

Morningside Heights Housing Corporation


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MEMORANDUM

TO: All Shareholders

FROM: Michael J. McMahon, General Manager

RE: Local Law 11 Façade Restoration UPDATE:
Frequently Asked Questions (FAQ)
And Answers Sheet 

DATE: April 20, 2010

The Local Law 11 Façade Restoration Project has been going on for more than a year now. Many shareholders have asked Management and Board Members a variety of questions regarding the project, its status, the necessity, etc... For everyone's information, we have produced this Frequently Asked Questions and Answers Document (FAQ) that we are distributing now and will keep updated on our web site at www.mhhc.coop. Shareholders are urged to send us your questions so we can make this FAQ a living document used for updating all.

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1. . *What is Local Law 11 and why do we have to perform the work at Morningside Gardens?*

HISTORY:

The roots of modern façade ordinances are relatively young in this country. New York City has the longest continuous non-seismic façade ordinance in effect in the Nation dating back to 1980.

On the night of Wednesday 16 May 1979 a young woman was struck by falling masonry and was killed. The unfortunate victim eighteen-year old Ms. Grace Gold was a freshman student at Barnard. A terra-cotta chunk unloosed from an 8th floor window lintel of a building at the corner of Broadway and West 115 Street, 601 West 115 Street, fell, struck and killed Ms. Gold. The building known as Columbia Apartments previously known as the Regnor was one of three sister buildings, the Luxor, the Regnor and the Rexor constructed in 1912 by the Paterno Brothers, developers of that period.

This unfortunate occurrence lead to the enactment of Local Law 10 of 1980 (LL10/80), signed into law 21 February 1980 by then Mayor Edward I. Koch. The Law required the inspection of buildings above six-stories in height on the street facing facades and within twenty-five feet thereof on a five-yearly cycle.

The Law as written and enacted required only a visual inspection of the street facades and adjacent areas. Rear and sidewalls required no inspection. Buildings having an "on-going maintenance program" (not defined) were exempt. No mechanism existed to enforce the pursuit of repairs under LL10/80. Deteriorated conditions could be reported time and again in successive cycles.

UPGRADE:

This changed with the implementation of Local Law 11 of 1998 (LL11/98). On Sunday afternoon 07 December 1997, a snowy wet day, a shower of bricks rained down from the 33rd floor of the South sidewall of 540 Madison Avenue, a 39-storey Manhattan office building located at Madison Avenue and 55th Streets, slightly injuring two passers-by. This occurrence forced the closure of a 15-block stretch of Madison Avenue at the height of the Christmas shopping rush. The brick shower penetrated through the roof of an adjacent five-storey building. That no serious injuries or deaths occurred on the busy shopping street was miraculous and may be attributable in no small part to the poor weather and the relative quietness of the Sunday afternoon.

The wall that collapsed at 540 Madison Avenue was not subject to inspection under LL10/80. This was corrected under LL11/98 which was signed into law in March of 1998, in the Cycle V filing. LL11/98 superseded LL10/80 and changed the rules significantly.

No longer were sidewalls exempt from inspection. Any wall on any building over 6-stories was subject to inspection unless it was less than 12" from an adjacent wall. Additionally the law allowed only three categories of reporting namely Safe, Safe with a Repair and Maintenance Program (SWARMP), or Unsafe. The inspection required a hands-on scaffold up-close examination from a hanging or other scaffold.

Unsafe conditions required immediate repair within 30 days or significant penalties would occur. SWARMP condition was required to be repaired within the next 5-year filing cycle or would be down-graded to Unsafe with the resultant penalties etc.

CURRENT REQUIREMENT:

LL11/98 was further strengthened and was superseded in February 2009 by The Façade Safety Program (1 RCNY §32-03). This was in no small part due to a rash of construction related accidents that occurred over the preceding two-year period approximately which resulted in several fatalities. The biggest change in the Law is the breaking down of the subject building report due date into three waves (A, B, C) based on the last digit of the tax block in which they are located. SWARMP conditions must now be reported with an actual date by which they must be repaired or be automatically downgraded to Unsafe. We suspect that the DOB will in the near future start to issue violations to buildings based on this end date, not based on the filing cycle as previously. No loopholes remain providing exemptions from inspection or where necessary repair. The DOB has become very rigorous almost aggressive in the last few years with the enforcement of penalties and violations, all of which are now tracked by computer.

MORNINGSIDE GARDENS:

The work currently underway at Morningside Gardens is being undertaken to correct SWARMP conditions noted in the Cycle VI filing, and, other deterioration observed subsequently. The existing deteriorated mortar joints, spalled brick and loose concrete on balcony and terrace facades have been reported on every Architect's and Engineer's report since 1983! The Cooperative has historically performed façade repairs on an as needed and emergency basis so to achieve the status: "Safe with Maintenance" as required by New York City. The Report for Cycle VII is due in the filing window commencing 21 February 2011 closing 21 August 2012.

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2. . *When will this work be complete?*

Based upon the current schedule, Management, Brend and Cutsogeorge Tooman & Allen estimates, the overall project should be complete by Spring, 2012.

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3. . *Is this work really necessary?*

It really is. This project is correcting historic leaks and repairing deficiencies that have been noted by field Architects and Structural Engineers for the past 30 years. The Board of MHHC in 2008 approved this large maintenance/restoration project as a follow up to the 2006 emergency work. The specifications and scope of the work (The Report for Cycle VI) for this project took a full year to be produced by Cutsogeorge Tooman & Allen (CTA). The Architects from CTA are experts in the field, were recommended by shareholders and produced excellent specifications for Brend to complete. The CTA field Architect (Ana Ribeiro) and the senior Project Architect (Frank Scanlon) are here several times per week to physically inspect and report on the work. There is a bottom line: this work is being done to guarantee the integrity and safety of the buildings and grounds. It is necessary and code compliant work that is both over due and warranted. Shareholders are welcome to come to the

Management office during regular business hours to view the project source documents.

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4. . *What about the first two buildings, 90 and 100 LaSalle? The work seems to be taking a very long time.*

Due to the very cold winter and wet spring of 2009 - 2010, "wet work", aka brick pointing, window caulking and lintel / shelf angle replacement, brick replacement (both processes include waterproofing and copper flashing with flashing cement) and concrete repairs of balconies, the weather has delayed the project by at least two months. In addition, historic balcony / terrace drain problems and how to address them delayed 2009 Balcony repairs, as did *what* to do about shareholder Balcony enclosures. These issues added to the delay of the first buildings being complete. All but three "drops" are complete in building II, two east drops on the E and F lines and one west drop in the G line. These drops should be complete in May. The G and F balconies should be complete by June and the A and H balconies complete in July. These estimates depend on warm, dry weather. If weather is good and winds are light, we will finish sooner. Management is working hard to get the Plaza between 90 and 100 La Salle Street back to the shareholders for their summer enjoyment! The work at hand is performed off suspended motorized scaffolding, is slow and can be dangerous at times. Brend has added supervision for both efficiency and safety reasons.

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5. . *We thought that by now the sidewalk bridges around buildings I and II would be down. What happened?*

In addition to the mentioned weather and Balcony delays, the New York City Department of Buildings made the rules regarding sidewalk more stringent due to the crane accidents that occurred in Midtown during the summer of 2009. Brend has filed for a partial removal of the bridges based upon partial completion, but the NYC DOB has been slow to respond. Again, we are looking to complete Buildings I and II as soon as possible.

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6. . *Why does it take so long to get work done around my apartment? Brend seems to make too many trips on our drop and the work never ends!*

The work is multi phased due to the fact that certain phases require crafts persons with various expertise *and* the motorized scaffolds are limited in to how much material and tools can be carried by two men on a scaffold (three on an angle scaffold). Some do mortar grinding to prep for pointing, demolish brick and bad window sills, some window caulking removals and caulking, masons perform brick

replacement, water proofing, shelf angle, lintel and sill replacement. Pails of mortar, brick, waterproofing cement, sills, steel shelf angles, rolled copper, rolled steel, caulking plus vacuums, hammers, grinders etc...The scope of our Façade Restoration has complexity and is more detailed than some realize. The good thing about Brend and the phased work is that *qualified* technicians are performing the work.

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7. . *How do we know when work outside our apartment is finished?*

In both 100 and 90 LaSalle Street, Work Progress Drawings have been posted in the soft seating area of each lobby. These drawings are color coded and show in blue the finished work, in red and green the preparation and removal phases and areas in yellow which will be the drops where work is to occur next. These drawings depict the drops and clearly show which apartment line is being worked on. They are updated on or about the 15th of each month. There is a legend on the "Elevations" drawings that depict what type of work is going on.

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8. . *I don't want to look at blueprints. How do I know what is going on?*

Our construction coordinators, Alan Legaspi and Artie Gaston send frequent update memorandums regarding ongoing work, as does the General Manager. Shareholders are to be advised that Management staffing has been vastly reduced in order to control costs. At this time, Management and Engineering personnel "wear many hats" and do their best with less resources. We find as much time as we can, and is necessary, to communicate.

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9. . *This project is producing an unbearable amount of noise. What is Morningside doing about this?*

The subject of a recent MGCA meeting, management demonstrated as did Brend that the contractor is in full compliance as far as the New York City Department of Environmental Protection (DEP) requirements for their tool operation and the amount of noise in decibel levels that they make. Brend keeps their noise abatement plan as required on site for DEP inspection. Our construction coordinators spot check noise levels and make Brend replace power tools if necessary. Recently Management arranged to have the Thurgood Marshall Room available for shareholders to meet and relax while very noisy work is going on near their apartment. There is also for no cost two different types of ear protection available at the Management Office for shareholders who may want to wear ear protection during the day.

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10. . *You claim façade work is being scheduled but the work seems to take forever. Is there a reason for this? Is there anything a good cooperator can do to help?*

One serious problem we have encountered during this project is causing us delays: Our coordinators make arrangements for access to apartments but then no one is home, fail to provide keys or just don't answer our requests. This results in Management and Legal Counsel enforcing the proprietary lease for Management access for New York City Code required work. This increases the cost for shareholders and delays work. Management appreciates the shareholders who have gone out of their way to let us in when needed. If a shareholder does receive a legal letter for access or any other project related matter, it is to benefit the cooperative as a whole. We have attached a generic access letter from Norris McLaughlin & Marcus, our General Counsel, as an example. The cost for a legal letter to the individual shareholder is approximately \$150.00 and will be placed on their monthly maintenance bill. This is not a heavy handed procedure; it is warranted due to the complexity of the work and the minimum staff level we have to coordinate work.

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11. *I read in the flash report that some apartments have to remove their air conditioners. Does this mean I will roast in the summer time? What is management doing?*

It is true, in order to operate the angle scaffold (a three point rig), some upper and lower floor air conditioners have had to be removed. Management was given permission by the Board to purchase "Move and Cool" units which can be installed temporarily in affected apartments at no charge. Our coordinators will contact shareholders where these conditions exist and make arrangements to remove and store the existing unit, install the temporary unit

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12. *I live in building (I, II, III or VI) and my air conditioner is filled with more dust and dirt than ever before after all this work. What can I do? What is Management going to do about it?*

In the past Management has been able to service Shareholder Air Conditioners for a small charge. Many units will require service this year, however, due to the amount of project work coupled with reduced staff, Management will be making a request to the Board in May to approve an Air Conditioning Company to vet and provide this service to shareholders at a low cost.

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13. *I have had a lot of dust, both red and white, in my apartment at times. Is it dangerous? What is Management doing about that?*

Yes, there is an increased dust level due to the project, and no, it is not dangerous. Management urges all shareholders to keep their windows closed. Brend is covering air conditioners with a filtering medium that minimizes blockage to air conditioning unit condensers and kitchen exhaust fans where dust can come in easily. Management has also had our hygienist, Environmental Building Solutions send many dust samples to an independent lab to make sure there are no hazardous substances in the

dust, and to make sure dust levels in apartments do not exceed action levels. All of these tests have come back negative, and that is a relief! Should a shareholder experience a dust problem, call our office at 212-865-3631 and Alan or Artie will respond and help.

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14. . *My windows are so dirty after this Local Law 11 work! Will management be doing anything about cleaning them?*

Brend will clean all exterior windows after each drop is complete. Once a drop is complete, then it is up to the shareholder to keep their windows clean!

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15. . *Will the grounds around buildings 90 and 100 La Salle Street be restored after construction?*

There is allocated Capital Plan Dollars associated with the Local Law 11 Grounds Restoration once the work is completed and the sidewalk bridge removed. The Grounds Committee will bring a scope of work and a price to the Board for approval when that point in the project is reached. If the Board approves the allocation, then the "plan" becomes a "budget".

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16. . *My wall has been leaking for 30 years. It was never worse than with the recent March storms. Will these leaks finally be fixed?*

Yes. Management is keeping a list of all the interior Morningside Gardens Leaks, and our architect, Cutsogeorge Tooman & Allen has been matching our reported leaks to the construction documents. Field Engineers have inspected the leaks and have prepared / are preparing specifications to fix each leak. Several historic leaks, including balcony drain leaks and roof leaks, have been noted and will be repaired during the course of this project.

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17. . *My apartment was damaged during the last storm. Who is responsible for fixing it?*

Management reviews leak damage on a case by case basis. If you suffered damage or a loss during the early spring storms, Management urges those shareholders to immediately report any damage to both their insurance company and management immediately. The insurance companies, after a review of the House Rules and Proprietary Lease, will decide who is responsible and will reimburse for losses.

Legal
Access Letter
In the Event of a
Maintenance Access
Problem

Morningside Heights Housing Corporation

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April __, 2010

Cooperator
Address

**Re: Morningside Heights Housing Corp. – Cooperator
549 West 123rd Street, Apt. _____, New York, New York**

Dear Mr. & Mrs. Cooperator:

We are counsel to Morningside Heights Housing Corporation (“Morningside”), the cooperative of which you are tenant shareholders and members.

Morningside has referred this matter to me regarding the required access to your apartment, Apt. __ at 549 West 123rd Street (the “apartment”). Specifically, it is necessary for Morningside’s building maintenance staff and the contractor conducting the façade work to gain access to this apartment in order to complete required façade work. Please be advised that Morningside hereby demands that you contact the management office by 3:00 p.m. on Monday April __ 2010 to schedule a date certain for access to the apartment for this work .

Should you fail to voluntarily grant access, Morningside will enter the apartment, as is its right under the terms of your Proprietary Lease on a date of its choosing. Further, should you fail to grant access, you will be deemed in breach of the Proprietary Lease for the apartment and will be held responsible for all costs, damages and expenses incurred by Morningside as a result of the failure to voluntarily grant the required access. In addition, should the cooperative be compelled to enter the apartment by right, Morningside will thereafter serve a Notice of Termination upon you and move to secure a warrant of eviction.

Should you have any questions or wish to discuss this matter, you may contract me at the number below.

Very truly yours,

NORRIS McLAUGHLIN & MARCUS, PA

Dean M. Roberts

DM/dr

cc: Morningside Heights Housing Corp.