



NEW YORK STATE SENATOR

Daniel L. Squadron

Electeds, IPN Residents: Court Decision May Jeopardize Tens of Thousands of NYC Tenants

DANIEL L. SQUADRON May 3, 2012

| ISSUE: [HOUSING](#), [CONSTITUENTS CORNER](#)



Tenants to Seek Permission to Appeal Decision That Makes Rent Regulation Optional for J-51 Landlords

NEW YORK –State Senator Daniel Squadron, Congressman Jerrold Nadler, Borough President Scott Stringer, Council Member Margaret Chin, and other elected officials joined Independence Plaza North (IPN) residents outside their building today to highlight the dangerous impact of a court decision that may jeopardize tens of thousands of tenants living

in buildings that receive J-51 benefits.

The J-51 Program is a tax incentive for the renovation of residential apartment buildings; in exchange for a tax exemption or abatement, building owners must provide certain benefits to their tenants.

Last month, in *Denza v. Independence Plaza Associates*, the Appellate Division of the New York State Supreme Court ruled that if a landlord receiving J-51 benefits decides to “retroactively” terminate and repay the benefits, the apartments will no longer be rent-stabilized.

This decision runs counter to the J-51 program mandate that rent must be stabilized for the full term in exchange for a tax break, and it allows landlords who opt out of the program to charge astronomical rents. It also contradicts the precedent set in *Roberts v. Tishman Speyer*, which involved J-51 benefits at Stuyvesant Town and Peter Cooper Village.

Today, IPN tenants and the elected officials detailed the impact of the court’s decision in *Denza v. IP Associates* and the reasons why they are seeking permission to appeal to the Court of Appeals. By essentially making rent regulation optional for J-51 landlords, the court decision may jeopardize the tens of thousands of New York City residents living in post-1973 buildings that receive J-51 benefits and are currently in any temporary, income-based program. An initial assessment found that this would impact at least 4,140 apartments in 25 developments throughout Manhattan, Brooklyn, Queens, and the Bronx.

A fact sheet from the IPN Tenant Association is attached.

“Simply put, without affordability at IPN, our community would not be what it is today. J-51 is not just meant to provide a tax break - it's meant to ensure the kind of affordability and stability that IPN has long provided and that makes New York the vibrant and diverse place

it is today,” said **State Senator Daniel Squadron**. “A fair hearing is critical for IPN and for the tens of thousands across the City who may also be affected. Thank you to the tenants and to my colleagues in government for standing up for affordability.”

“We are faced with an affordable housing crisis in New York City, and developments like Independence Plaza North are absolutely critical for low and moderate income families,” said **Congressman Jerry Nadler**. “Last month's decision in *Denza v. IP Associates* puts core protections for affordable housing at risk at IPN and throughout the city. The J-51 program has been a vital tool for maintaining affordability throughout the city and must be preserved. Moreover, owners who accepted tax breaks in exchange for a commitment to affordability should not now be given the opportunity to renege on that commitment.”

“Independence Plaza North is the last bastion of truly affordable housing in TriBeCa and we must do everything we can do support its tenants,” said **Manhattan Borough President Scott Stringer**. “Let’s be clear, the intent of the J-51 tax abatement program was to shore up the physical condition of our local building stock and protect tenants by keeping their rents affordable. The State Supreme Court decision will have far reaching consequences beyond Independence Plaza North and it is imperative that the highest echelons of the State judiciary give this case the hearing that it deserves.”

“The decision whether or not to hear this case is something all New Yorkers in rent regulated units should pay attention to,” said **Council Member Margaret Chin**. “There are over one million apartments covered by some form of rent regulation in New York and thousands of units covered by the J-51 program in New York City. Landlords will not stop searching for every conceivable way to circumvent rent regulation laws. Allowing landlords to terminate their participation in the J-51 program by repaying the benefits they have received, has no basis in current law. We must send a strong message that this sustained attack on affordable housing cannot continue.”

"Landlords cannot have it both ways. They should not be able to benefit from tax breaks which mandate safety mechanisms for rent stabilized tenants, and then decide on their own volition, to exit such programs early and claim tenants should lose their protection as well because they are no longer receiving benefits," **Assemblymember Deborah Glick** stated. "Signed agreements cannot be disregarded on a whim. Furthermore, in our system of law, it is not up to the Appellate Division to overturn case precedent set by the Court of Appeals, which decided this matter only a few years ago."

"It is crucial that the New York State Court of Appeals does the fair and just thing by allowing Independence Plaza North (IPN) tenants to appeal the dreadful decision by the appellate division," said **Senator Thomas K. Duane**. "It is inconceivable to me that New York State's highest court would deny an appeal of this decision, which, if it stands, would allow landlords to break their contracts via a dubious legal loophole. Landlords should not be allowed to enjoy the benefits of a contract when it is convenient and walk away from a contract when it is not."

"For decades, the City has been in a continuous state of housing emergency, with the vacancy rate hovering below 5%. In this climate, it is critical that we protect the precious and rapidly dwindling affordable housing stock for working class families," said

Assemblymember Linda Rosenthal. "The J-51 program was not designed to be used as a bank loan by landlords eager to make improvements to their building, with the end result being better buildings occupied by higher-income tenants. The J-51 program is an incentive provided to landlords to maintain affordable housing stock in habitable condition for the working class and low-income tenants who can afford the rent because it is regulated.

Allowing landlords to refund J-51 benefits and deregulate the units perverts the spirit and intent of the program and will result in a windfall for landlords. The implications of the Court's decision to grant petitioners permission to appeal *Denza v. IP Associates* to the Court

of Appeals are broad in scope and will impact interests far beyond those involved in this case."

"The very purpose of the J-51 program is to keep housing affordable for the tenants in New York. We feel this decision, which now allows landlords only in these specific projects to suddenly opt out of the program at will, is deeply unjust and must be re-examined with serious scrutiny," said **Diane Lapson, President of the IPN Tenant Association.**

"Community Board 1 strongly supports the Independence Plaza North tenants in their effort to remain in rent-stabilized and affordable apartments. We were very disappointed by the recent court ruling against the tenants and concerned that it might lead to arbitrary rent increases and possibly eviction," said **Julie Menin, Chair of Community Board 1.** "Keeping affordable housing in our district is a vitally important priority for us. We support the application by the tenants for permission to appeal to the New York State Court of Appeals and intend to file an amicus brief on their behalf."

###