



## **COMPTROLLER STRINGER RELEASES INVESTIGATIVE REPORT ON REMOVAL OF DEED RESTRICTIONS AT RIVINGTON HOUSE**

*City missed crucial opportunities to stop the removal of deed restrictions that led to a \$116 million land deal and \$72 million in profit for private investors*

**(New York, NY)** – New York City Comptroller Scott M. Stringer released a report today detailing the findings of a five-month investigation into actions taken by the City of New York that allowed Rivington House – a nursing home on the Lower East Side of Manhattan – to be sold for a \$72 million profit in February 2016. The Comptroller’s Office found that multiple City agencies and dozens of City officials were involved in deliberations about the removal of two deed restrictions that previously limited the property’s use to a not-for-profit residential health care facility.

The Comptroller’s investigation found the Rivington House property was allowed to slip away because of poor execution of City processes that were intended to elicit public opinion and protect the City’s best interests. This deal resulted in patients losing their homes, healthcare workers losing their jobs at the site, a neighborhood losing a vital community asset, and the City losing its power to ensure that the property was used for a public purpose “in perpetuity.”

Over the course of the investigation, the Comptroller’s Office reviewed more than 80,000 documents, including communications among the Rivington House sellers and buyers and City officials and interviewed Administration officials who were engaged over a two-year period with issues related to this deal.

Investigators found that, despite 48 City staff meetings and hundreds of emails and phone calls, lapses in the oversight of the deed removal process allowed Joel Landau, principal of the Allure Group, to secure the removal of the Rivington House deed restrictions at the same time that he was working to “flip” the property into luxury condominiums.

“No individual should be allowed to profit off the loss of vital community resources,” Comptroller Stringer said, “But what’s worse is that the checks and balances in place to avoid this kind of outcome were mismanaged. We have to make sure our government operates with the highest level of accountability to guarantee this never happens again.”

Major findings of the report include:

- 1. City Hall was told as early as January 2014 that Department of Citywide Administrative Services (DCAS) was poised to remove the deed restrictions on Rivington House, yet after City Hall reviewed alternative uses for the property, it failed to communicate a clear policy direction to DCAS**

- In January 2014, City Hall was informed by a representative of VillageCare, the health care operator of Rivington House until February 2015, that “DCAS has agreed to remove the deed restriction” at Rivington House. City Hall explored alternative uses for the property and found that it could support up to 276 units of supportive or 188 units of mixed-income housing, but did not involve DCAS in the bulk of those discussions. Ultimately, the First Deputy Mayor decided the preferred use for the building was a healthcare facility, but City Hall never clearly communicated that decision to the agency.
- Consequently, when Joel Landau approached DCAS in April 2015 to formally request the removal of deed restrictions on the property, DCAS had no clear guidance from City Hall as to its preferred policy outcome and was unaware that his request should be denied.

**2. The absence of clear direction from City Hall allowed Joel Landau to exploit the deed restriction process.**

- In pushing to have both deed restrictions lifted at Rivington House, in late 2014 Joel Landau strategically lobbied local stakeholders by promising to maintain the property as a healthcare facility when in fact he was already exploring other luxury uses.
- Mr. Landau misrepresented to the City that he needed the deed restrictions lifted in order for him to obtain financing to purchase the property and enlisted stakeholders to support his claim that removing the restrictions was necessary to preserve jobs.
- However, emails from December 2014 show that Mr. Landau already had multiple offers to finance the property, and one of his lawyers wrote that he could “come up with the purchase price in cash next week if push comes to shove.”

**3. The First Deputy Mayor required agency heads to submit weekly update memos, then ignored them.**

- The DCAS Commissioner updated the First Deputy Mayor on progress with the removal of the deed restrictions for Rivington House in memos dated May and July 2015. The First Deputy Mayor told the Comptroller’s Office that he did not recall reading the memos, explaining that he had stopped reading weekly memos from commissioners months earlier and that agency commissioners understood they needed to communicate important matters by phone or email. However, the First Deputy Mayor said that he did not view Rivington House to be an important matter and never informed the DCAS Commissioner that it was.

**4. The City missed opportunities to provide transparency or accountability in removing the deed restrictions at Rivington House.**

- Two key reviews by the City failed to provide real transparency or oversight due to weak execution:
  - In June 2015, the Mayor’s Office of Contract Services (MOCS) held a public hearing to allow the public to comment on the proposed sale of the deed restrictions, but the Administration did no meaningful outreach to the public

when providing notice of the hearing. A one-day advertisement in the City Record referred to the property only by its Borough-Block-Lot number and the agency failed to advertise or notify community members who had expressed a strong interest in the property. The only member of the public who attended the meeting was Mr. Landau.

- Also in June 2015, MOCS signed a “Mayoral Authorization Document” that required the agency to affirm that the proposed transaction was in the best interests of the City. However, MOCS treated this authorization as little more than a rubber stamp of the decisions already made by DCAS, even though nothing in City protocol dictates that the agency’s review should have been limited to procedure alone.

**5. DCAS’s appraisal of the Rivington property undervalued it by tens of millions of dollars.**

- The \$16.15 million price tag on lifting the deed restrictions at Rivington House was based on a DCAS appraisal that significantly undervalued the property. DCAS’s appraisal relied on outdated sales that averaged \$604 per square foot, which put the value of Rivington House at \$64.6 million. However, a private appraisal conducted around the same time by an appraiser for a potential lender to Mr. Landau set the value at \$770 per square foot, for a total appraised value of \$90 million. Had DCAS more accurately valued the deed restrictions, it would have had a better sense of the value of its asset.

**6. After being told by community members that the deed restrictions had been lifted, City Hall did nothing for two months to stop the pending sale of Rivington House, and there was no evidence the Mayor was informed that this had occurred.**

- Beginning December 1, 2015, Lower East Side residents began contacting the Mayor’s Community Affairs Unit about reports that Rivington House would be sold to a real estate developer for conversion to luxury condominiums. The following day, a City Hall staff member was told that the Rivington House deed restrictions had been lifted for \$16.15 million and that a real estate developer intended to turn the property into luxury apartments. That information was shared with senior Administration officials.
- From that point until the sale of Rivington House to the Slate Property Group was finalized on February 11, 2016, a period of 72 days in total, no one from City Hall communicated to the Mayor that the deed restriction had been lifted.
- City Hall staff did not speak to Mr. Landau until around February 24, 2016, close to two weeks after the property had already been sold to real estate developers.

**7. Joel Landau planned for months to turn Rivington House into luxury condos, but maintained the nursing home charade for a year, saving him millions in taxes.**

- Mr. Landau was marketing Rivington House to developers even as he was negotiating with DCAS to lower the price of the deed restrictions. In fact, Mr. Landau signed a contract to sell Rivington House to a private luxury housing developer on May 11, 2015, for \$116 million, some six months before the City formally lifted the deed restrictions.

- Mr. Landau privately considered the potential of flipping Rivington House before he owned it. In an email to a business partner in February 2015, Landau wrote “we shouldn’t invest in any computers...maybe we don’t need to open.” On March 25, 2015, referring to a press article reporting the potential \$80 million sale of a former nursing home in the East Village, Mr. Landau remarked to his business partner that “we can do better and quicker.”
- Mr. Landau had to own the Rivington House property for at least a year to be eligible to pay the lesser, long-term capital gains tax rate of 20%, as opposed to the ordinary income rate of 39.6%, upon its sale. Mr. Landau chose to delay the sale of the property by ten days, until February 11, 2016, a date on which he had owned the property for one year and two days. On the day of the closing, he had owned the property for one year and two days, a fact which saved him an estimated \$17 million in taxes.

“City Hall and DCAS had every opportunity to prevent Rivington House from being sold to luxury housing developers,” Stringer said. “Our government should be focused on preserving critical services and listening to input from New Yorkers, not helping private individuals make a profit. We must ensure that our deed restriction protocols are updated, but also that procedures are properly executed by City staff to ensure the interests of the City, and its residents, are always protected.”

The Rivington House case makes clear that ensuring future deed restrictions are handled in the best interests of the City requires more robust execution of existing processes, especially in providing meaningful Mayoral oversight and public input. The Comptroller’s office made the following recommendations:

- **Strengthen Mayoral Oversight:** MOCS should take a more active approach to deed modification requests, as the agency is currently empowered to do, by reviewing facts, questioning assumptions, analyzing all appraisals, and finally seeking explicit sign-off from the First Deputy Mayor before approving applications.
- **Ensure Robust Public Input:** DCAS needs to take steps to ensure that public hearings are well advertised and that important community stakeholders are notified. At a minimum, this should include expanded public notice, with properties listed by their names and addresses and not just by block and lot numbers, as well as explicit outreach to Community Board leaders, local elected officials and other stakeholders with an interest in specific properties.
- **Expand Definition of City’s “Best Interest”:** City Hall must establish consistent standards for determining the “best interest” of the City for DCAS to follow when assessing deed restriction removals. These factors should include, at a minimum, a land use analysis, an assessment of the modification on the local community, an analysis of whether or not a future use of the property would support City policy goals, financial considerations, and input from the community.

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