

THE ORSID

— DIGEST —

Q2 2023 Newsletter

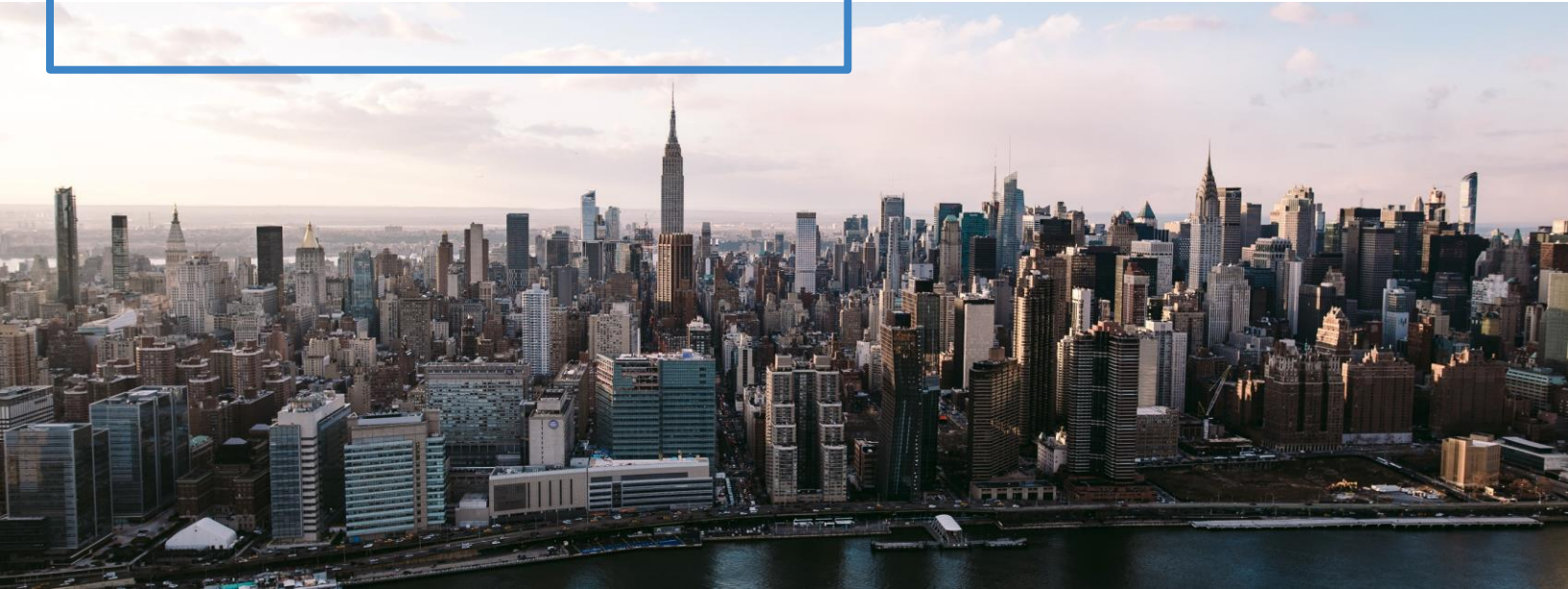
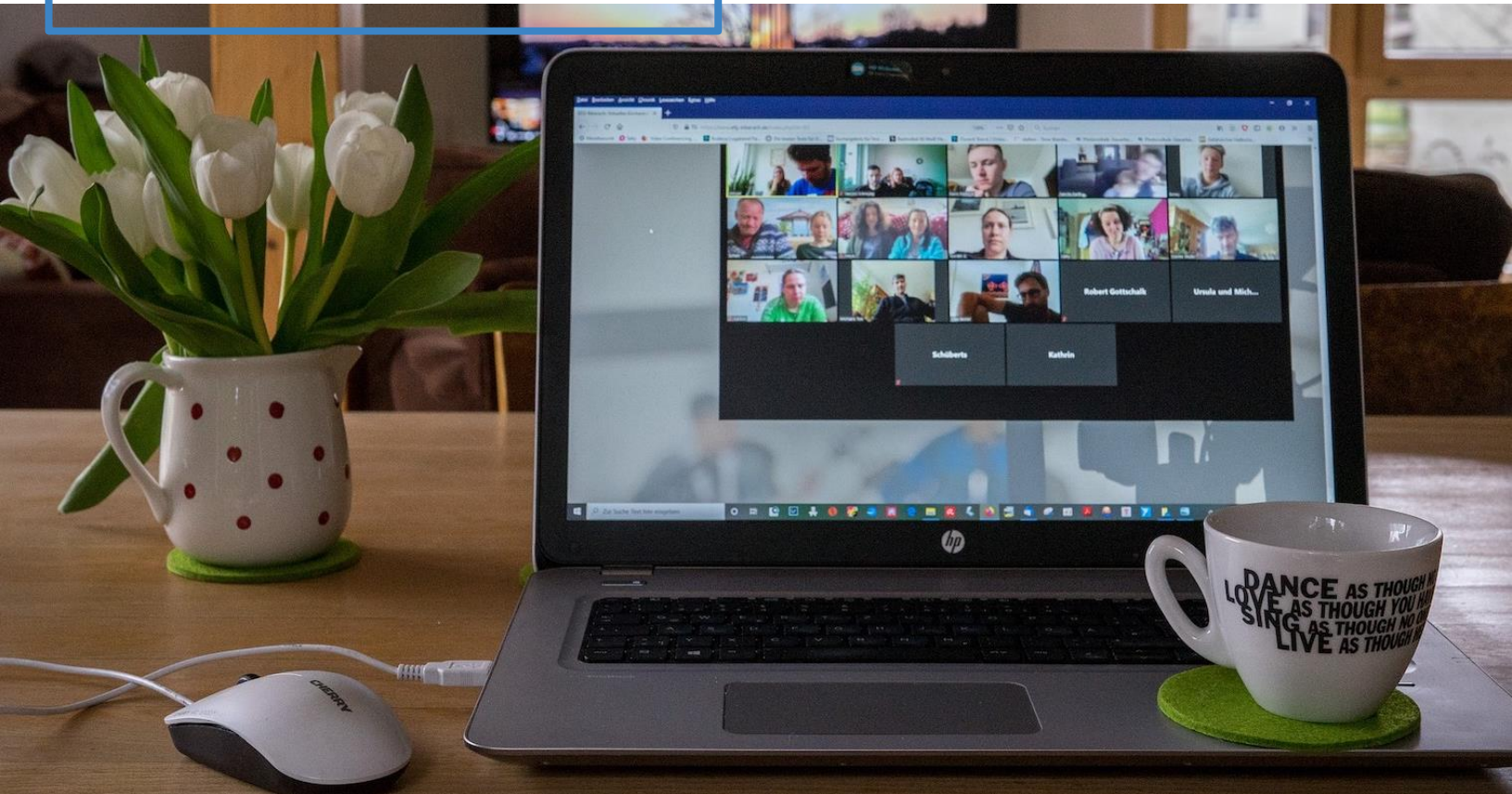


TABLE OF CONTENTS

Virtual Meetings are Here to Stay	2
Is Your Garage Safe? Local Law 126 Garage Inspections	3
Longest Serving Doorman in NYC Retires	5
Neighbors Part 2: Odors	7
Legislative Update	9
Welcome to Orsid	11

Virtual Meetings Are Here to Stay



In our 3rd Quarter 2021 newsletter, we discussed virtual meetings as they related to coop and condo boards. Nearly a year and half later, virtual meetings are very much still the norm for both board meetings and annual meetings.

We have found that even with the return to a more “normal” world, many boards have continued to utilize virtual meetings.

Since serving on the board of a coop or condo is a volunteer position, many board members have appreciated the ease of joining their board meetings from anywhere; whether it be while they are traveling from work or working later in the office or simply being able to take them from home. Virtual board meetings have also greatly improved the work-life balance of our hard-working Account Executives by allowing them to conduct meetings from home, rather than commuting late at night after an in-person board meeting. This has allowed us to retain high performing staff.

In looking at our 2023 Annual Meeting data, approximately 78% of the 107 annual meetings hosted this spring were virtual meetings. Buildings have found increased participation and a much greater chance of achieving quorum. We have had several buildings look to hold hybrid annual meetings (a combination of virtual and in-person). Most buildings have veered away from this as the technology and space reservation costs are typically at least \$3,000- \$5,000.

While virtual meetings are a meaningful way to hold meetings, in-person connection is still critically important. Some boards have filled the void of in-person get-togethers by holding in-person committee meetings on various topics or meeting socially for dinner. We have also seen a return of the in-person holiday or summer parties that buildings are throwing for their communities.

Virtual meetings appear here to stay and have been found to be efficient and helpful even in a post pandemic world.

Is Your Garage Safe? Local Law 126 Garage Inspections

On April 23, 2023, a residential building’s garage aging almost 100 years collapsed in lower Manhattan. As a result, New York City building inspectors conducted inspections of parking structures across the city.

The garage collapse in downtown Manhattan earlier this year brought to the forefront a law that was passed in 2021. Local Law 126 requires all owners of parking garages to hire a New York State licensed and registered professional engineer to conduct inspections of parking structures at least once every six years, and file a report with the Department of Buildings documenting the results of that inspection. The inspection cycle is staggered. For most garages in Manhattan (south of 59th Street), the date to complete the inspection is 12/31/23. There are over 1,200 garages in NYC that must undergo inspections in the next few years and very few have started this process.

The new law mirrors façade inspection requirements under the Façade Inspection Safety Program (formerly known as Local Law 11). An engineer who is a qualified parking structure inspector will review the garage’s condition, conduct a structural assessment, and note any evidence of deterioration. The visual inspection involves examining all visible surfaces of the parking structure and may include sounding, load testing, scanning, and probes. After this, the engineer will file a compliance report with the Department of Buildings, classifying it as one of the following:

- **Safe:** No repair work is needed, and the garage is safe until the next inspection cycle.
- **Safe with Repairs and/or Engineering Monitoring:** Minor damage to the garage framing elements found, and the engineer will provide a timeline to address the issues. A follow-up inspection and subsequent report filing with DOB (Department of Buildings) will be required. If repairs are not completed before the next filing cycle, it will be automatically classified as Unsafe.

Unsafe: Severe damage to the garage framing elements poses a hazard to people or property. Any unsafe conditions must be repaired within 90 days of filing a condition assessment report, and an amended report must be filed within two weeks of finalizing the work.

Steps for compliance under Local Law 126 can be found at this link:

<https://www.nyc.gov/site/buildings/safety/parking-structure.page>

An unsafe garage can present a very difficult set of circumstances for a coop or condominium building. If the repair involves an entry ramp or a structural issue, the garage may need to be closed and all patrons may be asked to remove their cars. If the structural problem is serious and threatens the building itself (support columns may be compromised), repairs would have to be implemented immediately. This of course is problematic as all the vehicles housed in the garage must now find street parking and abide by street cleaning rules or find a different location to garage their vehicles. Will there be a rent or common charge abatement for the garage users?

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Is Your Garage Safe? Local Law 126 (Continued)

How will the loss of income affect the operating budget of the building or garage?

In the event the space is leased to an independent operator - a very common arrangement in New York City - the coop or condo would still be responsible for the initial inspection, any follow-up visits, and any repairs or corrective measures needed to bring the structure into compliance. The Department of Buildings will hold building owners responsible - not the operator. If the garage has been leased to a third-party operator, it is very important to review the lease itself. Some leases make the garage tenant responsible for maintenance, but the question becomes, what is maintenance and what is structural repairs? It makes sense for the garage operator to bear the cost of repairs since the garage is creating wear and tear on the structure as well as making a profit.

When is your inspection cycle?

The deadline for your first LL 126 filing is determined by your building's community district. The requirement is phased-in by borough. Garages in the rest of Manhattan and Brooklyn have until the end of 2025 to comply, while owners in the other three boroughs have until the end of 2027:

- Manhattan Community Districts 1-7 are between January 1, 2022 - December 31, 2023
- Manhattan Community Districts 8-12 and all Brooklyn Community Districts are between January 1, 2024 - December 31, 2025
- Bronx, Queens, and Staten Island Community Districts are between January 1, 2026 - December 31, 2027

If you have a garage in your building and need assistance with Local Law 126, garage inspections and repairs, please reach out to us and we can give you guidance. As always, Orsid is here to help guide and inform while we all navigate Local Law 126 together.



Longest Serving Doorman in NYC Retires

From 1961 until May of this year, Trafalgar House was the workplace of Manny Teixeira, New York City's longest-serving doorman. Manny just retired after 62 years of service! You might have caught one of the many recent news segments or articles where Manny was interviewed. However, we had the pleasure of speaking with him directly and are thrilled to shine yet another well-deserved spotlight on him, his incredible dedication and years of service.

Manny's father was the first Superintendent of Trafalgar House in the 1960s. At the time, Manny himself was working at a hotel. His father came to him one day and said, "why don't you come work here and have a job with more steady income." So, Manny did just that. Working for his father wasn't always easy; as the son of the Super, he had to show the other employees that he was worth his salt and knew how to do the job the right way, and he slowly but surely climbed the ranks amongst the building staff. While Manny was quite literally working with his family, Trafalgar House at large (fellow building staff and residents alike) soon became his family too.

There are some residents who have been living at Trafalgar House for 45-50 years – there are a group of older people that Manny says all take care of each other. "If I don't see someone for two days, I call them

to check on them." Manny would always ask his residents, "if you're going away, please tell me, so I don't start to worry when I don't see you." Manny's care for residents went both ways. Trafalgar House residents loved Manny, and still do. Manny told us of residents from the early days who had kids, then those kids had kids of their own and they would, after having moved out of the building, bring their kids by to meet him. Susan Hans, Board President of Trafalgar House told us, "As time went on and owners changed hands, more young families moved in, often combining apartments. Manny became even sunnier seeing, greeting and engaging with the children, enjoying watching them grow up."

Manny has been a working doorman at the same condominium through many New York City historical moments – blackouts, 9/11, the Covid pandemic, to name just a few. Sufficed to say, he's seen it all. Manny commuted to the Upper East Side from New Jersey every day. However, he told us of more than one occasion when he would sleep in the building's basement on a chair. "I couldn't go home and leave the building alone. I'd stay for two or three days before I could go home." Now that is dedication.

Now that Manny is finally on the other side of retirement, we asked him what he misses the most about coming to work at Trafalgar House every day.

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Longest Serving Doorman (Continued)

He didn't miss a beat before answering, "The people. I miss my tenants. I have some of their phone numbers and they have asked me to keep in touch. I have 15-25 people I must call every week to check in and say hi!" When asked to compare working life to retired life, Manny admitted that life is "boring" right now. His inner clock will not seem to turn off either - he still wakes up at 2:30am every morning without fail. Rest assured, his wife gently reminds him that he can go back to bed.

When we asked Manny what his one piece of advice for a new doorman would be, we found that his answer was something that we all, regardless of our career aspirations, should take to heart. "Have patience and like people. Just love people. And understand." He explained that life isn't easy- for New Yorkers or anyone. We all, regardless of who we are, always have a lot of things on our minds. "Sometimes people walk by me in the door like I am not even there, but then they get to the corner, and they always turn and say 'Hi, Manny.' You have to understand them and that they've got things on their mind." Manny knew that his residents would never ignore him on purpose; he had the peace of mind to know that we all have our struggles and things going on. You never know just by looking at someone what they are dealing with. Manny's peace of mind about this simple fact of life transferred effortlessly to everyone he encountered throughout his 62 years working at Trafalgar House. Ms. Hans told us, "Manny was esteemed and loved not only for his friendly helpfulness, always running out from behind the desk to help grab packages, luggage, groceries, or anything one might be carrying into the building. He respected the hundreds of residents who lived here during his career." It's no wonder everyone loves him so much. We wish Manny Teixeira the absolute best in his long-deserved retirement and will always be thankful that he took such loving care of Trafalgar House, and that he represented Orsid so well.



Neighbor Odors: Smoking



In the last issue of the Orsid Digest, we looked at neighbor noise and what steps a board can take to address this common problem. This supplemental article will examine a similar and common problem: neighbor's odors and the smell of cigarette, cigar, and marijuana smoke. First, complaints about odors and smoke can be addressed the same way as noise complaints. But because smoke and odors travel, it is difficult to determine where the smell is coming from. And recently, the smell of marijuana has been a much bigger issue with its legalization in New York State.

Non-Smoking Policy

Every residential building is required to have a detailed policy stating that no smoking is permitted within twenty-five feet of any of the entrances to the building or in any of the building's common areas, including its lobby, hallways, courtyard, garden, roof, elevators, stairwells, basement, and laundry room. The foregoing prohibition should apply to all owners, tenants, members of an owner's household, guests, and all the owners' and tenants' agents, employees, vendors, and workers. The policy can be expanded by restricting the smoke to the smoker's apartment, from affecting others nearby, and restrict smoking on any balcony, patio or terrace adjoining any apartment, if applicable.

While smoking may be permitted inside apartments, the smoke, odor, or vapor should not escape the apartment as to be perceptible in other apartments, in the hallways, or other common areas of the building.

In addition to the limitations set forth in a smoking policy, every cooperative corporation is subject to the Warranty of Habitability statute which provides that occupants shall not be subject to any conditions which would be dangerous or detrimental to their life, health or safety.

Boards should consider reviewing their governing documents, including house rules, to determine if there is language that will allow coops to institute fines for violations when smoke or odors are found to be emanating from a shareholder's apartment, or when no action is taken to correct the condition.

Steps to Respond to Complaints

Similar to a noise complaint, if the building has a smoke-free policy and does not allow smoking in the public areas but smoke and odors permeate into the hallways and adjoining apartments, the smoker may be in violation of their proprietary lease or house rules when a complaint is received. As a first step, management should send the predicate notice in situations where neighbors are creating nuisances or disturbing other residents. In most instances, the notice may get the message across. The affected resident should be instructed to write down the details of what dates and times the smoke enters the apartment, where it comes from and any health problems the smoke causes (such as coughing or problems breathing) in a journal or calendar.

Residents are encouraged not to speak to their neighbors directly about these issues. Management can use a friendly non-confrontational approach as the "middleman." Enacting strict rules may not stop the smoke, but it will make the smoker reconsider where they smoke and how they can keep the smoke within their apartment. In the event of a smoke complaint, the smoker should be reminded of the smoke policy and that they must take all precautions to eliminate smoke leaving their apartment and entering the apartments of other owners or common areas of the building.

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Neighbor Odors: Smoking (Continued)

When responding to any complaint, a proper investigation is a crucial step. Staff can come to the apartment when the odor or smoke is apparent to attest to the continuous nature and severity of the problem. Smoke can seep between apartments where there may be openings, such as wall partitions or cabinets between apartments, piping and pipe chase risers, exhaust vent ducts, or other HVAC (heating, ventilation and air conditioning) mechanical equipment. An initial solution may be to suggest filling cracks between apartments or examining the ventilation system. If a staff member cannot locate the source of the smoke or odors, an environmental engineer can be engaged to study the source of the smoke the resident is complaining about. Based on the results of the inspection, the board can evaluate potential solutions and the associated costs.

If the problem persists, Boards should investigate possible remedies for managing smoke or odor penetration including requiring filtration or air purification systems, and/or inspections of HVAC equipment and of conspicuous openings between apartments. Some boards may even decide to share costs with the affected shareholders.

Marijuana

With the recent change in law, the smell of marijuana smoke in buildings has increased dramatically. A problem with marijuana is that the odor is potent. Over time it may get into the vents and hallways due to poor ventilation creating an objectional odor and impacting your neighbors' rights to the enjoyment of their home. Management can suggest a few things to minimize the impact of marijuana smoke on neighbors:

Vaporizers: A board may suggest that the offender purchase a vaporizer. Instead of a cloud of pungent smoke, a vaporizer produces water vapor that leaves almost no trace. However, before suggesting that the smoker purchase a vaporizer, recheck your building's rules to see if they are permitted. Vaporizers may be banned in the hallways and common areas even if they are allowed.

Air Purifiers: Air purifiers can be effective at filtering out the smell.

Smokers can also try covering up the smell with fragrances. Bottled products like Febreze can also give off a strong scent, so try to stick to natural products.

Coops vs Condos Adjudication

There are subtle differences between how noise and odor disputes are adjudicated in a coop versus a condo. Coops have more rights under a proprietary lease than a condo that does not have such an agreement. The coop guarantees the right to quiet enjoyment under the lease and has the right to terminate the lease and evict the offending owner for their actions. However, in a condo, actions left to the Board are more difficult to implement against an unruly occupant – it would require the condo to seek an injunction requiring the offender take specific steps to abate the odor which the courts then have the power to enforce.

Complaints against rent-stabilized or rent-controlled tenants who still reside in a coop or condominium may not be subject to the same terms as set forth in the building's house rules or a proprietary lease. Consequently, the steps to address a complaint by an owner against a protected renter are significantly more complicated.



Legislative Update

Coop/Condo Tax Abatement

The NYC Co-op/Condo Property Tax Abatement law was renewed for 4 years on the same terms as the expiring legislation. As a reminder, the law provides abatements of real estate taxes for eligible apartments between 17.5% and 28.1%. Eligibility requirements include using the apartment as a primary residence and that the building pay prevailing wages to all building service employees. Please contact your Account Executive to ascertain whether your apartment is eligible and/or receiving the abatement.

Height and Weight Discrimination

Mayor Eric Adams has signed legislation amending the New York City Human Rights Law to prohibit discrimination based on a person's height or weight in employment, housing, and public accommodations. This new ordinance further expands the comprehensive list of characteristics already protected by the New York City Human Rights Law. The ordinance will become effective November 22, 2023.

Pending Legislation on Co-Op Admissions

The City Council is likely to have hearings in the coming months on various measures that would restrict the ability of coops to reject sales applications on very narrow basis and to place tight time restrictions for their consideration. While none of the bills have passed to date, the fact that the discussions continue and new bills are raised leads us to believe that ultimately some bills will move forward for a vote.

Overall these bills would have a chilling effect on the willingness of shareholders to serve on cooperative boards. The ensuing litigation based upon these measures, if enacted may lead to difficulty and/or significant additional expense in obtaining Directors and Officers insurance. We will advise when hearings will be held so coop board members can consider whether to reach out to their City Council Members, the supporters of these bills, or the Mayor's Office to express their views on the wisdom of the proposals and the harm they could bring to the NYC Cooperative industry.

Fair Chance Housing, City Council Int 632 – 2022

This bill, if passed would have prohibited housing discrimination in rentals, sales, leases, subleases, or occupancy agreements in New York City, based on arrest record or criminal history. While a public hearing was held in December 2022, the bill did not move forward for a vote.

A different bill called The Clean Slate Act did pass in the legislature and will be forwarded to the Governor. If implemented, the law will provide for the automatic sealing of certain convictions after a certain passage of time from either imposition of sentence, release from parole or probation, and if the defendant does not have a current charge pending. The law excludes the sealing of records for certain sex offenses, sexually violent offenses as well as other violent offenses. The hope is that the sealing of past criminal records crimes will minimize the difficulties that many former convicts have in getting affordable housing without risking the safety of building residents.

Good Cause Eviction, NY State Senate Bill S305

Previous editions of this column highlighted bills that would prohibit the eviction of residential tenants or the non-renewal of residential leases without good cause. If enacted, the bill would have created almost universal rent regulation in NY State, with very few exceptions in owner-occupied buildings with three or fewer units. While both the Senate and Assembly sought to advance "good cause" tenant protections as part of a housing deal, such a policy ultimately did not move forward. However, it is likely that similar bills will come up for consideration in the future.

Mandatory Curbside Composting

The NYC Council passed the "Zero Waste Act" which will make it mandatory for buildings to have separate food and composting waste put out from traditional trash. The Department of Sanitation (DSNY) is still finalizing rules for implementation but it is expected to be phased in beginning in late 2023 and 2024 throughout the city.

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Legislative Update (Continued)

It is anticipated that there will be an initial grace period and warnings for buildings that do not put out separated composting materials. While it is unlikely to be a requirement of individual households, building owners will be fined for not cooperating or putting out a minimum amount of compost each month. We will publish updated rules from the DSNY when they become available.

J51 Extension and Reform

The legislature passed the “Affordable Housing Rehabilitation Program” which replaces the J51 tax breaks that expired in June 2022. The new program applies to coops and condos with an assessed valuation of less than \$45,000 per unit, which is an increase from the old J51 limit. However, critics of the new law argue that it only benefits a very “narrow universe” of landlords and coop and condo boards. The program still must be authorized by the City Council and if approved it would apply to renovation work completed after June 2022. It remains to be

seen whether the city will update the expired and outdated “reasonable cost schedule” which will determine whether the benefits will have any significant value for the majority of applicable coop and condo Boards.

LLC Disclosure

The “LLC Transparency Act,” was passed by the legislature and awaits the Governor’s signature. The bill requires the creation of a public database disclosing the beneficial owners of all business entities organized in the state and all foreign business entities with authority to do business in the State. Proponents of the bill argue that it creates the transparency necessary to fight against money laundering and other illicit activities. Opponents of the bill argue that NY would be one of the few states in the nation that would require such disclosure and that this law will greatly inhibit investment in the New York real estate market by legitimate investors.





Welcome to Orsid

We have welcomed the following buildings to the Orsid family:

545 Tenants Corp.

545 West End Avenue
New York, NY 10024

38 East 85th Street, Inc.

38 East 85th Street
New York, NY 10028

260 Apartments Corp.

260 West End Avenue
New York, NY 10023

The Chesterfield Condominium

186 West 80th Street
New York, NY 10024

In Q2 2023, we have welcomed the following new associates to the Orsid family:

Andre Gazivoda, *Financial Analyst*

Robert Mark, *Account Executive*

Pamela McGrath, *Administrative Assistant - Accounting*

Jared Mosery, *General Manager - Whitehall*

Phoebe Rubinstein, *Account Executive*

Aigul Zhomartova, *Assistant Controller*



We hope you found this newsletter informative. If you have any questions or a story to share for a future edition, please email info@orsidny.com

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