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ZONING AND LAND USE

From Policy to Practice: Making Sense of NYC's New Housing Rules

BY RON MANDEL AND ALAINA GREENE

New York City voters recently approved four ballot proposals (Proposals 2-5) that will fundamentally reshape the city's land use review process. These Charter amendments create faster approval pathways for housing development and aim to modernize outdated administrative systems. For developers and property owners, these changes may create opportunities to reduce project timelines, lower soft costs, and make previously economically unfeasible development sites viable.

Proposal 2: Fast Tracking Affordable Housing

Proposal 2 establishes two new expedited pathways specifically for affordable housing projects, saving significant amounts of time compared to the traditional seven-month Uniform Land Use Review Procedure (ULURP).

The first pathway creates a new zoning action at the Board of Standards and Appeals (BSA) for publicly financed affordable housing projects undertaken by Housing Development Fund Companies (HDFCs). Applications will first be reviewed by the Community Board for 60 days, followed by a 30-day BSA review and decision, reducing the process from over seven months to approximately three months. This streamlined BSA process balances the need to quickly deliver affordable housing, while preserving neighborhood character.

The second pathway creates an Affordable Housing Fast Track for projects subject to the city's Mandatory Inclusionary Housing (MIH) program in the 12 community districts that have permitted the least affordable housing over the preceding five years, beginning in October 2026.

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Proposal 3: Simplify Review of Modest Housing and Infrastructure Projects

Proposal 3 creates the Expedited Land Use Review Procedure (ELURP), cutting review time in half for qualifying projects, from seven months to approximately three and a half months. ELURP maintains the same 60-day Community Board review period as ULURP, but runs Borough President review concurrently, followed by a 30-day City Planning Commission review with final decision-making authority.

ELURP eligibility encompasses several categories. In low-density residential districts (R1-R5), zoning map changes that permit modest multifamily housing up to 45 feet in height and 2.0 FAR now qualify for expedited review. In medium- and high-density areas (R6 and above), projects that increase residential capacity by 30% or less are eligible. The proposal also expedites City Map changes related to affordable housing or low-density housing, dispositions of city-owned property to HDFCs, and infrastructure projects including street raisings for flood protection and solar panel installations on public land.

For developers, ELURP may make previously economically unfeasible projects financially viable. The shorter timeline could significantly reduce soft costs like legal fees and consultant expenses that often make modest-sized projects prohibitively expensive under traditional ULURP. This change has the potential to create numerous development opportunities, particularly for smaller, contextual buildings.

Proposal 4: Affordable Housing Appeals Board

Proposal 4 addresses the longstanding practice of 'member deference,' where individual City Council members may effectively veto projects in their districts. The proposal creates a three-member Affordable Housing Appeals Board consisting of the affected Borough President, the City Council Speaker, and the Mayor. This Board will have the authority to reverse City Council denials of affordable housing projects with a two-to-one vote. The creation of this Appeals Board aims to balance local concerns against citywide housing needs.

For applicants, this reform could reduce political risk and uncertainty in the development process. Projects meeting affordability requirements and City Planning standards have a more transparent path forward, even in districts where local opposition might otherwise have proven insurmountable. This increased predictability attempts to encourage investment in affordable housing development across more neighborhoods.

Proposal 5: Modernizing the City Map

Proposal 5 requires consolidation of the city's over 8,000 paper maps, which are presently maintained separately by the five Borough Presidents' Offices, into a single digitized City Map managed by the Department of City Planning by January 1, 2028. The City must promulgate a legally effective Digital City Map by January 1, 2029.

While this reform might seem purely administrative in nature, it has significant practical implications for development projects. Currently, confirming the legal status of streets and their locations, widths, and grades through the individual Borough President Topographical Offices can take months, creating unpredictable delays in the early stages of a project. City Map changes currently rank among the most time-consuming ULURP actions. A centralized digital system should enable near-instantaneous confirmations and significantly accelerate City Map modifications necessary for some housing and infrastructure projects.

Practical Implications

These Charter amendments have the potential to collectively create substantial benefits for property owners and developers. The proposals could cut review periods by 50-60%, dramatically reducing pre-development expenses. Shorter timelines may also mean reduced spending on attorneys, consultants, lobbyists, and environmental review, costs that the Citizens Budget Commission estimates can exceed $80,000 per apartment under current procedures.

These reforms represent the most significant restructuring of New York City's land use process in decades. While they specifically target affordable housing, the administrative improvements and reduced timelines will benefit development projects across the board.

Regarding the timing for implementation of these reforms, proposals 2, 3, and 4 are already in effect under the Charter's text, but the applicable City agencies must first promulgate rules related to proposals before they can be meaningfully utilized by applicants. Proposal 5 becomes effective in phases according to the Charter, with the first milestone scheduled for January 1, 2027, and completion envisioned by January 1, 2029.

The zoning and land use team at BBG is closely monitoring implementation of these Charter amendments and stands ready to advise clients on how to strategically take advantage of these new pathways for future development projects. Please contact us to discuss how these reforms may benefit your specific properties and development plans.

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CONSTRUCTION LAW

New RPAPL 881 Amendments Reshape NYC Construction Access Rights

BY JOSEPH VERGA AND ZACHARY C. ROZYCKI

New legislation was recently enacted which, effective immediately, will likely change the way construction license agreements are negotiated and litigated across New York City. Owners and lessees (collectively referred to as "Licensees") of real property have been overburdened in recent years with the increasing complexity, contentiousness, and overall duration of the negotiation process to gain access to adjoining properties for their building's own improvement and repair projects. This has become especially difficult to bear for condominium and co-operative boards across Manhattan and Brooklyn while struggling to timely perform required FISP inspections. In an apparent attempt to clarify the deceivingly simplistic, yet historically murky and inconsistently applied statute that governs a court's power to grant Licensees access to neighboring properties, Governor Kathy Hochul signed Senate Bill S3799-C on December 5, 2025. The bill codifies certain amendments to Section 881 of the Real Property Actions and Proceeding Law ("RPAPL 881") which have been the subject of common law interpretation for decades.

This article explores some of the more notable of these amendments and their potential implications for NYC property owners and lessees into the foreseeable future.

I. Pathway to Entry

The amended RPAPL 881 continues to provide a path to relief for a Licensee, refused access to an adjoining owner or lessee's property, in order to make improvements or repairs to its own property. While previously undefined, the updated statute expands the meaning of the term "refused" to include instances where more than one written notice was served by certified mail, and the adjoining owner did not respond within sixty days. The updated statute further requires that the improvement or repair work purportedly requiring access cannot be performed in a commercially reasonable manner without such access. As such, a court will now be required to consider whether reasonable alternative methods of construction exist before granting a would-be Licensee's petition.

Further, an adjoining owner named as a party in an RPAPL 881 petition must now provide sufficient information to identify all lessees of the adjoining property at the request of Licensee so that they may be joined in the proceeding. This change, so far as it infers that all lessees (a term that remains yet undefined) of a property should be joined as respondents in an RPAPL 881 petition, will potentially lead to drastically increased litigation timelines in the event many lessees are involved.

Notwithstanding any of the above, when a Licensee seeks access to adjoining property owned, leased, or otherwise occupied by the Metropolitan Transportation Authority, or any of its affiliate or subsidiary agencies, a court is not empowered to grant such access.

II. Permitted Purposes for Entry

Previously, RPAPL 881 was silent on the purposes for which a Licensee was permitted to petition a court for access to an adjoining owner's property. The amended RPAPL 881, however, specifically enumerates an expansive, although not exhaustive, list of such permitted purposes – many of which were heretofore addressed only by common law. The most notable change to this list is the inclusion of permanent foundation or building supports such as wall ties, tie-backs, anchors, straps, and/or underpinning where such supports are required by code, regulation, or local law. Permanent flashing, sealing, and other weatherproofing materials are also permitted.

This new authority for courts to order the installation of permanent encroachments, where legally required, is a marked shift from the previous iteration of the statute and resulting case law which only permitted a court to order temporary encroachments. The revisions almost certainly will lead to challenges of this section of the amended statute's constitutionality. If ultimately deemed constitutional, the threat of a court simply ordering the installation of a permanent encroachment will severely diminish an adjoining owner's bargaining power for concessions from a Licensee when negotiating a license agreement involving such encroachments.

III. Requirements for Permitted Access

The amended RPAPL 881 also provides newly prescribed obligations for the Licensee during the exercise of its granted access. Most notably, a Licensee is now statutorily required to reasonably compensate the adjoining owner for the loss of use and enjoyment of the adjoining premises including diminution in value of the adjoining property during the Licensee's access. Previously, Licensees were only statutorily liable for actual damages resulting from their entry. While adjoining owners continue to remain entitled to such actual damages, this additional entitlement to compensation greatly enhances adjoining owners' ability to recover even nuisance-type damages and lost rent. However, the amended statute still does not provide a mechanism for calculating appropriate compensation amounts. The unchecked allowance of claims for diminution in value will theoretically lead to an increase in such claims and the requirement for expert testimony opining on the actual, quantifiable, amount of such lost value simultaneously increasing both litigation and construction time and costs.

Further, Licensees must now provide a good faith projection of the dates and estimated duration of any entry to the adjoining property and make commercially reasonable efforts to adhere to such dates and durations once established. In the event a Licensee is unable to do so, it must make a request to the court for an extension of the license.

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The exercise of any right of entry to the adjoining property must also be upon reasonable prior notice to the adjoining owner, except in cases of an emergency posing an immediate threat to the safety of persons or property.

Lastly, a Licensee must now provide the adjoining owner with copies of any relevant documents including plans, specifications, surveys, and engineering reports prior to the commencement of work when the permitted access includes a right to install, maintain, inspect, repair, replace, or remove any devices, structures, materials, or equipment on the adjoining property. Proof of commercial general liability insurance for damage to persons or property in commercially reasonable amounts naming the adjoining owner and/or its lessees as additional insureds is also required and must be provided.

IV. Considerations of the Court

In resolving a Licensee's petition for access, a court is now formally authorized to (i) consider evidence that either party failed to comply with the terms of any existing or previously existing license respecting the same property; (ii) obligate the Licensee to reimburse the adjoining owner for reasonable fees incurred in connection with the review of plans, specifications, surveys, and engineering reports for the installation, maintenance, inspection, repair, replacement or removal of devices, structures, materials, or equipment on the adjoining property; and (iii) insure for damage to property and persons if there is unique, physical occurrence causing physical damage to property or persons caused by the access.

The above considerations notably exclude reference to legal fees for negotiating, drafting, and/or litigating access requests for access thus leaving their reimbursement to an adjoining owner entirely within the court's purview. Case law has historically required such reimbursement for an adjoining owner who did not seek out and does not stand to gain anything from the Licensee's intrusion onto its property; however, it is yet to be seen whether courts continue to follow this line of reasoning in light of the revised statute.

Summation and Conclusion

The newly amended RPAPL 881 promises to have far-reaching effects well into the future for everything from the type of access permitted to the way an adjoining owner is compensated for the inconvenience and what type of costs a Licensee will be required to reimburse

For more information on the changing landscape of construction license agreements in New York City, and/or for expert assistance in negotiating and drafting your own license agreements, please call our office at your earliest convenience.

Joseph Verga and Zachary Rozycki are associates in BBG's Construction Law and Co-op and Condo Law Practices. For more information on RPAPL 881, please contact Joe at 212-867-4466 (Ext. 331) or jverga@bbgllp.com; and Zach at (Ext. 307) or zrozycki@bbgllp.com.

TAX EXEMPTIONS AND ZONING INCENTIVES

Jamaica MIH Is Live: What to Know Before Filing With HPD

BY CAMILA ALMEIDA AND DAVID SHAMSHOVICH

On October 29, 2025, the New York City Council approved the Jamaica Neighborhood Plan, implementing the largest neighborhood-wide rezoning in more than two decades and officially mapping the City's most expansive Mandatory Inclusionary Housing (MIH) area across approximately 230 blocks in Southeast Queens. Following Council approval and the subsequent update of Appendix F to add the Jamaica MIH areas, the Department of Housing Preservation and Development (HPD) began accepting MIH applications for development sites within the newly mapped area.

According to the City, the Jamaica Plan is expected to facilitate approximately 11,800 new homes, including nearly 4,200 permanently affordable units, more than two million square feet of new commercial and community-facility space, 7,000 projected jobs, and hundreds of millions of dollars in neighborhood infrastructure and public-realm investments. It is one of the most significant development unlocks in Queens in more than a decade and the largest MIH area citywide to date.

The Jamaica rezoning is centered on Jamaica Center, Sutphin Boulevard, Archer Avenue, and the LIRR/AirTrain hub, one of the region's most critical multi-modal gateways. MIH requirements now apply to most new residential developments across portions of Queens Community Districts 8 and 12, extending east to Guy R. Brewer Boulevard and Merrick Boulevard. Certain areas within the rezoning boundary are designated as "Excluded Areas" on the Appendix F Map and are not subject to MIH; these are primarily industrial preservation areas that remain zoned for manufacturing use.

By balancing new housing capacity with commercial expansion, open-space improvements, and transit-adjacent density, the Jamaica Plan is designed to support sustained economic and residential growth – with MIH as the core mechanism for locking in long-term affordability.

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How MIH Applies in Jamaica

Under Section 27-131 of the Zoning Resolution, the MIH program applies to most new residential development, enlargements, and conversions from non-residential to residential use within a mapped MIH area, subject to certain thresholds and exceptions. In simple terms: once a zoning lot is within an MIH area, a residential project must either provide MIH affordable housing or make a qualifying contribution to the Affordable Housing Fund.

The following categories are expressly exempt from MIH:

1. **Small projects:** A single development, enlargement, or conversion with not more than 10 dwelling units and not more than 12,500 square feet of residential floor area on a zoning lot that existed on the date the MIH area was established.
2. **AIRS-only buildings:** A development containing no residences other than Affordable Independent Residences for Seniors (AIRS).
3. **Projects granted a full MIH waiver:** A development that receives a waiver from the Board of Standards and Appeals under ZR Section 73-623, which allows MIH requirements to be reduced or modified where there is no reasonable possibility that the project will provide a reasonable return with MIH in place.

Within Jamaica, the Appendix F map (Queens Community Districts 8 and 12, Map 1, effective 10/29/25) divides the area into distinct MIH subareas. Of particular interest to developers:

Area 3, covering the downtown core around Jamaica Center and the transit hub, applies MIH Options 1 and 3.

Area 4, encompassing the surrounding corridors and transition zones extending south and east, applies MIH Options 1, 2, and 3, providing the broadest flexibility.

MIH Options Available in Jamaica

Each MIH option establishes a different affordability "profile" for required units:

1. **MIH Option 1:** At least 25% of the residential floor area must be designated as affordable at a weighted average of 60% of Area Median Income (AMI) and at least 10% of the residential floor area must be at 40% of AMI.
2. **MIH Option 2:** At least 30% of the residential floor area must be designated as affordable at a weighted average of 80% of AMI.
3. **MIH Option 3 (Deep Affordability Option):** At least 20% of the residential floor area must be designated as affordable at a weighted average of 40% of AMI. Public subsidy generally may not be used to support the minimum MIH floor area under this option without HPD approval; however, HPD may permit subsidy where it is necessary to support a significant additional amount of affordable housing beyond the MIH minimum.

Under the options available in Jamaica (Options 1, 2, and 3), developers may use up to three income bands so long as (i) the required weighted average is met and (ii) no income band exceeds 130% of AMI. This flexibility is key to tailoring MIH to different building programs, unit mixes, and financing structures.

Alternative Compliance Options

In addition to providing affordable floor area on-site, the Zoning Resolution allows two alternative compliance methods:

1. **Off-site compliance:** Affordable floor area may be provided on an MIH site that is located on a different zoning lot under ZR Section 27-16. Where affordable floor area is provided off-site, the required amount increases by 5% of the MIH development's residential floor area, multiplied by the share provided off-site. For example, if a developer provides 50% of the required affordable floor area off-site, the total affordable floor area requirement increases by 2.5% (5% x 50%) of the development's residential floor area.
2. **Affordable Housing Fund (fee-in-lieu):** Projects adding no more than 25 units and less than 25,000 square feet of residential floor area may satisfy MIH through a contribution to the Affordable Housing Fund, in an amount set by HPD for each Community District.

Before You File

Developers preparing to submit MIH applications to the Department of Housing Preservation and Development should, at a minimum, do the following:

1. **Confirm the site's MIH designation:** Determine whether the site is in Area 3 or Area 4 and identify which MIH options are available.
2. **Model the required affordable floor area:** Confirm whether the project exceeds the MIH trigger thresholds (more than 10 dwelling units and more than 12,500 square feet of residential floor area). If MIH applies, model the required affordable floor area and income bands under each available option.
3. **Evaluate compliance paths:** Compare on-site delivery, off-site delivery (including the resulting increase in required affordable floor area), and, where eligible, the Affordable Housing Fund option to determine which path is most efficient for the site's zoning, program, and financing.
4. **Align MIH with available tax incentives:** Coordinate your MIH compliance strategy with any tax exemptions the project may utilize, including 485-x, 467-m, or other applicable programs.

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Why Jamaica Matters Beyond Jamaica

Jamaica does not stand alone. It is part of a broader 2024–2025 land-use strategy that combines citywide zoning reform with targeted neighborhood rezonings and a more deliberate alignment of MIH, infrastructure, and tax incentive tools. Unlike some earlier rezonings, where land-use changes were adopted first and financing or implementation tools followed years later, Jamaica integrates several elements from the outset, including MIH requirements calibrated to a range of income bands (40%, 60%, and 80% AMI averages), significant infrastructure and public-realm investments committed alongside the rezoning, and available tax-exemption tools that sponsors are expected to consider in tandem with MIH.

This coordinated approach is designed to deliver not just affordability "on paper," but actual units built, a challenge earlier rezonings sometimes struggled to meet.

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TAX EXEMPTIONS AND ZONING INCENTIVES

ICAP Update: New Rules, Renewal Deadlines, and What Owners Need to Know

BY FRANK D. BAQUERO AND JASON C. HERSHKOWITZ

The Industrial and Commercial Abatement Program (ICAP) provides property tax abatements to encourage the construction, modernization, and improvement of industrial and commercial buildings, offering benefits that can last up to 25 years. Following recent amendments to the ICAP statute, the New York City Department of Finance adopted rules that clarify these changes and set forth the key updates for program participants.

The most significant change is the introduction of new restrictions on parking facility eligibility. ICAP benefits will no longer be available for parking facilities that require a garage or lot operation license from the NYC Department of Consumer and Worker Protection. However, parking facilities located on separate tax lots may still qualify if they serve a residential development that is receiving financial assistance from a local housing agency. This change could have a considerable impact on project planning, but BBG is ready to assist in structuring developments to maximize available property tax incentives.

Another important update is the expanded prohibition on storage uses. While self-storage facilities were already excluded from the program, the statute now also excludes warehouses used by consumers. However, warehouses used by merchants to store goods for resale or business operations—provided they are properly licensed—will continue to qualify.

Additionally, Governor's Island will be designated as a Special Commercial Abatement Area starting January 1, 2026. This means that eligible commercial projects located there will qualify for a 25-year ICAP benefit, opening new development opportunities on the island.

As a reminder, properties already participating in ICAP, or its predecessor, the Industrial and Commercial Incentive Program (ICIP), are required to file Certificates of Continuing Use (CCU) to renew their benefits. Properties already receiving ICAP benefits that were required to file a CCU last year, but failed to do so, are required to submit one during the current 2026–2027 renewal period through the Department of Finance's online portal. Additionally, projects receiving benefits through the Industrial and Commercial Incentive Program (ICIP), the predecessor to ICAP, are required to file a CCU annually to maintain eligibility. All CCU filings must be completed by January 5, 2026. Failure to meet this deadline could result in the permanent loss of benefits, making timely submission critical to ensure continued participation in the program.

BBG is available to assist owners of current ICAP and ICIP properties throughout the renewal process, ensuring that filings are completed on time and that benefits remain intact. For those considering new commercial, retail, or other nonresidential development or renovation work, now is the ideal time to assess whether your project may qualify for these valuable tax incentives.

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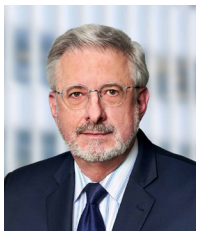
LITIGATION DEPARTMENT

How the New York Consumer Credit Fairness Act Affects Plenary Actions Against Residential Tenants



BY MARTIN MELTZER

New York's Consumer Credit Fairness Act (CCFA), enacted in 2022, created significant reforms in how consumer-debt lawsuits are filed, litigated, and enforced. The law was designed to curb abusive debt-collection practices, reduce default judgments based on inadequate documentation, and ensure that consumers receive clearer notice when they are being sued.

Because of the breadth of these reforms, many landlords and property managers have asked how the CCFA affects plenary actions, meaning civil lawsuits outside Housing Court that landlords may bring to recover unpaid rent or other monetary damages from tenants or former tenants. The answer is more nuanced than a simple yes or no because the Act applies to a specific category of debts.

What the CCFA Actually Changes

The CCFA's most significant reforms target consumer credit transactions such as credit cards, personal loans, installment-based purchases, and residential lease obligations for rent and additional rent. Among the most notable changes are a shortened statute of limitations, reduced from six years to three, and far more demanding documentation requirements at the time of filing. Creditors must now provide detailed evidence of the debt, including leases, itemized accounting, and proof of ownership if the debt (arrears) has been sold. Additionally there are additional notice provisions required when filing the lawsuit.

The CCFA also restricts the longstanding practice of reviving old debts when a consumer makes any payment or acknowledges the debt. These actions no longer restart the limitations period. In addition, judgments in consumer-debt actions now accrue interest at a significantly lower rate of 2 percent, replacing the previous 9 percent interest that applied in many New York cases.

These changes transform consumer-debt litigation. The changes in the law impact an owner's rights to sue for only three years for rent/additional rent arrears, reduce the interest rate to 2% and add procedures to the litigation process that did not previously exist.

Is Unpaid Rent Considered Consumer Debt?

Courts in New York State and in Federal Courts recognize residential rent arrears as consumer debt. The CCFA added new protections for consumers. Similar to legislative tenant protections, the legislature felt the need to extend protections to tenants as defendants when landlords sue for rent arrears outside of housing court. The most consistent effect is the reduced interest rate on judgments when courts view unpaid rent as consumer debt and notice provisions in the lawsuit. For landlords, the lower interest rate will result in smaller recoveries, especially in cases where arrears are a large sum.

The Bottom Line

The Consumer Credit Fairness Act has reshaped debt-collection law in New York, but its reach into landlord-tenant litigation is still evolving. For now, landlords pursuing rent debt in plenary actions should start cases before the three year statute of limitation and expect only 2% interest on the judgment awarded. Tenants may find limited protections available through recent interpretations, although these arguments remain far from universally accepted.

As courts continue to examine the boundaries of the CCFA, landlords should stay alert to new decisions that could influence how rent-debt cases are handled in the future. Owners who have large arrears on their books after tenants vacate do have a remedy to pursue tenants for the money. It is important to follow the new laws to ensure that the cases go smoothly and judgments are entered as quickly as possible. BBG attorneys are available to assist if you are experiencing a similar problem.

Martin Meltzer is a partner in BBG's Litigation Department. For questions about the CCFA, Marty can be reached at 212-867-4466 (Ext. 313) or mmeltzer@bbgllp.com.

LOFT LAW

The Lost Law

BY MICHAEL BOBICK

The Loft Law was created in 1982 to address the shortage of legal residential apartments and an increase in illegal conversions of manufacturing and commercial buildings into residential apartments. In that same breath, the Loft Law was also supposed to provide protections to the individuals who built out their spaces, i.e. poured their sweat equity into creating a residential apartment from a blank canvas. These protections included, protection from rent gouging, evictions, and rent regulatory and then rent stabilized protection. This concept is supported by various sections of the Loft Law, but none greater than Multiple Dwelling Law 286 which allows tenants to recoup the value of the improvements they made to their unit, in addition to selling their "Loft Law" rights back to the owner.

Over the years the Loft Law has changed dramatically. It started out by protecting the artists who were first rented these underdeveloped spaces and who then developed these spaces into live/work spaces. But in today's Loft Law, the days of solely protecting artists are over. In today's Loft Law any person, regardless of who you are, can become a statutorily protected tenant. Specifically, the Loft Board has created specific regulations that make it extremely simple for any person to become protected.

All a tenant needs is a lease. But why? Why would the law protect someone who just recently moved into a unit? Why would the Loft Law protect an individual who has not developed the space in any other way other than adding a kitchen chandelier? Why would a tenant like this then be given the opportunity to obtain a monetary windfall solely because they rented a unit last week?

Let's not forget that a protected tenant under the Loft Law then gets to tell the owner of the building and their unit how they, the non-owner, wants their unit legalized.

Considering the concept of affordability is ever present on everyone's mind, why is the Loft Law protecting individuals with net worths far greater than many of their landlords? Isn't the idea to create affordable living for those who cannot afford the high rents in NYC? I am not so sure anymore.

How would you fix the Lost Law?

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CO-OP AND CONDO

Tomaino v. Metro Mgmt. Dev.

Supreme Court of New York, Appellate Division, Second Department, Aug 27 2025

SQUIB BY MATTHEW N. TOBIAS

Outcome: No Contract, No Case: Co-op Management Wins

WHAT HAPPENED: In February 1991, the plaintiff Santino Tomaino and his now deceased wife, Janet, purchased a cooperative apartment from the cooperative corporation, defendant Powells Cove Owners Corp. At the time, the apartment was subject to an existing rent regulated sublease with Carolyn Nelson.

Upon purchasing the apartment, the Tomainos entered into a management contract with Finkelstein Moran Agency, who was also the cooperative's managing agent. Pursuant to this management contract, Finkelstein Moran was to act as the Tomainos' managing agent for the apartment, with duties that included, but were not limited to, collecting rent from the subtenant. The management contract expressly provided that it would last "for as long as the agent manage[s] the premises in which the Apartment is located," in other words, for as long as Finkelstein Moran was the managing agent for the cooperative.

Finkelstein Moran stopped acting as managing agent for the cooperative in or about January 1994. From then until May 2001, the cooperative had at least three different managing agents, with the cooperative hiring defendant Metro Management Development, Inc. as its managing agent in or about May 2001. The plaintiffs never entered into any management contracts with any of the subsequent managing agents, including Metro Management Development, Inc. However, when the plaintiff fell into arrears on its maintenance obligations to the cooperative, Metro Management collected rent directly from the plaintiff's sub-tenant in the apartment.

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In 2019, the plaintiffs sued Metro Management, among others, for breach of contract, alleging that Metro Management failed to perform its obligations as the plaintiffs' managing agent, including failing to collect rents from the subtenant and failing to notify the plaintiffs that the subtenant had moved out and the apartment was vacant.

IN COURT: Following discovery, the defendant Metro Management moved for summary judgment dismissing the complaint. The court granted the defendant's motion, finding that there was no issue of fact inasmuch as the plaintiffs had never entered into a contract with Metro Management. The plaintiffs admitted that there was no written contract, but argued that an implied contract existed based on Metro Management's collection of rent from the subtenant. The court nevertheless found that Metro Management's collection of rent from the subtenant was not indicative of an implied contract. The court found that, because the plaintiff had been in arrears of its maintenance obligations, Metro Management's collection of rent from the subtenant was for the benefit of the cooperative, not the plaintiff. The court thus granted summary judgment in favor of Metro Management, and dismissed the complaint. On appeal, the Second Department affirmed the lower court's decision, holding that "the parties' conduct did not manifest an intent that Metro act as the plaintiff's agent."

TAKEAWAY: It is crucial for boards and owners alike to enter into a clear written management contract with its managing agent. While an implied management contract may be enforceable based on conduct, the managing agent's conduct must clearly indicate a meeting of the minds and must be taken for the benefit of the board or owner alleging the existence of an implied management contract. To avoid issues as to enforceability, there is no replacement for a written management contract to ensure that the parties' duties, obligations and expectations are clearly memorialized.

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CO-OP AND CONDO

NYS Real Estate Finance Bureau: COVID-19 Relief Period Ends, eSubmission Portal Launches

BY LLOYD F. REISMAN AND ZACHARY C. ROZYCKI

Since March 2020, the New York State Department of Law's Real Estate Finance Bureau ("REF") has operated under temporary policies introduced during the COVID-19 state of emergency. These policies allowed flexibility in submitting offering plans, amendments, and related documents. REF has now announced that this "relief period" will officially end on January 7, 2026, as outlined in its December 23, 2025 guidance.

What Changes on January 7, 2026?

REF is modernizing its processes with the official launch of a paperless eSubmission Portal. Key updates include:

- **Mandatory eSubmission:** All offering plans, amendments, broker-dealer registration statements (M-10 Forms) must be submitted through the new portal.
- **Electronic Confirmations:** Filing receipts and acceptance letters will no longer be issued on REF letterhead in PDF format. Instead, confirmations will be sent via email.
- **Digital Documentation Accepted:** Scans or photocopies of documents; Electronic signatures (e.g., DocuSign) in place of wet ink signatures; Remote online notarization and sponsor affirmations in lieu of traditional notarization

Grace Period Until July 1, 2026

REF has provided a transition period for certain compliance requirements. Starting July 1, 2026, REF will begin enforcement actions for:

- Marketing or selling units under an expired or stale offering plan
- Failing to file price-change amendments before offering units at updated prices
- Missing deadlines for broker-dealer or salesperson registration filings

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- Submitting amendments without current broker-dealer registration information
- Failing to file Policy Statement applications before offering or promoting real estate securities in or from New York State

Action Steps for Sponsors, Developers and Holders

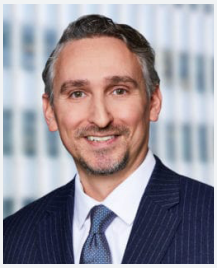
If you plan to market, offer, or sell units on or after July 1, 2026, you should confirm that:

- Your offering plan is current and not stale
- Prices are up to date
- Necessary amendments and registrations are filed well before the deadline

Key Takeaways

- Temporary COVID-19 relief period ends January 7, 2026.
- New eSubmission Portal launches January 7, 2026: All filings must be electronic.
- Grace period until July 1, 2026: After this date, REF will begin enforcement actions for non-compliance.
- Sponsors should act now: Review offering plans, update prices, and file necessary amendments and registration documents well before July 1, 2026.

Lloyd F. Reisman is a partner in BBG's Co-Op and Condo Practice, and Zachary C. Rozycki is an associate in the Practice. For more information regarding Co-Op and Condo matters, please contact Lloyd at 212-867-4466 (Ext. 387) or lreisman@bbgllp.com.



Co-Op/Condo Corner

BY LLOYD F. REISMAN

Lloyd F. Reisman is a leader of the Firm's Co-op and Condo Practice, consisting of more than 300 co-op and condo boards throughout New York City, developers, investors, and lenders in related transactions, including offering plans, "no-action" letters and out-of-state filings, and purchasers and sellers of co-op and condo apartments, buildings, residences and similar properties. If you would like to discuss any of the cases in this article or any other related matter, you can reach Lloyd at 212-867-4466 (ext. 387), or lreisman@bbgllp.com.

STATEMENTS DEEMED OPINION AND NOT ACTIONABLE AS DEFAMATION

Trump Vill. Section 4, Inc. v. Appellate Division, Second Department

COMMENT | Statements pertained to a purely private matter and were directed only to a limited, private audience that did not implicate any issue of broad public interest.

COOPERATIVE MAY PROCEED WITH TERMINATION OF STOCK AND LEASE

Kim v. 16 Park Ave. Owners Corp. Supreme Court, New York County

COMMENT | The shareholder failed to show a likelihood of success on claims, resulting in the denial of the preliminary injunction.

SERVICE DOG REQUEST SUFFICIENTLY PLED

Charugundla v. Lasala U.S. District Court, Southern District New York

COMMENT | Condominium unit owners plausibly alleged the necessity of a service dog as a reasonable accommodation for his hearing loss.

APPEAL AFFIRMS INSURANCE COMPANY'S OBLIGATION TO PROVIDE COVERAGE

The Cobblestone Lofts Condo. v. Admiral Indem. Co. Appellate Division, First Department

COMMENT | Insurance company's tortured interpretation of its policy rejected, citing to the policy definition of "accident" which included "continuous or repeated exposure to substantially the same general harmful conditions."

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COOPERATIVE'S TERMINATION OF STOCK AND LEASE FOR OBJECTIONABLE CONDUCT UPHELP

61 E. 72nd St. Corp. v. Modell Supreme Court, New York County

COMMENT | The Board's strict adherence to the technical requirements set forth in the proprietary lease cited as the basis for the Court's deference to the Board's business judgment to seek to terminate the plaintiff's stock and lease for objectionable conduct and eject the occupant.

CANNABIS DISPENSARY PREVENTED FROM OPENING BASED ON RESTRICTIVE COVENANTS IN HOA'S GOVERNING DOCUMENTS

Stony Brook Tech. Ctr. Assoc., Inc v. SRM 23 LLC Supreme Court, Suffolk County

COMMENT | HOA established the elements necessary for a preliminary injunction to prevent a cannabis dispensary from opening, despite the dispensary's having obtained the necessary license and permit from the State and Town.

CO-OP ORDERED TO INSTALL ACCESSIBLE SHOWER TO ACCOMMODATE ELDERLY TENANT

545 W. Corp. v. Williams Supreme Court, New York County

COMMENT | The court directed the cooperative to install user-friendly features seeking to alleviate chronic flooding conditions while preserving the tenant's dignity.

RETAIL TENANT NOT ENTITLED TO LICENSE FEE FOR SIDEWALK SHED

Cameron Sky, LLC v. The Bd. of Mgrs. of the New Yorker Condo. Supreme Court, New York County

COMMENT | A retail tenant of an adjacent building unsuccessfully sought to retroactively impose a license fee on the neighbor after a sidewalk shed had been installed.

CONDO BOARD FAILED TO ALLEGE FACTS TO SUPPORT ACCESS TO DECLUTTER AND CLEAN APARTMENT

Bd. of Mgrs. of 48-54 W. 138th St. Condo. v. Burdock Supreme Court, New York County

COMMENT | The Board's allegations included pictures from 2024 despite allegations continuing through 2025, such that the evidence was not sufficient to support the Board's claim for immediate access.

A CO-OP'S BOARD OF DIRECTORS IS NOT A SEPARATE ENTITY AND CANNOT BE SUED

Tahari v. 860 Fifth Ave. Corp. Appellate Division, First Department

COMMENT | Lawsuits against cooperatives must name the corporation and/or individual board members, not the "board of directors".

COURT DISMISSES CLAIMS BASED ON CO-OP'S FAILURE TO ALLOW CARETAKER TO RESIDE IN APARTMENT WITHOUT SHAREHOLDER

New York State Div. of Human Rights v. 229 E. 28th St. Owners Corp. Supreme Court, New York County

COMMENT | The court noted that the cooperative need not accommodate a caretaker's right to occupy the apartment in the shareholder's absence, inasmuch as the accommodation being sought was not "necessary" to afford the shareholder with an equal opportunity to use and enjoy the apartment.

NO AGENCY OR WRITTEN CONTRACT BETWEEN SHAREHOLDER AND MANAGEMENT COMPANY

Tomaino v. Metro Mgmt. Dev., Inc. Appellate Division, Second Department

COMMENT | The appeals court affirmed that there was no written agreement or conduct indicating the defendant acted as the plaintiff's agent regarding rent collection.

HDFC ORDERED TO HOLD A NEW ELECTION DUE TO IMPROPER NOTICE

Kuschner v. 123-25 E. 102nd St. Hous. Dev. Fund Corp. Supreme Court, New York County

COMMENT | A reminder that the failure to adhere to corporate niceties and the specific methodology outlined in governing documents can render elections (and other actions) invalid.

REASONABLENESS STANDARD APPLIES TO BOARD'S ALTERATION CONSENT

Rosenthal v. Park Hill Tenants Corp. Supreme Court, New York County

COMMENT | The court held that where a proprietary lease requires board consent to alterations to be reviewed for reasonableness, the business judgment rule does not apply.

NO BASIS TO DISTURB LOWER COURT'S REJECTION OF EXCESSIVE NOISE CLAIMS

333 E. 53 Tenants Corp. v. Yang Appellate Term, First Department

COMMENT | Credibility of the co-op's expert witness was cited as one basis for the lower court's rejection of the shareholder's excessive noise claims.

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PERFUNCTORY NOTICE TO CURE INSUFFICIENT TO SERVE AS PREDICATE NOTICE

135 W. 89th St., Hous. Dev. Fund Corp. v. Powell Appellate Term, First Department

COMMENT | Predicate notices must contain specific factual allegations to support the conclusion that the defaults specified in the notice to cure had not been cured during the cure period.

EXISTENCE OF ONGOING LEAK NOT PRECLUDED BASED ON HPD'S INCONCLUSIVE REPORT

440 East 62nd St. Owners Corp. v. Chavez. Supreme Court, New York County

COMMENT | Downstairs neighbor's affirmation as to the ongoing nature of the leak supported the outcome sufficient to overcome defendant's refusal to provide access to his apartment based on HPD having issued an inconclusive report.

CONDO BOARD'S SPECIAL ASSESSMENT FOR LEGAL FEES UPHELD

Bd. of Mgrs. of 1 Great Jones Alley Condo. v. Downtown Re Holdings LLC Supreme Court, New York County

COMMENT | The Board's decision relied on language clearly authorizing the Board to levy a special assessment for legal fees related to construction defects against the commercial unit owner.

CONDO TAX LIEN FORECLOSURE SALE DOES NOT TRIGGER RIGHT OF FIRST REFUSAL

Tin Roof Owners, LLC v. Bd. of Mgrs. of the Neptune Condo. Supreme Court, Kings County

COMMENT | The applicability of the right of first refusal hinged on the "offer" for the sale of the unit at issue, and in the absence of such offer during an involuntary foreclosure meant the right was never triggered.

CONDO BOARD ENTITLED TO FORECLOSE FOR COMMON CHARGES

Townhomes v. 16 Warren St. PH, LLC Supreme Court, New York County

COMMENT | The court found the condo board demonstrated its authority and reliable calculation of common charges, granting partial summary judgment for foreclosure.

QUESTIONS REMAIN WHETHER COSTS TO REPAIR GARAGE WERE EXCLUSIVELY TO THE GARAGE UNIT OR TO COMMON ELEMENTS

Soybean Parking LLC v. Bd. of Mgrs. of the Amherst Condo. Supreme Court, New York County

COMMENT | Practical considerations of Local Law 126 garage repairs need to focus on the areas that are the subject of the repairs, as not all charges may be assessed back to the garage unit owner.

TENANT-SHAREHOLDERS RESPONSIBLE FOR ATRIUM MAINTENANCE AND REPAIRS

Thomian Holdings LLC v. Cydonia W71 LLC Supreme Court, New York County

COMMENT | Both the proprietary lease and historical evidence support tenant-shareholder responsibility for maintenance of and repairs to apartment alterations like the atrium, even if performed by predecessors in title.

NEWLY CONSTITUTED BOARD ENTITLED TO BOOKS AND RECORDS FROM PREVIOUS BOARD

Rincon v. Allen Supreme Court, New York County

COMMENT | Board members who are voted out of office in properly held elections should be reminded that they should continue to exercise good faith and sound judgment even in the post-election environment.

SECOND DEPARTMENT AFFIRMS THAT CONTEMPORANEOUS OCCUPANCY NOT REQUIRED

Matter of Northridge Coop. Sec. III, Inc. v. Bonilla Appellate Division, Second Department

COMMENT | The First and Second Department continue to be split in this regard, with the First Department holding that "and" requires contemporaneous occupancy with the named shareholder, whereas the Second Department holding that "and" does not require contemporaneous occupancy.

Recent Transactions of Note

Members of BBG's Transactional Department recently handled the following:

Buy/Sell and Refinancing Transactions

Partners **Daniel T. Altman** and **Lawrence T. Shepps**, and associate **Joshua A. Sycoff** represented a Purchaser in connection with the simultaneous acquisition of three residential housing developments in Dallas, Texas for an aggregate purchase price of $54,250,000, with the placement of a combined $39,809,000 in Agency financing provided by Northmarq Capital Finance, LLC, each of which were structured as tenancy in common ownership in order to accommodate 1031 transactions.

Partners **Stephen M. Tretola** and **Murray D. Schneier**, and **Mr. Sycoff** represented a property owner in connection with the $12.5 refinance of New Jersey multifamily property.

Partner **Craig L. Price**, and **Messrs. Schneier** and **Sycoff** represented developers Leslie Feder and Dominic Casamento in connection with the $12 million refinance of 39-30, 39-38 and 39-44 47th Ave, Sunnyside, New York. The transaction also included a construction loan component.

Messrs. Price, **Schneier** and **Tretola**, and associates **Isabella Pisani** and **Zachary C. Rozycki** represented a purchaser in connection with their $17,500,000.00 acquisition of a commercial property located at Brooklyn, New York and the assumption of a CMBS loan with JPMorgan Chase Bank, NA in the amount of $12,500,000.00.

Messrs. Tretola and **Sycoff** represented Muss Development in connection with the $9.5 million refinancing of 60 Bay Street in Staten Island.

Partner **Michael Shampan** represented a co-op corporation located in Manhattan's Upper East Side in connection with a $4 million refinance of their underlying building mortgage with Principal Life Insurance Company.

Partner **Michael A. Mulia** and associate **Lauren K. Tobin** represented the purchaser of 90 Bedford Street for $32.7 million. The building, used as the exterior for the TV show "Friends", has been a go-to tourist destination since its location was revealed in 1997.

Partner **Lloyd F. Reisman** and **Ms. Pisani** represented the Board of Managers of a new construction condominium in connection with its purchase of the Resident Manager's Unit and an Amenity Unit from the condominium's sponsor pursuant to the terms of the offering plan.

Commercial Leases

Partners **Daniel T. Altman** and **Allison R. Lissner** represented a renowned United Kingdom based Indian restaurant tenant in its first flagship restaurant in the USA to be located in lower Manhattan.

Mr. Altman represented a New York based landlord in connection with a lease to a nationally recognized provider of infusion and injection therapy on the Upper West Side.

Ms. Lissner represented:

- A REIT in connection with a lease to a popular healthy protein shakes franchisee located in Brockton, MA.
- A REIT in connection with a lease to a known beauty supply store in Elmwood Park, NJ.

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Ms. Lissner and associate **Lauren K. Tobin** represented:

- A cooperative corporation in the lease of its retail space to a globally recognized stationary company based in Italy.
- A national hamburger/hot dog quick service restaurant in a new lease located in Greenwood, IN.
- An upcoming pilates studio franchisee in its 2nd location in NYC located in Soho.

Mr. Altman and partner **Michael A. Mulia** represented the tenant in its lease of the entire 23rd Floor at 101 Park Avenue. consisting of 24,600 square feet.

Ms. Lissner and **Mr. Mulia** represented:

- The owner of a luxury mixed-use development in its 3,500 square foot lease to a Beirut, Lebanon based restaurant concept in West Midtown.
- The owner of a luxury mixed-use condominium development in Hoboken, New Jersey in its 25,550 square foot lease to the Hoboken Board of Education and its 12,700 square foot lease to a well-known supermarket operator.

Partner **Michael Shampan** represented a co-op corporation located in the West Village in the lease of a doctors office.

Recent Notable Matters Handled by Our Construction Team

Partner **Robert Marshall**:

- Represented owners in the negotiation of several architectural, engineering, design and consulting services agreements for construction projects in Manhattan, Brooklyn and Queens.
- Represented owners in the negotiation of various general contractor agreements for garage repair projects in Manhattan.
- Represented owners in the negotiation of numerous general contractor agreements for façade, roof and sidewalk repair and renovation projects in Manhattan, Brooklyn and Queens.
- Represented owners in the negotiation of multiple general contractor agreements for lobby, hallway, facility and amenity space renovation and repair projects in Manhattan, Brooklyn, Queens and the Bronx.
- Represented owners in the negotiation of various general contractor agreements for elevator modernization projects in Manhattan and Brooklyn.

Associate **Joseph Verga** represented numerous owners in the negotiation of license agreements for access to and protection of adjoining properties during construction projects in Manhattan and Brooklyn.

Wins in the Courtroom

Our latest notable victories in Landlord Tenant law.

BBG APPELLATE COURT VICTORY

BBG Secures Unanimous Appellate Term Decision Rejecting Alleged Succession Claim Without a Trial

BBG successfully obtained a unanimous affirmance of a summary determination pursuant to CPLR § 409(b), which granted the landlord a judgment of possession against a tenant's son who was claiming succession in a non-primary residence holdover proceeding.

Before bringing the holdover proceeding, BBG obtained a private investigation report which established that the tenant had not been primarily residing in the apartment from 2020-2022 and that her son moved into the apartment in 2019. Armed with this information, BBG strategized to obtain an admission from the tenant that she had not primarily resided in the apartment to prove not only the tenant's non-primary residence, but to also bar the son from obtaining succession. BBG executed this plan by obtaining admissions from the tenant in a three-attorney stipulation, wherein the tenant admitted that she permanently vacated the apartment in June 2022 and did not reside in the apartment as her primary residence from 2020-2022. BBG obtained these admissions after the tenant failed to comply with discovery and by seeking discovery sanctions for her failure to comply. In addition, BBG obtained admissions from the son that he moved into the apartment in October 2019 through a demand for a bill of particulars.

Once these admissions were obtained, BBG obtained a summary determination from the court, without a motion or trial. The court's decision was based on a review the pleadings, the son's responses to the demand for a bill of particulars, and the three-attorney stipulation. The son appealed the decision alleging, among other things, that: (1) a succession defense cannot be decided without a trial; (2) the tenant's admissions were not dispositive of his succession claim; and (3) the tenant's absence from the apartment was temporary and caused by COVID-19, conditions in the apartment, and the tenant's health issues. The Appellate Term rejected the son's arguments and held that he could not prove co-residency given the admissions.

Notably, in rejecting the son's alleged succession claim, the Appellate Term stated, "in view of the bill of particulars and stipulated facts, Civil Court properly made a summary determination on the pleadings and papers submitted as if a motion for summary judgment were before it and respondent's additional submissions did not raise any issue of fact." This decision sets a new precedent that CPLR § 409(b) relief can be used in non-primary cases and where a succession defense is raised to avoid lengthy trials.

Partners **Daniel Phillips**, **David Skaller**, and **Magda Cruz** handled the litigation and appeal on this matter.

For the complete decision, you can access it here.

BBG In The News

Quotes, presentations, publications and award wins featuring BBG attorneys.

David Shamshovich was quoted in The Real Deal on the Bleecker Street Conversion Project, as part of HPD's Affordable Housing Fund. **Mr. Shamshovich** was also quoted in The Read Deal on the challenges facing rent-stabilized property owners seeking tax relief through HPD.

Co-Op and Condo Law partner **Mathew N. Tobias** was featured in Crain's People on the Move in connection with him joining BBG as a Partner. Law 360 additionally featured **Mr. Tobias** in an article spotlighting the recent growth of BBG, which also noted BBG associates **Isabella Pisani**, **Daniel Kirshblum**, **Amanda Zifchak**, and **Jonathan Lerch**.

Founding partner **Sherwin Belkin** was quoted in Gothamist on mayoral authority to remove rent guidelines board members.

Mr. Belkin was a guest lecturer on the history and impact of rent regulation at New York Unversity's Shack Institute of Real Estate.

Lloyd F. Reisman shared insights and practical guidance for co-op and condo board members at the Council of New York Cooperatives & Condominiums (CNYC) Roundtable.

BBG was a proud sponsor of the Real Estate Board of New York's (REBNY) Commercial Development Committee Fireside Chat, which was moderated by BBG's **David Shamshovich**.

Daniel Phillips was quoted in The New York Law Journal covering a recent NYC Civil Court ruling on service of process in commercial landlord-tenant disputes.

Super Lawyers Recognizes Twenty-Four BBG Attorneys in 2025 Rankings

Twenty-four attorneys were selected by Super Lawyers and Super Lawyers Rising Stars for their excellence in New York Real Estate Litigation, Administration, Transactional, Construction, and Land Use and Zoning law.

The Super Lawyers methodology and selection process combines peer evaluations with independent research.

Co-Managing Partner **Jeffrey L. Goldman** said, "We thank Super Lawyers for recognizing BBG in their 2025 rankings, a list of attorneys that we're pleased to have seen grow year over year." Co-Managing Partner **Daniel T. Altman** added, "We believe that the care and diligence we dedicate to each client's case/transaction is what drives recognition from a noteworthy directory like Super Lawyers. Congratulations to all those recognized."

Best Lawyers® Best Law Firms Ranks BBG in New York and Nationwide in 2026 Rankings

BBG was recognized by Best Law Firms in their 2026 rankings as a leading law firm in Real Estate and Real Estate Litigation, both in the New York Metro Area and nationally.

The Best Law Firms rankings are based on a "rigorous evaluation process that includes the collection of clients and professional reference evaluations, peer review from leading attorneys, industry leader interviews and review of additional firmographic highlights."

Co-Managing Partner **Jeffrey L. Goldman** said, "BBG is humbled to be recognized by Best Law Firms in the Real Estate Litigation and Real Estate categories ... " and Co-Managing Partner **Daniel T. Altman** added, "We are appreciative of the recognition by Best Law Firms both in the New York City Metro region, and on a national scale, which has incorporated a significant portion of our transactional and leasing work in recent years."

Introducing Ground Rules, a New BBG Podcast

BBG has launched "Ground Rules," our new podcast that will take you behind the scenes of the real estate industry to uncover the stories shaping some of its most influential players.

With new episodes every month, Ground Rules will bring listeners candid conversations and insider insights from a rotating cast of industry voices.

Listen to the teaser episode below, recorded by our host **David Shamshovich**, and please subscribe wherever you get your podcasts!

BBG Continues to Expand and Welcomes New Hires

The Firm has recently added the following attorneys and professional support staff

MATTHEW N. TOBIAS
Partner, Co-Op and Condo Law Practice

Mr. Tobias has extensive experience serving as general counsel to Co-op and Condo Boards throughout New York City. He regularly advises Boards on all manner of corporate governance issues, the operations and management of residential buildings, and resident issues, as well as negotiating access agreements with neighboring property owners. In addition, Mr. Tobias previously served for many years on the Board of Directors of his own cooperative, including as President. Thus, he has a keen understanding of the issues involved in managing a cooperative and considers these issues from the perspectives of both an attorney and a Board member.

DANIEL E. KIRSHBLUM
Associate, Litigation Department

Mr. Kirshblum represents management companies, landlords, tenants, brokers, and ownership entities in a wide range of both commercial and residential real estate litigation matters including holdover and non-payment proceedings. Mr. Kirshblum conducts all aspects of civil litigation, including the drafting of all forms of motion practice, and has extensive experience handling commercial/residential lease disputes, co-op/condo disputes, construction disputes, and mechanic's lien proceedings.

JONATHAN C. LERCH
Associate, Administrative Law Department

Mr. Lerch has experience handling a variety of matters for property owners at the Division of Housing and Community Renewal and New York City Department of Housing Preservation and Development, among other regulatory agencies. These matters include, but are not limited to, Applications for Restorations of Rent, Modification of Services Applications, Major Capital Improvements Applications, Certificate of No Harassment Applications, as well as answering DHCR tenant complaints on behalf of owners.

JOHN J. WALSH
Associate, Construction Law Practice

Mr. Walsh is an Associate in the Firm's Construction Practice, where he advises clients on every stage of construction and development projects, from initial planning through completion and ongoing operations. Mr. Walsh's work spans drafting and negotiating design, engineering, consulting, and construction agreements; securing site protection and neighbor access rights; and managing construction close-out documentation. Mr. Walsh also represents clients in resolving a wide range of construction and development disputes.

Professional Support Staff

The following individuals joined as professional support staff:

FRAYRI GARCIA, Staff Accountant

BBG Partner Promotions

We are thrilled to announce well deserved partner promotions for four outstanding attorneys accross the Firm's Litigation and Transactional Departments, and Land Use and Zoning Practice.

- **Mark Antar - Litigation Department**
- **Aris Dutka - Litigation Department**
- **Michael Mulia - Transactional Department**
- **Frank Noriega - Zoning and Land Use Practice**

Mark, Aris, Michael and Frank exemplify excellence, hard work, professionalism, and unwavering dedication. Their ongoing commitment is crucial to BBG's success, and we're proud to have them on our team. Please us in congratulating them on their much-deserved promotions!

Mark Antar

Aris Dutka

Michael Mulia

Frank Noriega

BBG Anniversaries

BBG would like to acknowledge and congratulate the following members of the BBG team who have been with the Firm for over 5 years and whose work anniversary dates fall in the months of October - December. As we reflect on these significant milestones, we express our sincere appreciation for their support, hard work, and commitment.

Magda Cruz, *Partner – 36 Years*

Matthew Brett, *Partner – 25 Years*

Kenneth Rosario, *Office Services Clerk – 23 Years*

Michelle Ruiz, *Legal Assistant – 20 Years*

Robert Jenkins, *Paralegal – 14 Years*

Jaime Lopez, *Legal Assistant – 11 Years*

Alissa Prairie, *Office Manager/HR – 10 Years*

Jay Solomon, *Partner – 7 Years*

Daniel Phillips, *Partner – 7 Years*

Popular Social Media Posts

Sherwin Belkin • 1st
Founding Partner at Belkin Burden Goldman, LLP
1mo • Edited •

The most recent constitutional challenge to NY's rent stabilization law is a very targeted claim; that is, the inability to obtain any meaningful vacancy increase on a long occupied apartment creates a taking because the value of the unit is permanently impaired.

When SCOTUS recently denied certiorari, in dissent Justice Thomas indicated a willingness to examine rent regulation on a properly framed case.

Perhaps this case, with its laser focus, will provide the proper vehicle for examination of the severe impingement on property rights created by rent stabilization.

Belkin · Burden · Goldman, LLP
#rentstabilization #takings

VIEW POST

David Shamshovich • 1st
Partner @ Belkin · Burden · Goldman, LLP | Tax Exemptions (485-x/42...
Book an appointment
1mo •

First Post–City of Yes MIH Approval

Excited to share a groundbreaking win for our Tax Exemptions & Zoning Incentives team at Belkin · Burden · Goldman, LLP — last week, we closed on the very first post–City of Yes Mandatory Inclusionary Housing (MIH) Restrictive Declaration.

This follows our earlier milestone — being the first to secure MIH fee-in-lieu approval — a win that even caught the attention of The Real Deal.

Why it's a big deal:
We tackled a large zoning lot spanning multiple tax lots to deliver privately financed, fully affordable housing on-site, enabling the remainder of the zoning lot to support market-rate development.

VIEW POST

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