

MALLIN & CHA, P.C.

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FEBRUARY 2013 NEWSLETTER

Barry Mallin successfully argues for housing community

In Court of Appeals Victory for Mitchell-Lama Advocates

In the third and final act in the court battle to preserve affordable Mitchell-Lama housing at East Midtown Plaza (EMP), a 746-unit cooperative complex in New York City, the New York Court of Appeals, the highest court in the State, issued a decisive ruling on November 19, 2012 in favor of the advocates of Mitchell-Lama housing. The decision represented a resounding vindication of the positions argued by the East Midtown Plaza Mitchell-Lama Organization (EMP-MLO), a group represented by Barry Mallin of

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By a 6-0 vote, the Court affirmed the rulings of two lower courts and dismissed the case brought by the EMP board. In the lower court, EMP-MLO had been granted the right to intervene in the case of East Midtown Plaza Housing Company, Inc. v. Andrew M. Cuomo, as Attorney General of the State of New York and The New York City Department of Housing Preservation and Development. The decision upheld the principles that co-op boards must provide full and complete disclosure to shareholders in Mitchell-Lama exit plans and that voting on the plan must be based on the democratic foundation that every shareholder gets an equal vote in the process.

The EMP Board, as Petitioner, had sued the State Attorney General (AG) and the City Department of Housing Preservation and Development (HPD) in April, 2009 in an effort to force the government agencies to allow EMP to exit from the

HDFC INCOME GUIDELINES FOR YEAR 2013

Different cooperatives and Housing Development Fund Corporations (HDFCs) have different eligibility definitions for "affordability".

You should consult with your attorney and review the corporate documents to determine and understand who are actually eligible to become shareholders of your HDFC cooperative.

If you live in a building that uses a percentage of the median area income as income guideline, you should understand that New York County, Kings County, Bronx County, Putnam County, Queens County, Richmond County, and Rockland county are all part of NY HUD Metro Fair Market Rent (FMR) area and have the same income limit guidelines by HUD.

For a full copy of Fiscal Year 2013 Income Limits based on HUD guideline, please contact our office at (212)285-1200.

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Mitchell-Lama program. On the appeal, EMP argued that the AG had no jurisdiction or authority to prevent EMP from leaving the program and that HPD's method of counting dissolution votes was

contrary to the agency's own regulations. The Court of Appeals rejected both arguments.

The major points advanced by EMP-MLO in Mr. Mallin's brief and oral argument

before the court were fully vindicated and upheld by the Court of Appeals. For a full copy of the court's decision, e-mail us at bmallin@mallinlaw.com.

WINTER FIRE SAFETY

: More than 1/3 of home fires happen during the months of December, January and February.

According to the Fire Department of City of New York (FDNY), fire remains the major cause of death in the home and young children and older adults most often are the victims. However, most fire-related injuries and damages are preventable if you take proper precautions.

Although this is not an exhaustive list, here are some useful tips:

1. Use extension cords for temporary use only.
2. Inspect the electrical cord before each use for damage. Do not run cords under carpets or rugs or hang from nails.
3. Turn off or unplug the appliances and electronics when not in use or whenever you leave the room or house or go to sleep.
4. Never plug more than two appliances into an outlet at

once or piggyback extra appliances on extension cords or wall outlets.

5. If an appliance develops a smell, makes unusual sounds, the cord feels warm, or burns or makes smokes, pull the plug and discontinue use.

6. Keep the appliances on a flat surface and away from young children or pets.

7. Make sure you have a qualified technician install all new equipment and conduct an annual inspection.

8. If using a space heater, never use an extension cord with a space heater and avoid using electric space heaters in bathrooms or other areas with water.

9. Never use the cooking appliances such as a kitchen oven or gas range to heat your home. If used improperly, it can cause a high level of carbon

monoxide which can cause severe illness and possible death.

10. If electric space heater is necessary, purchase a machine with thermostat and automatic shut-off function.

11. Remember that carbon monoxide (CO) has no color, no odor, no taste but toxic. CO is completely undetectable by human senses and effective November 2004, NYC law requires every home and apartments in NYC to be installed with CO detector/alarm.

12. Replace the batteries on your smoke alarm twice a year.

For more information, go to a free, downloadable Fire Safety Education booklet published by FDNY

http://www.nyc.gov/html/fdny/pdf/safety/fire_safety_education/2010_02/winter_and_holiday_fire_safety_english.pdf.

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