

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
SANDRA JOHNSON; and LETITIA JAMES,
PUBLIC ADVOCATE FOR THE CITY OF
NEW YORK;

Plaintiffs,

-against-

14 EAST 125 LLC; EPHRAIM
FRUCHTLANDER, as Head Officer of
14 EAST 125 LLC; NEW YORK CITY
DEPARTMENT OF BUILDINGS, and
RICK D. CHANDLER, as Commissioner
Of the New York City Department of
Buildings;

Defendants.

INDEX NO.

SUMMONS

Date Index No. Purchased:
Feb. 3, 2015

-----X
TO THE ABOVE NAMED DEFENDANTS:

14 EAST 125 LLC
c/o FBE 111 Broadway
New York, NY 10007

Ephraim Fruchtlander
c/o FBE 111 Broadway
New York, NY 10007

New York City Department of Buildings
280 Broadway, 7th Flr.
New York, NY 10007

Rick D. Chandler
280 Broadway, 7th Flr.
New York, NY 10007

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer on the Plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is the address of the Plaintiff and the address of the property at issue: 14 East 125th St., New York, N.Y.

Date: February 3, 2015
New York, N.Y.

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COMPLAINT

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PRELIMINARY STATEMENT

1. Sandra Johnson, one of two remaining tenants of 14 East 125th St, brings this action seeking to compel compliance with deed restrictions imposed when 14 East 125th St. was sold by the City of New York to a private developer pursuant to the City's Asset Sales Program in 2008. The deed required that the premises be preserved for housing purposes with existing improvements for twenty years and that the sale was subject to the rights of existing tenants. It also required that all Housing Maintenance Code violations be corrected within six months of the date of sale.

2. The Housing Maintenance Code violations were not repaired. There remains 424 outstanding violations, many of which have been in existence since 1995. In addition, the property has been flipped twice, increasing in sales price from \$800,000 when sold by the City to over \$6M in August of 2014.

3. The current owner is rehabilitating the building. According to plans filed with the Department of Buildings, he is in the process of converting the six residential units into fifteen. The Tenant Protection Plan filed with the Department of Buildings states, erroneously, that the building is not subject to rent regulation and that the top two floors are unoccupied. The Department of Buildings approved the plans despite the deed restrictions and despite being made aware of the errors in the Tenant Protection Plan has not withdrawn its approval.

4. Sandra Johnson has endured deplorable conditions throughout her tenancy, including the repeated deprivation of essential services. Those conditions have worsened as the current owner undertakes to transform her apartment under her feet.

5. This action seeks: a) the correction of Housing Maintenance Code violations; b) a declaration that the proposed alterations violate the deed restrictions imposed pursuant to Article 16 of the General Municipal Law; c) a finding that the premises are subject to rent stabilization pursuant to N.Y.C. Admin. Code § 26-507; d) a finding that the Department of Building's approval for the plans filed with the Department of Buildings should be rescinded; and e) a finding that the landlord defendants' conduct constitutes harassment as defined by N.Y.C. Admin. Code § 27-2004.

PARTIES

6. Plaintiff SANDRA JOHNSON is the disabled rent stabilized tenant of 14 East 125th St., Apt. 5W, New York, N.Y. She receives a fixed income, and has resided in her apartment for approximately thirty years. She lives with her wheelchair-bound adult son Michael Johnson, her 14-year-old son J.J., her 12-year-old granddaughter D.M., and her adult daughter Shaquanna Porter. She has lived in her current apartment since the early 1980s. She has suffered

from repeated interruptions of essential services during and before the construction that commenced at the premises subject to these proceedings.

7. Plaintiff LETITIA JAMES is the Public Advocate for the City of New York (the “City”). The Public Advocate is charged under the New York City Charter with receiving and attempting to resolve individual complaints concerning city services and City agencies. NY City Charter § 24(e). Since Letitia James took office on January 1, 2014, the office has received hundreds of complaints regarding the Department of Buildings, including those concerning inadequate oversight of alteration applications. Moreover, as the City’s ombudsperson, she has an interest in ensuring that City Disposition Programs inure to the benefit of those they are intended to reach and that deed restrictions that are imposed by the City of New York are adhered to.

8. 14 EAST 125 LLC is the corporation that is the deed owner of the property known as 14 East 125th St., New York, N.Y, according to the Multiple Dwelling Registration filed with the New York City Department of Housing Preservation and Development. According to that registration, and according to the New York Department of State records, the corporation has designated an address for service at 111 Broadway, Suite 2102, New York, N.Y. 10006.

9. EPHRAIM FRUCHTLANDER is the Head Officer of the corporation known as 14 EAST 125 LLC according to the Multiple Dwelling Registration filed with the New York City Department of Housing Preservation and Development. According to the registration, Mr. Fruchtlander maintains an office at 111 Broadway, Suite 2102, New York, N.Y. 10006.

10. The NEW YORK CITY DEPARTMENT OF BUILDINGS is the agency charged with ensuring the safe and lawful use of buildings and properties in the City, and in this capacity it enforces and interprets the New York City Construction Code, Building Code, Electrical Code,

Zoning Resolution, New York State Labor Law, and New York State Multiple Dwelling Law. The Department of Buildings reviews and issues construction and alteration permits, including Tenant Protection Plans. The Department of Buildings maintains its executive office at 280 Broadway, 7th Floor, New York, New York 10007.

11. RICK D. CHANDLER is the Commissioner of the New York City Department of Buildings, and is sued in his official capacity. Commissioner Chandler maintains an office at 280 Broadway, 7th Floor, New York, New York 10007.

REGULATORY SCHEME

General Municipal Law

12. Article 16 of New York’s General Municipal Law designates powers that localities can utilize to address blight. Specifically, it acknowledges that municipalities throughout the State own areas that were acquired “as a direct result of previous landowners’ failure to meet in full their real estate tax or other obligations” and that those areas are “slum or blighted, or which are becoming slum or blighted.” Gen. Mun. Law § 691.

13. Acknowledging that slum or blighted areas constitute a “menace” the legislature recognized that it is “necessary to provide incentives for the correction of such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors, and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration, or conservation of such areas. Id.

The Asset Sales Program

14. The Asset Sales Program is a New York City Program designed to facilitate the disposition of City-owned properties acquired by the City in *in rem* tax foreclosures.

15. The Rules governing all City programs to effectuate the provisions of Article 16 of the General Municipal Law, including the Asset Sales program, are found in the Rules for the City of New York, Title 28, Chapter 33.

16. Those rules provide that the “Agency (HPD) may impose restrictions upon the use of a Site and may require a Sponsor to agree to comply with such restrictions as a condition for receiving any Disposition or Assistance. Such use restrictions may be enforced by any means which the Agency determines to be necessary or appropriate, including, but not limited to, provisions in any deed.” Rules for the City of NY § 33-07(c).

Rent Stabilization

17. Pursuant to N.Y.C. Admin. Code § 26-507(a): “[U]pon the sale in any manner authorized by law of a multiple dwelling which was previously subject to [rent stabilization] which was acquired by the city in a tax foreclosure proceeding . . . shall be subject to the rent stabilization law of nineteen hundred sixty-nine, as amended, at the last rent charged by the city, or on behalf of the city, for such dwelling unit.” Buildings containing more than six units prior to City ownership are those that would have previously been subject to the law. N.Y.C. Admin. Code § 26-504 (b).

18. Tenants of rent stabilized apartments are entitled to renewals of their leases on the same terms and conditions as the expiring lease. 9 N.Y.C.R.R. § 2523.5(a).

Department of Buildings/Tenant Protection and Safety

19. Since the New York City Construction Code was amended in 2008, it has required that plans for alterations “in which any dwelling unit will be occupied during construction shall include a tenant protection plan. Such plan shall contain a statement that the building contains dwelling units that will be occupied during construction and shall indicate in

sufficient detail the specific units that are or may be occupied during construction, [and] the means and methods to be employed to safeguard the safety and health of the occupants.” N.Y.C. Admin. Code § 28-104.8.4.

Housing Maintenance Code/Harassment

20. Pursuant to N.Y.C. Admin. Code § 27-2004, “harassment” is defined as any act or omission by or on behalf of an owner that: (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.”

21. One example of conduct that will be considered harassment is the “repeated interruptions or discontinuances of essential services.” Other conduct constitutes harassment if it is “of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.” N.Y.C. Adm. Code § 27-2004.

22. If harassment is found, the Court may “issue an order restraining the owner of the property from continuing to harass the tenant(s) and directing the owner to ensure that no further harassment occurs” or “impose a civil penalty.” N.Y.C. Admin. Code § 27-2115(m)(2).

STATEMENT OF FACTS

23. 14 East 125th St is a four-story building. The ground floor is used for commercial purposes and the top three floors each have two apartments, for a total of six residential apartments. Ms. Johnson’s apartment is on the top floor.

24. The building is in horrendous condition, with 424 outstanding Housing Maintenance Code violations, representing an average of 70 violations per residential dwelling unit. (The current printout of active Housing Maintenance Code violations is annexed hereto as Exhibit A and should be deemed incorporated into the Complaint.)

25. Only two tenants remain in the building, Ms. Johnson and the tenant of apartment 2W.

Asset Sales:

26. The premises subject to the instant proceedings were purchased by the City of New York through its Commissioner of Finance in September 1980, because the owner was in tax arrears.

27. In 2003, the City, through its Department of Housing Preservation and Development noticed its intention to sell the building through its Asset Sales Program.

28. According to an HPD Guidebook published in 2004, the Asset Sales Program was designed to permit HPD to dispose of properties at “market rate” to either tenants exercising a right of first refusal, or to developers selected through a Request for Offers. (Available at <https://partner.hpdnyc.org/whalecom81b846a8d7ea6a1bb1b6bf/whalecom0/download/311/HPD/HPD%20Guide%20to%20Programs%20and%20Services.pdf>, p.9).

29. According to HPD, two of the commercial tenants indicated their desire to purchase the property and brought litigation challenging HPD’s failure to grant them the property.

30. After the litigation settled, on or about January 10, 2008, the property was deeded to East 125th Street LLC. The purchase price was \$800,000. The property was not sold pursuant to a Request for Offers. It was a negotiated sale. One of the purchasers, a principal of East 125th

Street LLC, was Beverly Baker. Beverly Baker was the wife of (now deceased) Jesse Baker, a partner in the prominent landlord law firm Gutman, Mintz, Baker, and Sonnenfeldt, PC. Per the City's Department of Finance records, the assessed value of the property at time of sale was \$1,180,000.

31. The 2008 deed provides that the premises are a "municipally-owned area to be conveyed pursuant to Article 16 of the General Municipal Law ("GML"). It also provides that HPD had prepared a "Project Summary" pursuant to Section 693 of the Gen. Mun. Law. See deed dated January 10, 2008, annexed hereto and incorporated herein as Exhibit B.

32. The "Project Summary" describes the project as a "conservation" project, as opposed to rehabilitation or new construction. It further provides that the premises are used as six rental units and three commercial units. Id.

33. The deed further provides that the "Sponsor shall conserve the existing Improvements on the Disposition Area for housing purposes for a period of not less than twenty years." Id.

34. The deed also provides that the Sponsor was taking the property "subject to the rights of tenants and persons in possession," and that the Sponsor would, within six months "cause the removal of any and all violations of the New York City Housing Maintenance Code and New York City Building Code." Id.

35. Finally, the deed states that "[t]he agreements and covenants set forth [therein] run with the land and shall be binding to the fullest extent permitted by law and equity. Such covenants shall inure to the benefit of the City and shall bind and be enforceable against Sponsor and its successors and assigns." ¶8. Id.

The Tenancies

36. Upon information and belief, at the time of sale to East 125th Street LLC, the building was fully occupied. Between 2008 and 2013 the building was emptied of tenants with the exception of Ms. Johnson and the tenant of apartment 2W.

37. 125th St. LLC attempted to evict Ms. Johnson as well. On February 24, 2011 125th St. LLC served a Notice to Vacate on Ms. Johnson, alleging that her apartment was not subject to rent regulation and seeking to terminate her tenancy.

38. The Owner based its assertion concerning the rent regulatory status on a letter from the Director of the Asset Sales Program, Nick Stavriotis, dated January 12, 2008. The letter was addressed to Francis Synmoie, identified as the Vice-President of East 125th St. LLC, and stated:

As per our previous conversations about the above subject premises, now that 14 East 125th St. LLC has purchased the property, your obligation to the list of current tenants ... is to offer them a two year renewal lease at the existing rent level. Since the subject premises, is not rent regulated, thereafter, the owner is free to renew leases or commence eviction proceedings against the tenants.

39. As the representation made by Nick Stavriotis appeared to conflict with the Rent Stabilization Laws, Judge Martino, of Manhattan Housing Court directed that a representative of HPD be subpoenaed to appear.

40. HPD responded with a letter stating:

The issue of the tenants' regulatory status falls outside HPD's scope of authority. Notwithstanding any letter written by HPD to the contrary, the determination of the rent regulatory status of tenants at 14 East 125th Street must be made by the New York State Division of Housing Community Renewal or a court of competent jurisdiction.

41. The eviction case was settled with a stipulation agreeing that Ms. Johnson would “be treated as a rent stabilized tenant” for the duration of her tenancy. The stipulation also provided that a formal determination of the rent stabilization status could later be sought.

Housing Maintenance Code Violations

42. Upon information and belief, Housing Maintenance Code violations are not recorded in the City’s on-line record of violations while the building is City-owned. However, in 1995, Ms. Johnson commenced an action for repairs and ten violations were noted in the stipulation of settlement dated 10/26/1995. They were:

	Severity	Description
1.	A	Refit door ent – Apartment Entrance Door
2.	A	Replace control knobs bathtub faucet
3.	B	Repair flushing apparatus of toilet, bathroom
4.	B	Repair leaky faucet – washbasin - bathroom
5.	A	Repair/Plaster ceilings – private hall, kitchen, and south wall, south room
6.	A	Repair oven and door gas range – kitchen
7.	A	Replace rubber gasket – refrigerator door – kitchen
8.	B	Exterminate for rodents & roaches throughout
9.	B	Repair smoke detector – defective
10.	A	File plans or restore – window removed & sealed blocking air and light in bathroom
11.	Reported by tenant	Leak in bathroom

See Stipulation of Settlement dated October 26, 2015, annexed hereto as Exhibit K.

43. According to the stipulation, the conditions were to have been corrected within 60 days, or by December 24, 1995. However, the same conditions continued to be reported as violations long after the sixty days provided in the stipulation and long after the building was sold with a deed restriction requiring that Housing Maintenance Code violations be corrected within six months.

44. The chart below shows subsequent reported violations for the same conditions described in the 1995 stipulation:

	Severity	Description	Subsequent Reported Violations Date/Violation No.
1.	A	Refit door ent – Apartment Entrance Door	11/14/2013-10036586
2.	A	Replace control knobs bathtub faucet	7/30/2014 – 10327709
			11/18/2013-10039402
			11/14/2013-10036584
			11/13/2013-10034382
			9/6/2013 - 9965434
			7/18/2013 - 9908157
			6/3/2013 - 9857309
			1/20/2013 - 9709882
3.	B	Repair flushing apparatus of toilet, bathroom	12/5/2013 - 10056992
			11/18/2013-10039400
			9/6/2013 - 9965435
			11/26/2012 - 9652939
4.	A	Repair oven and door gas range – kitchen	4/17/2012 - 9407344
5.	B	Repair leaky faucet – washbasin - bathroom	4/17/2012 - 9407342
6.	A	Repair/Plaster ceilings – private hall, kitchen, and south wall, south room	3/27/2014 – 10189419
			12/5/2013 - 10057019
			7/18/2013 - 9908142
			6/3/2013 - 9857277
			6/3/2013 - 9857288
			1/20/2013 - 9712043
			12/7/2012 - 9666578
			7/24/2012 - 9515938
			7/24/2012 - 9514996
			7/24/2012 - 9514997
			5/16/2012 - 9508414
4/28/2012 - 9420348			

			1/13/2012 - 9289018
			12/4/2011 - 9241538
8.	B	Exterminate for rodents & roaches throughout	3/2/2014 - 1015882
			11/14/2013- 10036582
			11/14/2013- 10036583
			11/13/2013- 10035492
			9/6/2013 - 9965437
			7/18/2013 - 9908473
			6/3/2013 - 9857285
			5/8/2013 - 9831804
			11/9/2012 - 9640536
			4/17/2012 - 9407358
			4/17/2012 - 9407359
			2/22/2012 - 9337611
9.	B	Repair smoke detector – defective	1/29/2015 – 10521681
			12/5/2013 - 10057001
			11/26/2013- 10048147
			4/17/2012 - 9407356
10.	Reported by tenant	Leak in bathroom	
		Repair roof so it will not leak at ceiling in 2 nd room from north	9/18/2014- 10388790
		Repair source and abate the evidence of a water leak at ceiling in the 2 nd room from north	12/5/2013-10057011
		Abate the nuisance consisting of concealed water leak at ceiling in the 2 nd room from north	4/17/2012-9407229
		Repair the roof so that it will not leak in the ceiling in the 2 nd room from north	2/22/2012-9337607

See Ex. A.

45. In addition to the violations listed above, there have been several other serious and recurring violations in the public areas of the building and Ms. Johnson’s apartment, including but not limited to the following:

Severity	Description	Date/Violation No.
C	Broken radiator air valve	1/13/2015-10505630
B		12/7/2012-9666583
B	Fire egress defective	1/13/15-10505633
C	Lack of hot water	11/30/2014-10462202
		7/30/2014-10327744
		4/22/2014-10216354
		3/24/2014-10184201
		12/13/2013-10065187
		5/8/2013-9830944
		4/17/2012-9407339
A	Broken intercom	7/27/2014-10324144
		2/21/2014-10146706
		1/24/2014-10108720
B	Broken tile in bathroom	7/30/2014-10327734
		2/21/2014-10146716
C	Provide access to heating system	7/30/2014-10327747
		12/13/2013-10065193
		12/05/2013-10056774
		11/26/2013-10048131
		7/28/2013-9918828
		7/18/2013-9908166
		5/8/2013-9830948
		6/19/2012-9477686
B	Roaches in public hall	7/30/2014-10327756
B	Mice in public hall	3/2/2014-10158842
B	Broken vinyl tile floor	2/21/2014-10146706
		7/18/2013-9908148
		5/8/2013-9831800
C	Lack of heat	12/13/2013-10065180
		11/26/2013-10048117
B	Broken light fixture	12/5/2013-10057004
		11/18/2013-10039396
		9/6/2013-9965431
		6/3/2013-9857297
B	Loose radiator	12/5/2013-10057007
B	Repair broken hot water supply valve	12/5/2013-10056997
B	Defective wood floor, 1 st room from north	12/5/2013-10056999
		9/6/2013-9965428
	Rotted wood floor	9/6/2013-9965433
		7/18/2013-9908162

		12/7/2012-9666582
		11/26/2012-9652940
B	Defective wood floor, 2nd room from north	12/5/2013-10057000
		7/18/2013-9908158
B	Defective wood floor private hallway	11/18/2013-10039403
		7/18/2013-9908152
		3/11/2013-9765899
B	Mold at east wall and south wall, 7 th room from north	11/18/2013-10039397
	South and west walls	9/6/2013-9965442
	South and west walls and baseboard	8/26/2013-9953723
B	Uncapped steam valve in kitchen	8/26/2013-9953724
C	Repair source and abate evidence of water leak, public hall	5/8/2013-9831859
C	Repair defective fire retardant, public hall	5/8/2013-9831863

Id.

Subsequent Sales and Proposed Rehabilitation

46. One month after the expiration of the deed restriction on re-sale, and five years and one month after acquiring the premises for \$800,000 from HPD on condition that all Housing Maintenance Code violations be removed, 125th St. LLC sold the building to Uptown 139 LLC for \$1.85M.

47. A little over a year later, in August 2014, Uptown 139 LLC sold the building to 14 East 125 LLC for \$6.3M.

48. During Uptown 139 LLC's ownership, the owner filed plans with the Department of Buildings to add a floor to the building and change the occupancy from six dwelling units to fifteen. The application describes the building as "occupied" and not rent stabilized.

49. The plans were approved by the Department of Buildings in August of 2013.

50. The plans describe creating five apartments on each floor with a duplex on the top floor, for a total of fifteen apartments from the existing six.

Current Status and Involvement of the Public Advocate's Office

51. Demolition and construction work have commenced at the premises.

52. The demolition and construction have caused severe problems for Ms. Johnson and her family. They have suffered from loud construction noises and intolerable levels of dust and debris that have aggravated Ms. Johnson's asthma. The front door of the building is often unsecured, allowing anyone to enter. The walls in her kitchen and bathroom have developed cracks due to demolition in surrounding apartments. Her bathroom floor has also developed cracks. Workmen have damaged items of Ms. Johnson's personal property, including furniture and clothing. Further, workers have invaded her family's privacy, demanding entry to her apartment without notice and frightening her child and grandchild.

53. Ms. Johnson's family has suffered interruption of basic services including electricity and heat. In May 2013, Ms. Johnson received a shutoff notice from Consolidated Edison stating that the building owner owed \$402.45 and that the electricity for common areas would be shut off if payment was not made immediately. Ms. Johnson made the payment herself, as well as paying \$552 to fill the boiler tank with heating oil.

54. On September 12, 2014, the Department of Buildings issued a violation for performing construction without posting the approved plans. On September 18, 2014 the Department of Buildings issued four more violations in connection with the ongoing work. One was a "work without a permit" violation for demolition and other work in apartment 2E, another cited the owner for improper placement of gas piping, another cited the owner for failing to secure premises that were under construction, the last was for electrical work that was not compliant with the electrical code.

55. On September 18, 2014, the Department of Buildings also cited the owner for

filing a material false statement in connection with the building's occupancy and rent regulatory status. That violation was later dismissed on the sole grounds that the current owner had not owned the building when the statement was filed and had not, therefore, knowingly filed a false statement.

56. On January 20, 2015, the Public Advocate's Office obtained the building plans, Tenant Protection Plan, and tenant safety notes from the Department of Buildings. The Tenant Plan states: "floors one and two will be occupied during renovation." The tenant safety notes provide that: "construction work shall be defined to the apartment interior, and will not create dust, dirt or other inconveniences to other apartment units within the building;" that "construction operations shall not involve interruption of heating, water, occupying the apartment to be renovated during the course of the construction work."

57. On January 22, 2015, the Public Advocate's Office received a call from Ms. Johnson that Owner was seeking to remove her radiators as part of the ongoing construction work.

58. The Public Advocate's Office called the Manhattan Borough Commissioner of the Department of Buildings to complain that the Tenant Protection Plan was inaccurate and that work was ongoing.

59. An inspector went to the building on January 23, 2015 but failed to issue a violation, stating that no construction work was observed at the time of his visit.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION **Article 16 of the General Municipal Law and Deed Restrictions**

60. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 1-59 of this Complaint as if fully set forth herein.

61. The Landlord Defendants are in violation of the provisions of the deed disposing of the subject property pursuant to Article 16 of the General Municipal Law. Specifically, Housing Maintenance Code violations that existed at the time of transfer were not corrected within six months and, in some cases, continue to exist.

62. Furthermore, the plans filed with the Department of Buildings seeking to convert the building from six residential units to fifteen residential units violates the following deed restrictions: a) that the project be conserved as six residential units; b) that existing improvements be conserved for housing purposes for twenty years; and c) that the rights of the owner are “subject to” the rights of tenants in possession.

AS AND FOR A SECOND CAUSE OF ACTION
Rent Stabilization Laws

63. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 1-59 of this Complaint as if fully set forth herein.

64. 14 East 125th St. became subject to the Rent Stabilization Laws at the time it passed from City ownership to private ownership.

65. The plans filed with the Department of Buildings violate the Rent Stabilization Laws by altering the layout of occupied rent stabilized apartments.

AS AND FOR A THIRD CAUSE OF ACTION
New York City’s Construction Code

66. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 1-59 of this Complaint as if fully set forth herein.

67. The Tenant Protection Plan filed with the Department of Buildings contained two material misrepresentations: 1) that the premises were not subject to rent regulation; and 2) that only the first two floors would be occupied during rehabilitation. The premises are rent stabilized

and the Plaintiff, Sandra Johnson, is occupying a fourth floor apartment as construction is ongoing.

68. Despite having been informed of the factual misrepresentations in the Tenant Protection Plan, the Department of Buildings has failed to take action.

69. Further, even if the Plan were factually correct, it is facially insufficient as a document meant to describe how the safety of current occupants would be protected. It states that the first two floors will be occupied during construction but the plans indicate that the second floor apartments are to be altered from four apartments to ten apartments. The Plan fails to describe how existing residents will be kept safe during this significant alteration.

AS AND FOR A FOURTH CAUSE OF ACTION
Housing Maintenance Code

70. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 1-59 of this Complaint as if fully set forth herein.

71. The owner's repeated interruptions of essential services and failure to correct hazardous conditions constitutes harassment as defined by the N.Y. Admin. Code § 27-2004.

72. Further, there are numerous outstanding violations of the Housing Maintenance Code at the subject premises. (Ex. A)

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that an Order be made and entered, granting the following relief:

(a) finding that Housing Maintenance Code violations exist for which the landlord defendants received notices of violation and for which the time for correction has expired and awarding civil penalties therefore as provided by N.Y.C. Admin. Code § 27-2115(a) and (i);

(b) enjoining landlord defendants from permitting said violations to exist and from permitting any future conditions to exist which endanger the life, health and safety of Petitioner and his family;

(c) finding that the proposed alteration of the premises violates the deed restrictions imposed pursuant to Article 16 of the General Municipal Law;

(d) finding that the premises are subject to rent stabilization pursuant to N.Y.C. Admin. Code § 26-507;

(e) finding that the Tenant Protection Plan filed with the Department of Buildings under job number 121686657 contains material misrepresentations;

(f) finding that the Tenant Protection Plan filed with the Department of Buildings under job number 121686657 is facially insufficient;

(g) directing the Department of Buildings to revoke the permit approving the plans to alter the subject premises under Department of Buildings job number 121686657; and

(h) enjoining the landlord defendant from altering the premises in the manner described in the plans filed with the Department of Buildings under Department of Buildings job number 121686657;

(i) finding that the landlord defendants' conduct constitutes harassment as defined by N.Y.C. Admin. Code § 27-2004;

(j) enjoining the landlord defendant from engaging in any further harassment pursuant to § 27-2115(m)(2);

(k) granting civil penalties in the amount of \$5,000 pursuant to Section 27-2115(m)(2) of the Administrative Code of the City of New York; and

(l) granting such other and further relief as this Court may deem just and proper.

Dated: New York, N.Y.
February 2, 2015

Respectfully,

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