

May 6, 2013

516 West 174th Street Tenants Association
516 West 174th Street
New York, NY 10033

Working Families Party
2 Nevins Street, 3rd Floor
Brooklyn, NY 11217

Re: Marc Landis' Candidacy for District 6 Council Member

Dear Mr. Cantor:

It is disheartening to the tenants of 516 West 174th Street to learn that Marc Landis is running for City Council since Mr. Landis was the mastermind behind an illegal scheme to misuse federal bankruptcy laws to wrongly evict 21 rent-stabilized families in 2005, some of whom were persons with special needs.

Landis was counsel to holding company Climate Capital 174 LLC, which bought 516 West 174th Street at a bankruptcy auction in December of 2004. Shortly after the purchase of the building, under the advice of attorneys Landis and Arent Fox, eviction notices were distributed instructing all tenants occupying 516 West 174th Street to vacate the premises or they would be forcefully removed by U.S. Marshals.

We received this letter on a frigid Sunday evening in January, when my wife had responded to a stranger's knock on our door. Several of my neighbors were already standing in the hallway with worried looks on their faces and speaking in Spanish. I assumed this had something to do with the lack of hot water and heat which had become a regular part of our lives. However, I was wrong and the stranger wasted no time shoving the vacate letter towards us and telling us that we had to get out. An armed off-duty police officer was present. Scared and confused by the content of the letter and its harsh delivery, an emergency tenants' association meeting was immediately held. We all agreed to seek legal assistance as a group from Northern Manhattan Improvement Corporation (NMIC) the next day.

It turns out the landlords' lawyers, Marc Landis and Schyler Carroll, were trying to use bankruptcy as a pretext for vacating the entire building prior to selling the building to Climate Capital. Together, Landis and Schyler managed to bamboozle U.S. Bankruptcy Court Judge Prudence Beatty into signing a sale order. The sale order stipulated invalidating the existing tenants' leases in order to deliver the premises vacant. NMIC and the Cleary, Gottlieb, Steen, & Hamilton LLP law firm convinced Judge Beatty to rescind the sales order and revoke the court's earlier order. Judge Beatty was furious upon realizing Landis' and Carroll's attempt to misuse a federal bankruptcy proceeding as a way to invalidate rent-stabilized lease agreements. Her swift action in the matter meant my family, the special needs persons, and the twenty other working families, whom Landis planned to evict, would be able to continue to reside in the only place that

they call home. Now, eight years later, Landis is trying to “represent” the very same working families that he sought to evict.

Landis has been successful in keeping his name and his involvement with Climate Capital out of the media. He has been able to conveniently disassociate himself from Climate Capital and Schyler despite Landis’ regular attendance in Bankruptcy Court with the landlords. I speak on behalf of the Tenant’s Association when I state that anyone who tries to misuse the law to illegally force out legal occupants for mere financial gain should not deserve to be elected to any office. Moreover, I demand to know what Landis’ motivation was when he decided to twist the laws and execute something as heinous and heartless as disposing of 21 families.

In conclusion, our concern with Landis’ moral character, and his inability to disassociate with his wrong-doings, are traits we would like questioned. We ask that you consider his role in this unsuccessful eviction attempt before you make a decision on which candidate to endorse in the 6th Council District. We further ask that the needs of the working families be considered in your determination.

Yours truly,



Freddy Fermin
Member, 516 West 174th Street Tenants Association

Telephone No.: 646-456-5976
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Cc: Matthew Chachere, Northern Manhattan Improvement Corp.
U.S. Rep. Jerrold Nadler
State Senator Bill Perkins
State Senator Adriano Espaillat
State Senator Jose Serrano
State Senator Brad Hoylman
Assembly Member Linda Rosenthal
Assembly Member Richard Gottfried
Assembly Member Daniel O'Donnell
City Council Member Gale Brewer
City Council Member Melissa Mark-Viverito
Manhattan Borough President Scott Stringer
Ellen Goldstein, Tenants & Neighbors
Michael McKee, Tenants Political Action Committee
Jaron Benjamin, Met Council on Housing

Encl: Climate Capital’s January 25, 2005 letter & newspaper clippings



Housing for people, not profit

Tenant

Inquillino

Vol 35, No. 2
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Metropolitan Council on Housing
339 Lafayette St.
New York, NY 10012

PERIODICAL

305

Judge Blocks Bankruptcy-Scam Eviction

By Steven Wishnia

Tenants at 516 West 174th Street in Washington Heights could watch the Super Bowl in peace on Feb. 6—instead of spending the day watching their TVs and other possessions being tossed in the street.

Their new landlord had tried to use a federal bankruptcy proceeding as a vehicle to evict all 21 families living in the building, and almost succeeded. Federal Bankruptcy Judge Prudence Carter Beaty blocked the planned eviction on Feb. 2, and cancelled the

sale of the building.

Climate Capital 174 LLC bought the building at an auction in December for about \$1.7 million. The previous owner had filed for bankruptcy; they owed the city more than \$750,000 in back taxes and fees.

The new landlords decided that the bankruptcy could be used to invalidate tenants' rent-stabilized leases, much as corporations use bankruptcy proceedings to invalidate union contracts and pension plans. That is what lawyers for the

tenants called a "novel legal argument." Previous cases have held that rent-stabilized leases remain valid even if the owner is bankrupt. "This is horrifying," said Kenneth Rosenfeld, head of legal services at the Northern Manhattan Improvement Corporation, where tenants went for legal assistance. "As far as we know, this has never happened to residential tenants in New York, or, anywhere else."

Climate Capital sneaked a provision letting them evict the tenants en masse into what Judge Carter Beaty apparently thought was a routine sales order. On Jan. 25, they gave the 174th Street tenants—most of whom speak little English—notice stating that "on Sunday, February 6, 2005, agents from the office of the United States Marshal will be permanently evicting all occupants or hot water."

from all apartments within 516 West 174th Street, New York, NY. All occupants of all apartments within 516 West 174th Street should take all steps necessary to vacate each apartment and should remove personal possessions from any apartment... GOVERN YOURSELVES ACCORDINGLY." The notice offered \$1,000 to anyone who moved out by Feb. 5.

But on Feb. 2, four days before the scheduled eviction, Judge Carter Beaty rescinded the sales order she'd signed, telling the Climate Capital's landlords that "deception was practiced" and "you pulled a fast one on me." The tenants at 516 West 174th St. still have their homes, but the building's status is unsettled, and they spent several days of the January cold wave without heat or hot water.

Eviction orders revoked on W. 174th Street Revocada orden de desahucio en la Calle 174

by Elbert Garcia

Housing advocates scored a major victory last week when a U.S. Bankruptcy Court judge halted a landlord's attempt to use federal laws, and if needed U.S. Marshals, to evict the majority of tenants at 516 W. 174th St.

The court's earlier eviction order was revoked on Feb. 2 by Judge Prudence Carter Beatty, much to the delight of community residents and their legal team, represented pro bono by the law firm of Cleary Gottlieb Steen & Hamilton LLP and local lawyers from the Northern Manhattan Improvement Corporation (NMIC). The tenants would have had to vacate the premises last Sunday.

"If the eviction (had been) upheld, it (would) have (had) terrible consequences for every tenant in New York," said NMIC legal services director Ken Rosenfeld. "Any landlord wanting to get rid of tenants could use bankruptcy as a pretext for vacating an entire building to sell it."

The former owner of the Washington Heights property, Frank Fris, filed for bankruptcy in 2002 after years of violations and failure to completely pay property taxes. According to Rosenfeld, the landlord sold the property, claiming it was an empty building, to Climate Capital 174 LLC. Apparently Fris was convinced that under bankruptcy law, the sale of the property could invalidate the tenant leases.

Representatives of Climate Capital/Trid Management had no comment on the case, suggesting all inquiries be made to their lawyers. Calls to the firm of Arendt Fox were unreturned as of press time. No word yet if either Fris or Climate Capital plan on

appealing the decision.

Although some tenants knew of the landlord's financial troubles, few thought it would cost them their homes until Jan. 25, when Climate Capital sent eviction letters. Tenants were offered \$1,000 in moving expenses. According to NMIC, the average tenant has lived there for 18 years, earns about \$19,000 annually, and has savings of under \$1,900.

While the judge's order guarantees that tenants will keep their apartments, and Climate Capital will maintain them for now, Judge Beatty is expected to meet with parties this week to sort through a number of remaining issues, including ownership of the 21-unit building. There is some question as to whether the sale of the building is still valid if the building is occupied. The city, which had been moving towards foreclosure proceedings before the bankruptcy declaration, is keeping an eye on that decision to see whether it has a right to claim the property.

Lawyers successfully fought the eviction of tenants at 516 W. 174th St.

Los abogados batallaron satisfactoriamente el desahucio de los inquilinos en el 516 Oeste de la Calle 174.

por Elbert Garcia

Defensores de vivienda se anotaron una gran victoria la semana pasada cuando un juez de la Corte de Quebras de los Estados Unidos devuolvió el intento de un propietario de utilizar leyes federales, y de ser necesario un alguacil de los Estados Unidos, para desahuciar la mayoría de los inquilinos del 516 en la Calle 174.

La temprana orden de desahucio de la Corte de Quebra fue revocada el 2 de febrero por el juez Prudence Carter Beatty, para el deleite de los residentes de la comunidad y su equipo legal, representados por la firma legal de 'Cleary

Gottlieb Steen & Hamilton LLP' y abogados locales de la Corporación de Mejoras del Norte de Manhattan (NMIC).

por sus siglas en inglés). Los inquilinos hubiesen tenido que desalojar el lugar el pasado domingo.

"Si el desahucio hubiese sido sostenido, hubiese tenido terribles consecuencias para cada inquilino en Nueva York," dijo Ken Rosenfeld director de servicios legales de NMIC. "Cualquier propietario que quisiese desahuciar a sus inquilinos podría utilizar la quiebra como un pretexto para desalojar un edificio entero para venderlo."

El antiguo dueño de la propiedad en Washington Heights, Frank Fris, llenó los papeles para quiebra en el 2002 luego de años de violaciones y fracasos para pagar completamente los impuestos sobre la propiedad. Según Rosenfeld, el dueño vendió la propiedad, reclamando que era un edificio vacío, a 'Climate Capital 174 LLC'. Aparentemente Fris estaba convencido que bajo la ley de quiebra, la venta de la propiedad podía invalidar los contratos de los inquilinos.

Representantes de 'Climate Capital/Trid Management' no tuvieron comentario en este caso, sugiriendo que todas las preguntas fueran hechas a sus abogados. Llamadas a la firma Arendt Fox no fueron contestadas al momento de la publicación de este artículo. Ni una palabra de si Fris o 'Climate Capital' planean apelar la decisión.

Aunque algunos inquilinos sabían de los problemas financieros del dueño, pocos pensaron que les costaría sus hogares hasta el 25 de enero, cuando 'Climate Capital' envió cartas de desahucio. Se les ofreció a los inquilinos \$1,000 para gastos de mudanza. Según NMIC, el promedio de tiempo de los inquilinos que han vivido ahí es de 18 años, ganan cerca de \$19,000 anualmente y tienen ahorros de menos de \$1,900.

Mientras que la orden del juez garantiza que los inquilinos retendrán sus apartamentos, y 'Climate Capital' los mantendrá por ahora, se espera que el juez Beatty se reúna con las partes esta semana para resolver un número de asuntos pendientes, incluyendo la posesión del edificio de 21 unidades. Hay algunas preguntas de si la venta del edificio todavía es válida si el edificio está ocupado. La ciudad, la cual se había estado moviendo hacia procedimientos de ejecución antes de la declaración de quiebra, está pendiente de esa decisión para ver si tiene el derecho de reclamar la propiedad.



ELBERT GARCIA

Judge nixes building deal, halts evictions

BY ROBERT GEARTY
and LEO STANDORA
DAILY NEWS STAFF WRITERS

A FURIOUS bankruptcy court judge fooled into approving a building sale that would have left 75 people homeless this weekend killed the \$1.6 million deal and bawled out the lawyers who tried to slip it past her.

"I consider this appalling," Judge Prudence Batty yesterday told the would-be seller's attorney Schyler Carroll. "You pulled a big fast one on me."

"You fooled me," she said, "but there is no way I'm going to let you put these people out on the street."

Her words brought smiles and sighs of relief from about 20 tenants who had come to court.

"Last week we were wondering where we were going to go," said Lee Almanzar, 28, who lives with her father at 516 W. 174th St. in Washington Heights. "Today we're just thrilled. But the fight's just begun," she said, noting there has been neither heat

nor hot water at the building since last weekend's deep freeze.

Because the building's owner failed to pay taxes for years and filed for bankruptcy, Batty recently approved the sale of the property to Climate Capital 174 LLC, a holding company.

The city was to get \$775,000 in back taxes as part of the deal.

But Batty said she wouldn't have given her approval if she had realized evictions were involved.

Most in the building are long-

term tenants with limited resources and nowhere else to go. A third of them are children. One is a 93-year-old woman living alone who has had her apartment for 42 years.

The rent-stabilized building's 21 families pay an average \$550 in rent and earn an average of \$19,000 a year. All were given a Jan. 25 letter telling them to get out by this Sunday or be thrown out.

Attorney Sean O'Neal called the attempted sneak evictions a

"classical example of litigation by ambush."

Batty admitted she hadn't read every word of the sale order because she "trusts" the lawyers who come before her to tell her the truth. Carroll, she said, never mentioned evictions.

When Carroll tried to appease the angry judge, telling her "I'm not here saying we're the good guys," she shot back in a voice heavy with sarcasm, "Good."

Another hearing is slated for tomorrow.

standora@nydailynews.com

■ NUEVA YORK

Desalojan a 21 familias

El dueño de un edificio del alto Manhattan consigue una orden para que los inquilinos, que tienen 'renta controlada', desalojen la propiedad

ALEXANDRA OCHOA Y MAISE GONZÁLEZ
MANHATTAN

Los inquilinos del edificio 516 de la calle 174 en Washington Heights, luchan para evitar ser desalojados luego que el dueño se declaró en bancarota y vendió la propiedad a la agencia Climate Capital 174 LLC.

La empresa demandó los contratos de arrendamiento firmados antes de la transacción y consiguió que un alguacil recibiera la orden de desalojo el próximo domingo 6 de febrero.

"En la calle me voy a quedar con mi niña", dijo Melly Marroquín, residente del apartamento 2 por 13 años, y quien tiene contrato firmado hasta el 2006.

Según Lissette Almanzar, quien lleva 25 años en el edificio, los residentes fueron avisados del cambio de dueño el 11 de enero, y el 25 recibieron la orden de desalojo.

"¿Quién puede encontrar casa en Nueva York en 10 días?", dijo Almanzar.

Kenneth Rosenfeld, director de Legal Services del Northern Manhattan Improvement Corporation, donde los inquilinos buscaron asesoría, dijo que esta es la primera vez en 20 años de experiencia que ve algo semejante. "Si el desalojo ocurre va a ser una amenaza para todos los inquilinos con renta controlada".



La oficina de Rosenfeld está haciendo lo posible para frenar el desalojo. "Me preocupa

■ **Las familias** esperan que se revoque la orden de desalojo. A la izquierda, María Almodóvar, de 93 años, lleva 45 años en el edificio.

mucho. No tengo a nadie y esta es mi única casa", comentó María Almodóvar, una puertorriqueña de 93 años que ha vivido en el edificio por 45 años.

En la propiedad viven 75 personas, incluyendo 25 niños, 3 ancianos y 2 discapacitados.

Marchan por viviendas módicas

Unas 5.000 personas protestaron ayer frente a la alcaldía contra las políticas de vivien-

da. "Exigimos a la Administración que incluya porcentajes de vivienda barata en los planes de re zonificación", dijo Manuel Castro, de Se Hace Camino al Andar, una de las organizaciones que conforman la coalición por 'affordable housing'.

La ciudad adelanta unos 24 procesos de redistribución de áreas para desarrollo comercial y residencial. La necesidad de vivienda social en este momento es de alrededor de 250.000 unidades. ■



NEWSDAY PHOTO / ROBERT MECIA

Adalgisa Cruz, right, with daughter Cindy Rodriguez. On couch are, from left, Hansel Rodriguez, Miguel Castillo and Antonio Maria.

Reprieve for tenants

■ **Saying attorneys for owners of building in Washington Heights tricked her into OKing eviction, judge tells renters they can stay**

BY KAREN FREIFELD
AND PETE BOWLES
STAFF WRITERS

More than 75 people who faced eviction from their Washington Heights apartments won a last-minute reprieve yesterday when a federal judge said she had been deceived in ordering their removal.

"You pulled a fast one on me," U.S. Bankruptcy Judge Prudence Carter Beatty told attorneys for the former and current owners of the five-story apartment building at 516 W. 174th St. "I feel deception was practiced on me, and I would not have signed that order."

The angry judge canceled the sale of the building and told

frightened tenants who packed her courtroom that they would not have to vacate their apartments on Sunday. She scheduled a hearing for tomorrow to determine who will be running the building in the meantime.

"I'm thrilled, but the fight has just begun," said Lee Almanzar, 28, a tenant in the building for 25 years. "The problem is getting a landlord. The other problem is getting a landlord who observes the law."

The tenants of the 21-unit rent-subsidized building, most of whom speak only Spanish, received letters on Jan. 25 from the new owner of the building that the court had ordered them to move out by Feb. 6.

Climate Capital 174, which

purchased the building in December for \$1.6 million, said federal marshals would be "permanently evicting all occupants." The letter, in English, said tenants who moved out before 5 p.m. Saturday would be paid \$1,000 for relocation expenses.

A court order signed by Beatty on Dec. 16 said Climate Capital, with the assistance of marshals, was authorized to take possession of the building, "including breaking open and entering said premises and evicting all persons" living there.

But yesterday, at a hearing sought by lawyers for the tenants, Beatty said she did not realize what she was signing.

"I am not going to approve any order that authorizes the vacating of these tenants," she told attorneys for the former owner, 516 West 174th Street Realty Co., and the new owner, Climate. "You never stood up in front of me and said, 'Judge, I want you

to understand we are going to evict the tenants.'

"If I realized what you were doing, I would have called a halt to it," Beatty added.

The former owner filed for bankruptcy in 2002. Court records show that as of Dec. 16, the company owed the city almost \$800,000 in taxes and water and sewer charges. Climate purchased the building on Dec. 30 for \$1,688,500.

When told about yesterday's ruling, several longtime tenants at the building who had not attended the hearing expressed skepticism.

On receiving the latest news, Adalgisa Cruz, 29, whose family has lived in the building for three years, clapped her hands and broke out in a big smile. "Thank you, God, thank you," she said. "Imagine the weight you feel, the worry."

Freelance writer Solana Pyne contributed to this story.

CLIMATE CAPITAL 174 LLC

2565 Broadway # 118

New York, NY 10025

917-494-2821

January 25, 2005

Occupant, Apartment #4
516 West 174th Street
New York, NY

Re: 516 West 174th Street, New York, NY (the "Subject Premises")

Dear Sir or Madam:

Climate Capital 174 LLC is the owner of the building located at and known as 516 West 174th Street, New York, NY.

Pursuant to an order of the United States Bankruptcy Court for the Southern District of New York, on Sunday, February 6, 2005, agents from the office of the United States Marshal will be permanently evicting all occupants from all apartments within 516 West 174th Street, New York, NY.

All occupants of all apartments within 516 West 174th Street should take all steps necessary to vacate each apartment and should remove personal possessions from any apartment within 516 West 174th Street.

To insure an orderly removal of all occupants and their possessions from 516 West 174th Street, Climate Capital 174 LLC urges all occupants to remove from the Subject Premises on or before February 5, 2005. To assist with relocation expenses, Climate Capital 174 LLC will pay a One Thousand Dollar (\$1,000.00) cash payment to any individual who is a former tenant of record at 516 West 174th Street and who still occupies their respective unit and who surrenders vacant possession of their apartment to Climate Capital 174 LLC on or before February 5, 2005, at 5:00 PM.

Any occupant desiring to vacate the Subject Premises on or before February 5, 2005, should contact Climate Capital 174 LLC by telephone at 917-494-2821.

GOVERN YOURSELF ACCORDINGLY.

Very truly yours,

Climate Capital 174 LLC

CLIMATE CAPITAL 174 LLC