

Westchester County, Village Officials Join with GDC to Celebrate the Grand Opening of “The Lofts on Saw Mill River” in Hastings

Second GDC Rentals Development to Open in Less than 4 Months

HASTINGS-ON-HUDSON

As part of what officials termed as Ginsburg Development Companies (GDC) continuing to expand its GDC Rentals brand in Westchester County, GDC recently marked the grand opening of The Lofts on Saw Mill River, a \$34.9-million luxury rental development in the Village of Hastings-on-Hudson.

Westchester County and Village officials joined with GDC executives on Sep. 26 for a ribbon-cutting ceremony at the new development at 419 Saw Mill River Road (Route 9A). The Lofts on Saw Mill River features 66 loft-style rental apartments in three buildings. Two 3-story buildings each include 27 market-rate units and one 2-story building includes 12 affordable workforce-housing units. The 12 affordable units count toward the affordable units mandated by Westchester County’s affordable housing settlement with the federal government, spokesmen said.

Monthly rentals for the market rate apartments range from \$3,245 for a large one-bedroom unit (950 square feet) to \$4,995 for a large 3-bedroom unit (1,656 square feet). The affordable units range from \$874 for a studio to \$1,484 for a three-bedroom unit. The application process for the affordable units closed in June when the Westchester-based Housing Action Council conducted a lottery to select qualified tenants, officials said.

“Today’s grand opening of The Lofts on Saw Mill River completes a journey that began more than a decade ago when we first acquired this site. What was once a former industrial parking lot has now been transformed into a one-of-a-kind community of contemporary loft-style rental apartments, as well as much-needed affordable workforce housing,” said Martin Ginsburg, principal of GDC. “We are particularly pleased to dedicate to the Village 1.8 acres of open space to become a beautiful park that includes a pedestrian bridge to the South County Trailway, which runs by our property.”

“In addition to creating 100 construction jobs, The Lofts at Saw Mill River is adding to the vitality of Westchester’s economy with high-quality rental apartments, including affordable units,” said Westchester County Executive Rob Astorino. “Westchester County and its Industrial Development Agency (IDA) are proud to be partnering with Ginsburg Development Companies on this important project.”

GDC received financial incentives for the development from the Westchester County IDA. The project also received financial support from the County for land acquisition and infrastructure, officials said.

“Ginsburg’s high-quality developments are always an asset to a community – and Hastings will benefit both from the addition of these new high-end rentals, as well as the provision of a dozen units at affordable rates,” said Hastings-on-Hudson Village Mayor Peter Swiderski.

The Lofts on Saw Mill River is GDC’s second new luxury rental development to open in less than four months. In June, GDC opened Harbor Square, a 188-unit luxury rental development on the Ossining waterfront. Harbor Square is already more than 50 percent leased, officials said.

GDC is nearing completion of River Tides at Greystone, a 330-unit luxury rental complex overlooking the Hudson River in Yonkers. River Tides at Greystone is scheduled to begin leasing in the spring of 2017. In early September, GDC broke ground on 1177@Greystone, a new 55-unit luxury rental apartment building on Warburton Avenue in Yonkers, one block north of River Tides at Greystone, spokesmen said.

“The demand for luxury rentals in the Westchester market continues to grow with millennials, as well as empty-nesters looking to live in a community with resort-style amenities and services, as well as easy access to mass transit. The level of high-quality finishes and design featured in our apartments is unlike anything being offered in the region’s rental market,” Ginsburg said.

Founded in 1964 by Ginsburg, GDC is a premier residential developer in the northern suburbs of New York City. With 50 years of experience and market leadership, GDC has built many of the region’s most successful and prestigious luxury developments, company officials said. Many of those developments have a Hudson River and/or transit-friendly focus, including Harbors at Haverstraw, Livingston Ridge in Dobbs Ferry, Ichabod’s Landing in Sleepy Hollow, Mystic Pointe in Ossining, Marbury Corners in Pelham and Christie Place in Scarsdale.

GDC’s developments, company officials added, have won numerous design and community planning awards. GDC also owns and manages a portfolio of commercial properties, primarily in Westchester County.



Hastings-on-Hudson Village Mayor Peter Swiderski; Martin Ginsburg, principal of Ginsburg Development Companies (GDC); and Westchester County Executive Rob Astorino are pictured (left to right) while celebrating the grand opening of The Lofts on Saw Mill River on Sep. 26.

Counsels' Corner

A Landlord-Tenant Update on Altman

By Kenneth J. Finger, Esq., Carl L. Finger, Esq. and Daniel S. Finger, Esq., Finger and Finger, A Professional Corporation, Chief Counsel, Builders Institute (BI)/Building and Realty Institute (BRI)

WHITE PLAINS

In the case of Altman v. 285 West Fourth LLC, the Appellate Division in New York City stung the real estate industry with a case that seemed to turn the law of “Vacancy Decontrol” on its head.

In that case, the Court held, in substance, that a vacancy no longer resulted in the decontrol of an apartment even if the rent was legitimately raised to a level over the deregulation threshold.

The essence of the decision was that the first tenant after the vacancy, even paying a rent higher than the Emergency Tenant Protection Act (ETPA) threshold, was still subject to the ETPA (or, in New York City, to the Rent Stabilization Law).

Shocking as this may seem, what is even more startling is a decision that came out in October of 2016 that upheld a treble damage finding of a rent overcharge against the Landlord finding that there was a presumption of “willfulness arising from the fact of the overcharge.”

This sentence seems to imply that in the event of an overcharge, there is presumed willfulness, which will then result in a treble damage finding. Perhaps this case can be fact specific and limited to its factual situation since (1) there was an unreliable rental history; (2) the defendant did not file Annual Rent Registrations and (3) it failed to submit an affidavit by a person with knowledge justifying the rent increase.

Therefore, at a minimum, we can strongly suggest that Landlords make certain that their registrations are timely filed and that they have complete and proper rental records.

Additional Points

Additionally, there is another basis for a hopeful result, presuming that the Court of Appeals does not overturn Altman. That basis is the fact that a later court virtually ignored Altman, although that later court, surprisingly, was a lower appellate court, the Appellate Term.

In that later case, Aimco 322 East 61st Street, LLC v. Brosius, the Appellate Term, in New York (the same Judicial District as the Altman Court and presumably bound by it), and while citing Altman, seemed to ignore Altman in finding that:

“Therefore, at a minimum, we can strongly suggest that Landlords make certain that their registrations are timely filed and that they have complete and proper rental records.”

“The record raises, but does not resolve several material triable issues, including whether the apartment at issue was exempt from Rent Stabilization because of a high rent vacancy that occurred in 2001, and whether landlord’s expenditures for apartment improvements in the year prior to the high rent vacancy justified the increase in the rent over the \$2,000 threshold then in effect. In this regard, we note that Rent Stabilization Law (RSL) (Administrative Code of City of N.Y.) § 26-504.2(a) contains two statutory bases for high rent deregulation, the second of which is if the housing accommodation “is or becomes vacant ... with a legal regulated rent of two thousand dollars or more per month” (emphasis added).

Further Specifics

In addition, increases in rent for post-vacancy improvements count “to bring the legal rent above the luxury decontrol threshold” (Jemrock Realty Co., LLC v. Krugman, 13 N.Y.3d 924, 926, 895 N.Y.S.2d 284, 922 N.E.2d 870 [2010]; see Roberts v. Tishman Speyer Props., L.P., 62 A.D.3d 71, 78, 874 N.Y.S.2d 97 [2009] high rent deregulation when “the tenant vacates the apartment and the legal rent, plus vacancy increase allowances and increases permitted for landlord improvements, is \$2,000 or more”, affd. 13 N.Y.3d 270, 281, 890 N.Y.S.2d 388, 918 N.E.2d 900 [2009] [“post vacancy improvements”] count toward the \$2,000 per month rent threshold [L. 97, ch. 116]” for high rent deregulation); cf. Altman v. 285 W.Fourth, LLC, 127 A.D.3d 654, 8 N.Y.S.3d 295 [2015] [relying solely on RSL § 26-504.2(a)’s first statutory *12 basis for high rent deregulation, that is, “at the time the tenant vacated ... the legal regulated rent was two thousand dollars or more a month”]).

Therefore, the quagmire continues, although it would appear that the Appellate Division, in upholding the treble damage claim, is not about to change its mind, as one might have hoped Aimco 322 would presage. Hopefully, more to come.

Editor’s Note: The authors are with Finger and Finger, A Professional Corporation. Finger and Finger is Chief Counsel to The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region. The firm is based in White Plains.

Grimaldi, Reagan Join Coldwell Banker Signature Properties

VALHALLA

Jonathan Gumowitz, principal broker of Coldwell Banker Signature Properties of Valhalla, recently announced that Phil Grimaldi, former principal broker of Elite Properties in Pleasantville and Bill Reagan, the former Yonkers deputy mayor, have joined the real estate firm.

Grimaldi is a long time broker and planner with expertise in certioraris, short sales and project development, officials said. Grimaldi was instrumental in obtaining more than \$1 million in federal and corporate grants for the Town of Mount Pleasant in Community Development and Beautification Projects, officials added.

Reagan, who is also a licensed real estate salesperson, will act as Signature Properties’ municipal liaison, working on projects through Westchester County, spokesmen said.



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