ADAM LEITMAN BAILEY, P.C.

TO: LUNA PARK SHAREHOLDERS

FROM: ADAM LEITMAN BAILEY, ESQ. & RACHEL SIGMUND MCGINLEY, ESQ.

DATE: JANUARY 30, 2024

SUBJECT: PRIVATIZATION ANALYSIS

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Process to Privatize

The process to become free market generally takes at least 5 years, often even longer.

The step-by-step process to privatize:

(1) Feasibility Study

a. The first step is to hold a shareholder vote to fund the preparation of a 'feasibility study' on privatization and to fund it with a special assessment. To move forward with the Feasibility Study, 67% of all the apartments in the development (one vote per apartment) must vote in favor.

b. What is a Feasibility Study? A Feasibility Study is an assessment of the practicality of a proposed plan or method. The results of the Feasibility Study are provided in a summary report (a "Feasibility Report").

c. What would be the purpose and scope of the Feasibility Study?

i. Purpose of Feasibility Study: The overall purpose of the Feasibility Study would be to assess whether it is practicable (that is, "feasible" or possible) for the co-op to convert from an income-restricted Mitchell-Lama cooperative to a market rate housing cooperative. This assessment is performed through comparative analysis of: **(a) the co-op's current operations** (maintenance amounts, operating expenses, tax abatements)

vs. (b) the projected post-privatization operations over a specified period (i.e., 10 years), and determining how much more it would cost to operate the building and pay the taxes if the co-op were to privatize.

Note: The Feasibility Report is distributed to all shareholders to assist them in their decision-making moving forward in whether or not to privatize.

ii. Scope of Feasibility Study, Summarized: A Feasibility Study includes the following:

- *Physical Condition Survey*: a physical condition survey of the building prepared by a licensed engineer or architect projecting the building's capital needs and the costs thereof for the next ten (10) years form the date of such survey;
- *Real Property Tax Projections*: projected increases in real property taxes for the next five (5) years due to the loss of any abatements of and/or exemptions from real property taxation that would result from dissolution and/or reconstitution; [see note below]
- *Apartment Sales Price Projections*: a market study/appraisal prepared by an independent real estate professional containing projected sales prices for dwelling units if the co-op were to dissolve and/or reconstitute; and
- *State and City Advisory Estimates*: advisory estimates from State and City taxing authorities of the real estate and real property transfer taxes that would result from dissolution and/or reconstitution.

* Note about real property tax projections: A New York Court of Appeals decision, Trump Village Section 3, Inc. v. City of New York, 24 N.Y.3d 451 (2014), held that a corporation's termination of its participation in the Mitchell Lama affordable housing program was not a taxable transfer of real property.

d. The final Feasibility Report would analyze the data obtained for each of the above to ultimately determine how much more it would cost to operate the building (as a whole and at the shareholder level) if the co-op privatized. In addition, the Feasibility Report identifies what other sources of income there would be (i.e., flip taxes for initial apartment sales) in order to offset the building's increased operating costs. Identifying sources of income is an essential part of the Feasibility Study process.

(2) Preparation of Offering Plan & Filing of Notice of Intent

a. No later than 90 days after the Feasibility Report has been distributed to the shareholders, a special shareholders meeting must be called to vote to authorize and fund preparation of an offering plan and filing of Notice of Intent (a notice to HPD that states that the co-op intends to dissolve and/or reconstitute, which must be sent to HPD no later than 365 days prior to the anticipated date of dissolution or reconstitution). This vote must pass by 80% of the apartments.

b. The offering plan is then prepared by attorneys and submitted to the Attorney General's Office for review (it must be submitted within 365 days of the vote to authorize and fund the offering plan's preparation). Once submitted, the Offering Plan is reviewed by the Attorney General's office. It often takes several rounds of review before being accepted for filing by the Attorney General's Office. Once it is accepted for filing, then it becomes the final Offering Plan.

(3) Vote on the Final Offering Plan

a. Then there must be a special shareholders vote to approve the final Offering Plan. This must also pass by 80% of the apartments, or privatization fails.

b. If it does pass by the 80% threshold, then dissolution of the Mitchell-Lama cooperative and reconstitution as a market rate co-op occurs.

Final note: Generally, any shareholder who opts not to participate in the newly converted cooperative (hereinafter, the "Non-Participating Shareholders") would not be subject to eviction from their apartments. Rather, Non-Participating Shareholders are permitted to remain in occupancy of their apartments as rental tenants under a lease governed by Rent Stabilization Laws.

In addition, generally, all Non-Participating Shareholders would exchange his or her shares for a return of his or her equity, which will equal the payment originally made by the shareholder when he or she purchased his or her shares, plus a proportionate share of amortization paid, any capital assessments and voluntary capital contributions paid, and any reasonable administrative charges paid to the co-op to the extent that any of these foregoing payments were not already included in the consideration paid for such shares (hereinafter, "Equity").

Those who elect to opt into the newly constituted corporation will follow the procedural steps outlined in the final Offering Plan within the specified period of time. Initially this would include signing a form indicating the shareholder's decision to opt in.

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*** DISCLAIMER: The below analysis is rendered based on Luna Park's current mortgages and loans. If Luna Park obtains any additional government-issued mortgages/loans after the date of this writing, then the conclusions made herein would no longer accurate.**

Current Mortgages and Loans/Prepayment Amounts

Attached is the Schedule of all current mortgages and loans.

Based on the five (5) mortgages/loans currently in place, the earliest date that Luna Park could become free market is **June 29, 2033**, which is the day after the second NYC HPD Article 8A Loan matures (neither of the two NYC HPD 8A loans can be prepaid).

To become free market on June 29, 2033, Luna Park would need to prepay the HDC Subordinate Mortgage. Note: The HDC Subordinate Mortgage is entirely forgivable upon its Maturity Date, which is 6/28/2040. The HDC Subordinate Mortgage can be prepaid any time after 20 years, which is June 28, 2030. However, if prepaid, all unpaid principal and interest compounding at 1% over the last 20 years (if prepaid in 2030) must be paid in full. Therefore, if Luna Park were to prepay the HDC Subordinate Mortgage on June 28, 2030, Luna Park would need to pay HDC a total of $6,020,006 ($1,086,343 of which is accrued interest on the principal amount of $4,933,663).

Private mortgages: If required by HPD to prepay Luna Park's private mortgages before privatizing, the prepayment penalty for each of the two (2) Wells Fargo mortgages as of June 29, 2033 are as follows:

- Wells Fargo 1st Mortgage: $204,658
- Wells Fargo 2nd Mortgage: $55,040

[Note: These figures are directly from Luna Park's accountant, who performed the prepayment calculations]

It is not known with complete certainty whether HPD will require Luna Park to prepay its private mortgages before privatizing.

The Mitchell Lama rules, at Section 3-14(i)(1), titled Voluntary Dissolution, state in relevant part:

"A company aided by a loan made after [May 1,1959] may voluntarily be dissolved, without the consent of [HPD], not less than twenty [(20)] years after the occupancy date upon payment in full of the remaining balance of principal and interest due and unpaid ***upon the mortgage or mortgages*** and of any and all expenses incurred in effecting such voluntary dissolution." (emphasis added).

A strict reading of this provision would require that the Wells Fargo mortgages (and any other private funding) be paid off before being eligible to privatize.

If Luna Park was not required to pay off its two mortgages with Wells Fargo, then the reconstituted entity will be able to assume the mortgages.

Neither of the two (2) NYC HPD 8A loans can be prepaid prior to their respective Maturity Date. The first NYC HPD 8A loan ($9 million) matures on June 28, 2030. The second NYC HPD 8A loan ($4 million) matures on June 28, 2033. The full principal and interest for each NYC HPD 8A loan is forgivable on their respective Maturity Date.

LUNA PARK HOUSING CORPORATION
SUMMARY SCHEDULE OF AMOUNT NEEDED TO
PAY OFF MORTGAGE LOANSAS OF JUNE 30,
2023

			AT JUNE 30 2023			
MORTGAGE	MATURITY DATE	ORIGINAL MORTGAGE	PRINCIPAL DUE	PREPAYMENT PENALTY	ACCRUED INTEREST DUE	TOTAL
Wells Fargo 1st Mortgage	7/1/2040	47,000,000	36,958,700	1,271,843	206,045	38,436,588
Wells Fargo 2nd Mortgage	7/1/2040	13,000,000	10,320,688	158,975	48,937	10,528,600
HDC Subordinate Mortgage **(a)**	6/28/2040	4,933,664	4,933,664	**(b)**	658,234	5,591,898
NYC HPD Article 8A Loan **(c)**	6/28/2030	9,000,000	8,147,240	**(d)**	2,070,000	10,217,240
NYC HPD Article 8A Loan **(c)**	6/28/2033	4,000,000	4,000,000	**(e)**	400,000	4,400,000
TOTALS		77,933,664	64,360,292	1,430,818	3,383,216	69,174,326

(a) The principal balance of this mortgage note is forgivable at maturity.

(b) In accordance with the HDC Subordinate Note, no advance payments of principal can be made until June 28, 2030. Any prepayment after 20 years (but before Maturity at 30 years), the entire unpaid principal and interest is due. Interest on the HDC Subordinate Mortgage is 1%. Therefore, if Luna Park were to prepay the HDC Subordinate Mortgage on June 28, 2030, Luna Park would need to pay HDC a total of $6,020,006 ($1,086,343 of which is accrued interest on the principal amount of $4,933,663

(c) All principal and interest are forgivable at maturity.

(d) The principal amount of this Note may not be prepaid prior to Maturity Date.

(e) In accordance with the Note dated June 28, 2013, "The principal amount of this Note may not be prepaid prior to Maturity Date."