

# INSIDE “THE MIRACLE”

How an Arbitrary and Overreaching Ruling by HPD  
compelled us to vacate our home in Manhattan Plaza

by Bo Metzler

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## PROLOGUE

When is your home NOT your home?

When you live in a subsidized apartment, in Manhattan Plaza, in New York City.

After 30+ years, 2 marriages, raising a son, making a home, succeeding at a career, publishing an award winning book, cultivating life long friendships, and feeling safe, secure and eternally grateful for the countless hours of comfort and solitude, my family was inhumanely forced to leave our home – the only real “home” my son has known – by a heartless and overreaching housing bureaucracy. And no one had the ethical temerity to say, “Stop. This isn't right!”

Dorothy learned, after her adventures in OZ, that after all the challenges, “there is no place like home.” I have learned, at Manhattan Plaza, that despite following all the rules, there is no place *called* home.

I can't keep quiet about this. I was screwed by the holy Miracle on 42<sup>nd</sup> Street.

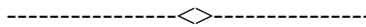
Make no mistake – my actions in writing this expose are NOT directed against Manhattan Plaza as an institution. I am only taking issue with the *people* who manage or who are charged with oversight at Manhattan Plaza, especially when they hand down overreaching rulings that directly – and greatly and unjustly – violate tenant's rights.

No matter what Manhattan Plaza owners, management & staff or HPD will say to defend themselves (and they WILL try to defend themselves), I am NOT trying to “hurt” Manhattan Plaza, as a housing complex, in any way. This is their well-rehearsed reverse psychology ploy to counter any criticism or indictment. They indignantly claim that the criticizer wants to “end the Section-8 subsidy” and bring down or even close Manhattan Plaza. They have done it before. It couldn't be further from the truth. They are very good at deflecting blame away from themselves and onto the tenants. After all: they are the “perfect management” of the “perfect housing complex,” how could they do anything wrong?

Read on – you may formulate a different view of some of the staff at Manhattan Plaza and the bureaucrats at HPD. You will discover that the very people who make tenants follow the rules and regulations, don't feel they are obliged to follow the rules and regulations themselves. They corrupt the very rules they are charged with supervising, and violate tenants rights in the process.

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**A BRIEF HISTORY of Manhattan Plaza**

Manhattan Plaza is a large, federally-subsidized, residential complex in midtown Manhattan, New York City. It occupies the city block bounded by 42nd and 43rd Streets and 9th and 10th Avenues. It has 1,688 units and about 3,500 tenants.

Constructed in the 1970s, the complex was originally designed as affordable housing for middle and upper income people who, by residing in the neighborhood, would (it was hoped) help revitalize the depressed Hell's Kitchen area. But, during its construction, a market survey was conducted and it was determined that the sought after tenancy wasn't interested in living in the depressed area. Construction ceased and the building sat vacant.

Community leaders and representatives of the theatrical industry saw an opportunity and they joined forces with the developers, elected representatives and the federal government. A plan was worked out to save the building by creating a subsidized housing plan for performing artists and neighborhood residents living in sub-standard housing. The federal HUD Section-8 Subsidy Program became the benefactor and the New York City Department of Housing Preservation and Development (HPD), under Mitchell-Lama regulations, was charged with oversight.

The Miracle on 42<sup>nd</sup> Street was born.

The tenancy would be 10% full market rent, and for the remaining subsidized apartments, 70% would go to performing artists, 15% to neighborhood re-locations and 15% to seniors. No subsidized tenant would pay more than 30% of their annual gross income in rent. The Section-8 subsidy would make up the difference. That was the good part. The waiting list was long.

The bad part was all the regulations that tenants were required to follow to get into the building and to stay in the building. Exhaustive HUD paperwork two times a year was the most daunting aspect. Each summer tenants must re-certify that they still qualify to live there and they must predict their future income to set the tenants rent level for the following year. Each spring tenants have to verify, with federal tax forms, whether they

actually paid the full 30% of their income the previous year. If they didn't, they were charged for retroactive rent. HUD did not allow a tenant to have a second home and maintain their Manhattan Plaza apartment (a rule that will come into play later in this story). Tenants couldn't sub-let. Tenants couldn't have guests for more than a month. Tenants couldn't modify their apartment. Tenants couldn't play loud music after 10PM. Tenants couldn't have a grill on the terrace (if they had a terrace). These were just *some* of the house rules.

HPD guidelines outlined occupancy minimums and residency requirements. Tenants had no choice in the apartment they were assigned except avoiding upper floors because of vertigo or choosing lower floors to be safe in case the elevators stopped. But once you were in, you couldn't change apartments. There needed to be a minimum of 2 people in a one bedroom and minimum of 3 people in a 2 bedroom. And if Tenants wanted their children to inherit their apartment, don't let them move out first (the rule that can't be appealed – more later).

All of these rules and a myriad of others, though stringent and sometimes unnecessary, were frustratingly bearable – for the benefit of living in Manhattan Plaza. But the paperwork - oh, the paperwork. As wonderful and affordable as the building was, many tenants couldn't deal with the paperwork and chose to move out.

Administering all of this was an on-site office of operations, followed by HPD and HUD bureaucrats.

Manhattan Plaza was a “miracle” to be sure – in its very existence and access to affordable housing. But inside, there was turmoil and almost constant friction between management and tenants. A Tenants Association attempted to represent the tenants but “the rules” always won out in any dispute. Even the appeals process, afforded the tenants who wanted to challenge the rules, was stacked against the tenant. And no matter how many times management and HPD patronizingly stated “they were there for the tenants,” it just wasn't so. Hence the fundamental impetus for this article.

## **MY BACKSTORY**

I first moved into Manhattan Plaza in 1978, as a performing artist, shortly after it opened for rental. I lived in a subsidized one bedroom apartment for several years, subsequently got married (for the first time) and welcomed my son into the world in 1984. Finally, in 1988, when my son was three, we made it to the top of the internal transfer list and were allowed to move up to a 2 bedroom apartment. We made a home. We made friends. I paid my rent on time every month. I followed the rules and, for a time as President of the Tenants Association, even helped other tenants deal with problems.

By 2006, I was on my second marriage and my son was in college and he was, like countless others his age, struggling to break away from parental authority by spending as much time as possible with his friends, even to the point of sleeping on their sofas for varying periods of time. We looked at it like he was “away at college,” and dealt with it as a typical life process.

By June of 2008 my son was out of college and had met, and wanted to move in with, his girlfriend. According to the HUD Primary Residence regulation, this required that he be taken off our lease at Manhattan Plaza and turn in his ID card. We complied, and he moved, not knowing that this would turn out to be a fateful decision.

My wife and I lived in our two bedroom apartment by ourselves until June or July of 2009 when I got a call from Paulette Woodside in the management office of Manhattan Plaza telling me that we were “under-occupied” and, according to the regulations, would need to “move down” into a one bedroom apartment. I knew this was an eventuality but hoped it wouldn't come so soon. It was also a complication.

By this time, my son was out on his own, I was retired from theatre and on disability due to an accident at work and we were on the verge of making major changes – not the least of which was our need to move to the Philippines, where my wife was from, to deal with some family issues there. We were waiting to make actual moving plans until my wife succeeded in securing her U.S. Naturalization. We didn't know exactly when this would be finalized. We were told by early 2010.

I explained all of this to Paulette and asked if we could hold onto the apartment and not move down to the one bedroom since we were planning to move out anyway. At her suggestion, I wrote a letter to Richard Hunnings Director of Operations at Manhattan Plaza officially requesting this waiver of the required move down. Apparently it was approved because I didn't hear back from Mr. Hunnings or Paulette about the move down. This was a relief. I really didn't want to pack and down-size into a one bedroom and then, in a matter of months, have to re-pack and down-size again when we were moving out of the building.

Then a twist in our plans occurred. It's always amazing what life has in store for you, when you think you have things worked out.

In October of 2009, about a year and a half after my son moved out, he and his girlfriend split up. Since it was her apartment they were living in, he found himself suddenly homeless – even as he tried to salvage the relationship. He really didn't want to move back with his Dad and stepmother, but finding a new apartment or sleeping on friends sofas was now really getting tiring. By the time he made up his mind, around Thanksgiving, we got word that my wife's Naturalization papers were approved and she would be sworn in as a U. S. Citizen in early December – free to travel back and forth to the Philippines.

At first thought, we didn't know what his moving back home was going to mean for our plans to move out and head for the Philippines. But after thinking about it, the chain of events could actually be fortuitous, in a way. Despite the sad aspect of my son's relationship ending, we determined that this coincidental twist of events (our plan to move out and my son moving back home) might actually work out. It would mean that my wife and I could continue with our move to the Philippines as planned, and my son could inherit the apartment and retain his home just as he was embarking on his own life and future.

The first thing we had to do was get him back on our lease. Just prior to his yearly trip to Japan for the holidays (to see his mother and brother), we did the paperwork and interview (yes, an interview) to determine if it was "OK" to "let" him back on the lease and back into his home (the absurdity of HPD regulations). When he came back from Japan in early January, we moved his stuff and he moved back home. He got his card-key renewed to make him “official” again, and my wife and I were beginning to work out our travel plans to move out at the end of March after all of our loose ends were tied up.

My son would, of course, need to have roommates to qualify to continue to live in the two bedroom, but since there was a “Roommate/Spouse Policy” at Manhattan Plaza,

this, *we thought*, would be no problem. The policy was written precisely so that tenants could add a spouse or roommate to their lease to avoid being moved down to a smaller apartment. One of the very few rules that actually favor the tenants. Alex just happened to have friends whose lease was expiring in April and, because one of their roommates was moving on, the remaining roommates couldn't afford to keep their apartment. This was another seemingly fortuitous coincidence. We had the idea that they would move in with Alex in Manhattan Plaza, keeping the apartment intact and all would be great – thus avoiding the prospect of down-sizing or being forced to sell off all of my hand-made furniture.

Boy were we in for a big surprise!

## **THE TROUBLE STARTS**

Late in January I called back Paulette in the Manhattan Plaza management office and informed her of our slightly altered plans: that my wife and I would still be moving to the Philippines at the end of March, but now, instead of our relinquishing the apartment, my son would become head-of-household and take over the apartment with new roommates. She said, “No.”

WHAT!!??

Then, to my shock and dismay, she informed me that my son did not qualify to succeed in the apartment - his home - as head-of-household.

WHAT!!??

Apparently, because we followed the HUD Primary Residence regulation requiring us to remove my son from the lease while he was living with his girlfriend, we did not know, nor were we informed, that this would automatically disqualify him for succession under the HPD/Mitchell-Lama regulations. Paulette informed me that this rule was in the Handbook (which I failed to notice) and that Alex would have to live in our apartment for 2 years to “reestablish” his residency - prior to *me* (as current head-of-household) moving out. I stressed the fact that my son was born here and lived here all his life, except the last year and a half. Didn't matter. Can't a child come home again? Paulette explained that, unfortunately, the concept of “home” doesn't exist in the HPD regulations or in the attitudes of the bureaucrats.

Are you kidding me??

We follow one rule, from HUD, and then get slapped from behind by a worse rule from HPD. My son had to move out - according to HUD, now he can't succeed in the apartment - according to HPD. Sorry “those are the rules.”

That is what you call a rock and a hard place.

Now what are we going to do?

We have plane reservations for March 27<sup>th</sup>. We need, or at least my wife needs, to get to the Philippines. I am starting to realize that I may have to stay in New York for two years so my son can inherit the apartment - a hardship on me and my wife.

I decide to call Operations Manager Richard Hunnings. He and I know each other casually (since I have been here for 30+ years) and he may be able to help with our succession problem (unless he still holds resentments from when I challenged management, years earlier, as President of the Tenants Association).

No luck.

He understood my dilemma, but said “The rules are the rules.” Even in the face of the hardship of separating me and my wife, he said there was nothing he could do. He said others have tried – even in lawsuits. They lost. Children returning home is not a factor that HPD considers. **He told me I would have to spend at least six months and one day here in New York to continue to qualify as head-of-household – which included being here every summer for annual re-certification when each tenant was required to physically appear before the management staff to prove they were alive and living here.**

So, no help from Mr. Hunnings. Just his favorite phrase: “The rules are the rules.” My son and I began brainstorming alternatives. There really weren't any, especially not at this late date. We did try to look for another apartment that my son and his friends could move into. We couldn't find anything appropriate on such short notice.

Richard Hunnings sent me a follow-up letter stating what he told me about the rule and suggested I write to the Assistant Commissioner, Julie Halpert, at HPD.

I instead decided to write a Press Release about, what seemed to me, a conflict in rules which, when followed, guaranteed a child loses his succession rights. (I say “child” here only in the generic sense. My son is 25.) I wanted to shake up the system a little and let people see how ridiculous this Succession Rule was with regard to children returning home.

I do see circumstances where it is appropriate for the 2 year residency rule – to prevent residents from “giving” their apartments to friends by having them move in before they themselves move out. But when a child – no matter what age – returns to his home, that child should be granted the same residency status he had when he left. Especially if the child lived his whole life here and was only off the lease for a year and a half. Everywhere else in the world a child can come home. Apparently not, however, at HPD supervised housing complexes.

It was an uphill battle. I knew it. Generally, as I knew from experience, the housing bureaucracy doesn't like change or being confronted with the absurdity of their rules. But I had to try. Time was running out.

I wrote the following Press Release on 2/8 and sent it to several elected officials as well as several news outlets. (It has since been clarified to me that the Succession Rule is a Mitchell-Lama rule administered by HPD - not a HUD rule. These rules are confusing as well as contradictory.)

*PRESS RELEASE  
New York*

*February 8, 2010*

*Stringent HUD rule forces eviction.*

*A stringent succession rule in the HUD Section-8 guidelines is forcing a Manhattan Plaza Resident's son to face eviction from the apartment that he was born in 25 years ago.*

*The rule requires that a tenant be on the lease for 2 years before being able to succeed in an apartment. This was designed to prevent tenants from “giving” HUD apartments to their friends when they decided to move out.*

*No extenuating circumstances allowed.*

*Not aware of this succession rule, the son moved in with his girlfriend 2 years ago. He was removed from the lease at Manhattan Plaza, as required, but when his relationship went sour last year, he was forced to move back home with his father and step-mother over the Christmas holidays. The parents had been planning to move to the Philippines and, with this new chain of events, assumed the son would be*

able to remain in the 2 bedroom home (with roommates) or, at the very least, move into a studio apartment in the building.

*They all found out about the shocking succession rule when they informed Manhattan Plaza of their plans.*

*After they followed one rule by taking the son off the lease, they were met with another rule that now prevented his succession.*

*A rock and a hard place!*

*Manhattan Plaza management says that their hands are tied. Either the parents must remain in the apartment until the son's 2 year residency requirement is met, or, if the parents move out, the son will be evicted.*

*There are no exceptions – even if you have been living in the building for over 30 years, as this parent has, and served as a past president of the Tenants Association; and even if you helped to secure affordable rents at Manhattan Plaza when new owners were planning to raise the rent ceiling levels.*

*Manhattan Plaza management says that this policy has been challenged in the past to no avail. Management further stated that HUD bureaucracy doesn't consider the concept of "home" when dealing with succession and will not consider changing the rule simply to accommodate returning family members.*

*In America, where even the Constitution can be changed, why are HUD rules written in stone?*

*Please help us!*

*Bo Metzler (parent)*

Within an hour I got a phone call from Mark Brodsky from Related Properties – the current owner of Manhattan Plaza. We had met in 2004 when Related purchased Manhattan Plaza and then immediately attempted to raise everyone's rent to almost double what it was. I joined a Tenants Association committee to resist this, and after weeks of negotiations we were able to get HUD to offset any rent level increases that were granted to Related, so that HUD would make up the difference and not the tenants. It was a big success for the tenants.

Anyway . . . Jeff was a little peeved at me – for not calling him about my dilemma. He said, "After all, we're friends. Is that the way you treat your friends? by issuing a Press Release on them?" I apologized, though I never would have presumed we were friends after the somewhat adversarial negotiations. He understood my dilemma and said he would look into it.

The next day, my "friend" Jeff had an assistant call me and tell me what the rule was and how there was nothing that could be done. Apparently my "friend" was too busy to give me the bad news himself. Can you say "waste of time?" And all his false bravado about friendship – what was that?

I did trade a couple of emails with Jeff to try and state my case a little better. Hoping something I might say would make a difference. Here they are my emails and his replies:

*From: Bo Metzler*

*To: Brodsky, Jeff*

*Sent: Sun Feb 21 11:38:45 2010*

*Subject: Mitchell-Lama Succession - Part II*

*Jeff,*

*I have been thinking about what has transpired so far - about my conversations with Mr. Hunnings, other staff here, you and I and especially Cessa, and her description of her conversation with HPD, and I think maybe I didn't lay this whole thing out very well.*

*I have the "will" but I know my "way" is sometimes faulty.*

*That being said, I think I need to fill in some holes in all of this for you, and hope that a better understanding of my situation will inspire you to take another look at things and maybe help me find another approach to the problem.*

*Mainly, there is some background that is personal that I haven't been talking about while we were focused on the Mitchell-Lama Succession Rule.  
(And yes - I know it's a Mitchell-Lama Succession Rule and not a HUD rule.)*

*The basic issue is whether Alex can stay in his home if my wife and I move out.  
The reason this is all an issue is because my wife and I are not just moving out because we want to - we are moving out because we need to.*

*We are moving to the Philippines (where my wife is from) because there are family issues that require us to be over there ASAP.*

*Otherwise, we'd just stay here 2 years and there's be no problem and I wouldn't be bothering you.  
Alex went off the lease in June of 2008 to go live with a girlfriend. (according to Mr. Hunnings this is a HUD regulation regarding Primary Residence)*

*His relationship took a bad turn.*

*Although he moved back home this past December and came back on the lease in January, he is now ineligible for Succession under Mitchell-Lama.*

*We didn't know this would happen when we followed the HUD Primary Residence Rule that forced us to take him off the lease in the first place.*

*The challenge we have is finding a way for my wife and I to move to the Philippines without jeopardizing Alex's home.*

*I know that there are exceptions to the 2 year requirement in the Mitchell-Lama Succession Rule.*

*The one that might pertain to us is:*

*(5)The minimum periods of required residency set forth in this section shall not be deemed to be interrupted by any period during which the family member who is seeking succession rights temporarily relocates because he or she:*

*(vi) has other reasonable grounds that shall be determined by HPD upon application by such person.*

*Our "reasonable grounds" are: that he moved out because he was required to by HUD (Primary Residence); that following a HUD rule shouldn't jeopardized your home under Mitchell-Lama; that he was only gone for a year and a half; that the time he DID live here (20+ years) far exceeded the time he was away OR the required 2 year minimum to succeed under Mitchell-Lama (total time living here should be considered); that children who return home should not be turned out or be forced to go through an appeals process; and the need for my wife and I to leave before 2 years is up should not be held against us.*

*Obviously, "reasonable grounds" is a subjective concept. What is "reasonable" to me may not be reasonable to you or HPD.*

*And that is the point - I can't move to the Philippines and leave Alex to deal with the appeals process and risk losing his home.*

*I have been told by several people that no one succeeds at this appeal.*

*This is why I am coming to you to help me succeed at this appeal - before I move out.*

*I am not trying to skirt the process, I am trying to find some consideration regarding timing of the process.*

*If I go off the lease now, Alex will go through the appeals process that he will probably loose. It is hollow to keep saying that Alex will have the "right to appeal."*

*I can't leave now unless I am assured Alex won't be evicted.*

*Otherwise I will have to stay here on the lease for 2 years while my wife moves to the Philippines by herself.*

*This is an extreme hardship for us, but I am prepared to do it if necessary. I can't let my son dangle within an appeals process that may result in his being evicted.*

*It just seems ruthless that, under the circumstances, I would have to stay here for 2 years to "qualify" Alex. What's the point? To just be able to say "we followed the rules" - "we followed procedure?"*

*The end result will be the same - allowing extenuation circumstances to qualify Alex for succession now, or*



*I live here for 2 years to "earn" his succession.  
Why put us through everything else just to get to the same result.  
Help me convince HPD of this. Please.*

*I gotta say - nothing against you or Cessa, but . . .  
It really bothers me when people say "That's the rule" and expect the issue to be settled.  
Imagine where women would be if they accepted their non-voting status in the early 20th century. ("It's the rule.")  
Imagine where African Americans would be if they accepted the Colored Only signs. ("It's the rule.")  
Imagine where our country would be if we accepted British Rule. ("It's the rule.")  
I know we are a country and a bureaucracy of rules. But I also know that rules change.*

*I am trying to find away to legitimately and honestly adapt the Mitchell-Lama Succession Rule here - not just listen while everyone says I have to accept it and I have to follow procedure like everyone else all through history.  
And I am trying to help other tenants in similar situations by trying to change the procedure - for the better. Changing rules can be for the better.  
No one, as yet, has explained to me why the Mitchell-Lama Succession Rule was written the way it was - what is the reasoning behind it?  
Maybe the thinking or the circumstance when the Rule was written can be re-thought now or maybe those reasons don't even apply.  
That is what the Supreme Court does - re-interprets the Constitution.  
Life changes. We change with life. We can change the U.S. Constitution - what makes HPD regulation so sacrosanct?*

*I know I have a reputation for challenging and questioning things here at Manhattan Plaza.  
And I also know that some of the long term staff people here think that all I ever do is argue.  
But I believe that what I did within the Tenants Association, and what I am doing now, is for the benefit of the tenants, and toward a better system of governance in HUD/Mitchell-Lama buildings.  
And some things I did, or helped do, still prevail - especially our work negotiating with HUD for the Benchmark rents. We found a way to work around the strict interpretation of rent level regulations. And remember - the institution of the Benchmark Rent structure did not benefit all Manhattan Plaza residents or all Mitchell-Lama residents for that matter.  
I effected a change in the waiting list procedure twenty some years ago which allows people to avoid or choose the bottom or top floors in our complex - instead of the "take it or leave it" policy that existed.  
I am also very proud of my in-depth explanation of our re-certification process that is still helping tenants to understand the process at Manhattan Plaza. I believe fewer people are finding themselves caught with huge retro-rent charges because they better understand the process.  
I am hoping that this can count for something. I am hoping that I can be considered someone other than "just another tenant."  
I am not trying to get special treatment for me and my son. I am trying to get a rule changed or adapted to include a consideration for all Manhattan Plaza children who are returning home. Some leeway. Some humanity.  
And I am trying to get some consideration for the fact that my wife and I have to move.  
I am not trying to subvert the rules, I am trying to make the rules better - more humane - less bureaucratic.*

*I am sorry if this is all convoluted. It's a convoluted problem. And I am sorry, once again, if it seems I am arguing. I am not.  
I am desperate and frustrated.  
Add to it a separate issue - the fact that we are also trying to get Alex's friends into the apartment as roommates. So that when I do leave, he will have his roommates to share the apartment with. We need to add them now because their current lease is up April 1st.  
It seems Susan Bernstein can't deal with the roommate applications until she "hears from" her superiors. I don't know what the hold up is, or who the "superiors" are, but she won't even discuss the situation with me - just tells me to wait.*

Anyway . . .

*I would be more than happy to discuss this all with you if there is still a need for better clarity.*

*I hope you will be able to help me resolve all of this.*

*I just need to secure a home for Alex, and my wife and I need to get to the Philippines ASAP -- **and we can't do these things under the Mitchell-Lama Succession Rule as it is interpreted now.***

*Thanks for listening. Sorry again for the premature SEND before.*

*Hope to hear from you soon.*

Bo Metzler

And his reply:

*From: "Brodsky, Jeff"*

*To: Metzler, Bo*

*Cc: "Scurfield, Sherry"*

*Subject: Re: Mitchell-Lama Succession - Part II*

*Date: Feb 21, 2010 5:10 PM*

*I can appreciate your frustration, however since you contacted me we did validate for you that the rule on succession was not a HUD regulation but was in fact administered by HPD under Mitchell Lama. We also reviewed your file in our compliance group to validate the comments of the site staff, and we confirmed your right to appeal any possible denial of succession with HPD.*

*I would assume your family would take advantage of your appeal rights at the appropriate time.*

*I have read your comments and can certainly understand your concerns. I do not believe that govt regulations always fit specific family needs perfectly, however, there have been dozens of families who have made their life decisions within the framework of this succession reg as it exists. We have no problem with you pursuing an accomodation with hpd, in advance of your move if that is your choice, or if you want to ask them to change the succession rule for all. In the mean time our finding is the same, we can only apply what exists an we assume you will make the decisions that are best for your family. (spelling and punctuation his)*

I could not expect any help from my “friend” Jeff. I was on my own.

Obviously Jeff’s response was right in line with the familiar Manhattan Plaza bureaucratic talking points. I was astounded by how completely he had tuned into the Manhattan Plaza rhetoric: “dozens of families who have made their life decisions” and “we can only apply what exists” – these echo: “we all have choices” and “the rules are the rules.” And, did you notice the “right to appeal” blessing? This is management’s escape clause – they don’t have to do what is right, they use the rules as their excuse, and then they wash their hands by telling you that you have “the right to appeal.”

I had heard these things many times before. One time, a year or so after my son was born, he developed childhood asthma. It was rather serious. Over the next year, he was on several kinds of asthma medications. I had to rush him to the emergency room three different times by the age of three because he could hardly breathe. Thankfully, each time, they were able to calm him down with adrenaline. Imagine holding your infant child in your arms wondering if he would be taking his last breath.

Well, when our name came up on the two bedroom waiting list, it was for an apartment on the 7<sup>th</sup> floor overlooking the 9<sup>th</sup> Avenue and 42<sup>nd</sup> Street intersection. This is one of the worst intersections in the city at evening rush hour - thousands of cars with exhaust. I asked for a different apartment, with a letter from my pediatrician explaining

my son had asthma which might be aggravated by the car exhaust. The management person in charge of this decision said, and I quote: “We do not consider asthma a life threatening disease. You have a choice. You can take this apartment or go back to the bottom of the waiting list.”

I was shocked and really really angry. I gathered the 5 bottles of asthma medicine and went to the office and screamed at this woman about “live threatening diseases.” And I also railed about “rules” and “choices” and how certain “rules” wiped out 6 million people in Germany. I was furious.

But it worked. The next day I was offered a different apartment. The one we have lived in for 22 years. And also, as a result of my tirade, the rule got changed – from that point on tenants got to choose to accept or reject lower or upper floor apartments in the building instead of the prevailing “take it or leave it” policy.

Anyway, I digress.

To management it is always about “rules” and “choices” – where some of the “rules” are outdated and the only “choices” a tenant has are between two or more things that *management* approves. Most of the time the “choices” never include what a tenant may want or need - or may be entitled to.

## **TAKING IT TO HPD**

So, following both Richard Hunnings and Jeff Brodsky's suggestion, I wrote to Julie Walpert at HPD – an appeal, of sorts, for her to consider a waiver of the Mitchell-Lama Succession Rule. I did this believing that nothing would come of it, but taking the step anyway - for the record.

Manhattan Plaza management is always so very quick to remind tenants that they can “appeal to HPD.” I have heard this talking point countless times before. What really happens is (and I was told this by a former management staffer) HPD gets an appeal of a ruling from a tenant; HPD calls up Manhattan Plaza management and asks them how to deal with it; management offers their opinion; and HPD rules that way – the vast majority of times *against* the tenant. And nearly every time the reason given for the denial of the appeal is the “rule” itself. This is called “spin your wheels justice.” The tenant avails himself of the appeals process, spends time and money, and gets nothing more than the original ruling in the end.

I wrote the letter anyway.

*Julie Walpert  
Assistant Commissioner, HPD Housing Supervision  
New York, NY 10038*

2/23/2010

*Dear Ms. Walpert,  
I have been referred to you by Richard Hunnings, General Manager of Manhattan Plaza, and by Jeff Brodsky of Related Properties, owner of Manhattan Plaza.  
I am writing in reference to the Mitchell-Lama Succession rule and whether my 25 year old son can succeed in our apartment when my wife and I move out.  
I understand the Succession Rule and have been told that, under usual circumstances, my son would not be qualified for succession because he went off the Manhattan Plaza lease from June 2008 through December 2009 – unless he resides here for two years, with me, in order to re-qualify for succession. He went off the lease (to live with his girlfriend) as required by HUD's Primary Residence Rule. He is back on our Manhattan Plaza lease now.*

*I am writing to explain the extenuating circumstances that I believe constitute reasonable grounds for the waiver of the 2 year minimum requirement rule for my son.*

*I have lived in Manhattan Plaza since 1979 and my son was born here and has always lived here - except for the period between June 2008 and December, 2009.*

*My wife and I need to move to the Philippines (where she is from) because family issues require our immediate presence and attention.*

*It would be a serious hardship for me to have to remain in New York for 2 years with my son just to clock in a 2 year time period for him to re-qualify for succession.*

*My wife and I cannot go ahead and move out and let my son risk eviction after appeals.*

*We have been tying up our affairs and had hoped to be moving to the Philippines at the beginning of April – until we were told of the Succession Rule last month. Now we are in a state of limbo until this issue can be resolved. Time is of the essence.*

*I hope you will consider our situation and grant us the waiver of the 2 year requirement.*

*Thank you for your consideration.*

*Please don't hesitate to call if you need additional information.*

*Hoping to hear from you soon.*

*Sincerely,  
Bo Metzler*

And I waited.

(FYI: You may have noticed that I have been marking certain portions of my emails and conversations in red – because these passages mark the many times I clearly state that I will not be moving to the Philippines unless my son is given Succession rights. Why is this important? You will see later when the “shit hits the fan.”)

## **ROOMMATE APPLICATIONS**

In the extremely unlikely event that a waiver of the Succession Rule *might* be granted, we needed to go ahead with the roommate application for my son's friends to move in. The “Roommate/Spouse Policy” pretty much guaranteed that this would go smoothly. So if my son succeeds as head-of-household, and my wife and I leave, his roommates will help him continue to qualify for our 2 bedroom apartment.

The coincidence that this was happening at the exact same time as everything else, and adding to our already bizarre confluence of events was just that – coincidence. We had no luck finding a suitable place outside Manhattan Plaza for my son and his friends together. And the friend's apartment was too small for my son to move all of his stuff and all the stuff I was leaving with him (i.e. furniture etc.) It seemed logical that they move in to Manhattan Plaza. And if the Succession Rule waiver *didn't* come through, well, then, we would all be living here (except for my wife who needed to go to the Philippines). It would be crowded, but it could work. It *had* to work.

So, aside from the application procedure and paperwork necessary to add roommates, this would be an open and shut case. Or so we thought. (You really didn't expect that this was going to go the way we wanted - did you?)

I had requested the roommate application paperwork from another management staffer, Susan Bernstein, on February 15th. By February 22nd I hadn't gotten a call that the paperwork was ready to be picked up, so I called her and she told me, in a curt, “I can't be bothered” way, that “It's with my boss. There may be a problem with the number

of roommates.” I asked why and she said, cryptically, “2 heartbeats per room.” I asked what this meant and her reply was a brush off: “Just wait. You’ll get a call when it’s ready.” Susan is not a “cordial” person (think: right wing talking heads Ann Coulter and Laura Ingraham.)

I waited.

Sometimes I think management makes tenants wait because they have to appear to be really busy or they have to confer with other staff members to make sure they are on the same page regarding how each tenant needs to be dealt with. Or they just want to feel important by having the power to tell us to wait.

Susan called me back later with news that I could pick up the paperwork by the end of the day. I presume the number of roommates didn’t end up being a problem. I set up an appointment with her for Friday 2/26 to hand in the paperwork. All 3 of the future roommates had to be there. My son contacted them and they were going to come over to our apartment to fill out the paperwork on Thursday, the 25<sup>th</sup> after their work. We also made sure they got clearance from their bosses to be late for work on Friday.

This roommate application paperwork was even more ridiculous than the regular re-certification paperwork. There were some similarities, but there were also other forms the applicants had to fill out. It’s not the gathering of information that I have trouble with here. I get the fact that information needs to be gathered – financial, residency, citizenship, previous landlord, etc. I get it. What I have trouble with, and this happened when I added my wife to the lease after we were married, was the stupidity of the forms themselves: in many instances they were outdated and redundant and some of them were hard to read. And it was sometimes hard to determine who should be filling them out – the applicant or the resident or the resident’s family.

And then there was the almost belligerent attitude of Susan Bernstein, who is in charge of roommate applications. She is never wrong. I once asked her a question regarding my wife’s paperwork; something that was unclear to me, and she said, “Read it. It’s all there. It’s all clear. I wrote it myself.” Management can’t be wrong – ever. It’s as if it’s so beneath her to have a conversation with a tenant.

Anyway – we were running out of time. I wondered if they realized this and were deliberately stretching and delaying everything. Turning in the paperwork on the 26<sup>th</sup> would give them a month to process the paperwork which, according to Susan, usually took 2 weeks. It might be all right. It had been 2 weeks since I had originally requested the paperwork – what with the “2 heartbeats” delay and all. I wondered if this was a purposeful stretch of time.

Thursday came and so did a phone call from Susan. Because of the weather, she was taking a “snow day” on Friday, and could we meet on Monday, March 1<sup>st</sup>. What could I say – what “choice” did I have? One more weekend delay. Who care? Right? I have a “choice:” just deal with it or forget the application.

We called the roommates. We would meet on Sunday, February 28<sup>th</sup> to fill out the paperwork. They were to bring with them copies of their bank account statements, addresses of banks and work, and landlord, proof citizenship, W-2’s and 1040 tax forms from the previous year. It took about 2 hours to fill out the paperwork.

On Monday, March 1<sup>st</sup>, the roommates trooped in at 9am for the meeting and we all went to the management office. Each roommate, in turn, accompanied me into Susan’s inner office, one at a time. With each roommate we went through their pack of

paperwork. And with the first set, there was already a problem. Because a lot of the paperwork was similar to annual re-certification paperwork, I assumed (wrongly) that at the end of this application procedure we would have constructed our new household make up: me, my son, the three new roommates and *not* my wife (because without the Succession Rule waiver of the 2 year residency requirement, I would have to stay here for two years while she went to the Philippines). I therefore filled out all the roommate application paperwork *without* my wife as a member of the household. Susan picked up on that right away and instead of listening to my explanation just flatly stated, “She is on the lease. She needs to be on the paperwork.” “But . . .,” I started. “Mr. Metzler, just fill out the paperwork the way it's supposed to be. You do want these applications to be made don't you?” “Yes.” She obviously was not interested in explaining things to me and the first roommate – to clear things up. That's just her way. And she is never wrong.

Fortunately, I was able to add my wife's info to the appropriate forms while sitting in Susan's office – otherwise we'd have to make another appointment.

The other roommates came in, one at a time with me.

It was during the second set of paperwork, while I was busy adding my wife's information, that Susan's phone rang. Another new tenant, someone else's new roommate, wanted to move his stuff in to the building. Susan flatly told him he couldn't until the approval of his application came through. She said it usually took two weeks. And then another phone call came through, this time something weird happened. Susan said to her caller, “I'm here with Mr. Metzler and his roommates.” What?! Who was she talking to that my business needed to be announced? It could only have been either Richard Hunnings or Bruce Harrison, the Assistant Operations manager. The conversation ended quickly. Hmmm.

So this painful process took nearly an hour, and as we regrouped outside in the lobby, one of the roommates, the one who went in first, said, unsolicited, “She's scary!” I agreed.

Now we had to wait the 2 weeks for the paperwork to be processed through HPD. And the roommates had to wait for a call from the home site visitor to come and look at their current home to see if they were OK-type people and took care of their apartment. After all, we didn't want any riff raff in Manhattan Plaza.

It's all part of the process and policy and procedure. The rules are the rules. There could be a lot of streamlining here – to avoid redundancy and confusion. But why fix things, right? After all - it's been done this way for 30 years.

## **CLARIFYING PAPERWORK**

A week had gone by since my letter to Julie Halpert at HPD. I am hoping her reply will come next week.

I sent an email to Bruce Harrison, Assistant Manager to ask about the paperwork questions I had in Susan Bernstein's office that went unresolved. Susan had suggested I ask Bruce, since she wasn't interested in explaining it.

*Bruce,*

*Our family and our apartment composition are undergoing changes. I'm trying to make sure that everything is getting done that is required, in the proper sequence, with no redundancy and unnecessary duplication of paperwork, in a timely manner - so as to effect the changes in our occupancy.*

*We are adding roommates and taking my wife off the lease (she needs to go back to the Philippines to deal with her family issues. I will be joining her but am required to stay on the lease for 2 years until my son can succeed in the apartment.)*

*In the meantime, Susan told me yesterday that the roommate paperwork had to have my wife's name on it. And that I needed to take her off the lease some other way (interim re-certification). But doesn't the new apartment composition (after roommates are added) effectively act as an interim re-certification? And can't my wife be "unlisted" during this roommate process - rather than a separate interim re-certification? I hope the two procedures do not bump into each other and form a bottleneck. If you could clarify this for me I would appreciate it.*

*We are in a time crunch regarding added roommates giving notice to their current landlord (on the 15th) and travel plans for my wife and I (I will be going to the Philippines to help her get settled and then returning.)*

*Thanks  
Call if you need any further info or explanation*

*Bo Metzler*

A day later, after (I am sure) he talked to Susan, he replied:

*From: "Harrison, Bruce"  
To: Bo Metzler  
Cc: "Hunnings, Richard", "Bernstein, Susan"*

*I can see you tomorrow morning at 10-10:30 a.m. Let me know if either of those times are convenient.*

When I arrived (his inner-office was right next door to Susan's) he was cordial and asked, "what is it you are trying to accomplish, Bo?" (Interesting opening, but not unusual. I have had a great deal of experience with management and their attitude that tenants are always trying to get away with something because we are all "cheaters.")

I explained the convergence of the three aspects to our situation. My son and his 2 year residency requirement for Succession and how *I was trying to get a waiver so he would become head-of-household and I wouldn't have to stay in New York; my wife needing to move to the Philippines and, if the waiver came through, so would I, and if it didn't I would be commuting between New York and the Philippines;* and the addition of the new roommates who would be roommates whether the waiver came through or not. Then my question: why put my wife on the roommate paperwork if she wasn't going to be in the household, and why did I need to do separate paperwork that took her off the lease? It seemed to me, I told Bruce, redundant and that we could kill both birds by just not having her on the roommate application so that when the new HUD form was drawn up it would be reflective of our new household *without* my wife, which, ostensibly would be removing her from the lease.

Bruce didn't seem to have a problem with our "plans," at least he didn't articulate one. And he seemed to understand my question about the paperwork redundancy but said he'd have to look into it and get back to me. I thought this was strange. He should know what the rules are, dumb as they may be – after 30 years on the job. After all, I was only in his office in the first place, asking *him*, because Susan Bernstein didn't feel like

explaining things to me. According to Susan I was just supposed to “follow the rules” – do what I was told. She feels that when tenants ask questions we are being argumentative.

The next day I got an email from Bruce:

*From: "Harrison, Bruce"  
To: Metzler, Bo  
Cc: "Hunnings, Richard"*

*Dear Mr. Metzler;  
Here is the information we discussed;*

*It is a requirement and responsibility of the resident to report to the owners/managers changes in family composition and income occurring **between** annual re-certifications. See Fact Sheet for HUD assisted Residents Project-based Section 8, "How Your Rent is Determined" included in your re-certification package. the interim is required to be performed when the house member moves out.*

*The interim and Add on processes are separate and distinct and are not performed simultaneously.*

*Bruce Harrison*

There is no way he shouldn't have known this at the time of our meeting. Sometimes I ask people questions that I already know the answer to – just to see how they deal with the question. I am really sure Bruce did the perfunctory check with his office mates before answering. Amazing.

And, notice, Bruce made no effort to caution me regarding my explanation of our plans. It would have been the perfect opportunity for him to warn me if he thought I was doing anything against the rules or if what we planned might not be possible. I took this to mean that our stated plans could progress according to the rules and regulations.

## **CONTINUING THE WAIT**

It is March 5<sup>th</sup>, the end of the second week after I wrote to Julie Walpert at HPD. I was hopeful, with finger's crossed, of hearing that the waiver of the 2 year residency requirement for Succession would be granted. But since I am not expecting this to happen, we were faced with the prospect of my accompanying my wife to the Philippines, staying for a while to get her settled, and then returning to New York – as I told Bruce.

We were expecting, by the end of next week (March 12<sup>th</sup>), that we will get the approval for the roommates to move in. They needed to give notice at their apartment by Monday the 15<sup>th</sup>. Then they would start making their move plans.

March 8-12 was a week of waiting, packing up my wife's stuff and beginning to basically clean house to get rid of a lot of stuff to make room for the new roommates. We had an apartment sale and took several boxes of stuff – old books, records, tapes, clothes – to the Salvation Army. I was surprised at how much stuff I had accumulated and really didn't use, need or care about any longer.

My wife's stuff filled several boxes and I was also sending one of my handmade wall units with her. I knew how hard it was to find good furniture in the Philippines. And



her sister's house, where she will be staying, has little space for storage and clothes. All the boxes looked like a lot but it also didn't seem to dent what was left.

On Monday the 15<sup>th</sup>, we thought, for sure, we would hear from Susan with the approval of the roommates. It usually only took 2 weeks. When the call didn't come, the roommates were able to get a deadline extension to their giving notice. What a nice thing for their caring, ethical landlord to do – instead of just throwing them out on the street.

I also wrote my second letter to Julie Walpert at HPD:

*Julie Walpert March 15, 2010  
Assistant Commissioner, Housing Supervision  
100 Gold Street, Room 9Z1  
New York, NY 10038*

*Dear Ms. Walpert,*

*This is a follow-up letter (with additional information) to the one I wrote 3 weeks ago.*

*Summary: (in case the first letter didn't reach your desk) I am writing regarding the Mitchell-Lama Succession Rule (Title 18, Section 3-02 (p)(3)-(6)) as it pertains to Manhattan Plaza.*

*I am requesting a waiver (on behalf of my 25 year old son) of the Mitchell-Lama 2-year residency requirement, so that my son can succeed in our Manhattan Plaza apartment as head-of-household.*

*I have been a tenant in Manhattan Plaza since 1978. My son was born in Manhattan Plaza and lived here all his life except from June 2008 to December 2009. He had moved to a girlfriends place and went off our Manhattan Plaza lease as per the HUD Primary Residency Regulation. We were unaware, at the time, that following the HUD regulation would invalidate his HPD succession rights.*

*Now - my wife and I need to move to the Philippines (where my wife is from) – to deal with urgent family issues over there.*

*We have been trying to schedule our move for several months. First we needed to wait for my wife's U.S. citizenship to be granted. Then we were surprised when my son needed to move back home last December. Then we were shocked to find out that he did not qualify to succeed in the apartment because he went off the lease for a short time.*

*As you know – according to the Mitchell-Lama Regulations – a tenant/roommate cannot succeed in an apartment unless they have been on the lease for 2 years. In our case, this would mean that I would need to remain head-of-household for 2 years while my son serves out the 2 year waiting period, in order for him to qualify for succession.*

*It would be a serious hardship for me to have to remain in New York for 2 years, with my son, just to clock in a 2 year waiting period for him to re-qualify for succession.*

*It would be out of the question for me to move out now and let my son risk eviction after an application/appeals process.*

*I am traveling with my wife on March 27th to the Philippines. I will be getting her settled there and will return to New York . . . unless we can resolve the 2 year residency requirement and allow my son to succeed in the apartment now.*

*Add to all of this the additional information –that we recently found out that my wife is pregnant -- due in October.*

*This news would obviously add to the hardship of my having to come back to New York and live for 2 years. Or to travel back and forth between New York and the Philippines.*

*As you can guess, we would love to hear back from you soon with news of a waiver – so that my wife and I can get on our way, and my son and his roommates can live here in Manhattan Plaza without the specter of eviction looming.*

*Please don't penalize my son for following the HUD Primary Residency Rule and moving out of his home for a year and a half.*

*Please don't force me to stay in Manhattan Plaza for two years as head-of-household just so my son – who has lived here far longer than two years – will qualify for head-of-household and succeed in the apartment according to the rule.*

*Please don't force me to return to New York (after taking my wife to the Philippines) and be separated from my wife and future child for 2 years.*

*Please grant us a waiver of the 2 year Residency Requirement and allow my son to succeed in the apartment.*

*Thank you for your consideration.*

*Please don't hesitate to call if you need additional information.*

*Hoping to hear from you real soon.*

*Sincerely,  
Bo Metzler*

The next day, March 16<sup>th</sup>, I got a reply to my first letter to Halpert – from Joseph Quigley, Director of Administrative Services, HPD. It was written March 12<sup>th</sup> and crossed my second letter to Halpert in the mail. The letter was the expected rejection of my request for a waiver to the 2 year residency regulation. I don't know whether Halpert made the decision and Quigley wrote the letter, or Quigley was the one who actually made the decision. If it was the latter, I don't know why I wrote to Halpert. This bureaucracy thing never ceases to amaze me.

Here is his letter:

*March 12, 2010  
Bo Metzler  
400 West 43<sup>rd</sup> Street, #12D  
New York, NY 10036  
Re: Succession Rights*

*Dear Mr. Metzler;*

*Your letter to Assistant Commissioner Julie Walpert requesting a waiver of the NYC Mitchell-Lama succession rules has been forwarded to me for a response.*

*Based upon the information you have provided in your letter, we cannot approve your waiver request. Your son must be on the income affidavits for the prior two reporting periods prior to your move to consider a succession claim.*

*By copy of this letter, HPD is directing the housing company to officially review your request for succession. The housing company must notify you in writing of their results of their review. You will have an opportunity appeal this decision.*

*If you have any questions please feel free to contact me call at (212) 863-6502*

*Sincerely,  
Joseph Quigley  
Director of Administrative Services*

*CC: Richard Hunnings, Related Management.*

The denial of the waiver request was not a surprise but the reasoning and explanation was mind blowing. Quigley says that my requested waiver of the 2 year residency requirement for Succession is denied because my son needed to be on the lease

for two years before we could apply for Succession. Yes, you read it right. “You can’t get a waiver of the 2 year residency until you serve the 2 year residency.” Absurd, outrageous, idiotic – and downright stupid. But, as I said before – appeals are denied based on the rule you are appealing. The reason for the denial of the appeal is the rule itself.

The “directing the housing company to officially review my request for succession” was also strange; along with the “You will have an opportunity [to] appeal this decision.” Hello Joe! You were the appeal. I had already made the request to management. Management already denied the request and sent me to Halpert, which got me to you. My God . . . talk about getting everything backwards! Who is this guy?

(It should be noted that if you are a criminal and finish serving a jail sentence – for, say, murder or rape, you are not required to serve a 2 year residency to have Succession rights in Manhattan Plaza. But if you go live with your girlfriend for 18 months – you do.)

So, no waiver. That meant that my son couldn’t inherit the apartment and that I would have to remain on the lease and be present in the apartment for at least 6 months and a day - for each of two years. That sucked. Everything would have worked out so easily if they had just had some humanity and reasonableness about the waiver request. Making someone jump through a hoop just for the sake of having a hoop makes little reasonable sense. And their reason for the denial just failed the logic test. So much for my appeal to HPD.

Now we waited for Susan Bernstein and the roommate approval. I didn't know why it was taking so long. It had been over two weeks. We were fortunate that the roommate's current landlord extended their lease renewal deadline. Have I mentioned how thoughtful and considerate this landlord was?

We were resolved that my wife and I would go to the Philippines, and I would get her settled at her sister’s house. After a stress free, much needed respite, I would return to New York and live with my son and his friends - my indentured servitude to the HPD rules. It is fundamentally inhuman, not to mention ridiculous, that I should have to do this.

## **THE SHIT HITS THE FAN**

By Monday the 22<sup>nd</sup>, we still had not heard from Susan Bernstein with the roommate approval. That was three weeks! The roommates called her and she told them to wait, rudely, as usual. No explanation.

Nothing from anyone on Tuesday the 23<sup>rd</sup>. It is four days before my wife and I leave for the Philippines, and four days before we planned for the roommates to move their stuff into the apartment.

I put a call in to Richard Hunnings. I was curious about the Quigley letter and what the “directing the housing company to officially review my request for succession” meant. His secretary said he'd get back to me. I also put a call in to Quigley. I wondered if getting the second Halpert letter might make a difference to him. His secretary said he'd get back to me.

Nothing from anyone on Wednesday the 24th. I called Richard Hunnings again. His secretary was “surprised” he hadn't returned my call.

Nothing from anyone on Thursday the 25<sup>th</sup>. This is ridiculous.

I sent Richard an email:

*Richard,*

*I was hoping to hear from you by now. But you are busy.*

*I wanted to follow up with you on the correspondence I received from Joseph Quigley at HPD.*

*He indicated in his letter to me that you would receive a copy for an official review of my succession issue.*

*I don't know why I am being sent back to you because you made it clear I should write to Julie Halpert at HPD.*

*Are you supposed to make some new determination on the situation?*

*I would like to chat with you and seek your help in all of this.*

*I am going to the Philippines on Saturday with my wife. But I was hoping to get this all settled before I left - and not have it hanging over until I get back.*

*I still believe I have reasonable grounds to have Alex succeed in my apartment, and, since the regulations allow for reasonable grounds, I am hoping I can convince you and HPD to grant a waiver of the two year residency requirement.*

*Attached is the first letter I sent to Julie Walpert, to which Joseph replied.*

*Also attached is a second letter I sent to Julie before I received Joseph's reply.*

*I include them here for you to be up to date.*

*Thanks*

*Hope to hear from you soon.*

*Bo Metzler*

His reply:

*Sorry to be slow in responding. Will be back to you this afternoon.*

*Richard*

He did not get back to me. I wrote another email:

*Richard,*

*It is now 5:30 PM.*

*I sat around here all afternoon waiting for you to return my calls - that actually began Tuesday.*

*I had many things I could have been doing today - in preparation for my trip.*

*It is not my choice to have to be contacting you again. HPD has dumped it back on your lap.*

*But not calling me was unprofessional at the least.*

*And while you're at it, please find out why Susan Bernstein hasn't informed us whether our roommates are approved.*

*We handed in the paperwork almost 3 weeks ago. Their home interviews were this past Monday.*

*They were planning to move-in on Sunday because they need to be out of their current apartment.*

*All of this delay is extremely exasperating.*

*What's the story?*

*Bo*

I called Quigley – again. And again, his secretary said he'd get back to me. Unbelievable. Something was going on here but damned if I was in the loop.

And then there was Friday the 26<sup>th</sup> - the day before we left for the Philippines - the day of reckoning.

Still no word from Susan Bernstein on the roommate applications – over 3 weeks! My son and I were rearranging the furniture in our apartment - getting ready for the roommates to move in. One of the guys was going to set up his bedroom in our dining room. My son and I were re-positioning our great big wall unit so as to create a room divider between the living room and the dining room. This would afford some privacy for the roommate.

We were interrupted by a call from Quigley. Nothing new. Yes, he had gotten the second letter to Halpert, but it didn't change anything. I asked him several questions to try and figure out the nature of the Succession rule and his ruling. He was tight lipped and would only say the waiver was denied. We discussed a hypothetical scenario whereby I actually moved out and left my son with the task of appealing the Succession Rule. He was clear that future hypothetical situations were something he couldn't address. We'd have to take our chances. **I told him I couldn't take my chances; that I couldn't move if my son was at risk of loosing his home.**

I called Susan to find out why we hadn't heard about the roommate applications. She at first said she didn't know; that it was on Hunnings desk for final approval. I asked what the hold up was. Then she tipped her hand by saying that it might have something to do with my plans to move out. **I told her I was not moving out.** And she said, “That's not what you told Paulette last year.”

What!?!?

Amazing - for someone who denied she knew what was going on, she sure knew exactly what was going on. I tried to find out more. She went on a vocal rampage about regulations and waiting for the ruling and moving out, etc. I had to yell at her to get her to stop talking. Then, of course, it was all about how I was yelling at her – nothing about how I couldn't get her to stop running her mouth. As usual, she just said “Wait for the ruling.”

Then a few minutes after noon, I happened to check my email. There was an email from Richard Hunnings. It included an attachment. The email said:

*Bo,*

*I am sorry that I did not get back to you yesterday; however, I had no information that I could give you. Today I do have the information to give you relative to your request to add additional persons to the household and succession rights for your son. The attached letter explains why the decisions made with regard to the requests are being denied.*

The attachment said:

*March 25<sup>th</sup>, 2010  
Mr. Robert Metzler  
400 West 43<sup>rd</sup> St. Apt. 12D  
New York, NY 10036*

*Dear Mr. Metzler,*

*We are unable to consider approving your requests to add additional members to your household at this time due to the open issues of your continued occupancy, and therefore, of succession rights for your son.*

*As you were previously advised, if Alex wishes to apply to Manhattan Plaza for permission to remain in occupancy if and when the rest of your household vacates, and that application is denied, he will be notified of the decision in writing within thirty (30) days of his request. In accordance with Section 3-02 (p)(8) of the Rules of the City of New York, applicants have the right to appeal decisions. Appeals must be filed by the applicant with the Assistant Commissioner of HPD within thirty (30) calendar days of receipt of the letter denying the request and include the following:*

*Proof of service of a copy of the appeal to Manhattan Plaza;*

*An explanation why the remaining household member believes he is entitled to occupy the apartment;*

*An explanation of any errors or erroneous findings he believes are contained in the decision.*

*If you have any questions, please feel free to contact me at (212) 971-0660*

*Yours truly,*

*Richard Hunnings  
General Manager*

Oh, my God. My head was spinning. No, it was ready to explode!

Are they out of their minds??!!

There is NO “open issue” of my continued occupancy! I have been VERY clear about this. I would continue to live with my son for the 2 years required – if we didn’t get the Succession residency waiver. Everything I said to anyone; everything I wrote in any email or letter said this (as indicated by the nearly 20 references to our NEW plans highlighted in red in this document). There is no ambiguity here.

Susan’s slip about me stating to Paulette’s our *original* plans to move out came back to me. It now seemed clear that they were sticking to this old “plan.” They have completely ignored everything that has happened since my talking to Paulette: all the changes in our circumstances; all my efforts to get Succession for my son; and all the times I wrote and said I would be staying. Can’t they read? Can’t they hear? This is insane.

I sent another email:

*Richard*

*You have it all wrong.*

*If we could have had a simple conversation, things could have been cleared up - instead of waiting until the last minute!!*

*The application for roommates INCLUDES me on the lease.*

*I was never going OFF the lease unless I got pre-clearance for Alex to succeed.*

*This pre-clearance never came.*

*We filled out all the paperwork for roommates with me and my wife on the paperwork - at Susan's insistence. The application for roommates should have been dealt with on that basis - with me as head of household.*

*Once we got the roommates on the lease we were going to take my wife off the lease as she is moving to the Philippines.*

*We were doing this all step by step to keep things simple.*

*I will be staying on the lease and living here - no one ever told anyone that I was moving out!  
There was no reason for you to connect the two situations - roommates and succession.  
Again - a simple phone conversation regard these matters would have cleared them all up.*

*We were expecting the roommate approval by now. It should be here by now.  
Please make that happen today so that the roommates can move in this weekend. (I need to reserve the  
elevator before Larry leaves for the day.)*

*Bo*

Richard called me - finally. It was nearly 5PM. I let into him. I was furious that this was happening. What did he mean “open issue of my occupancy?” There was no open issue. I was very clear to everyone that I was going to live here for the two years required for my son to qualify. There was no justification for the ruling. He interjected something about the number of people in the apartment. I asked if there was a regulation against 5 people. He had to say no. So this could not be an issue – unless they wanted it to be.

I felt my neck tighten and my voice went up. It does that when I am being screwed.

Richard said, “Don't yell at me.” Here is where he makes it all about me yelling at him, just like Susan does. Divert focus from the real issue. I reminded him that he wasn't God, and that when I am getting screwed, I yell.

Note to Mr. Hunnings: I don't have to pander to personal sensibilities when my rights are being violated.

He could have said “Calm down, Bo, we won't let this happen.” But he didn't. His ego got in the way. He chose to say instead: “Don't yell at me. I don't have to do anything when you yell at me that way.”

Note to Mr. Hunnings: I beg to differ . . . You ALWAYS have to do the right thing – that is what ethics is all about. And I ALWAYS have the right to be pissed as hell when I am being screwed by your system – and by you.

There was no justification for this ruling. He played his cool calm self and didn't commit even though he obviously agreed with it. He reminded me AGAIN that I could appeal the ruling. WHEN could I appeal ??? – I was leaving town. (Note: a tenant has 30 days to appeal a ruling.) **I re-iterated that I would be back and I would stop by his office and wave to him every day to remind him I was still here. He said OK.**

He finally agreed to call HPD and try and express my feelings. I was exasperated. What could I do? I agreed to let him try. As soon as I hung up the phone I knew his offer to help was a joke.

A half hour later I got this email:

*Bo,*

*As requested, I have confirmed that the request to add the additional people to the household is denied. As it stands, the decision will not permit the roommates to move in this weekend. I understand the difficulty of the situation; however, there is nothing more that I can do at this time. At this juncture, an appeal to HPD would be necessary if you wish to set aside the decision.*

*Richard*

**BULLSHIT ! Complete and unadulterated BULLSHIT!**

## THE FIX WAS IN

There is no way this was a logical or fair ruling. There was certainly no way this was an honorable and ethical ruling. As head-of-household I had a right to add roommates – according to the very regulations that they continually throw in our faces. And until I was NOT the head-of-household, either by my actually moving out or by management discovering that I wasn't living in the apartment, they are required to treat me like the head-of-household. They had no facts and no proof to back up their “open issues of your continued occupancy” claim. This is America – you can't convict someone of something you “think” they “might” do. And you can't rule against them in advance of an issue that is only hypothetical. (Remember: Quigley said he couldn't get involved with hypothetical future situations. Seems very clear to me that HPD is doing *exactly* that AGAINST me.)

Old plans and an old conversation with Paulette were all they had. They completely ignored the changing reality of our circumstances and, therefore, our plans. How can they make a ruling based on “we're not sure of your occupancy?” I was clear – in every email, letter and in every conversation with EVERYONE – that I was resigned (but not happy) to remain in Manhattan Plaza to wait out the 2 year residency requirement if the Succession Rule waiver did not come through. We got no waiver, therefore I was going to stay. It's really quite simple. I didn't *want* to (that's why we asked for the waiver) but I was bound to and committed to for my son's sake. I would travel back and forth between New York and Philippines – which I am *allowed* to do.

By Hunnings' own admission – I only had to be present in Manhattan Plaza for 6 months plus 1 day; and appear in June or July for annual re-certification. I would be with my wife, in the Philippines the 6 month minus 1 day. There are lots of people in Manhattan Plaza who spend time in other places – summer homes, traveling, working on the road, etc. None of these people have questionable occupancy.

All of my plans and intentions were clear. I was always completely open about the facts of my life. They made their ruling because they had a “feeling” I wasn't going to follow the regulations. You don't convict people based on a “feeling” (unless you are in the fictitious movie world of futuristic “Minority Report”). You don't make rulings based on a “feeling.” You don't deny someone their constitutional right to the pursuit of happiness based on a “feeling.” You need FACTS! And actual DEEDS that violate the rules. They had neither! If this is a joke, I'm not laughing.

This ruling is a complete aberration of legitimate authority.

This ruling is a direct violation of my civil and constitutional rights.

They had it in for me from the very beginning. They distorted everything. They actually made an effort to twist the reality of our changed situation by fixating on an old conversation and then contrive a scenario that then gave them their “theory” to screw me.

This is a classic example of a bureaucracy overstepping its bounds.

Someone *not* connected with HPD or with Manhattan Plaza needs to investigate this. This is an arrogant, egotistical, powerful, corrupt bureaucracy and we, the regular citizen tenants, are powerless against it. We do not have the resources to sue these people – outside of their regulations, outside of their closed door appeals process – in a court of law. But someone needs to. This is flat out wrong and someone needs to make it right.



I hope this document riles the hell out of people and motivates someone in law enforcement or City Hall or Congress to investigate what happened here. Remember Bernie Madoff? No one kept him in check. No one investigated. No one was on top of his scam. And look what happened.

Someone needs to step up here and investigate. We should not let the beauty of Manhattan Plaza and the need for Manhattan Plaza (in terms of affordable subsidized housing), and the success of Manhattan Plaza – all things to be lauded and honored - to cloud our judgment about the possible improper rulings being handed down by HPD and supported by Manhattan Plaza management – inside the Miracle. And the investigation should interview people who have moved out of Manhattan Plaza as well as people who used to work at Manhattan Plaza.

## **MOVING OUT AND MOVING ON**

What did we do? I couldn't appeal the ruling because I was on a plane the next day and wouldn't be back in time. Besides, how do I prove I wasn't going to do what they "thought" I might do (not live in Manhattan Plaza)? My son could not appeal the ruling because he was not the head-of-household. Besides, the ruling *was* appealed by Hunnings to no avail.

Other ramifications and fallout from the ruling were equally perturbing.

My wife had to return to the Philippines – never in doubt. We were going to remove her from the lease as soon as the roommates were approved – step by step as directed by Bruce Harrison. Unfortunately, once that happened, and since our roommates weren't approved, my son and I would, by default, be considered "under-occupied" in our two bedroom apartment while we waited out the 2 year residency requirement for Succession. We would, therefore, be "moved down" to a one bedroom apartment - according to the precious HPD regulations. And then, after my son cleared his 2 year residency, and I actually did move out, my son would be subject to yet another move down into a studio.

This move down scenario is pre-supposing that HPD would have *granted* my son head-of-household status after the 2 year residency wait. There was no guarantee he would even be granted Succession. As we have just seen – HPD doesn't do things legitimately. So even if we had gone through the 2 year residency, with me traveling back and forth to the Philippines, it was highly possible – in fact probable – that HPD would have denied my son his head-of-household status based on some trumped up "feeling." Remember – nowhere in the responses from HPD or Management, through this whole affair, was there ever a "guarantee" that my son would get head-of-household status after we waited for 2 years. Only that he would have the right to "apply" for it. And if he didn't get it he would have "the right to appeal." Succession and head-of-household status wasn't automatic. HPD had to "approve" it. Like they had to "approve" our roommate application. This was another way for HPD to screw us, just waiting to happen.

And the HPD appeals process – both for the ruling against our roommates and for a denial of succession and head-of-household status in the future - would be highly suspect. HPD will not rule against its own rulings. It's a fix. We would be living out the

servitude of the 2 years residency requirement, attempting to qualify for Succession and head-of-household status for my son, and we could be screwed in the end.

Then there was the issue and circumstances regarding the roommates who were just illegitimately denied entry into Manhattan Plaza. They couldn't afford to stay in their current apartment without a fourth roommate. They would have been forced to vacate and become homeless. This didn't matter to the Manhattan Plaza Management and HPD bureaucracy. My son and I couldn't let that happen. We have principles.

We were confounded by all the serious, as well as contrived and nebulous, circumstances that had to be considered, and with a decision that had to be made immediately – all a direct result of the arbitrary ruling by HPD. Taking all things into consideration, especially the fact that no matter what we decided we would be losing our 2 bedroom home, our only conceivable, reasonable option, was to give up our home. My son would move in with his friends and, at least, save their home. I would go to the Philippines and stay there, thus allowing Manhattan Plaza and HPD to succeed in making our 2 bedroom home available to another family.

We did not make this decision of our own free will – we were *compelled* to make this decision. There were no alternatives. It was the only reasonable decision we could make – and that is not a “choice.”

According to Jeff Brodsky – this would be what he considered “applying what exists and making the decisions that are best for your family.” It’s too bad that they (HPD & Management) did not “apply what existed,” when the ruling was made against our roommate application. Instead, HPD made its ruling based on the philosophy “if we “feel” you may possibly do something wrong in the future, we reserve the right to screw you now.”

So . . . Goodbye home. Goodbye friends, Goodbye Manhattan Plaza.

My wife and I had our plane tickets for Saturday the 27<sup>th</sup> - the day after we were screwed by HPD.

My son was left to deal with the entire move out process. The first thing we had to do – before April 1<sup>st</sup> – was to notify management of our plans to move out. Otherwise – if it was after April 1st – they would, I am sure, claim we didn't give 30 days notice and therefore we would be charged rent through May. “It's the rule.”

Next, my son had to rent a storage room for all of the furniture that would not fit in the small room he would be living in at his friend's apartment. This ramification of the fraudulent, unconstitutional HPD ruling will cost us \$200 per month.

Then we had to change our address with everyone – banks, Union, insurance carrier, credit cards, etc, etc. As of July, I was only getting final confirmation that address changes went into effect. The forward mail system from the post office was slow. We weren't receiving mail until 2 weeks after it was mailed. Doctor bills went over due. Credit card bills went overdue. This all was a BIG hassle that we wouldn't have had to go through had our roommates been approved.

Then, my son had to pack everything up and move it out of the apartment. He worked in the evenings after work and on weekends, until the apartment was clear. Truck rentals cost money – a ramification of the overreaching HPD ruling.

Part of what he was packing were *my* clothes and personal belongings that we had not packed yet – since I was not expecting that I would have to be moving to the Philippines on one day's notice. My wife's stuff had already been shipped, but I had only packed my 2 traveling suitcases for our trip, intending to return. After he put all of my stuff (clothes, books, cd's, files, computer, etc., etc.) in boxes, he called the shipping company and had it all shipped to the Philippines – another ramification of the arbitrary HPD ruling.

Then the apartment would be “inspected” to determine if there would be restoration “charges.”

For my part – I kept in constant contact with my son through email and video chats from the Philippines.

On April 2<sup>nd</sup>, I also wrote an email to Richard Hunnings, copied to Jeff Brodsky, as well as a similar letter to Julie Halpert at HPD:

*Mr. Hunnings, (cc: Jeff Brodsky)*

*As you now know - we are vacating our apartment.*

*This is the fateful ramification of the ruling by HPD and your failure to prevent or reverse it on my behalf. We are forced to leave our home because some nameless HPD bureaucrat has made a baseless arbitrary ruling against our roommate application - motivated by assumption and innuendo instead of based on fact. And you have tacitly agreed with their ruling by not preventing it.*

*Make no mistake, Richard, you are responsible here - as is any other MP staff member who furnished HPD with any bogus or misinterpreted information and/or opinion that was considered by HPD to formulate their ruling.*

*If HPD made it's ruling based on bogus information then HPD has an obligation to correct it. And you have an obligation to set them straight.*

*Saying: "there is nothing more that I can do at this time" does not absolve you from your ethical responsibility.*

*If you don't understand what "ethical responsibilities" means, I will send you a book that explains it. (Hint: "ethical responsibilities" have nothing to do with position or authority; or with HPD, Manhattan Plaza, you or me.)*

*Being the on-site manager of a housing development does not absolve you from ethical behavior.*

*Because you claim the HPD is in charge, does not absolve you from ethical responsibilities.*

*That's the beauty of ethical responsibilities - they don't measure who or what, they objectively measure how, uncluttered by class or distinction or circumstance. No "person" defines ethics.*

*There isn't Richard's version of ethics or Bo's version of ethics. It's just ethics.*

*What has happened to me and my family, under your direct supervision, is outrageous and totally unethical.*

*At the very least it could be chalked up to unprofessional bureaucratic blunder (in which case the bureaucrat should be reprimanded).*

*At most, it is a violation of our right to roommates under MP rules, and worse, a violation our Constitutional civil right to pursuit of happiness.*

*HPD's ruling is based on a fallacy. I know it, and you know it, and I know that you know it.*

*There is no "open issue of my continued occupancy." This is a complete fabrication.*

*My residency plans were stated VERY clearly in both of the recent letters to Julie Walpert: that I was NOT moving out if we could not get the 2-year residency requirement waived.*

*There is absolutely no ambiguity here. Anyone who doesn't get this is stupid and should be fired for incompetence.*

*No rules, regulations or policies were violated by us - yet we have been treated as if we had, or hypothetically "might".*

*Instead, WE are the ones who have been violated.*

*The HPD ruling is so clearly wrong, by any measure of decency, fair play and ethics that it will probably become foundational in how future cases are adjudicated at Manhattan Plaza.*

*This was a major affront to me personally, to tenants, to the law and to ethics.*

*But to you and to HPD it was simply "business as usual." And that is the deplorable bottom line.*

*Your rules and regulations mean nothing if they are adjudicated in this egregious manner.*

*To cavalierly suggest that "an appeal to HPD would be necessary..." is ludicrous.*

*The damage has been done; the snow ball is down the mountain; the egg cannot be returned to the shell.*

*The improper arbitrary ruling by HPD has caused us to make immediate alternative housing decisions at considerable expense.*

*We are not making these decisions freely - we were being forced to make them as a result of HPD's ruling.*

*Even if I were in town we wouldn't have time to play the appeal game. My roommates needed a place to live - immediately.*

*And while you felt no responsibility to my roommates (which speaks of your ethics) - I did.*

*And even if HPD were to see the error of their ways, the horse is out of the barn. It's too late.*

*Please don't play the "We all have to make choices in life" game with me. You and HPD forced our decision.*

*Besides - you have appealed on my behalf. Right? At least you said you would.*

*In our last phone conversation you clearly inferred that you would put forth my arguments and clarifications regarding the HPD ruling and my direct denial of any plans to move out.*

*Perhaps you really didn't advocate for me, or perhaps you didn't do it very well, but, surprise surprise, HPD has upheld itself.*

*That's like asking the mafia to sign off on it's own activities. Of course they would. It's a fix.*

*The HPD appeals process is a farce anyway.*

*First of all . . . How can I prove I wasn't going to do something (move out) that I wasn't going to do?*

*Proving a negative is a legal impossibility.*

*You all might have played it better by approving the roommates and then trying to "catch" me not at home.*

*It wouldn't have worked (of course) - because I fully intended to be "at home" just like the rules require.*

*But at least if you had followed this approach you would have been honorable, legitimate and ethical.*

*Instead . . . HPD chose to violate my rights. So now you and HPD have a big problem.*

*An appeal is, now, too late. Especially any appeal that doesn't account for responsibility and damages.*

*By the way . . . just making an appeals process "available" doesn't absolve you or HPD from the ethical responsibility of making it viable.*

*Google "viable." It says: "Capable of success or continuing effectiveness; feasible." Read the definition carefully. Ask your lawyer.*

*If an appeal to HPD for reversal of their ruling doesn't contain the possibility of reversal - then the appeals process lacks viability.*

*So now you must find some other way to make this right.*

*Essentially . . .*

*There are rules and regulations, and then there are laws and ethics.*

*Make no mistake - I am not advocating the elimination of rules and regulations here. I was trying to work within the rules, and my right to question the rules, and be protected by them.*

*I was trying, through all of this, to follow the rules or, in the area of succession, to have them officially waived.*

*(We are not on the subject of "succession" now. I know how hard it is for you all to keep the issues separate.)*

*I am only taking issue, now, with the HPD's corrupt decision not to grant roommate status which violated my rights and is against the law.*

*No one in this country can be acted against - by anyone - for something that an accuser "thinks" "might" happen in the future. Unless that accuser is acting from immanent life threatening motives. No one was threatening HPD with a gun - or even with words.*

*Can you imagine walking into a bank and being detained because the guard "thought" you "looked" like you were going to rob the place?*

*The HPD ruling against our roommate application was, at the very least, misguided, and, quite possible even malicious.*

*It can easily be shown that the premise for the denial was fabrication and conjecture - not fact.*

*There is absolutely no premise for HPD's faulty arguments or reservations.*

*There is nothing in Mitchell-Lama that permits rulings based on a fabricated hypothesis.*

*Read the letters to Julie again. I was VERY clear.*

*Just imagine the punitive damages involved with this.*

*And you and your staff are culpable for your participation, inference and mis-information .*

*Denying your culpability doesn't mean you aren't culpable.*

*Pretending HPD in in charge doesn't mean you aren't culpable.*

*I am well aware of MP Management's familiar cooperative relationship with HPD. I have always been aware of it.*

*I have even been informed by former MP employees that it is the nature of how things work at Manhattan Plaza.*

*And despite any denials on your part, in this situation, it has never been more clear.*

*You wanted this to happen and, therefore, you did little to stop or reverse it - and you could have.*

*You, and Rodney before you, and every MP staff member play the "pass the buck" game very well.*

*But not with me, and that has always unnerved you and the staff.*

*You pretend that HPD calls all the shots - like Putin contends that Medvedev is in charge. But everyone knows who runs things.*

*Now you want to play your "There is nothing I can do" game.*

*It's similar to your "Those are the rules" game.*

*And your "You have a right to appeal" game.*

*And, of course, the all encompassing, washing of the hands "You can always move out" game.*

*In my 30+ years at Manhattan Plaza I have personally been challenged to every one of these unethical games.*

*Fighting them is what got me involved in the Tenants Association. And probably motivates your grudge against me - your patronizing demeanor notwithstanding.*

*Setting up the games and stacking the deck against tenants is your modus operandi - and it is unethical.*

*Take a look - the rules favor or protect management. Very few rules favor tenants. None, it is clear, protect us from flagrant HPD abuses.*

*We are only expected to do what we are told and like it - or move out.*

*Is it your job to police HPD?*

*Technically, no. Unless, of course, you factor in ethics.*

*Then it is everyone's responsibility to see to it that the rules of ethics are followed.*

*First - you and your staff need to get a better attitude about tenants who raise legitimate questions or issues.*

*We are not ignorant welfare recipient who are making trouble.*

*I have directly felt the condescension from the staff on countless occasions over the years - particularly from Susan Bernstein.*

*I have witnessed it as it related to other people as well. And I have been subjugated to errors by the re-certification department on too many occasions.*

*(And before you throw in my face the "tone" of my voice, remember, I only react vocally when someone is doing something wrong to me. I never start a conversation with a loud voice. So - look in the mirror. You or Susan don't get to behave in your condescending way and then get upset when I raise my voice. This is your "Deflect the issue" game.)*

*The HPD ruling against us has caused irreparable harm. And HPD feels it is above reproach.  
But . . . someone or some group of someone's must be held responsible for what went down.  
No one can do things that harm others without ultimately paying the price. There is NO rule or regulation  
that ALLOWS harm.  
There is no government agency that is a protected class.  
And housing managers are not above the law.  
Call it my "Decisions about people's constitutional rights cannot be made without liability" game.*

*Ethics is the basis for my arguments.  
All you (and HPD) have is your feeble preposterous argument that a year ago my plan was to move out.  
You made this argument to me, and, strangely, Susan Bernstein made this argument to me right after she  
pleaded ignorance about what was happening.  
And now you are scrambling to play your "the rules are the rules and they apply to everyone" game.  
Only . . . your premise for the HPD ruling does not state that I violated any rule.  
Only that something was unclear -- which a simple phone call would have cleared up. That would have  
been the ethical way to handle it.  
(I know, I know, I know - you'll say phone calls are not procedure.)*

*Everyone outside of Manhattan Plaza cannot believe what has happened to us. They are shocked.  
(My roommate applicants were actually scared by Susan Bernstein's behavior in the interviews as well as  
in subsequent phone calls.  
It's too bad she's the first person some tenants meet when moving in.)*

*Everyone inside Manhattan Plaza (and we know a lot of people) says things like: "Typical for Manhattan  
Plaza."  
Throughout its existence a substantial number of people have moved out of Manhattan Plaza because of the  
oppressive rules.  
Can you imagine that? People have chosen to forgo the Manhattan Plaza lottery win, rather than be  
subjugated by the rules.  
You call that "their choice." They call it totalitarian oppression. I have been around. I have heard the  
stories.  
That people have chosen to move out is the most articulate comment on "the rules" that anyone can make.*

*SO . . . Which side of "right" will you be on regarding the misguided corrupt HPD ruling against us??*

*Al-Qaeda claims that God tells them to follow Jihad. God himself! Unequivocal justification for them.  
But it doesn't change the fact that what they are doing is WRONG!  
They distort their very religion to find justification for their actions.  
Sound familiar??*

*Which side of "right" will you champion, Mr. Hunnings?  
Will you dare to finally support a tenant and do the right thing? or will you continue to pretend it's not your  
place?*

*You could start by not holding us to the move-out procedures regarding returning the apartment to it's  
original condition.  
No charges. No collection agency.  
This would be a good first step in demonstrating some humanity and some regret for how things went  
down.  
You have the power. It is in your hands. Anything less would be disgraceful.*

*Even after we move out, these matters remain unsettled. You need to make a good faith effort here.  
If I am not satisfied, the matters will be dealt with further.*

*By the way . . .  
WHO at HPD made the ruling?*

*Send me the name, and email - along with the actual printed text of the ruling.  
I am not asking for another copy of your letter "telling" me what the ruling was.  
I am asking for the actual HPD ruling - in print - from the HPD official to you.  
If all of this was done by phone, then you better get something official.*

*(Imagine how this will look if there was time and courtesy for a phone call between HPD and you but NOT between HPD and me.*

*And imagine people finding out that you found time to talk to HPD about a bogus ruling - but kept me waiting for 3 days before you returned my repeated phone calls.)*

*It's time for you to make things right. This will never end until you do.*

*P.S.*

*As you know, I am in the Philippines. It is a third world country. I only have internet access intermittently.  
And there is a 12 hour difference in our time zones.*

-----  
*Julie Walpert  
Assistant Comissioner, HPD*

*Dear Julie,*

*We are forced to leave our home in Manhattan Plaza because HPD has made a baseless arbitrary ruling against our roommate application - motivated by assumption and innuendo instead of based on fact.*

*What has happened to me and my family is outrageous and totally unethical and could have been prevented.*

*At the very least it might be chalked up to unprofessional bureaucratic blunder (in which case the bureaucrat should be reprimanded).*

*At most, it is a violation of our right to roommates under MP rules, and worse, a violation our Constitutional civil right to pursuit of happiness. If it is not rectified it is called "undo harm."*

*HPD's ruling is based on a fallacy.*

*There is no "open issue of my continued occupancy." This is a complete fabrication.*

*My residency plans were stated VERY clearly in both of the recent letters I sent you: that I was NOT moving out if we could not get the 2-year residency requirement waived.*

*There is absolutely no ambiguity here. Anyone who doesn't get this is stupid and should be fired for incompetence.*

*If HPD made it's ruling based on bogus information from Manhattan Plaza then HPD has an obligation to correct it.*

*No rules, regulations or policies were violated by us - yet we have been treated as if we had, or hypothetically "might".*

*Instead, WE are the ones who have been violated.*

*The HPD ruling is so clearly wrong, by any measure of decency, fair play and ethics that it will probably become foundational in how future cases are adjudicated at Manhattan Plaza.*

*It was a major affront to me personally, to tenants, to the law and to ethics.*

*But to HPD it was simply "business as usual." And that is the deplorable bottom line.*

*Your rules and regulations mean nothing if they are adjudicated in this egregious manner.*

*To cavalierly suggest that "an appeal to HPD would be necessary..." is ludicrous.*

*The damage has been done; the snow ball is down the mountain; the egg cannot be returned to the shell.*

*The improper arbitrary ruling by HPD has caused us to make immediate alternative housing decisions at considerable expense.*

*We are not making these decisions freely - we were being forced to make them as a result of HPD's ruling.*

*Even if I were in town we wouldn't have time to play the appeal game. My roommates needed a place to live - immediately.*

*And while no one else felt a responsibility to my roommates (which speaks of ethics) - I did.*

*And even if HPD were to see the error of their ways, the horse is out of the barn. It's too late.*

*Please don't play the "We all have to make choices in life" game with me. HPD forced our decision.*

*Besides - Mr. Hunnings appealed on my behalf, by phone, on the day the ruling came down. At least he said he would.*

*He clearly inferred that he would put forth my arguments and clarifications regarding the HPD ruling and my direct and explicit denial of any plans to move out.*

*Perhaps he really didn't advocate for me, or perhaps he didn't do it very well, but, surprise surprise, HPD has upheld itself.*

*That's like asking the mafia to sign off on its own activities. Of course they would. It's a fix.*

*The HPD appeals process is a farce anyway.*

*First of all . . . How can I prove I wasn't going to do something (move out) that I wasn't going to do?*

*Proving a negative is a legal impossibility.*

*You all might have played it better by approving the roommates and then trying to "catch" me not at home.*

*It wouldn't have worked (of course) - because I fully intended to be "at home" just like the rules require.*

*But at least if you had followed this approach you would have been honorable, legitimate and ethical.*

*Instead . . . HPD chose to violate my rights. So now there is a big problem.*

*An appeal is, now, too late. Especially any appeal that doesn't account for responsibility and damages.*

*By the way . . . just making an appeals process "available" doesn't absolve HPD from the ethical responsibility of making it viable: "Capable of success or continuing effectiveness; feasible."*

*Read the definition carefully. Ask your lawyer.*

*If an appeal to HPD for reversal of their ruling doesn't contain the possibility of reversal - then the appeals process lacks viability.*

*So now you must find some other way to make this right.*

*Essentially . . .*

*There are rules and regulations, and then there are laws and ethics.*

*Make no mistake - I am not advocating the elimination of rules and regulations here. I was trying to work within the rules, and my right to question the rules, as well as be protected by them.*

*I was trying, through all of this, to follow the rules or, in the area of succession, to have them officially waived.*

*(But we are not on the subject of "succession" now. I know how hard it is for you all to keep the issues separate.)*

*I am only taking issue, now, with the HPD's corrupt decision not to grant roommate status which violated my rights and is against the law.*

*No one in this country can be acted against - by anyone - for something that an accuser "thinks" "might" happen in the future. Unless that accuser is acting from imminent life threatening motives. No one was threatening HPD with a gun - or even with words.*

*Can you imagine walking into a bank and being detained because the guard "thought" you "looked" like you were going to rob the place?*

*The HPD ruling against our roommate application was, at the very least, misguided, and, quite possible even malicious.*

*It can easily be shown that the premise for the denial was fabrication and conjecture - not fact.*

*There is absolutely no premise for HPD's faulty arguments or reservations.*

*There is nothing in Mitchell-Lama that permits rulings based on a fabricated hypothesis.*

*Read the letters I sent you again. I was VERY clear.*

*Just imagine the punitive damages involved with this.*

.



*I hold Mr. Hunnings and his staff equally responsible. And, so you know, he is abdicating any responsibility.*

*Denying culpability doesn't mean a person isn't culpable.*

*I am well aware of MP Management's familiar cooperative relationship with HPD. I have always been aware of it.*

*I have even been informed by former MP employees that it is the nature of how things work at Manhattan Plaza.*

*And despite any denials on your part, in this situation, it has never been more clear.*

*Someone wanted this to happen and, therefore, people did little to stop or reverse it - and they could have.*

*Now we play the "There is nothing I can do" game.*

*It's similar to the "Those are the rules" game.*

*And the "You have a right to appeal" game.*

*And, of course, the all encompassing, washing of the hands "You can always move out" game.*

*It my 30+ years at Manhattan Plaza I have personally been challenged to every one of these unethical games.*

*Fighting them is what got me involved in the Tenants Association. And probably motivates managements grudge against me.*

*Setting up the games and stacking the deck against tenants is the modus operandi - and it is unethical.*

*Take a look - the rules favor or protect management. Very few rules favor tenants. None, it is clear, protect us from flagrant HPD abuses.*

*We are only expected to do what we are told and like it - or move out.*

*How should you or Hunnings have made sure this didn't happen?*

*By seeing to it that the rules of ethics are followed.*

*The HPD ruling against us has caused irreparable harm. And HPD feels it is above reproach.*

*But . . . someone or some group of someone's must be held responsible for what went down.*

*No one can do things that harm others without ultimately paying the price.*

*There is NO rule or regulation that ALLOWS harm.*

*There is no government agency that is a protected class.*

*And housing managers are not above the law.*

*Call it my "Decisions about people's constitutional rights cannot be made without liability" game.*

*Ethics is the basis for my arguments.*

*All Mr. Hunnings (and HPD) have is a feeble preposterous argument that a year ago my plan was to move out.*

*The premise for the HPD ruling does not state that I violated any rule.*

*Only that something was unclear -- which a simple phone call would have cleared up. That would have been the ethical way to handle it.*

*(I know, I know, I know - you'll say phone calls are not procedure.)*

*SO . . . Which side of "right" will you be on regarding the misguided corrupt HPD ruling against us??*

*Al-Qaeda claims that God tells them to follow Jihaad. God himself! Unequivocal justification for them.*

*But it doesn't change the fact that what they are doing is WRONG!*

*They distort their very religion to find justification for their actions.*

*Sound familiar??*

*Which side of "right" will you champion, Ms. Walpert?*

*You could try and roll back the clock but I fear it is too late. Alternative housing decisions have been made.*

*So now it is up to you and your ethics to try and make amends.*

*I am out of the country with random email accessibility and a 12 hour time difference. I would appreciate an email address so we can communicate directly about this injustice.*

*(Make no mistake . . . formulate no conjectures . . . my being out of the country now, was always on the table and should NOT be construed - in any way - as germane to what my living situation would have been had our roommates been approved.)*

*In the meantime, my son Alex is handling things in New York.  
Please make this right. Just because I can't appeal doesn't mean this is over.*

*Sincerely,  
Bo Metzler*

*By the way . . . WHO at HPD made the ruling?*

As of mid July, these letters have not been replied to by Hunnings, Brodsky or *anyone* at HPD. They, of course, don't have the integrity or courage to admit they were wrong. Or, they are so arrogant as to think they weren't wrong and therefore feel no obligation to reply. Either way it speaks of their ethics.

**“Ethics: that branch of philosophy dealing with values relating to human conduct, with respect to the rightness and wrongness of certain actions and to the goodness and badness of the motives and ends of such actions.”**

(NOTE: On June 3<sup>rd</sup> I received word that we would not be charged for restoration of our apartment. Far too small a compensation.)

## **WHY CONTINUE TO MAKE A FUSS?**

We had to move out. By now, there is a new family living happily in the completely restored apartment that *we* used to call home.

So why continue making an issue about all of this?

Why?

Are you kidding?

Because what happened to us was **WRONG!**

(Yes, I am yelling. Get over it!)

We lost our home as a direct result of a totally arbitrary, misguided, willful, unconstitutional HPD ruling that violated our civil rights - a ruling that violated the Roommate/ Spouse Policy that has been in place at Manhattan Plaza for 25 years. My son had to move into his friend's apartment so *they* wouldn't be homeless. We had to put all of our life and all of our possessions in storage. My wife and I are now living in the Philippines - by default. We had considered returning to New York to have our baby in October. But we will never be able to return home – because we have no home to come home to.

Our decisions were not choices that we made of our own free will. We were forced to make them. They were decisions we had to make when presented with the unjustifiable and immutable circumstances created by the bogus HPD ruling. And no one

is taking responsibility for *any* of it. All I get are arrogant and condescending: “The rules are the rules.” “There is nothing that I can do” and “You have the right to appeal.” They want me to “follow the rules” when they freely violated them and, in the process, violated our rights. This is sheer unadulterated hypocrisy. This is a flagrant miscarriage of justice. It is almost laughable that I should be told I have the right to appeal. I shouldn’t have to appeal - the HPD ruling should be rescinded on its blatant lack of merit.

HPD and Manhattan Plaza owners, management & staff can't be allowed to get away with totally fabricating a hypothetical reason for denying us our Mitchell-Lama and Constitutional rights. People need to know about this. And something must be done.

In the meantime, I can't keep quiet about this.  
I was screwed by the holy Miracle on 42<sup>nd</sup> Street.

Let me repeat – my actions in writing this expose are NOT directed against Manhattan Plaza as an institution. I am only taking issue with the people who run, or who are charged with oversight at Manhattan Plaza, especially when they hand down rulings that directly – and unjustly and illegally – effect peoples lives.

My effort here is directed towards the people responsible for ruling against my right to add roommates to my apartment – and against anyone who even remotely facilitated that ruling by convoluting the issue with their bogus hypothetical opinions.

Manhattan Plaza management & staff will *claim* that I was trying to “manipulate” my situation in some devious way in order to “get” something that I *wasn't* entitled to. (They have always thought the worst of all tenants.) But this is only a claim – not a fact. To prove their claim they need to substantiate their claim – not make hypothetical or condescending assertions.

Everything I “did,” everything I tried to “get” and everything I tried to “do” was all based on my rights within the structure of the Mitchell-Lama regulations and the Constitution of the United States.

Was I allowed to bring my son back into our home when his relationship ended? Absolutely.

Was I permitted to ask for a waiver of the 2-year residency requirement for Succession Rights? Yes. I was even encouraged to.

Was I “allowed” to change my plans – and instead of moving out as I had intended, stay for 2 years as head-of-household so my son could qualify to succeed as head-of-household? Yes. It’s called freedom of choice.

Would I, as the legitimate head-of-household, have been permitted to travel back and forth to the Philippines, as long as I was in New York for 6 months plus one day including re-certification day? Yes. I was specifically told this by management.

Did I have the right, as head-of-household, to add roommates to my apartment? Yes. The Roommate/Spouse Policy in an immutable fact.

Was I allowed to add three roommates to my apartment? Yes.

So – tell me . . . what did I *actually, factually, provably* do *wrong*, according to the “rules and regulations” that “must” be followed.

I broke no rule. I violated no regulation. I was always completely open and honest about everything I was trying to “do.”

I did *not* manipulate anything.

But still - I was denied my rights by an arbitrary and overreaching bureaucracy.

On the other hand – Management and HPD “thought” I “might” violate the rules in the future so they purposely violated the “Roommate/Spouse” Policy now – to stifle my hypothetical “plans.”

Management manipulated the circumstances, formulated hypothetical opinions and directly influenced HPD to deny me my right to add roommates. Management is guilty of manipulation – NOT ME! And their reasons for doing so are fallacious.

Manhattan Plaza still remains the “perfect” housing complex. But Manhattan Plaza Management is NOT the “perfect” management, and HPD is NOT the “perfect” oversight bureaucracy.

If I had not followed each and every HPD or HUD rule, while living at Manhattan Plaza for 30 years, I would have been evicted. I am only asking that those charged with *upholding* the rules be held to the same threshold of compliance, responsibility and ramifications.

Members of Congress and even the President of the United States are investigated. Some resign and some are convicted. For heaven's sake - even the Pope is being investigated! Please don't tell me that Manhattan Plaza management and HPD are above reproach simply because they are “in charge” of oversight at the Miracle on 42<sup>nd</sup> Street. And please don't tell me – again – that I could have availed myself of the HPD kangaroo court of appeals to seek my redress. When a rule is violated by the rule-makers, it is ludicrous to suggest their “rule” about appeals must be followed. This is a typical bureaucratic line of reasoning – and it is crap.

The Commissioner of HPD should be embarrassed by what happened. But he will avoid it – just like his Assistant has - because being embarrassed would be tantamount to an admission that HPD made a mistake. And anyone who has ever dealt with HPD knows that “HPD is always right.” They won't voluntarily walk this ruling back because doing so would mean that someone goofed. **Someone has to force HPD to walk this ruling back.**

Manhattan Plaza management is notorious for feigning subservience to the rules, and pretending to “follow” the rules. But there is nothing in the rule book that says that Manhattan Plaza must facilitate or support unfounded rulings. Management is free to stand up and defend tenants when tenants are being treated unfairly by HPD. They never choose to do so.

No one helped me. No one even tried to talk to me about any confusion they might have about my previous plans to move out. No one gave me the benefit of the doubt or the courtesy of a phone call. No one had my back. Instead, everyone in charge conspired in a vacuum to decide what my intentions and motives were. Everyone conspired to screw me. Management's “opinions” probably helped facilitate HPD's ruling. And all management said – after the fact - was: “Our hands are tied. We have to

follow the rules too. You can always appeal.” This is their version of plausible deniability.

Are you getting the picture of how the manipulation works at Manhattan Plaza? It's a fix and tenants have only themselves to rely on when travesties of injustice occur.

I even went to the Manhattan Plaza Tenants Association President who told me, directly: “Your son needs to grow up and move out. There are families who need your apartment. You should move out and let them have it.” Unbelievable!

This is not the response I would have made when I was President of the Tenants Association to a tenant in a similar situation. No tenant should be subjected to this kind of treatment. The Tenants Association is *supposed* to defend all tenants – NOT tell the ones who have lived here the longest to move out!

The HPD ruling against our adding roommates was a violation of the Mitchell-Lama Regulations; it was wrong and their reason for the ruling is totally unfounded and cannot be defended except by their empty and fallacious arguments. We would still be living in Manhattan Plaza if we were allowed to have our roommates.

Why continue to make a fuss? Because I want our home back, for my son, for his future. Because I want what I was entitled to *according to the rules*. Because it's the right thing to do – ethically. And don't tell me “It's too late, your apartment is gone.” Find another subsidized apartment by next April. And the penalty for the bogus HPD ruling: make my son head-of-household outright.

I will not win the debate directly with HPD over the temerity of their ruling – no more than Democrats will ever win a debate with Republicans over Health Care or the Bush tax cuts or “Don't Ask Don't Tell.” The HPD bureaucracy is more powerful than any one tenant. So is Manhattan Plaza management. They know it. They count on it. They thrive on it. They revel in it.

If General McChrystal can be called on the carpet and held responsible for his actions – as important as he was - so should Manhattan Plaza management and HPD.

No one paid any attention to what Bernie Madoff was doing – until it was too late for hundreds of investors.

No one paid any attention to what was happening to the graves and human remains at Arlington National Cemetery – for years. Until workers there had finally had enough and blew the whistle. I am blowing the whistle on the Miracle on 42<sup>nd</sup> Street.

I want the people in charge at Manhattan Plaza to be held responsible for their actions and their in-actions – with penalties.

I need someone who is *more* powerful than HPD - to hand down a ruling on how HPD handled our roommate application.

**I need one person with the authority to help – someone with ethics – with the power to launch an independent investigation of the facts and circumstances that led to the inappropriate HPD ruling against our roommates, redress it and make sure these strong-arm manifestations of power never happens to anyone else, ever again.**

**The big question – Is there anyone with ethics out there?**

**Is there anyone powerful enough to investigate what happened in an objective way, and not just tow the line, buy into the “Miracle” and rubber stamp the HPD ruling?**

**Is there anyone charged with the oversight of HPD who is powerful enough to protect the rights of the tenants?**

If there is such a person, please contact me – [bometzler@gmail.com](mailto:bometzler@gmail.com)