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## Rent increase hit tenants like a ton of bricks

By Kate Pastor and Adam Wisnieski

The scaffolding that shrouded the The Whitehall for years protected residents from the danger of falling bricks as its distinctive white façade was being refaced and repointed.

Rent-stabilized tenants in the luxury apartment building at 3333 Henry Hudson Parkway say they have no such protection from huge increases in rent promulgated to pay for the work.

This spring, renters in the mostly co-op apartment building learned that its board had applied to pass on a portion of the cost of brickwork between \$12 and \$13 million, to its rent stabilized tenants in the form an almost \$80-per-room Major Capital Improvement. Now, some tenants have banded together to fight what they say is an astronomical increase that will force some of them out.

"We don't feel like we should have to pay anything," said David Bernstein, president of the tenants' association, which formed to fight the increase.

"We really feel like this was something that was done improperly to begin with and we shouldn't have to bear the financial burden of the building not making the right decisions at the time of construction," he added.

Mr. Bernstein, who lives in the apartment he grew up in, said his parents moved to The Whitehall in 1972 and his grandfather, a civil court and then housing court judge, also lived there. His family has documented legal battles over the brickwork that date back to the 1980s and he said there's a running joke in Riverdale about how long 3333 Henry Hudson Parkway has languished beneath scaffolding.

"I feel very depressed and demoralized and am hoping that we're going to prevail and that they're going to reduce it at least," said Joan Perkiel, treasurer of the tenants' association, who has lived in Whitehall for 34 years.

They hired an attorney, David Hershey-Webb of Himmelstein, McConnell, Gribben, Donoghue & Joseph, who will look into whether the brickwork qualifies for an MCI increase at all and, if so, whether the amount of the hike is accurate.

"They're asking for an enormous increase," said Assemblyman Jeffrey Dinowitz, who came to speak at a newly formed tenants' association meeting this summer.

To calculate the per-apartment cost of fixing the façade, the total cost of work was divided by the number of rooms in the building. Of the 400-plus apartments, 56 are

rent-stabilized, 191 are co-op and the remainder are non-regulated rentals. DHCR approval is needed only for increases to rent-regulated tenants.

According to DHCR rules, however, MCI increases cannot be applied to work done in a piecemeal fashion and applications for MCI rent adjustments must be made within two years of the work's completion. According to Mr. Hershey-Webb, The Whitehall's MCI application lists five different projects, starting in December 2004 and running through September 2009.

"The tenant's will argue that this was not a unified project but a series of separate projects and therefore should be denied," he said.

Another issue he will explore is whether the owner received any money that could be used to offset the increase, such as from J-51 tax abatements or from a fund set aside for such fixes when the building went co-op in the early '80s. Mr. Bernstein said he believes this reserve fund contains \$10 million.

As it stands, rent-stabilized tenants are facing an almost \$80-per-room increase that will become the basis for future rent increases even after the landlord, or in this case the sponsor, has recouped all its costs.

Landlords are not allowed to pass on annual increases that are more than 6 percent of a tenant's rent, but a tenant paying \$1,000 per month would owe \$1,060 the first year, \$1,120 the next year and so on, until the cost is recouped. After that, the rent would not be restored to the previous level and future annual increases would be based on the inflated amount, rendering the rent permanently untenable for some.

"From the tenant's perspective that's really a problem with this law ... it's the gift that never stops giving ... once he recoups it he recoups it again," Mr. Hershey-Webb said.

Mr. Dinowitz said MCIs this large are unheard of.

"I've never seen anything like this," he said. "This is just so huge there's just really nothing to compare it to, and it could very well drive some people out of the building."

He said previous attempts to change tenant law to make MCI increases temporary had been blocked, but he hoped that pro-tenant legislation would pass soon.

"The people in The Whitehall, the tenants, would really be the victims of senator Espada and the others that blocked the changes in the law," he said.

Jeffrey Moerdler, president of the Board of Directors of the Whitehall Tenants Corporation, which owns the building, said the work was necessary and the building is

now structurally sound. The management companies have a right to recoup their expenses, he said.

In a co-op, shareholders own stock in the building and hold a proprietary lease for their apartments. The management companies are the ones applying for the MCI for the rent-regulated apartments they control.

Both Mr. Bernstein and Ms. Perkiel said bad news about potential rent increases has been tempered by an opportunity to get to know those living closest to them, as well as reconnecting with neighbors who have gone their separate ways.

"That's one good thing that came out of it," Mr. Bernstein said.

For now, the 60-member tenants' association is being proactive. Their lawyer is helping to prepare an answer to the MCI application, which Mr. Hershey-Webb said he plans to file in October. Then, he said, legal wrangling can go back-and-forth for years.

That's a lot of time for getting to know your neighbors.