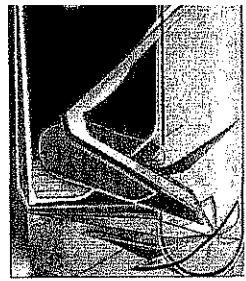


# downtown express



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## 5,000 FiDi apartments could be eligible for rent regulation Ruling could affect many Financial District renters: Tax breaks under scrutiny

BY JULIE SHAPIRO

Thousands of Lower Manhattan apartments could become rent-stabilized based on a recent court decision.

On Dec. 23, Housing Court Judge Bruce Scheckowitz ruled that a market-rate apartment in 37 Wall St. should be rent-stabilized because the building's owner is receiving a 421-g tax break. In an echo of the Stuyvesant Town case from earlier last year, the owner of 37 Wall St. said the apartment did not have to be stabilized because the rent was over \$2,000, but Scheckowitz ruled that it should be stabilized anyway. His opinion opens the door for tenants in other 421-g buildings to file similar suits.

"This is a major victory," said Gitanjali Dadlani, a rent-regulation organizer at Tenants & Neighbors. "It sets a very strong precedent."

While the Stuyvesant Town case dealt with J-51 tax breaks, awarded to developers throughout the city, the 37 Wall St. case centers on 421-g tax breaks, which were only given out in Lower Manhattan. At least 16 rental buildings below Murray St., with a total of nearly 5,000 units, are currently receiving 421-g abatements and could be affected by the ruling, including 90 West St., 63 Wall St. and 200 Water St. (See chart on Page 7.)

"It's a great thing for the Financial District," said Tom Goodkind, a Community Board 1 member who has been researching stabilized apartments. "This would bring us a more stable community."



Downtown Express photo by Julie Shapiro

Attorney Serge Joseph discovered that 37 Wall St. was receiving tax abatements and that the apartments, as a result, should be rent-regulated.

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*Tom Goodkind,  
Community Board 1*

Former Mayor Rudy Giuliani launched the 421-g program in 1995 to give developers incentives to convert old Financial District offices into apartments. In exchange for doing the conversions, developers received up to 14 years of reduced property taxes. The tax breaks range from about \$1 million to nearly \$40 million. The program sunsetted in 2006.

The 421-g developers were allowed to rent the apartments at market rate initially; but for as long as they were receiving the tax break, they were supposed to guarantee tenants the right of renewal at stabilized rates determined by the Rent Guidelines Board.

Many landlords followed those rules, but as soon as the apartments hit \$2,000 (and many of them started above that figure), the landlords used luxury and vacancy decontrol to remove the apartments from rent-stabilization.

That's what happened at 45 Wall St., a 421-g building that opened in 1997 with 435 apartments, of which only three are still rent-stabilized. Sofia Estevez, executive vice president with TF Cornerstone, the building's owner, said she received a government memo when the building opened saying that apartments over \$2,000 did not have to be rent-regulated.

Estevez was surprised to hear about the Dec. 23 court decision contradicting that, and she said she had followed all the instructions she had been given about rent regulation.

"We would never, ever risk the tax benefits," she said.

Peter Levenson, a principal at the Kibel Companies, which owns 90 West St., also

said he deregulated apartments once they hit \$2,000, based on directions from the city.

Levenson and Estevez both pointed out that there is not much difference between rent-stabilized and market-rate apartments in this case, because all the apartments started at market rate within the last 12 years. In the current economic downturn, many landlords in market-rate buildings have opted not to increase rents at all, while rent-stabilized tenants still saw their rents bumped up by 3 percent last year.

"There's no great joy in being a rent-stabilized tenant," Estevez said. "It's not like it used to be."

Still, several 37 Wall St. tenants who spoke to Downtown Express on a recent morning were pleased to hear that their building could become rent-stabilized.

"That would be nice," said Ray, 27, who said he was the first person to move into 37 Wall St. three years ago.

Another tenant, a 24-year-old woman who did not give her name, said that she would like to become rent-stabilized even if it didn't reduce her rent. Just having the guaranteed right of renewal would be a welcome benefit, she said, because she "loves the building and does not want to leave."

The 37 Wall St. tenant most pleased with the court ruling is Maverick Scott, who initiated the tangle of lawsuits that ultimately resulted in the decision. Originally, the suits had nothing to do with rent-stabilization: Scott's problems with 37 Wall St. started when he signed a lease for a two-bedroom apartment in the spring of 2007 but found the apartment overrun with mice, he said. Based on that and what he described as inadequate insulation and heating during the subsequent winters, Scott stopped paying his \$4,920 monthly rent last year.

"I was just trying to protect my interests and get my apartment fixed," Scott said this week, sounding amazed by the broad implications of his case. "I wasn't looking to do anything other than that."

Once Scott, who has a 4-year-old son, stopped paying rent, his landlord, W Associates, took him to court. In the ensuing back-and-forth, Scott's lawyer discovered that the building was receiving a 421-g tax abatement, so he threw the rent-stabilization arguments into the mix to ensure that Scott did not get evicted. Last fall's Stuyvesant Town ruling in the New York State Court of Appeals, which required owner Tishman Speyer Properties to re-stabilize the complex, added weight to Scott's case.

Serge Joseph, Scott's lawyer, from the firm Himmelstein McConnell, said the law regarding 421-g is so straightforward about rent stabilization that he was surprised he was the first person to bring a case about it. In the court opinion, Judge Scheckowitz noted that "the plain language of the statute" clearly states that landlords receiving 421-g cannot deregulate apartments using luxury decontrol.

Scott said the ruling makes sense: "You can't have it both ways," he said.

The state Division of Housing and Community Renewal referred comment to the city Department of Housing Preservation and Development, which did not comment.

The city Department of Finance declined to provide a list of buildings receiving 421-g abatements.

Scheckowitz did not rule on Scott's other complaints about building conditions, but will hear arguments at a Jan. 13 hearing.

Joseph said W Associates had not yet filed an appeal to the rent-stabilization decision. The building manager did not comment, and the Wilf Law Firm, which represented the landlord, could not be reached for comment.

Since the 421-g tax break lasts only 12 to 14 years, many buildings that participated in the program will stop receiving benefits in the next few years. Once the landlords are no longer receiving the tax break, they do not have to provide any rent stabilization, as long as they notified tenants about the terms of the benefit program in advance. However, if the landlord does not notify the tenants of when their rent stabilization expires, then those tenants remain stabilized until they move out.

Community Board 1's Planning Committee is discussing the 421-g ruling at a meeting on Thurs., Jan. 7. State Senator Daniel Squadron is also organizing a meeting of tenants who may be affected by the ruling, but a date has not been set.

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<b>BUILDING</b>	<b>NUMBER UNITS</b>	<b>TAX BREAK</b>	<b>EXPIRATION (ALL JUNE 1)</b>
45 Wall St.	435	\$4,770,000	2010
200 Water St.	576	\$9,360,000	2011
71 Broadway	237	\$5,220,000	2011
110 Greenwich St.	60	\$1,690,939	2012
17 John St.	111	\$3,173,602	2012
21 West St.	293	\$9,681,000	2012
75 West St.	206	\$7,300,680	2012
53 Park Place	116	\$5,220,000	2013
85 John St.	160	\$4,815,000	2014
50 Murray St.	390	\$38,677,500	2015
90 Washington St.	398	\$14,040,000	2016
63 Wall St.	476	\$14,278,500	2018
90 West St.	410	\$27,421,997	2019
100 Maiden Ln.	340	\$10,350,000	2019
37 Wall St.	290	\$15,750,000	2020
95 Wall St.	507	\$2,250,000	2021

These 16 Lower Manhattan buildings are among those currently receiving 421-g tax breaks, which could require the apartments to be rent-stabilized. The data came from the Web sites of the Dept. of Finance and the Downtown Alliance.