

200/201 Tenants Association, Inc.

August 16, 2011

Ms. Jaclyn A. Brillling
Secretary to the Commission
NYS Public Service Commission
3 Empire State Plaza
Albany, NY 12223

Dear Ms. Brillling:

I am writing on behalf of the tenants at 200 West 93rd Street/201 West 92nd Street, New York, NY 10025, as President of the 200/201 Tenants Association, and as a rent-regulated tenant of 200 West 93rd Street, in reference to a petition by our Building Owner, YMY Management/92 Equities LLC, **Case Number 11-E-0316**, pertaining to sub-metering in our building.

Name and address of Building Owner responsible for billing:

YMY Management/92 Equities LLC, 5014 16th Avenue, Suite 114, Brooklyn, NY 11204

Name and telephone number of the person I spoke to regarding sub-metering:

Yehuda Mendlowits, YMY Management/92 Equities LLC, 718.484.8555

The problem we are having with the Building Owner regarding Electric service:

We received a notice from the building owner, YMY Management/92 Equities LLC, regarding plans to sub-meter the electricity, and to bill tenants for their electricity instead of including it in the rent, which it has been until now (although some tenants have surcharges for air-conditioners). The notice was dated July 13, 2011 but was delivered under tenants' doors (134 units) on August 2, 2011, not only past the date given on the notice, but also past the start of the comment period (July 6 through August 22, 2011), and indeed, well into the comment period, hindering our ability to make informed comments by the deadline.

What did we ask the Building Owner to do to resolve our problem:

As soon as the notice was distributed on August 2, 2011, I telephoned the Building Owner, Yehuda Mendlowits, in my capacity as TA President, and left a voicemail (and also sent an email, see attached) regarding my concerns about the notice, specifically, our surprise regarding their plans to sub-meter, and the fact that it was delivered to us on August 2nd well past the date of the letter, July 13th, and well into the comment period ending August 22nd.

What was the Building Owner's response to our request:

He returned my call promptly and when I asked him first about the dating of the notice, he said he had been away—this was his explanation for the late delivery of the notice, and he did not comment further. When I asked about how the sub-metering would work, he indicated that each unit will have its own meter in the basement, measuring actual use, and that each unit will receive a shadow bill for two months prior to receiving an actual bill. He mentioned that he is working with a "consultant" on the sub-metering and that the consultant is taking care of all of the details. I did not receive a written reply to my email.

What resolution are we seeking at this time:

Because the late notice from the Building Owner effectively reduced the tenant commentary period to 2½ weeks from the intended 6½ weeks (causing any tenant who may have already commented, to do so in haste, as well as cause this letter from the TA to be done in haste) **we respectfully request an extension to the comment period**, to September 19, 2011, to allow for the full, intended comment period of 6½ weeks. Additionally **we respectfully request access to, and a copy of, the files pertaining to Case Number 11-E-0316.**

As a Tenants Association, we respect the Building Owner's right to take on any projects that they have a legal right to take on, however it is our mission as a TA to help ensure that all building projects are carried out in a manner that is safe and legal. ***Our comments to Petition Case Number 11-E-0316 are as follows:***

1) In addition to the dating problems with the notice to tenants, we were able to obtain a copy of the "Sample Tenant Notification on Submetering Proposal" (attached) and noted that the Building Owner changed the language significantly in their notice (attached), most notably in the opening phrase which is intended to read "Dear Tenant, We are pleased to inform you that we *expect to upgrade* the electrical system in the building over the next several months, etc.", and instead ours reads "Dear Tenant, We are pleased to inform you that *we are going to* be using an electric metering system, etc." as if it had already been approved. Also, later in the sample letter, it states that should there be grievances, "Any proceeding will be paid for entirely by the management company, etc." -- this phrase was deleted in our notice. There are other notable differences as well.

2) In reviewing the Operational Bulletins, we've learned that in older buildings undergoing conversion from master metering to individual metering, there have been problems with sufficient capacity as well as with crossed and shared wiring, so that sub-metering is not always safe or accurate. Our building dates from the early 1920s. Operational Bulletin 2003-1 states that "However, the owner must provide DHCR with an affidavit sworn to by a licensed electrician that the existing wiring is safe and of sufficient capacity for the building." And in Update Number 1 to Operational Bulletin 2003-1, issued in 2008, it states that "owners who wish to sub-meter must provide DHCR with an affidavit from the installer of the sub-meters that certifies that after installation of the sub-meters, testing will be performed to ensure that shared meter conditions do not exist." How may we be assured by the PSC that the Building Owner will comply with these requirements?

3) Clearly, in terms of the environment, energy saving measures, of which sub-metering is one, are an excellent strategy. How may we be assured by the PSC that we will not see abuses, which may come in the form of inflated bills, i.e. beyond the metered amount, and beyond the permitted administrative fees, resulting in electric bills that many of our tenants may not be able to afford? Our concern is especially for the elderly and disabled tenants in our building who, notwithstanding any other discounts available to them, may be unable to cope with the monthly increase in basic living expenses that an electric bill would bring. Our understanding is that if they are unable to pay all or part of their electric bill, once the building is sub-metered under PSC approval, they can be evicted for non-payment for the electric bill alone, and will have no protections under rent regulation laws. Rent-regulated tenants are not able to responsibly afford much beyond what they have committed to, and what they are assured of—basic housing expenses that are regulated. It is conceivable that inflated electric bills, or any electric bills for that matter, may not be within the realm of the possible for many of our tenants.

4) We have additional concerns regarding master metering, direct metering, and sub-metering—we are still seeking clarification on how it works: assuming any shared/crossed wiring problems are resolved, and the Building Owner, using a master meter system, then sub-meters, are tenants billed for actual use only, per their specific unit, or for a portion of an "aggregated" bill, not including the common areas, such as lobbies, hallways, commercial properties, etc. In addition, we have a complex history, spread over many years, of surcharges for appliances such as air-conditioners, and well as electric surcharges for those air-conditioners, in particular for long-time tenants who have lived in the building for over 30 years. These surcharges were combined in with the base rent early on in most cases, and subject to lease renewal increases along with the base rent; so, when it comes to calculating rent reductions, how will PSC handle this type of situation, since leases with long and varied histories are often not clearly documented records? Also, our understanding of the standard rent reductions is that they do not fully cover the cost of electricity, direct or sub-metered, or otherwise. Finally, we have a mix of rent-controlled, rent-stabilized, and de-regulated tenants—how does sub-metering differ for each category of tenancy? How can we be assured that there will be fairness and accuracy when it comes to billing?

5) Finally, how can we be assured by the PSC that the Building Owner will hire a qualified/licensed/union electrician to conduct the necessary review and testing of the wiring in our building in order to prepare the requisite affidavits? We are very concerned about this in light of recent events: our building is a "union building" and has been for many years. Immediately after purchasing the building, the Building Owner eliminated three of the four union (32BJ) employees (Superintendent and two Porters) while retaining one union employee, the Handyman, who is now the Superintendent, but the Building Owner has not, to the best of our knowledge, renewed the Superintendent's union contract. The Building Owner has since hired two new Porters, who are not members of the union. Because of this, we are uncertain if the Building Owner is currently using qualified union labor for ongoing construction and electrical work in the building.

* * *

We are an active Tenants Association, and we understand the value of research in terms of helping maintain safe and legal conditions in our building. We feel strongly that we need sufficient time to research how sub-metering works, how it will impact on our tenants, and to communicate our findings to the tenants. We were able to do significant research during a period when a previous short-term owner, intending to build nine floors on top of our six-story building, received approval from the City to do so; our research led us to important State regulations pertaining to proper egress as well as building-height restrictions; with the assistance of the NYS Attorney General's Office, approval of the owner's plans was revoked, at which time he sold the building to our current owner.

Ms. Brillling, we greatly appreciate your time and consideration regarding our **request for an extension of the comment period, as well as access to the records**. Please do not hesitate to contact me with any questions or comments. I can be reached at 212.799.6022 or via email at alehmann@rcn.com.

Sincerely yours,



Aleya Lehmann Bench
President, 200/201 Tenants Association, Inc.
200 West 93rd Street, #5G
New York, NY 10025

Cc: Linda Rosenthal, Assemblywoman, District 67
Gale Brewer, Council Member, District 6
Scott Stringer, Manhattan Borough President
Eric Schneiderman, Attorney General, NY

Attachments: Notice dated July 13, 2011 from YMY Management
Sample Tenant Notification on Submetering Proposal
Copy of email message to YMY, dated August 2, 2011
Aleya Lehmann lease, substantiating tenancy