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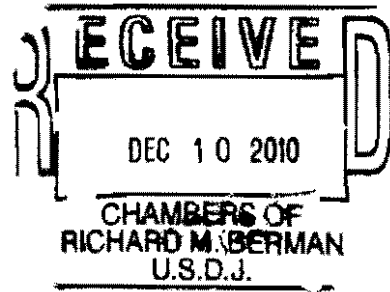
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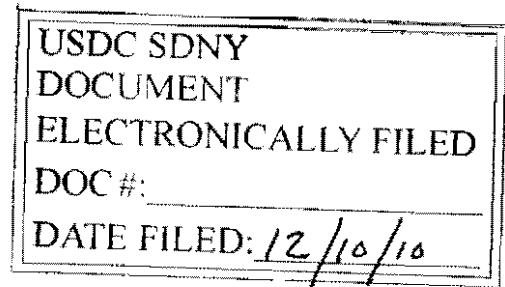
MEMO ENDORSED

December 10, 2010

PJ-3

BY HAND

Hon. Richard M. Berman
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007



RE: United States v. L&M 93rd Street LLC, et al.
10 Civ. 7495 (RMB)

Dear Judge Berman:

On behalf of the Real Estate Board of New York ("REBNY"), we are submitting this letter to advise the Court that REBNY plans to move to intervene as a defendant in this action. Pursuant to our understanding of this Court's "Individual Practices," we are setting forth the basis for the anticipated motion.

REBNY respectfully believes that its participation may assist the Court, and the parties, in addressing an important issue in the litigation – whether compliance with New York City Local Law 58 establishes compliance with the Fair Housing Act. REBNY is a nonprofit trade association with more than 12,000 member owners, brokers, and managers of real property in New York City. REBNY is uniquely positioned to assist the Court in its consideration of this important legal issue.

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In reliance on Local Law 58, the real estate industry has invested billions of dollars and developed more than 175,000 housing units throughout New York City. The United States Attorney's Office, however, has begun investigations and threatened legal action against at least thirteen real estate developers based on its apparent position that compliance with Local Law 58 is not relevant to compliance with the Fair Housing Act. REBNY believes that, among other flaws, this position ignores the important role that New York City plays in ensuring accessibility in New York real estate. For more than 20 years, New York City has approved building plans and inspected buildings based on compliance with Local Law 58, which provides developers with the certainty they need to make the substantial investments required to develop real estate in New York City before construction is complete.

By contrast, if the position of the U.S. Attorney's Office in this case is accepted, the resulting uncertainty will cause countless disruptions to New York City's residents. In existing buildings, the government may require expensive retrofits even in the absence of a violation of the law. If the U.S. Attorney's Office is correct that developers cannot rely on New York City's determinations that their developments are accessible and compliant with law, the resulting threat of uncapped liability would deter investment and make new construction and residential rehabilitations even more difficult to finance, especially given today's struggling economy and real estate capital crisis.

REBNY is aware that the government has stated that it believes that, in some respects, the Melar is not in compliance with Local Law 58. REBNY respectfully submits that a threshold determination whether the standards of Local Law 58 comport with the FHA will narrow the scope of the litigation before the court and provide for an orderly and efficient adjudication. In addition, the public interest strongly favors prompt resolution of the legal status of Local Law 58. The uncertainty created by the position of the Department of Justice is already affecting real estate development in New York.

REBNY has communicated with counsel for the existing parties regarding its proposed motion to intervene. The defendants support REBNY's proposed motion to intervene, and the government opposes it.

The Court has scheduled a hearing on the proposed consent decree on December 16, 2010. Under the briefing schedule that would ordinarily govern a motion to intervene, the Court would not have an opportunity to rule on REBNY's motion until after the hearing. REBNY respectfully requests that the Court reschedule the December 16, 2010 hearing (or at least any part of it that would address the status of Local Law 58) until after ruling on the motion to intervene, and, to avoid duplicative discovery and scheduling negotiations between the parties, allow

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the current parties to refrain from submitting a proposed discovery schedule until after ruling on that motion as well.

Respectfully submitted,

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cc: Counsel for Plaintiff
Counsel for Defendants

We can discuss at the conference
on 12/16. The principal issue
at that time will be the proposed
consent decree. Plaintiff and
Defendants are directed to submit a
brief (joint) status letter by noon
on Tuesday, 12/14/10.

SO ORDERED:
Date: 12/10/10

Richard M. Berman
Richard M. Berman, U.S.D.J.