

IMPACT

BUILDING & REALTY NEWS

VOL 5 NO 2

SERVING WESTCHESTER AND THE MID-HUDSON REGION

MARCH/APRIL 2006

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Byram Hills, Bedford School Districts would lose big \$\$\$: North Castle Gets Earful From Residents, Property Owners & Builders on Planning/Rezoning Proposals

ARMONK—Since public hearings commenced in January, the Town Board of North Castle has been contending with a small avalanche of studies, critiques and citizen criticism of its rezoning plan and related regulatory changes, as developed by long-time consultant to the town, David Portman.

“At least two-thirds of the audience at each public hearing appeared to have serious questions and misgivings about the effect the town’s proposals would have on the use of their homes and property” noted Albert Annunziata, executive director of the Building & Realty Institute (BRI), a 1500-member construction and real estate-based professional trade association based in North Castle.

The BRI had been approached by at least a dozen private homeowners, property owners and local builders in

Continued on page 3

Public Hearings on the DGEIS and Related Regulations Proposed for North Castle

ARMONK – At its March 23 meeting, the North Castle Town Board closed the public hearing on the DGEIS in connection with the Moratorium Planning and Zoning Study.

The period for written comments will remain open until April 15, 2006. The public hearings on the proposed local laws and amendments to the Town Development Plan map will remain open.

Supervisor Berman emphasized that, in the end, the Town Board may approve all of the local laws, none of them or some of them, and not necessarily in their present form.

The Board plans to schedule public informational sessions to present these laws so that the public will understand them and their implications.

Albert A. Annunziata, executive director of the Building and Realty Institute (BRI), offered Supervisor Berman the resources of the BRI at any public information sessions that the Town Board may hold. At the March 23 meeting, he presented the supervisor and the town board with a copy of the BRI’s 2006 Directory of Professional Speakers and Consultants, for the town to avail itself of the BRI’s various consultants and services on a pro-bono basis.

The next Town Board meeting will be on Tuesday April 11, at 7:30 p.m., at the Town Hall Meeting Room in Armonk.

- An IMPACT Staff Report

AOAC Begins Its Preparations for Guidelines Hearings

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – Representatives of the Apartment Owners Advisory Council (AOAC) are preparing for the realty industry’s testimony on rent guideline increases for rental apartment buildings affected by the Emergency Tenant Protection Act (ETPA).

AOAC officials said last week that the association will soon begin to coordinate the industry’s presentations for the upcoming public hearings and deliberations of the Westchester County Rent Guidelines Board.

The board, at its March 30 meeting, tentatively scheduled the dates of the public hearings and deliberations. The times and locations will be announced, the board said. The dates for the public hearings are:

- June 15 (Mount Vernon).
- June 22 (Yonkers).
- June 28 (White Plains).

The board’s dates for its deliberations (both in White Plains) are:

- June 29
- July 13 (if necessary).

The nine-member board is the entity that annually rules on increases for lease renewals. The board reaches its decision after three public hearings and separate deliberations. The decision will affect rent adjustments for one or two-year leases which begin between October 1, 2006 and September 30, 2007.

The Annual Call to Owners and Managers for Help

AOAC Chairman Ken Nilsen said that the association will once again stress the need for realty industry members to deliver testimony at the public hearings.

“We stress every year that it is extremely important that owners and managers testify on the continuing increases in costs the realty sector is facing,” Nilsen said. “We urge our members to attend and to offer their individual struggles with their day-to-day costs to the guidelines board. We can’t

emphasize it enough – we need the AOAC membership to help us. In turn, that will help us help our members.”

Nilsen added that the AOAC will keep its members updated on all events related to the association’s preparation campaign and the public hearings/deliberations.

Goloven to be Keynote Speaker at Industry Meeting

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – Marc Goloven, a noted economist, will be the keynote speaker at the April 20 General Membership Meeting of the Building and Realty Institute (BRI).

The meeting, scheduled to begin at 6:30 p.m., will be at the Crowne Plaza Hotel in White Plains. The conference will also feature a panel of banking and finance analysts. The state of the economy will be analyzed by all of the speakers. The complete list of panel members will soon be announced, event officials said.

Goloven is recognized as one of the leading economists in the New York Metropolitan area. He is consistently featured in media reports and speaks regularly on economic issues and their effects on the business community.

The meeting is open to all members of the BRI, as well as its component associations, the Apartment Owners Advisory Council (AOAC), the Cooperative and Condominium Advisory Council (CCAC) and the Advisory Council of Managing Agents (ACMA).



Marc Goloven

Non-members are also welcome.

For reservations and further information, call the BRI at (914) 273-0730.

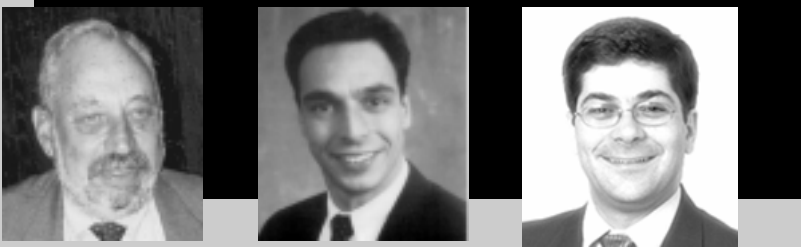
The BRI is a building, realty and construction industry membership organization. The association, based in Armonk, has more than 1,500 members in 14 counties of New York. The BRI is marking its 60th anniversary this year.

Unsold Shares – The Law Reversed...and New Problems

COUNSELS' CORNER:

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

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



“...We suspect that each new decision will bring a myriad of new problems, particularly in a day and age when the Attorney General's office is not very proactive in this field on behalf of Cooperatives.”

WHITE PLAINS - Previously, your authors have written about being a Holder of Unsold Shares.

Many cooperative boards have been frustrated by the benefits accorded a “holder of unsold shares.” For the uninitiated a “holder of unsold shares” is generally a successor to the Sponsor of a Cooperative and can inherit the benefits accorded a sponsor, i.e., the right to lease or sell an apartment without having to obtain the permission of the Board of Directors.

Over the years, many cases, such as *Gorbatov v Gardens 75th St. Owners Corp.*, 247 A.D.2d 440 (2d Dept 1998) were cited in support of the proposition that certain shareholders were not holders, regardless of their claimed rights under the cooperative's governing documents, unless they also complied with regulations promulgated by the Attorney General under article 23-A of the General Business Law (the “Martin Act”) and codified at 13 NYCRR Part 18.

The courts also generally held that the normal provision in a Proprietary Lease that a person remains a holder until he/she actually purchases an apartment for personal occupancy was limited. The courts determined that, contrary to the purported “holder of unsold shares” contentions, they were not holders merely by virtue of their compliance with section 38(a) of the proprietary lease. “[Such a provision, alone, ‘does not create rights ... it

merely extinguishes them ‘ “ (id. [quoting *Craig v. Riverview E. Owners*, 156 A.D.2d 157, 158 (1st Dept 1989)]).

A Memorandum by the office of the Attorney General in 1987 succinctly encapsulated all of the requirements to be a “holder of unsold shares” and Assistant Attorney General DeStephan's memo was repeatedly quoted approvingly by the Supreme and Appellate courts. The cases were legion and virtually universally followed over past years, although rarely, if ever, was the issue squarely put before New York's highest court, the Court of Appeals.

Cooperatives were feeling more comfortable with the Levandusky, Pullman and London Terrace cases giving the Boards of Directors more freedom to act without judicial interference so long as they acted in their “business judgment.”

Those who could not prove that they had complied with the requirements of Part 18, to be a “holder of unsold shares” , in short, designation by a “sponsor,” guaranty of maintenance by the sponsor, registration as a broker-dealer, among others, were treated as ordinary shareholders and could not utilize the special exemption from Board approval.

Trouble

Then, last June, for the majority of cooperative boards, disaster!

In the case of *Kralik v. 239 E. 79th St. Owners Corp.*, 5

N.Y.3d 54, 59, 799 N.Y.S.2d 433, 832 N.E.2d 707, the Court of Appeals virtually reversed 15-plus years of precedent. In a sweeping decision, the Court, as quoted by a later case, stated that:

“Contrary to the ... [Cooperative's] contention, the regulations promulgated by the Attorney General to govern the conduct of holders of unsold shares of residential cooperative corporations (see 13 NYCRR part 18) are inapplicable to the plaintiff [purported “holder of unsold shares”] “unless and until [he] offer [s][the] shares for sale to the public, and, in that event, only the Attorney General may enforce Part 18's requirements”(Kralik v. 239 E. 79th St. Owners Corp., 5 N.Y.3d 54, 59, 799 N.Y.S.2d 433, 832 N.E.2d 707).

Thus, a determination as to whether the plaintiff is a holder of unsold shares should be made “solely by applying ordinary contract principles to interpret the terms of the documents defining [his] contractual relationship with the cooperative corporation” (Kralik v. 239 E. 79th St. Owners Corp., supra at 54, 799 N.Y.S.2d 433, 832 N.E.2d 707), including the relevant offering plan, amendments to the plan, and the proprietary lease (see *Riggin v. Balfour Owners Corp.*, 137 A.D.2d 799, 525 N.Y.S.2d 347).

Where, as here, there is nothing in the record to indicate that the plaintiff offered the shares in dispute to the public, or intended to offer them for sale, the defendant may not condition the plaintiff's status as a holder of unsold shares on his compliance with the provisions of 13 NYCRR part 18 (see *Kralik v. 239 E. 79th St. Owners Corp.*, supra).

The language of the relevant offering plan, plan amendments, and proprietary lease established the plaintiff's entitlement to judgment as a matter of law on the cause of action for a declaration that he is a holder of unsold shares, and thus exempt from sublet fees and the need to obtain prior sublet approval from the defendant's board of directors. The defendant raised no triable issue of fact in opposition.

Additional Facts

In addition, there is no merit to the defendant's contention that Business Corporation Law §501(c) prohibits an offering plan or proprietary lease from exempting a holder of unsold shares from sublet fees or board-approval requirements applicable to other sharehold-

ers (see *Susser v. 200 E. 36th Owners Corp.*, 262 A.D.2d 197, 198, 692 N.Y.S.2d 334; *Mogulescu v. 255 W. 98th St. Owners Corp.*, 135 A.D.2d 32, 523 N.Y.S.2d 801; 1326 Apt. Corp. v. *Barbosa*, 147 Misc.2d 264, 268, 555 N.Y.S.2d 560).

Nor did the plaintiff breach any obligation to the defendant by failing to sell the disputed shares to a bona fide purchaser for occupancy within any given time frame (cf. 511 W. 232nd Owners Corp. v. *Jennifer Realty Co.*, 98 N.Y.2d 144, 746 N.Y.S.2d 131, 773 N.E.2d 496; *West Gate House, Inc. v. 860-870 Realty, LLC*, 7 A.D.3d 412, 776 N.Y.S.2d 482).

Thus, in one fell swoop, the Court of Appeals stated (upon the Attorney General's request in its “amicus” brief in *Kralik*), that only the Attorney General had the authority to question the status of a holder of unsold shares, and that regardless of whether or not a shareholder was “designated,” or there was a “guaranty of maintenance” or whether or not the shareholder was set forth in an amendment as a “holder of unsold shares”, or registered as a “broker-dealer” was not to be raised by the Cooperative.

Thus, a literal reading of the decision might lead one to believe that a Cooperative might not even be able to raise this defense when brought to litigation by an alleged “holder of unsold shares.”

A Series of Unanswered Questions

Your authors believe that cases that follow will not be as strictly construed and will allow leeway by a Board of Directors in appropriate cases, such as set forth below. There are, as always, questions left unanswered.

Query: In order to be a “holder of unsold shares” and have the status interpreted by ordinary contract principles, is there a requirement that the alleged “holder of unsold shares” have purchased directly from the sponsor?

We think this is a reasonable interpretation of the Court's decision since to apply “ordinary contract principles” you have to have a contract be-

tween the Sponsor and the “Holder of Unsold Shares.”

Query: What about when a lender takes back shares? Is this a sale to the public?

Query: Can a person “self-designate” as a holder of unsold shares and then deny the Cooperative's ability to challenge that designation. We think a cooperative will apply the business judgment rule and it will be up to the court to reconcile.

Query: Is a sale exempt from *Kralik*?

It would appear from the strict language of *Kralik* as well as later cases that one could reasonably make this argument and that *Kralik* only applies in sublease situations.

Query: Is an offer from one or two people an offering to the “public” thereby rendering *Kralik* inapplicable?

Answers on the Way

We should have the answer to some of these questions shortly as there are several cases, including two from our office, working their way through the system. But we suspect that each new decision will bring a myriad of new problems, particularly in a day and age when the Attorney General's office is not very proactive in this field on behalf of Cooperatives.

As the cases develop, it will be of interest to note whether or not the Courts expand on the decision of the Court of Appeals, thereby further limiting the ability of a Board of Directors in this one area to exercise its business judgment or whether there will be a loosening of the constraints so as to give full meaning to the Attorney General's regulations and the New York State Code which provided valuable guidance for determination of when a person is or is not a “holder of unsold shares.”

Stay tuned!

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

IMPACT BUILDING & REALTY NEWS

Publisher: ALBERT ANNUNZIATA
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Editorial Assistants: SSUE PINTO, JANE GILL,
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Advertising Consultant: HARRIET K. LERNER
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Production: MEADOW ART & DESIGN, FAIR LAWN, N.J.

Published By The Builders Institute/Building and Realty Institute.
Subscription, \$20 Per Year, Included In Membership Dues.
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Entered As Periodical Matter At
Post Office, White Plains, NY 10610
USPS 259-900

IMPACT (USPS 259-900) Is Published Monthly For \$20 Per Year By The Builders Institute/Building and Realty Institute, 80 Business Park Drive, Suite 309, Armonk, NY, 10504.
Periodicals Postage Pending At Armonk, NY.
POSTMASTER: Send Address Changes To IMPACT, 80 Business Park Drive, Suite 309, Armonk, NY 10504.

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Industry Firm Helps to Create a Happy Ending for a Local Business

THE HANLEY REPORT

By Jeff Hanley
IMPACT Editor/
Associate Director,
Building and Realty Institute (BRI)



WHITE PLAINS – Every so often, a “feel-good” story jumps out at an editor that just screams to be told.

An example of that scenario, involving a member of the local building and realty industry and a popular business, recently occurred here in Westchester County.

The tale involves Bob Hyland's Sports Page Pub in White Plains, one of Westchester's most-loved sports restaurants and bars.

The Sports Page, as longtime fans of the facility refer to it, is a longtime traditional meeting place for local sports fans. Members of the print media have also patronized the facility over the years.

The story also involves Prudential Rand Realty, a longtime member of the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).

According to the Commercial Division of Prudential Rand, an expiring lease for the Sports Page at its current Mamaroneck Avenue location presented a big problem for the facility.

But, according to spokesmen for Prudential Rand, a recent, last-minute move guaranteed that the Sports Page will stay in White Plains.

In a recent announcement, Prudential Rand said that the restaurant will soon move from its current location to downtown White Plains. The new site of the facility will be at 200 Hamilton Avenue in the White Plains Mall. The move, according to spokesmen from the restaurant, may come as early as May.

Prudential Rand officials credited Ann Silver, a representative of the firm's Commercial Division, for her efforts in what they described as an “unusual transaction in quarterbacking the deal.”

“The owners of Michael's V Restaurant and Sports Café owned three locations and wanted to sell their business in White Plains at a time when I happened to know that Bob Hyland (a former National Football League (NFL) performer) was looking for space,” she said. “They were a natural fit for each other and I brought the two sides together.”

An Uncommon Episode

Silver said that the transaction was unusual for a real estate broker, because it involved the sale of a company with a valuable lease and was not a standard tenant-landlord deal or property sale. Hyland had planned to lease space again, Silver said, and was surprised by the suggestion to buy a one-

time rival.

“In many ways it was a real estate transaction masquerading as a business purchase,” said Silver. “We had to think outside the box. Bob Hyland bought Michael's Sports Bar, but what he really bought was the lease. I don't know if a traditional business broker would have recognized the value of Michael's lease, which runs another 16 years at very favorable terms, but the Prudential Rand Commercial Real Estate Division did. That's the difference.”

Prudential Rand spokesmen stressed that Westchester's commercial real estate brokers have been forced to become more creative, since the county's tight retail-space market means that there are only a few good locations for restaurants that are available for lease.

The result is that retail-space brokers often chase “word-of-mouth tips” and find themselves playing business-sale matchmaker, or advisors, for clients like Bob Hyland and Michael's, the spokesmen added.

“The retail-space market is very tight in White Plains and the rest of Westchester County, especially for restaurants,” said Silver. “You have to be alert for opportunities such as businesses for sale in good locations or residential properties that can be converted into restaurants.”

An Ideal Solution

For Bob Hyland, moving to Michael's former location was a perfect solution to a difficult situation, Prudential Rand said.

Hyland's lease for the Sports Page's longtime location on Mamaroneck Avenue was due to expire this spring. Finding another location was proving difficult. Hyland said he leapt at the opportunity to buy Michael's, Prudential Rand stressed.

“Ann truly facilitated the whole transaction,” said Hyland, who played for the New York Giants, Green Bay Packers, Chicago Bears and New England Patriots. “Ann grabbed the baton and ran with it, she made it happen. Downtown White Plains needs this type of a bar and this is a great location. Sports are a common denominator and this is a great atmosphere for co-workers and for friends to come together.”

Prudential Rand emphasized that The Sports Page's new location is surrounded by offices and apartments, and is just a few blocks from the train station. Pedestrian traffic in the area means the restaurant will benefit from walk-in customers

for the first time, Hyland said.

Hyland added that the Mamaroneck Avenue location was in a residential area that most customers reached by car.

“The new location will attract a lot more walk-ins and lunch guests than the old one did,” he said. “It's also near the Trump-Cappelli revitalization project, which will bring hundreds of

new residents and office workers to the neighborhood. It's a great, up-and-coming location. I'm glad Ann brought the opportunity to my attention.”

Prudential Rand spokesmen added that The Sports Page's new space is 6,600 square feet, about the size of the old location. The space has seating for 210 guests.

All things considered, the

overall tale definitely produced a “win-win” scenario for all of those who are involved and affected. The result is most definitely the proverbial “feel-good” story, similar to when your favorite team finally seals a hard-fought victory. Credit Prudential Rand's Commercial Division, as they say in baseball when a relief pitcher clinches a win, with “The Save.”



EXAMINING THE AFFORDABLE HOUSING ISSUE – Conditions affecting the development of affordable housing in the Westchester and Mid-Hudson Region were examined at the March 9 General Membership Meeting of the Building and Realty Institute (BRI). Panel members pictured at the meeting are, from left to right, Ken Kearney, developer; Rose Noonan, Housing Action Council; Nancy Bensal, Housing Action Council; Bill Balter, BRI board member; and Richard Hyman, noted planner and program moderator. More than 85 BRI members attended the meeting at the Crowne Plaza Hotel in White Plains.

REPRESENTING THE INDUSTRY – Representatives of the Building and Realty Institute (BRI) have recently voiced the concerns of the building and realty industry over proposed regulations affecting property owners in the Town of North Castle. The regulations, BRI officials have stressed, are filled with negatives for property owners and the industry. Pictured at the town board's March 8 public hearing at the Crittenden Middle School is Ed Lashins, a past BRI president. Lashins was one of the BRI officials who testified at the event. A full report begins on page one.



Town of North Castle Gets Earful on Planning and Rezoning Proposals

Continued from page 1

the town for help in analyzing the complicated tangle of proposed regulations and rezoning as part of the town's draft generic environmental impact statement (DGEIS). While access to the proposed regulations and the accompanying voluminous documentation was available on the town's website, the challenge to understand it all had to be daunting to most of the citizens in town.

“What the average citizen of North Castle would have to do, would be to somehow find the time and expertise to plow through a couple of hundred pages of planning, zoning and environmental documentation, coupled with voluminous appendices covering some 47 proposed regulations, and then determine what the impact of all this might have on their property,” noted Annunziata.

“Most people, understandably, have neither the time nor expertise to do this, nor the resources. When we were approached by concerned North Castle citizens, we drew on our various consultants' expertises to take a critical look at what North Castle is proposing,” he said.

One of the biggest errors

found thus far in North Castle's proposals was the anticipated fiscal impact on the town's three school districts. BRI consultant Richard Hyman, an expert on the fiscal impact analysis of the impact of development on a community, uncovered the error by the town's planning consultant, David Portman, as he was checking the methodology used by the town.

“The town was touting the benefits of its rezoning proposals by stating that it would mean a savings to the town over time of over \$7 million. But thanks to Mr. Hyman's analysis, the BRI was able to alert the town to the fact that their proposals would actually result in heavy losses to the Byram and Bedford school districts,” noted Annunziata.

Moreover, the Town admitted not only to their mistake, but revised their figures to show the change in future potential tax revenues for the Byram Hills school district alone at being a whopping \$12.7 million. For the Bedford Central school district, the change in potential future tax revenues was a more modest, but nonetheless significant \$1.5 million.

It is not surprising that, once

the monetary justification for the town's rezoning plans and other regulations was invalidated, the town supervisor was quoted in the local newspapers as saying the revelation was ‘devastating’.


Annunziata maintains that the many serious questions and errors raised by ordinary citizens and professionals alike, amounts to a tremendous service to the North Castle Town Board, and all at no cost to the town.

“At each of the public hearings on the town's DGEIS, the BRI and its consultants joined a much larger chorus of North Castle citizens raising legitimate and serious questions about the so-called Portman plan... This is constructive criticism. It is professional criticism that is slave to neither environmental fanaticism nor builder self-interest but based on solid environmental science, technology, engineering, hydrogeology and urban planning.”

The BRI has offered the Town Supervisor and the Town Board its services on a pro-bono basis to continue the public's education on the Portman plan and its ramifications to the taxpayers and property owners of North Castle.

Them Against Us – A Look At the Board/Resident Relationship

CO-OP
CONDO
CORNER
BY HERB ROSE



NEW YORK - Stuart S. owns and occupies a one-bedroom condo on West 70th Street in Manhattan. Richard D. owns and occupies a two bedroom co-op in Northern Westchester. What do they have in common? Both have been given a post-Christmas present of a raise in monthly maintenance, which would have been unheard of in another time. Twenty-five percent for Stuart and 14 percent for Richard. In addition, Richard has a two-year assessment of about 14 percent. Many co-op and condo buildings are instituting the same level of maintenance raises, or are denying reality by not raising monthly charges and flirting with insolvency. Everyone's first reaction is to find someone or something to blame as the guilty party. O.K., whose fault is it? You don't have to look far to find that the major culprits in this mystery

are energy costs (heat, light and mechanical consumption, such as elevators, compactors, etc.). Generally, the cost of these necessities has almost doubled over the last two years. Curiously, Stuart controls and pays for most of his own heat through room units in his apartment, while Richard's heat comes from a central system and is charged to the entire complex. When Stuart opens a window to let out extra heat, he pays for it. When Richard opens a window to let out excess heat, everybody pays the tab. Real Estate Taxes in New York City, as well as in Westchester County, have gone up substantially as a result of the needs of the municipalities for funding. In addition, Westchester localities are collecting an additional tax in the

form of Garbage Collection Fees. Add in the increasing costs of service personnel to run the buildings, and the persistent cost of repairs in 35-year plus buildings, and you have a perfect storm. Stuart is a passive occupant in his condo and, more or less,

most Building Offering Plans and the New York State Corporation Laws. Has Richard, or others of his persuasion, ever read their buildings financial reports? How about checking cash and cash equivalents and comparing this year to last year, as well as unpaid bills and uncollected

ments to employees through management, instead of short-circuiting the process by dealing directly with employees? Board and/or management are human, like everyone else. They make mistakes, but who else is going to do the mundane work of daily operations, as well as make choices and decisions often based on inadequate resources and information? Owners who value their property would be better served by using their efforts to help the management accomplish the endless list of tasks necessary for building operations.

We have met the enemy. The enemy is us! The enemy and us are one and the same. Once we learn to deal with this sameness of identity, we will solve more problems, be more comfortable for less and enhance our property values.


“The enemy and us are one and the same. Once we learn to deal with this sameness of identity, we will solve more problems, be more comfortable for less and enhance our property values.”

accepts the actions (and raises in maintenance) as necessary, with little opposition. Richard, on the other hand, takes the position that everything is the fault of board/management and pursues a course of constant agitation. Foremost in this Don Quixote quest is the support of the “Condo/Co-op Bill of Rights,” specifically the section which calls for timely financial reports. Oddly enough, this documentation is called for in

maintenance? Personalities and individual relationships have a great deal to do with day-to-day business operations and while the constant escalation of maintenance costs is frustrating and disappointing, perhaps the attention and efforts of the Richards of this world should go toward cooperation to soften these problems, instead of opposition. Instead of throwing open the windows in 10-degree weather to vent excess heat and/or “let in fresh air,” how about getting the radiators balanced and adjusted? How about channeling com-

Herb's Hints

- Replace Smoke and Carbon Monoxide Detector Batteries.
 - Replace Flashlight Batteries.
- 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 (CCAC). To reach the CCAC, call (914) 273-0730. To reach Rose, call (212) 244-1840. He can also be reached at hrose47563@aol.com.**



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Interaction Between Co-op/Condo Boards and Residents To Highlight April 24 Conference of Realty Organization

By Jeff Hanley, IMPACT Editor

ARMONK - Relationships between co-op/condo boards and shareholders/unit owners is the topic of the next General Meeting of the Cooperative and Condominium Advisory Council of Westchester and the Mid-Hudson Region (CCAC). The meeting, entitled “Examining the ‘We vs. Them’ Mentality Between Boards and Residents,” is scheduled for April 24, 6:30 p.m., at the Crowne Plaza Hotel in White Plains. “We feel this is a very important meeting for our members,” said Diana Virrill, chair of the CCAC. “That we vs. them mentality arises from time-to-time between boards and residents. It's important to remind all of those in the co-op and condo

community that communication and positive relationships benefit everyone in the co-op and condo structure. We will stress that at the meeting.” Virrill said that full details on the meeting, including the panel, will soon be announced. The CCAC is a realty membership organization that represents more than 400 cooperatives and condominiums throughout the Westchester and Mid-Hudson region. The association, based in Armonk, provides a range of services to its members, including meetings and seminars, mailing services, publications, labor negotiations, education, referrals, lobbying and group insurance.



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Master Development Agreement Unveiled for Yonkers

YONKERS - In what spokesmen said will be one of the largest redevelopment programs in the New York metropolitan area - potentially in excess of \$3 billion in new projects - three prominent developers, Westchester's Louis R. Cappelli, Struever Bros. Eccles & Rouse and Fidelco Realty Group have joined forces to become the "master developer" for extensive portions of the downtown, waterfront and several other areas of Yonkers.

A Master Developer Agreement Document was recently signed by Mayor Phil Amicone at a briefing for the news media held at City Hall, designating a joint venture partnership formed by Cappelli of Valhalla, Struever Bros. Eccles & Rouse of Baltimore and Fidelco Realty Group of New Jersey as the "master developers" for properties in an extensive area stretching from the Saw Mill River Parkway on the east to the Hudson River on the west.

The areas encompassed by the re-development concept plan represent all of the city's central business core, two miles of its industrialized riverfront and large areas along Nepperhan Avenue, Yonkers Avenue and other major downtown streets. A minor league baseball stadium is included in the planning, project spokesmen said.

Mayor Amicone said the agreement to designate the entity - Struever Fidelco Cappelli LLC - as master developer reflects his desire to see a unified and concerted effort made to capitalize on the strong interest in Yonkers for

real estate development, as well as the overall strength of the real estate market in the New York area.

A Major Step

"I recognize that with this approach we are taking a dramatic step," Amicone said, "but the time has come for Yonkers to take advantage of the incredibly strong real estate market and of the tremendous interest in new investment we are seeing in our city. Rather than continuing to try to develop sites on a scattered basis, I believe that having a master developer will create the critical mass needed to get a series of important new projects underway in the immediate future. Beyond this, it gives us a general direction for re-development over the next two decades. The approach is designed to jump start projects that have been stalled and to keep the momentum going for the long-term future."

He continued: "Both Struever and Fidelco are major national development companies with extensive experience in sophisticated urban re-development projects in major markets. They have been working with the city over the last two years to get such projects as the Chicken Island development and the Saw Mill River "Daylighting" project. The addition of Louis Cappelli to the effort brings a potent Westchester-based development force into the city. I am extremely confident that working together the three companies will spearhead a level of new investment and redevelop-

ment that our city needs and deserves. I am very hopeful that the City Council will consider and approve this agreement."

A Well-Known Player

Cappelli, who over the last six years has literally reshaped the downtowns of both New Rochelle and White Plains with major new mixed-use retail, residential and entertainment complexes, has become well-known for his bold ideas and ability to get major new projects built quickly, project officials said.

In the last five years in downtown White Plains, he has \$700 million in new construction either completed or underway. In downtown New Rochelle he has completed or is working on projects valued at \$1 billion.

With regard to Yonkers, Cappelli said: "This is one of the best development opportunities in the entire Metropolitan area. Mayor Amicone is taking a highly creative approach that I believe will result in numerous new projects being undertaken in a short time span. We are confident that we can bring exciting new projects to the table quickly. Our goal is to get several cranes in place and to see Yonkers take its rightful position as one of New York's great cities."

Marc Berson, chairman of Fidelco, based in Millburn, N.J., said his company and Struever Bros. have been planning a number of projects in Yonkers, including a 6,500-seat minor league ballpark and waterfront residences.

"We are pleased to be join-

ing forces with Louis Cappelli and our friends at Struever Bros. in what will be a dynamic partnership that will bring the critical mass that's needed to make Yonkers a leading city for creative new development projects," he said. "We applaud Mayor Amicone for his foresight and leadership in helping to bring our three firms together."

Bill Struever, president and chief executive officer, Struever Bros. Eccles & Rouse, said that "Yonkers has an incredible mix of people, good architectural bones, great topography, and the proximity to the Hudson River. The city is poised to be one of New York's greatest cities in which to live, work and play. With Fidelco and Cappelli, we look forward with great hope for a better and more prosperous Yonkers."

The Details

The mayor stressed that the many new development projects already underway will not be affected by the master developer designation.

"We have many excellent developers working in Yonkers today and we expect that they will continue to do so in the future. The entire approach is to get started on the major projects that the city wants and needs and to stimulate development activity on surrounding sites," he said.

Throughout the areas covered by the master developer plan, there are city-owned and privately owned parcels. Not all properties would be affected in all areas. In cases where new development is sought, the private developers would seek to acquire any necessary privately owned parcels. As a last resort, the City would consider resorting to condemnation proceedings if such an action was deemed appropriate or neces-

sary, project officials said.

The scope of the planned projects, while extensive, will be undertaken in phases.

Phase 1:

- The Gateway District: The initial project includes development of two city blocks including the site known as Chicken Island and the Getty Square municipal parking lot in the heart of downtown, just north of City Hall. SFC envisions building 750,000 square feet of mixed-use retail, entertainment and residential development incorporating the minor league ballpark and up to 800 units of residential housing, along with major retail facilities, movie theaters and possibly a hotel. The Gateway District is seen as stretching east from this area following Yonkers Avenue to Nepperhan Avenue.

- Parcels H & I: These two riverfront redevelopment parcels south of the Yonkers train station have been approved for new residential construction. SFC envisions creating residential buildings, parking that would also serve the existing Scrimshaw House cooperative apartment building and riverfront amenities.

- Larkin Square River Improvement: The much-discussed concept of "daylighting" the Saw Mill River where it passes beneath Larkin Square will be carried out by SFC. The waterway will then become an integral part of the public landscape in this important downtown area. For many years environmental groups, including Scenic Hudson, have called for this to be done.

- Downtown Waterfront Corridor: A large area, including the Shoprite site and about 10 city blocks lying along Hawthorne and Buena Vista

continued on page 8

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Development Study:
Cappelli and Trump Hold “Sneak Preview” of Trump Plaza in New Rochelle

NEW ROCHELLE - Poised to repeat their tremendously successful Trump Tower at City Center in White Plains, Louis R. Cappelli and Donald J. Trump recently hosted a sneak preview of the spectacular residences of Trump Plaza at the condominium tower’s new state-of-the-art sales center.

Cappelli, president and chief executive officer of Cappelli Enterprises, and Trump led invited guests on a red-carpet tour of the Trump Plaza sales center and designer models, program officials said.

The 181-unit, 40-story luxury high-rise Trump Plaza will be the tallest in Westchester, offering commanding views of Long Island Sound, the New York City skyline and Westchester County. The partners unveiled an \$80,000 building model of Trump Plaza and cut the ribbon leading to three, full-scale, decorated model apartments.

“Trump Plaza will be an incredible asset for downtown New Rochelle,” Cappelli told the gathering. “What we accomplished in White Plains with Trump Tower can be replicated here. The cache that Trump Plaza brings will make an indelible impression that positively impacts the quality of available housing.”

“The response to Trump Plaza has been tremendous,” Cappelli said. “The sales center is unrivaled in the region for its sophistication, technology and creative vision. I believe that the public will be thrilled with the luxury residences we’re bringing to market.”

Interest has been building in Trump Plaza since last summer, when protective sidewalk signage along Huguenot Street went up announcing that the sleek, 40-story condominium tower was coming. The tower will feature unsurpassed views, elegant finishes, the exclusive Trump Plaza Health Club and the level of service that is the hallmark of Trump-managed buildings, project spokesmen said.

Trump said: “I’ve created the most sought-after luxury addresses in Manhattan, Miami, Chicago and White Plains. I’m going to do the same thing in New Rochelle. My association with Louis in Westchester has been extremely productive and rewarding, and I look forward to another triumph with Trump Plaza.”

The first Cappelli-Trump partnership resulted in the overwhelmingly successful luxury condominium Trump Tower at City Center in downtown White Plains. Trump Tower sold out in six months and helped propel the downtown White Plains resurgence, officials said.

A Noteworthy Location

“New Rochelle, with its proximity to the magnificent Long Island Sound, is re-emerging as a prime residential location, and the luxury ambience of

Trump Plaza will help boost the resurgence,” Trump said.

“We’ve taken the process of buying a luxury home in a high-rise to a new level,” Cappelli said. “Since it’s impossible to build a model in a high-rise building that’s under construction, we’ve built a one-bedroom and two-bedroom apartment into the Sales Center so that our future residents will get an unparalleled vision of their new homes. Even though there are seven model types up to 2,200 square feet that were not able to be built, buyers will have the opportunity to experience the flow of their new home as they walk through tastefully decorated residences. They’ll see simulated views of the surrounding area, including the Manhattan skyline and the Long Island Sound, that are so real that they will feel as if they’re up in the tower.”

The residences will feature the high-quality finishes and attention to detail that is the hallmarks of Trump residences, project officials said.

Granite countertops, hardwood floors, stainless steel and “floating glass” appliances, designer cabinetry and marble bathrooms are among the features for which his residences are known. Among the services\amenities to be provided to residents will be a 24-hour concierge\doorman, valet parking, indoor swimming pool, full-service health club, business center, children’s playground, roof top garden and a state-of-the-art security system.

The Details

Trump Plaza will rise 435 feet and offer spectacular views of Long Island Sound. A 352,600-square-foot project, Trump Plaza will consist of 141,500 square feet of retail space on two levels at the base, topped with a luxury residential condominium tower of 181 residences: 51 one-bedrooms, 101 two-bedrooms and 29 three-bedroom units. Three different home types – a one-bedroom, a two-bedroom and a two-plus convertible residence – will be offered, according to spokesmen.

Because of its convenient proximity to Manhattan and the many benefits of the Queen City – including the water-oriented recreational playground of the Sound Shore — Trump Plaza is expected to attract a sophisticated clientele, from both Westchester and Manhattan, project officials added.

Cappelli has made a major investment in New Rochelle, making it Westchester’s newest hot destination. He played the lead role in the redevelopment of the downtown when he created New Roc City, a \$250 million mixed-use project that includes entertainment, retail and restaurant venues, as well as a Marriott Hotel and a luxury apartment complex, spokesmen said.

Cappelli’s future plans include the redevelopment of the entire city block opposite Trump Plaza, known as the Lawton Street Urban Renewal District. The effort would involve approximately 800,000 square feet of mixed-use development comprising hotel, office, retail and luxury residential housing uses. The two projects will provide a vital link in creating a defined, interconnected downtown, project officials said.

“New Rochelle is quickly be-

coming Westchester’s newest hot destination, and Trump Plaza is going to be its best address,” Cappelli said.

Construction of Trump Plaza is expected to take 18 months, project officials said.

The Marketing Directors, Inc., of New York is the exclusive selling agent for Trump Plaza.

Headquartered in Valhalla, Cappelli Enterprises Inc. has developed more than 10 million square feet of mixed use, retail, waterfront, residential, of-

fice building, laboratory and parking facilities, including City Center and the Trump Tower at City Center in White Plains, and New Roc City in New Rochelle.

Cappelli has already begun construction of the Renaissance Square hotel-office-residential complex in downtown White Plains and Barger Brook Manor, an active adult condominium community in Yorktown, company officials said.

Brogan Writes an Industry Guide

HARRISON - Judicial Title Insurance Agency of Harrison recently announced that Peter Brogan has written a guide for the real estate industry.

The publication, entitled “Brogan on the Residential Real Estate Contract and New York Title Closings” is scheduled to be released this month.

The book covers the topics of the Residential Contract and New York Title Closings in an informal manner. It is full of practical information and guidelines that can be extremely helpful, even to an experienced attorney or real es-



Peter Brogan

tate professional, and essential for a less experienced one, spokesmen said.

Richard Giliotti, president of Judicial Title, said: “This book has been a labor of love for Peter Brogan. The release of the first edition makes all of us at Judicial Title very proud.”

For further information on obtaining a copy of the guide, visit www.judicialtitle.com.

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Houlihan-Parnes/iCap Reports a Connecticut Transaction

WILTON, Conn. - Houlihan-Parnes/iCap Realty Advisors, LLC recently announced the placement of a \$7,250,000 first mortgage on a 53,000 rentable, square foot office property at 131 Danbury Road in Wilton.

The loan was arranged by Kevin Neuner of Houlihan-Parnes/iCap Realty Advisors. The 10-year loan is fixed at 5.54 percent, with two years of interest-only payments, and then a 30- year amortization schedule.

The multi-tenanted property, owned and managed by GHP Office Realty and affiliates, is currently 100 percent occupied. The non-recourse loan was placed without a lender fee. The borrower's attorney in

the transaction was Delbello, Donnellan, Weingarten, Tartaglia, Wise & Wiederkehr. Title was provided through Chicago Title.

Houlihan-Parnes/iCap Realty Advisors is a nationally affiliated, multi-faceted real estate investment company headquartered in White Plains, N.Y. Its companies and affiliates are engaged in the acquisition and ownership of all types of commercial real estate investment property in the continental United States. Its various companies and affiliates specialize in commercial mortgage finance, investment sales, property management, leasing and mortgage servicing, officials said.

Master Development Agreement Unveiled for Yonkers

Continued from page 6

avenues, is envisioned for new development on selected sites.

- **Alexander Street Area:** New waterfront residential buildings are envisioned for the old industrial properties north of the train station between the Hudson River and the Metro North tracks. This will be a signature building surrounded by open space.
- **Post Office Square Area:** Mixed-use redevelopment including commuter parking, office, residential and retail space is envisioned for this area between Main Street and Larkin Plaza.

Phase 3:

- **Ludlow Transit Village:** SFC envisions creating a mix of residential and retail uses in the area adjacent to and nearby Metro North's Ludlow Station. This area could include the sugar refinery area adjacent to the river should that property ever go out of industrial use. The existing Ludlow Park residential neighborhood on the hill above this area would not be affected.
- **Nepperhan Valley Area:** A mixed use of residential, retail and office uses are envisioned

for the area following the Nepperhan Avenue (Route 9A) corridor stretching from the Saw Mill Parkway overpass south to Yonkers Avenue. Here it would tie into redevelopment envisioned along the Yonkers Avenue corridor as it runs west toward Getty Square.

The Aim

Mayor Amicone said that the goal of the planning concept is to incorporate and coordinate re-development along the major traffic arteries linking the Saw Mill River Parkway corridor to downtown and the Hudson Riverfront.

"There is a great deal of logic that goes with this plan," he said. "We have identified the areas in which re-development is reasonable, possible and desirable. With the development team that has now joined forces, we are in a position to truly see Yonkers become Westchester and the New York area's hottest address. A great deal of new investment is already being made in Yonkers. Now, with Louis Cappelli joining forces with Struever and Fidelco, we are on the threshold of an exciting new era in our city."

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Work Continues on Renaissance Square at City Center

WHITE PLAINS – Construction is continuing for Renaissance Square at City Center, a \$350 million hotel, residential and retail complex at 221 Main Street in White Plains.

Project officials recently issued an update on the development.

Cappelli Enterprises officially started construction of the 890,000-square-foot project last year with the demolition of a building annex, excavation of the site and closure of an existing parking lot.

Extensive site work is well underway. Adjacent to Main Street, the first section of the new parking garage for 1,000 cars is proceeding. Foundation work is expected to continue for another three months, project spokesmen said.

Renaissance Square at City Center will include two luxury residential towers, office and retail space, and a five-star hotel. Diagonally across from City Center and bounded by Main Street, Hamilton Avenue and the new Court Street extension, Renaissance Square includes a 500,000-square-foot

building that will house a 10-story, 125-room hotel and a 300,000-square-foot residential tower with 181 luxury units.

The building will also offer 10,000 square feet of retail and restaurant space. An adjacent building that contains 100,000 square feet of office space, 3,000 square feet of ground floor retail space and a second residential tower of 300,000 square feet will complete the development program.

The Renaissance Square at City Center development is the next phase of development in White Plains, following City Center, a \$325 million, 1.1 million-square-foot residential, retail and entertainment complex at Main Street and Mamaroneck Avenues. City Center was completed last year.

Headquartered in Valhalla, Cappelli Enterprises has developed more than four million square feet of mixed use, retail, waterfront, residential, office building, laboratory and parking facilities, company officials said.

Goldschmidt & Associates Brokers Two Transactions in New Rochelle

NEW ROCHELLE - Eric S. Goldschmidt, senior partner at Goldschmidt & Associates of Scarsdale, has brokered two significant transactions in New Rochelle, company officials recently announced.

One property, consisting of a three-level, 30,000 square foot building, plus two parking lots of 20,000 square feet at 125 Main Street, Route 1, has been leased on a long term basis to Hyundai. Hyundai is moving from another area location, Goldschmidt and Associates said.

The building will be upgraded and modernized, adding "a fresh look to the northern gateway of New Rochelle," Goldschmidt said.

At New Rochelle's southern end, Goldschmidt brokered the sale of 2 Birch Street, a 32,000 square foot manufacturing facility. Representing the purchaser, Parsonage House, LLC, was Kathy Tamagna of Julia B. Fee/Sotheby's International.

Parsonage and its affiliates, with locations around the world, will reposition the former Rotanelli Pasta Company with a showroom and sales area for granite, marble and high-end stone for the wholesale and retail market. Parsonage expects to bring 80 new jobs to the facility, Goldschmidt and Associates said.

New Rochelle is definitely moving forward and is fast becoming Westchester County's hot new market, Goldschmidt and Associates said. Projects

such as the new Cappelli, Trump, Avalon, Young, and Simone residential developments, plus new office buildings, banks, retail centers and the multi-million dollar Transportation Center, are helping to enhance the market, company officials said.

Goldschmidt & Associates also brokered three other major New Rochelle transactions in 2005 – representing Harley Davidson in its new facility at 91 Weyman Avenue; Mary Ann Liebert Publishing at its new 25,000 square foot headquarters at 140 Huguenot Street; and helping to coordinate the sale of the 36,000 square foot, mixed-use building at 10 Commerce Drive.

In addition, Laurence London of Goldschmidt and Associates is currently representing the leasing and sale of 542 Main Street, a 31,000 square foot office building. Goldschmidt and co-broker Lawrence Talt Realty are representing the 7,900 square feet of retail being developed at Huguenot Hills, 175 Main Street (Route 1).

"The face of New Rochelle is changing rapidly and Goldschmidt & Associates is very proud to be part of it," Goldschmidt said.

Goldschmidt & Associates is involved in the sale, leasing, and development of commercial, retail, and industrial properties in the New York metro area, company officials said.



IN WHITE PLAINS - Construction is continuing on Renaissance Square at City Center, a \$350 million hotel, residential and retail complex at 221 Main Street, project officials recently announced. The work site is pictured above.

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Residential Development Case Study:
Sales Center Opens at Barger Brook Manor

YORKTOWN – Yorktown Realty Associates LLC and its managing partner, Louis R. Cappelli, recently hosted a VIP preview of Barger Brook Manor, a new, \$80 million, 141-home luxury condominium community for active adults, ages 55 and better, in Yorktown.

VIPs toured the new Sales Center, which echoes Barger Brook Manor’s softly hued stone and stucco façade and gives prospective buyers an excellent idea of what they can expect. The Sales Center features three graciously appointed, full-sized model apartments designed by award-winning J.R. Cattington Interiors of Briarcliff Manor, project officials said.

A magnificent building model of the 141-home luxury condominium allows buyers to view the location of a specific unit and to see where in the attractive, three and four-story building their home will be situated. A full-color area map will help orient buyers to the convenience of their new location in the heart of picturesque Yorktown. The site is situated near the Taconic State Parkway and extensive nearby shopping areas, yet is nestled in a wooded setting back beyond the north side of Route 6, spokesmen said.

A Demand

“The response to Barger Brook Manor so far signifies the increasing demand among the aging baby boomer population for adult luxury housing,” said co-developer Michael Cappelli. “Many of these individuals want the ease of condominium living and are in the process of downsizing from large homes. But they still want lots of space, luxury and the convenience that Barger Brook offers.”

Michael and Louis R. Cappelli have teamed with Sullivan Architects, an award-winning firm in White Plains known for residential designs that honor the natural landscape. Together they have created



IN YORKTOWN - VIPs recently toured the sales center at Barger Brook Manor, the new, 141-home luxury condominium community in Yorktown for ages 55 and better. The community is being developed by Louis R. Cappelli and Michael Cappelli. Pictured looking over the building model are, from left to right, Grace Dunn, sales manager for Barger Brook and an associate broker at Houlihan Lawrence Inc.; Louis R. Cappelli, president of Cappelli Enterprises; Savo Fries, manager, Croton and Yorktown offices, Houlihan Lawrence; John Sullivan of Sullivan Architects of White Plains, project architect; and Joseph A. Apicella, executive vice president, Cappelli Enterprises.



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ated Westchester’s most dynamic new lifestyle choice, project officials said.

A Noteworthy Setting

Set on 50 beautiful acres of lush woodlands overlooking a sparkling lake, Barger Brook Manor is perfect for active adults with its indoor and outdoor swimming pools and private fitness center, spokesmen said. Nature trails will surround the lake and pass by Barger Brook for use by outdoor exercise enthusiasts year-round. The Manor’s stone and stucco façade, elegant stone courtyards and romantic Juliet balconies recall the best of classic European architecture. Most homes will have expansive views of the lake or the wooded area, and buyers can choose from one-, two- or three-bedroom homes that feature light-filled spacious rooms, nine-foot ceilings, crown moldings, hardwood floors, magnificent master suites and marble baths.

Gourmet kitchens with desirable stainless steel appliances can be personalized with a choice of cabinet and granite countertop packages. Patios, eat-in kitchens and Juliet balconies are available in select homes, project officials said.

Barger Brook Manor residents will enjoy many amenities, including a recreation room with billiards and a card table, media room, a library and business center. Concierge service is included, and residents will have the benefits of covered parking, storage facilities and on-site security.

Houlihan Lawrence is the community’s exclusive selling

agent. Prices for the one, two and three bedroom homes begin in the mid \$500,000’s, spokesmen said.

“We have the finest sales tools to show prospects the wonderful ambience and sophisticated amenities of Barger Brook Manor,” said Grace Dunne, sales manager and associate broker at Houlihan Lawrence. “Barger Brook Manor is the only new luxury option for independent active adults in northern Westchester, and we look forward to finding the perfect home for individuals seeking the smart address and spectacular country setting this condominium community provides.”

Michael Cappelli has developed notable luxury residential communities in the area, including Emerson Point Estates, a single-family home subdivision in New Rochelle, and The Landing at Dobbs Ferry, a 103-unit townhome community in Dobbs Ferry.

Louis Cappelli, one of the region’s most prominent developers, has a well-earned reputation for combining innovative architectural design with spectacular settings. Among his many preeminent residential developments are Trump Tower and The Lofts at City Center in White Plains, The Lofts at New Roc in New Rochelle, and Stamford Greyrock, a luxury high-rise apartment complex in Stamford (Conn.) He is currently developing additional residential complexes, including Renaissance Square in White Plains, Trump Plaza in New Rochelle and Harbor Square on the Hudson River at Ossining.



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