banking. He most recently served as Vice President, Director of Professional Banking for Fairfield County Bank, where he was responsible for creating and implementing the Professional Banking Platform which was structured to meet the unique needs of attorneys, physicians, and CPAs. Prior to Fairfield County Bank, Torra served Citigroup for 10 years as Group

Vice President and Area Manager for Commercial Banking.

“Westchester County is an important growth market for us and we are pleased to have Robert Torra join us to lead our Business Banking team,” said Jim Peoples, central market president for Provident Bank.

Headquartered in Montebello, Provident Bank - with \$3.2 billion in assets - specializes in the delivery of service and solutions to business owners, their families and consumers in communities within the greater New York City marketplace through teams of dedicated and experienced relationship managers. The franchise includes 36 Financial Centers. The bank offers a complete line of commercial, business, and consumer banking products and services, officials said.

Bryan J. Houlihan Joins Houlihan-Parnes Realtors

WHITE PLAINS—Bryan J. Houlihan, son of James J. Houlihan, has joined Houlihan-Parnes Realtors, LLC as a Junior Associate, company officials recently announced.

Bryan J. Houlihan is part of the fifth generation of Houlihan-Parnes Realtors to join the multi-faceted real estate business founded by their great-great-grandfather in 1891.

Houlihan graduated from Fairfield University in 2010 with a Liberal Arts Degree. He majored in English. He has previously worked for Cirillo World, a Sports Marketing and Public Relations Firm; DiBella Promo-

tions, a leading boxing promoter; and the Fordham University Athletic Department.

Houlihan will work on various projects in his new role at Houlihan-Parnes Realtors, company officials said.

Houlihan-Parnes Realtors is a multi-faceted real estate investment company headquartered in White Plains. Founded in 1891, its companies and affiliates are engaged in the acquisition and ownership of all types of commercial real estate investment property in the continental U.S. Its various companies and affiliates specialize in commercial mortgage finance,



Bryan J. Houlihan

investment sales, property management, leasing, mortgage servicing and consulting, officials added.

Goldschmidt & Associates Brokers Local Lease

SCARSDALE—Eric S. Goldschmidt, senior partner of Goldschmidt & Associates, recently announced that 3,209 square feet has been leased on the second floor of Two Overhill Road in Scarsdale.

Prima Capital has expanded within the building and Drs. Ira and Marilyn Sutton have relocated to Two Overhill Road from New Rochelle. Representing the Suttons was Alan Zuckerman of Alan Zuckerman

Real Estate. Goldschmidt is the exclusive leasing agent for Two Overhill Road.

Goldschmidt said that interest in the building has increased dramatically since late 2011. He added that he expects the building to be near 100 percent occupancy by the third quarter of this year.

“The location and building amenities cannot be duplicated,” Goldschmidt said. “Two blocks from the train station,

four blocks from the Bronx River Parkway, across from the Bee Line Bus, indoor valet garage parking, Monday-Saturday business hours, and medically zoned are only a few of the many features of Two Overhill.”

Goldschmidt & Associates specializes in the leasing and sales of commercial, retail and industrial properties in the New York metro area, company officials said.

Houlihan-Parnes Announces Metro Area Deals

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433 Mamaroneck Avenue in Mamaroneck. The property consists of a one-story brick retail building encompassing five retail stores. The building is 100 percent occupied by local retail tenants. It is approximately 7,200 square feet in size. The sale price was \$3,400,000, with the property purchased by a local real estate investor.

• That Houlihan Parnes Realtors has arranged a new first mortgage on the property at 30-32 East 38th Street

in New York. The facility is a six-story elevator apartment building between Park Avenue and Madison Avenue in the Murray Hill section of Manhattan. The 10-year, non-recourse loan of \$3,850,000 has a fixed interest rate of 3.55 percent for five years, with the first two years, interest only. Sheldon Stahl and Fred Stahl of Houlihan Parnes Realtors arranged the loan on behalf of an affiliated entity and CLK Properties.

Houlihan-Parnes Realtors is a multi-faceted real estate investment company headquartered in White Plains. Founded in 1891, its companies and affiliates are engaged in the acquisition and ownership of all types of commercial real estate investment property in the continental U.S. Houlihan-Parnes Realtors and its affiliates specialize in commercial mortgage finance, investment sales, property management, leasing, mortgage servicing and consulting, officials said.

Milio Realty Assumes Management of 140-Unit Complex in the Bronx

NEW YORK—Milio Realty Corp. recently announced that it has assumed management of a 140-unit elevator building in the Bronx.

“Our company has successfully owned and managed real estate in Westchester and Dutchess Counties, New York City and Connecticut for over 30 years - with this experience behind us, I am confident that our team will successfully improve the financial and physical quality of the building,” said Carmelo Milio, president of Milio Realty Corp.

A leading real estate management and investment brokerage company, Milio Realty thrives on a unique combination of ability, knowledge and hands-on experience, company officials said. Officials added that, by implementing these techniques, the company has perfected the ability to maximize income and lower expenses, while providing high-quality service.

Milio Realty is licensed in New York and Connecticut. The company specializes in managing commercial properties, such as apartment buildings, condominium complexes and retail stores. All management, from accounting and billing to repairs and capital improvements, is done in-house, providing an edge over conventional management firms, officials said.

Carmelo Milio is active in the local real estate sector. He is the chairman of The Apartment Owners Advisory Council of Westchester and the Mid-Hudson Region (AOAC), an organization representing more than 300 owners and managers of rental apartment buildings. He is also a board member of the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI), an affiliate organization of the AOAC. Milio has served on committees of both associations.

Houlihan-Parnes Reports Local Transaction

WHITE PLAINS—Houlihan-Parnes Realtors, LLC recently announced the placement of a \$4,000,000 first mortgage on the 62,000 square foot Greenburgh Shopping Center at 77-97 Knollwood Road in Greenburgh.

The 5-year, non-recourse loan has a fixed rate of 4.50 percent with a 30-year amortization schedule. The loan, closed with a local bank, is pre-payable throughout the term on a declining scale. The borrower has an option to extend the loan for an additional five years, according to officials from Houlihan Parnes Realtors.

The borrower was represented in the transaction by Elizabeth Smith of Goldberg Weprin Finkel Goldstein LLP. Title was provided by Jim Maloney of Chicago Title, officials said.

Houlihan-Parnes Realtors is a multi-faceted real estate investment company. The firm is headquartered in White Plains. Founded in 1891, the company and its affiliates are engaged in the acquisition and ownership of all types of commercial real estate investment property in the continental U.S., officials said.

The company's mortgage brokerage affiliate, Q10 | New York Realty Advisors, is a member of Q10 Capital, LLC, a leading commercial mortgage banking and investment sales company with 26 offices in 20 states nationwide, spokesmen added.

Company officials said that Houlihan-Parnes and its affiliates specialize in commercial mortgage finance, investment sales, property management, leasing, mortgage servicing and consulting.

Provident Bank Expands Lending Support Team

MONTEBELLO—Provident Bank, a subsidiary of Provident New York Bancorp, recently announced that it has appointed Denice Aloï-McConnell as Market Credit Executive.

Aloï-McConnell will be responsible for working with business and commercial bankers on lending solutions for their clients. In addition to structuring and approving commercial transactions, she will also work with the Chief Credit Officer in developing analytics and systems to better evaluate risks within the various loan portfolios, officials said.

Aloï-McConnell is a career banker with more than 30 years of experience. Her most recent industry experience includes Sterling National Bank, where she served as First Vice President and Department Head for Credit Risk Administration. She has also held positions in Commercial Middle Market Banking, Commercial Real Estate and Small Business Lending.

“Denice brings a breadth of experience in commercial credit, along with a deep understanding of our local market,” said John Oliver, senior vice president and chief credit officer for Provident Bank. “We are very pleased she has joined the Provident Bank team.”

Headquartered in Montebello, Provident Bank - with \$3.2 billion in assets - specializes in the delivery of service and solutions to business owners, their families and consumers in communities within the greater New York City marketplace through teams of dedicated and experienced relationship managers, officials said.

INSURANCE INSIGHTS

By Ken Furst and Jason Schiciano, Levitt-Furst Associates Ltd.



How to Deal With Rising Commercial Premiums

YONKERS—By now, you may have seen an article, received a personal insurance renewal, talked to a competitor contractor, or a board member from another building - it's no secret that insurance premiums, after years of stability, are now on the rise.

If you are a contractor or building owner whose insurance has renewed since Jan. 1, you've likely experienced premium increases. Gone are the days of double-digit percentage premium reductions... if your insurance policy renews at a premium anywhere close to the expiring premium, you're doing well, BUT, depending on your type of business, and/or your claims history, you might find that this year, you'll pay a double-digit percentage in-

crease, despite your broker's best efforts.

A Key List

Here's a list of action steps to help deal with rising commercial insurance premiums:

Be Prepared

Don't ignore the inevitable. Speak to your broker well ahead of your renewal to get an idea of what to expect for your renewal premium... then, budget for it. If you're a contractor bidding a job that will start after your insurance renewal date, make sure to use anticipated new rates, so that you don't get caught as the winning bidder, using insurance rates that no longer apply. If you're a landlord, condo or co-op board member, or property manager, make sure to budget for premi-

um increases.

Make Sure Your Exposures Are Accurate

With insurance rates on the rise, making sure rates are applied to accurate exposures becomes even more important. If you're a contractor, make sure your broker's renewal proposal uses the correct sales revenue and/or payroll information. If you're a building owner, make sure the renewal proposal is based on accurate building replacement costs, business income, and number of units. An over-exposure or under-exposure error can result in artificially high or low premiums, respectively.

Be Proactive About Addressing Claims

If you are a contractor or building owner with a history of poor claims (e.g. injuries, slip-and-falls, fires, water damage, etc.), make sure to provide your broker with information about

what you've done to prevent such claims in the future. Provide documentation of safety/loss prevention programs, video surveillance systems installed, upgraded piping and/or leak detection systems, etc. Your broker can use this information to present your claims in a more positive light to the carrier.

Understand The Relationship Between Coverage and Premium

Buying insurance is like buying a car or truck: you can buy a cheap car or truck with few options that may not meet all of your transportation and hauling needs; you can buy a top-of-the-line car or truck that will meet every transportation/hauling need, even those you may never encounter; or you can buy something in between. Similarly, insurance premiums are largely dictated by the types of coverage the policy provides AND EXCLUDES, and the amount of coverage provided. Know what you are buying. If your broker offers two or more different renew-

al options, make sure you are provided with a detailed comparison, explaining the key differences that may justify premium differences.

Get The Marketing Results

Your broker may explain that your best option is to renew with the existing carrier, despite a premium increase. Given today's insurance market, the incumbent carrier often does provide the most competitive renewal option, since carriers have become much more cautious about underwriting new accounts, and are no longer presenting ultra-aggressive alternate quotes. BUT ask your broker for the marketing results, so that if you have to pay an increased renewal premium, at least you (and the people you represent) will have the peace-of-mind that your insurance is properly placed.

For more information on your insurance renewal, contact your insurance broker or Jason Schiciano at Levitt-Furst Associates, at (914) 457-4223.

Guidelines Board OK's Miniscule Increases of 1.25% and 2.25% for the 2012-2013 Term

Continued from page 3
society officials said.

"We consistently stressed during the process that owners are in a difficult period of cost increases, specifically in property taxes, fuel and water, as well as keeping in compliance with local regulations," said Carmelo Milio, chairman of the AOAC, which represents more than 300 Owners and Managers. Those Owners/Managers are responsible for more than 25,000 units in Westchester County.

Milio added: "We feel greater increases would have definitely been justified. We are perplexed by the decision of the Guidelines Board. The data we presented shows that Owners and Managers are facing clear increases in costs. We do not understand why such low guidelines were issued, when those cost increases are so vividly clear. We asked for fair and reasonable increases, but received nothing along those lines."

Milio cited the efforts of the AOAC's staff in providing economic data to the Guidelines Board. He stressed that the staff worked tirelessly to compile and gather data for the realty industry's presentations to the board.

"Thanks should also be given to the AOAC's members and consultants for their testimony on behalf of the realty industry at the board's Public Hearings," he added.

The Methods for When Heat or Hot Water Are Not Provided

In the event that the Owner or Manager does not provide heat or hot water, the following

increases were approved:

- One-Year Lease Term: 1.0 percent
- Two-Year Lease Term: 1.8 percent

Vacant Apartments

No additional guidelines—other than The Rent Regulation Reform Act Formula of 1997 and the 2011 State Revisions—were adopted for Vacancy Leases. The formula for units vacated between Oct. 1, 2012 and Sep. 30, 2013 is as follows:

In the event of a vacancy, the allowance as stated in the Rent Regulation Reform Act of 1997 is operative. The allowance permits the legal regulated rent for a vacant apartment to be increased by 20 percent for a Two-Year Lease.

For a One-Year Lease, the allowance calls for 20 percent, less the difference between the One and Two-Year Lease Renewal Guidelines. For the 2012-2013 term, the rent increase would be 20 percent (20 percent - 1.0 percent = 19 percent) for a One-Year Lease.

If a unit was occupied eight years or more, an additional increase of 0.6 percent per year is allowed. For example, a unit occupied for 10 years can be increased 26 percent (20 percent, plus .6 percent x 10 years = 26 percent) in the event of a Two-Year Lease.

The guidelines are scheduled to be certified at the board's next meeting in September. The date and location of that meeting will be announced in the weeks ahead, according to officials from the New York Homes and Community Renewal Agency (HCR).

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