

350 EAST 52ND STREET TENANT'S ASSOCIATION
350 East 52nd Street
New York, NY 10022

December 22, 2011

William W. Koepfel
c/o Duell Management, LLC
5 East 57th Street, 10th Floor
New York, NY 10022

Whitehouse Estates, Inc.
c/o Duell Management, LLC
5 East 57th Street, 10th Floor
New York, NY 10022

Re: 350 East 52nd Street, New York, NY 10022
Notice of Decreased Building-Wide Services

Dear Mr. Koepfel:

Please allow this letter, written on behalf of the 350 East 52nd Street Tenant's Association (the "Association"), to act as formal notice of Decreased Building-Wide Services ("Services") at 350 East 52nd Street (the "Building") pursuant to the Division of Housing and Community Renewal ("DHCR") laws.

The Association will be filing DHCR form RA-84, "Application For A Rent Reduction" based on the following decrease in Services we have been experiencing as an Association the past six (6) months:

1. Security: the building was and still is marketed as a "Luxury Building" (see attached sign annexed hereto as Exhibit A) which includes a lobby attendant/doorman stationed at the Building entrance, 24 hours a day seven days a week. This "Service" is severely lacking for the following reasons:
 - a. Unattended Lobby: the Association has documented times and dates for failure to provide a full time doorman. There has been a constant lapse of service almost every day between the hours of 6:00 AM and 7:00 AM when the night person leaves and the morning person arrives.
 - b. Unauthorized Access: guests are granted access without buzzing and on one occasion a female tenant came home to her ex-boyfriend who was sitting on her couch. Not only was access granted but the spare key was given to the guest. *Note that there has been a repeat occurrence, with the same ex-boyfriend, just this week. Steve the superintendent of the Building had to come and physically remove him.

- c. Employee Screening: you failed to conduct any form of background checks on any of the employees working at the Building. This has resulted in threatening of Tenants, harassment of female tenants, etc... a further cause for alarm is that the current workers have verified that they are not screened and are being paid "off the books" and have access and control of the Building. Your practice of hiring illegally employed security and building staff does not create the environment of trust necessary for a doorman building to function properly, and in fact creates an environment that endangers tenant safety (as numerous lapses have illustrated).

A perfect example of the failure to provide security Services happened the other night. One of the doormen had a scheduled day off and replacement coverage was needed. The replacement worker, responding to an advertisement on Craig's List, came to work without being interviewed or introduced to the tenants of the Building. A tenant, coming home late at night, was granted access and not even asked what apartment he lived in. When the tenant asked why, the doorman responded with "You look like you live here". There have been similar instances with numerous tenants.

This is unacceptable, and the Association does not want to wait for a tenant to be assaulted, injured, etc... because of your incompetence.

Simply put, we do not know who many of the staff is and they clearly do not know us. Of the few that have gotten to know the tenants, you have fired them for no reason at all. Tenants come home at night and walk in to the building to find a new doorman, and pray and hope that a stranger or ex-boyfriend is not waiting for them in their apartment.

2. Garbage: Our garbage situation continues to be a problem. Because sanitation workers honored the picket line, you have turned to private "operators", initially with U-hauls, to cart away the garbage. We have been told that these "carters", most probably unlicensed, are taking the trash to various parts of the city to drop off on various sidewalks and dumpsters. The garbage is always carted away at night, usually mid-week. Furthermore, you are now stashing the garbage to the side of the Building in a walkway/space accessible through a gate adjacent to the sidewalk. The garbage is now carted off just once a week, so the piles get quite large. This obviously attracts vermin and poses a fire risk (especially from tenants who throw cigarettes out their window). I am assuming that you are paying your real estate taxes and as such you are entitled to have the garbage picked up every day but you have failed to take ANY ACTION to force the Department of Sanitation, by Health Department or other Court Order, to have the garbage properly removed.

Furthermore, you have also failed to hire proper daily garbage pickup through the private sector. We have always received daily pickup and now at best the garbage is picked up once a week. Merely piling the garbage up on the side of the building to be picked up at your leisure is unacceptable and is clearly a bona fide decrease in Services.

3. Vermin:

- a. Bed Bugs: The Association has evidence that Assured Environments Pest Control screened for bedbugs in Apt. 7C, which came back positive for bedbug skins. According to the Building's former manager, and other reliable sources, two other apartments, including 2D, currently occupied by Tom Martini, have also had bedbugs. Said apartments have been inspected by the city and you have received notice that it has tested positive. State senator Liz Kruger's office has informed us that the apartments on either side as well as above and below an infested apartment must be professionally exterminated by specialists. To add insult to injury you have the nerve and audacity to tell me and others, when questioned about the bedbug situation, that you "didn't owe anybody proof" that the situation had been adequately addressed. Not only is this false but you are **REQUIRED BY SECTION 27-2018.1 OF THE NEW YORK CITY ADMINISTRATIVE CODE TO NOTIFY NEW TENANTS**, which you have not done. You then told me "don't let the bedbugs bite".
- b. Mice: The Association has proof, namely the former building manager (see Tom Martini, as well as several current and former tenants, regarding the serious rodent problem at the Building. Two (2) recent tenants have broken their lease and there are numerous other complaints of mice throughout individual apartments as well as the common areas of the Building).
- c. Roaches: There have been numerous complaints of roaches and other Vermin, probably caused by the Garbage (see #2 above). See photo attached as Exhibit B
- d. Maggots: As evidenced by this video the garbage is a health hazard when it sits long enough to grow maggots.
http://www.youtube.com/watch?feature=player_embedded&v=eisWJLIT_K0

4. Everyday Services:

- a. Fed Ex and UPS Deliveries: Our "Luxury Building" no longer receives UPS deliveries (as their union will not cross the picket line) and the Fed Ex deliveries are in constant disarray. There are numerous documented instances of packages that are signed for and not delivered and/or given to incorrect tenants. Once again, a clear decrease in Service.
- b. Doorman Service: In addition to the lack of security provided by the Doormen (see #1 above) the Association has also experienced a drastic decrease in typical doorman service we expect as a "luxury building". They include, but are not limited to the following:
 - i. Helping with packages and groceries
 - ii. Holding the door open
 - iii. Doormen restricted from excessive personal calls and texting

- iv. Daily, doormen mis-mark UPS boxes & give to the wrong tenants
- v. Missing Packages
- vi. Notifying tenants when guest arrive instead of allowing them upstairs unannounced.

Furthermore, there have been complaints of threatening behavior toward the tenants from replacement building staff.

- c. Roof Deck/Patio: the “Luxury Building” which was and still is being marketed as having an accessible roof deck is in constant disrepair and is essentially unusable. Not to mention the fact that the 4 large cell towers hover ominously over said patio and pose an imminent safety risk to the tenants.
 - d. Hallways/Laundry Room: the hallways and laundry room are never cleaned or vacuumed and do not come close to the “luxury” standard you claim to provide.
5. Awning: About two months ago, you removed our awning and claimed that scaffolding will be put up to perform maintenance work on the exterior. So far no work has been done to the Building.
6. Harassment:
- a. Tom Martini: On November 30, 2011 you attempted to illegally evict the recently fired manager of the Building, Tom Martini (Apt. 2D), twice. Thankfully, the 17th precinct realized that he cannot be removed except through court action. On November 30, 2011, you LIED to Brooklyn detectives working on President Obama’s detail, that there was a squatter posing a threat in the Building, despite the fact that earlier that same day the local precinct had already advised you that court action was your only means of recourse.
 - b. Swanson: During the second attempt to have Tom arrested, some of the tenants, including myself, were outside to observe, and in my case to make sure Tom wasn’t removed. Kirk Swanson was approached by Brian Rexroat, an executive with “Modern Staffing” (the replacement firm you retained that had employed Tom Martini), who said to Mr. Swanson “you look like a dicksucker”.
 - i. The above came as no surprise you have been attempting to harass Mr. Swanson who has organized the Association-as evidenced by the frivolous lawsuit you commenced and subsequently dismissed. A copy of the Complaint is annexed hereto as Exhibit C.

- c. On December 13th you came to the building, shut the electricity off to apartment #2D and locked the door to the meter room. Once again you wasted hours of the police officers' time as well as taxpayers dollars. You lied repeatedly to the police about turning off the electricity which was against the law and you lied about not knowing where the key was. More importantly, you have made a spectacle out of the Building fraught with constant police activity not indicative and in conformity with "Luxury Building" standards.

The fact of the matter is that we are constantly harassed with your nonsense in dealing with the striking workers, current and former employees, frivolous lawsuits, threatening and dangerous replacement staff, and constant police action that we no longer feel safe in our own homes.

7. Other:

- a. Security Deposit Confiscation: Former tenants have made it clear that you regularly keep security deposits after tenants leave (over-stating damage to the apartment). It has become clear that you prefer that we take the trouble to come after you to legally to obtain what belongs to the tenant. The latest was the case involving a tenant who is an employee of the UN who was moved to Ethiopia. You have apparently ignored his emails and phone calls. We have referred the former tenant, as well as others, to the Attorney General's office.
- b. Failure to Pay Interest on Security Deposit: I am sure that you are aware that Tenant's security deposit is subject to the terms of *General Obligations Law § 7-103*, which states the following: "Whenever the person receiving money so deposited or advanced shall deposit such money in a banking organization, such person shall thereupon notify in writing each of the persons making such security deposit or advance, **giving the name and address of the banking organization in which the deposit of security money is made, and the amount of such deposit.** Deposits in a banking organization pursuant to the provisions of this subdivision shall be made in a banking organization having a place of business within the state. If the person depositing such security money in a banking organization shall deposit same in an interest bearing account, he shall be entitled to receive, as administration expenses, a sum equivalent to one per cent per annum upon the security money so deposited, which shall be in lieu of all other administrative and custodial expenses. The balance of the interest paid by the banking organization shall be the money of the person making the deposit or advance and shall either be held in trust by the person with whom such deposit or **advance shall be made, until repaid or applied for the use or rental of the leased premises, or annually paid to the person making the deposit of security money.**"

Accordingly, please also allow this letter to act as formal request for you to provide each and every tenant with a breakdown of interest earned from the date in which their respective Lease

was signed through the end of the 2011 calendar year, along with a check for any interest earned on their security.

- c. Chain Lock: Landlords of multiple dwellings in New York City must also install a chain-door guard on the entrance door to each apartment so as to permit partial opening of the door. (Multiple Dwelling Law Sec. 51-a, 51-c; NYC Admin. Code Sec. D26-20.05) This is even more important in light of the security risk causes by the lack of Services.
- d. Cell Masts/Towers/Base Units: You have entered into agreements with cell phone providers that lease space for 28 cell masts as the Building. This space is leased to these providers for a great deal of money, and you stated that more units are on the way. Currently, there are 24 units on the roof and 4 on the outside walls of Apartment 3G's master bedroom. A growing body of evidence, especially from studies conducted in Europe and Australia, suggests that there are potential health risks from continued exposure to the radiation emitted from cell masts (especially within 350 meters). You have substantially increased the number of masts within the last few years and have done nothing to inform current tenants or new tenants of the potential health risk they may face. We regard this as further evidence of your callous disregard for your tenants as well as the decrease in Service to the Building, and we demand you address our concerns regarding this issue and act to mitigate any risks.
- e. Heat: you have failed to provide heat in accordance with *Multiple Dwelling Law § 79*; *Multiple Residence Law § 173*; *NYC Admin. Code § 27-2029*, which states, "Heat must be supplied from October 1 through May 31 to tenants in multiple dwellings. If the outdoor temperature falls below 55°F between the hours of six a.m. and ten p.m., each apartment must be heated to a temperature of at least 68°F. If the outdoor temperature falls below 40°F between the hours of ten p.m. and six a.m., each apartment must be heated to a temperature of at least 55°F.
- f. Broker Fees: You have been illegally requiring tenants to pay a broker fee to your wife--despite the fact that she is NEVER involved with any of the lease negotiations nor has she assisted in obtaining the apartment. As you are aware, the broker must assist the Tenant in finding and obtaining an apartment before a commission may be charged. In addition, under the Rent Stabilization Code, a broker's commission may be considered "rent" in excess of legal rent when there is too close of a business or financial connection between the broker and the landlord. *9 NYCRR § 2525.1*.

This list is by no means thorough or exhaustive, but nonetheless illustrative of the decreased Building Services the Association has endured.

Based on the foregoing, you have not only failed to deliver Services commiserate with a "luxury building" but you have breached *Real Property Law § 235-b*, Warranty of Habitability.

The Association has created a blog which provides in depth accounts and details of the voluminous decrease in Services to the Building. I urge you to check out <http://350e52ndstreet.wordpress.com/> so that you can immediately remedy the dire situation.

Should you fail to provide the proper remedial measures within the next ten (10) days the Association will be forced to file an appropriate action with the Court and/or DHCR to enforce its rights.

Please be guided accordingly.

350 Tenant's Association
By: Joseph Cohen, Esq.

CC: 350 Tenants Associations (via email)
William Gribben, Esq. (via email)