

East New York Mitchell-Lama Complex Sues Feds, City, Landlord in Federal Court

By [Abigail Savitch-Lew](#) | April 16, 2018



Members of the Linden Plaza Tenants Association in 2015.

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Two years ago, City Limits wrote about [an affordable housing preservation deal under Mayor Bloomberg](#) that tenants and advocates say was disastrous and non-transparent, leading to skyrocketing rents and evictions for many tenants. Those tenants, with the support of Legal Services Corporation A and the Cypress Hills Local Development Corporation, have now filed a class-action federal lawsuit against the owner as well as the federal and city agencies who signed off on the deal.

“We all have suffered in one way or another for 10 years, as a result of pure greed; a total disregard of the housing protection laws,” wrote Pamela Lockley and Mary de Suze of the Linden Plaza Tenants Council in a press release in late March. “We are a large, close-knit,

extended-family of American born and immigrants from the Caribbean, Latin America, South America, West Africa and the Ivory Coast. We owe it to the tax payers of New York, current and former tenants – to make sure we all receive justice.”

Linden Plaza is a 1,525-unit apartment complex in East New York that was built in 1971 under the state’s Mitchell-Lama program for middle-income housing creation. In 2008, the city’s Department of Housing Preservation and Development (HPD), with approval from the Department of Housing and Urban Development (HUD), signed off on deal that permitted the owner, an affiliate of the DeMatteis Organizations, to refinance its mortgage with the New York City Housing Development Corporation and acquire additional investment through the use of Low Income Housing Tax Credits. With the refinancing, the owner was also expected to fund about \$50 million in renovations.

To cover a number of new expenses, including larger loan repayments, the owner was permitted to raise rents by an average of 93 percent, phased in from 2008 through 2010. The deal was supposed to keep the complex affordable for the next 30 years, with tenants with lower incomes receiving vouchers to assist with some of the rent increase.

But the Tenant Council says some low-income tenants didn’t receive the vouchers and that middle-income tenants were crippled by the rent increases—which, coupled with further rent hikes in later years, the Tenant Council says has increased rents by an average of 130 percent over the past decade. By the Tenant Council’s estimates, which they say is also confirmed by voter registration records, about 60 percent of the building’s longtime residents left or were evicted after the preservation deal. They also say that from 2008 through 2013, there was an average of 100 to 150 open cases in housing court emanating from Linden Plaza. DuBois Thomas, director of tenant organizing and counseling at Cypress Hills LDC, says he also noticed such unusually high levels of eviction cases emanating from the complex.

But tenants argue that the deal was not only harmful, but also illegal, and have gone to court several times without legal representation to argue their case. While no judge so far has nullified the preservation deal, that process has helped to uncover numerous documents that Legal Services Corporation A is now using to bolster their case. They’ll argue that there was “\$140 million dollars of government funding that ownership was never awarded, but has been the justification for rent increases since 2008.” They say their documents prove that the owners did not take on bond debt, or spend as much on renovations as claimed, in order to justify rent increases. They’ll also argue that there were many other financial irregularities in the deal and that the rent increases were not permitted according to the rules of the Mitchell-Lama program.

Neither HPD, the DeMatteis Organizations or HUD returned a request for comment, but the building’s management company has in the past disputed the notion of a mass exodus of residents. City officials, meanwhile, have said most tenants received vouchers and that prior to 2008 there hadn’t been significant rent increases, suggesting that the property needed large increases in order to catch up with costs, and that middle-income residents were paying less prior to the refinancing deal than they could afford. They’ve also insisted in the past that the renovations cost \$50 million and that the rent increases were completely legal.

Linden Plaza is one of 269 buildings with a total of 105,000 co-op and rental apartments that were built under the Mitchell-Lama program. Those buildings operated under time-limited restrictions on rent increases and owner profit, but many left the program when their restrictions expired. As earlier reported by City Limits, [a 2013 report](#) by the Community Service Society found that 30,622 Mitchell-Lama rental units had exited the Mitchell-Lama program between 1990 and 2008.

Elected officials on multiple levels of government have been making efforts to prevent the loss of Mitchell Lama units: The De Blasio administration [said in October](#) it had preserved or extended the affordability of 11,000 Mitchell-Lama apartments in its first term and was allocating another \$250 million to preserve another 15,000 Mitchell-Lama apartments for at least 20 more years. On Sunday, Representative Adriano Espaillat and Senator Charles Schumer announced they'd secured support for an East Harlem Mitchell-Lama in the federal funding package. Governor Andrew Cuomo has also [launched](#) Mitchell-Lama specific initiatives aimed at preserving affordability and funding rehabilitation.

But expiring affordability will continue to be an expensive problem throughout the city as affordability agreements tied to other forms of financing, like the Low Income Housing Tax Credit, the dominant form of affordable housing financing constructed since the late 1980s, come up for expiration—including at Linden Plaza.

The Linden Plaza Tenant Council further argues that they would have been better off if, instead of entering the city-approved preservation deal, the building had exited the program: Mitchell-Lamas built prior to 1974 are at least subject to rent stabilization rules if they leave the program, with rent increases set by the Rent Guidelines Board.

The lawsuit has the support of several local elected officials, including Assemblyman Charles Barron and Councilmember Inez Barron. “Theirs is a just fight against unwarranted rent increases, ones that have been imposed upon struggling tenants who can hardly keep up with the volume of increases coming at them,” wrote the Barrons in support.

The battle at Linden Plaza comes as there are concerns in the neighborhood at large about the De Blasio administration's first [neighborhood rezoning](#), which is playing out just a few blocks northwest of the complex. While so far all the large-sized development projects under planning in the rezoning area are slated to be 100 percent affordable housing, there is concern that the rezoning is hastening changes in the real-estate market and exacerbating speculation.