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\$18M Church St. South Settlement Reached

by [THOMAS BREEN](#) | Mar 6, 2020 9:05 am



PAUL BASS PHOTO

Lead plaintiff Personna Noble, at right, at announcement of lawsuit.



THOMAS BREEN PHOTO

Rosen: "Fair, just and reasonable settlement."

Hundreds of tenants who were displaced from the mold-infested former Church Street South apartment complex are slated to receive upwards of \$17,000 each, under a proposed \$18.75 million settlement agreed to by the Massachusetts-based landlord and the tenants' civil rights attorney.

Local lawyer David Rosen and representatives from Northland Investment Corp. met at Rosen's Orange Street law office Thursday afternoon to announce, and celebrate, the likely beginning of the end of [a class action lawsuit first filed by Rosen on behalf of a handful of Church Street South tenants at the end of 2016.](#)

That [lawsuit](#) seeks monetary damages for the respiratory problems, skin disorders, migraines, loss of furniture, dislocation and homelessness allegedly suffered by families because of rampant mold, leaking ceilings, and other hazards at [the now-raised former 301-unit complex across from Union Station.](#)



BRIAN SLATTERY PHOTO

Demolition at Church Street South.

The lawsuit also accuses Northland of “demolition by neglect”—allowing conditions to deteriorate so badly that the complex would need to be torn down. Northland has denied all charges.

On Thursday, Rosen, Northland CEO Larry Gottesdiener, and Northland attorney Henry Sullivan said that the settlement is the product of 15 months of intensive negotiations mediated by former state judge Jonathan Silbert.

“We are very glad to have apparently obtained what we consider to be a measure of justice for our clients, the class members of Church Street South,” Rosen said. “We think we have taken a very good step to getting them the relief that we are convinced they fully deserve.”

“This is a good result,” Sullivan added. “We’ve taken 15 months to get here. A lot of hard work, a lot of paper, a lot of thought went into it.”

\$13.25M Base Fund For Tenants



CHRISTOPHER PEAK PHOTO

A nearly empty Church Street South in July 2017.

If approved by state Superior Court Judge Linda Lager, the settlement would see Northland pay \$13.25 million into a base fund that would be distributed to the roughly 1,000 former Church Street South tenants who lived in the privately-owned, federally-subsidized apartment complex between December 2013 and December 2016.

Each eligible tenant who successfully applies to the proposed settlement administrator, [JND Legal Administration](#), would receive a [payment](#) of \$5,000 each from that base fund, plus \$3,000 for every year he or she lived at Church Street South between December 2013 and whenever they were forced to move after city and federal inspectors condemned the complex.

Rosen and Sullivan said that most of those base payments will likely be between \$11,000 and \$17,000 per individual, including for the roughly 450 minors who lived at the site during that time period.

That's because many of the complex's tenants lived at Church Street South for most if not all of the years covered by the "class period," which, because of a statute of limitations for the most of the claims in the case, extends only three years prior to when Rosen first filed the class action suit in 2016.

The settlement would also certify the class of hundreds of tenants made eligible for monetary damages—a move that [Judge Lager had not ruled on by the time the two parties entered mediation in late 2018](#).

"Just because you're a member of the class" does not entitle you to settlement payments, Sullivan stressed. "People must make claims."

Rosen said that Northland has already provided his law firm with 955 addresses of eligible former Church Street South tenants. He said he plans to [start](#) reaching out to tenants by [email](#), phone, and mail as soon as Friday.

The civil rights attorney will host informational sessions about the settlement for tenants on Friday at 1 p.m. and on Sunday at 1 p.m. at Trinity Lutheran Church at 292 Orange St.

\$2.65M For Mold-Related Injuries

In addition to the \$13.25 million base fund, the settlement would have Northland pay \$2.65 million into an Enhanced Fund for tenants who suffered from alleged mold-related injuries while living at Church Street South.

This fund would be administered by three "special masters" appointed by the court who would be charged with evaluating applicants' [healthcare](#) records and other relevant information to determine how much, if any, they qualify to receive from this additional pot of money.

The settlement would also have the Massachusetts-based landlord pay \$2.85 million to cover Rosen's attorney fees and other legal expenses incurred over the course of the nearly three-and-a-half-year suit. Rosen said that the counsel's out-of-pocket expenses for the case have been approximately \$150,000, making the aggregate attorney's fee around one-seventh of the total settlement.

The settlement does not just provide former tenants with monetary damages for their displacement from Church Street South.

The agreement provides that eligible former Church Street South tenants who moved into new housing with the support of a Northland-paid security deposit and/or first month's rent will not have to reimburse Northland for that housing assistance.

Preferential Rights For New Church Street South Apartments



CONTRIBUTED PHOTO

Gottesdiener (who declined to be photographed for this story): “The families were at the forefront” of our minds.

The proposed settlement would require Northland to grant former Church Street South tenants preferential rights to rent affordable apartments at any new housing complex that Northland builds at the currently vacant 13-acre Union Avenue site.

That benefit is contingent on Northland actually building housing on those parcels, and on that prospective housing actually containing dedicated affordable units.

Gottesdiener said that that is still Northland’s intention. He said his company recently submitted revised site plans and designs to the city for a proposed roughly 1,000-unit apartment complex that at the former Church Street South site.

He said that 30 percent of that complex’s units would be restricted at affordable rates to replace the federally subsidized affordable units lost when Church Street South was condemned and [demolished](#).



THOMAS BREEN PHOTO; The vacant expanse at the site of the former Church Street South.

Gottesdiener estimated that the project would cost roughly \$500 million to build. Because of the affordable component and the proposed environmentally sustainable “passive housing” design, the project still has significant funding gaps.

He declined to say exactly how large that “funding gap” is, though he pointed out that Northland was slated to receive \$17 million out of a [\\$30 million federal grant that the city has twice unsuccessfully applied for under the federal government’s Project CHOICE program](#) to facilitate infrastructure improvements that would allow for that site’s redevelopment.

When asked if Northland has any plans to sell the site to another developer, Gottesdiener replied, “No.”

Earlier this week, Northland won a key victory in its bid to build another large-scale residential project in the Northeast when residents in Newton, Mass. voted in a [referendum in support of the company’s planned new 800-unit apartment complex, which will contain 120 affordable apartments.](#)

“It Will Definitely Help”



Two former Church Street South tenants and lead class action plaintiffs, Yomaly Rivera and Rosa Rodriguez (pictured), joined Rosen in his office later Thursday afternoon to reflect on what conditions were like towards the end of their time at Church Street South—and to look forward to how the money they’ll likely receive through the settlement will help their children.

“The walls, it was a lot of mold, a lot of water coming through the walls every time it rained,” Rivera said.

She said that she and her five children lived at Church Street South for roughly two years.

“My kids are asthmatic,” she said. “I have to take them to the hospital” frequently.

The family now lives in an apartment on Tyler Street in the Hill, and Rivera commutes every work day up to North Haven to for her job at the new Amazon fulfillment center.

She said she plans on using whatever money she gets from the settlement to help pay for college for her kids, who are currently ages 17, 14, 14, 9, and 7.

Rodriguez said that she and her four children lived at Church Street South for around five years before they had to move out—bouncing between hotels for three months before landing at their current apartment on Russell Street in Fair Haven Heights.

“It was more the mold issue” than a leaky roof or walls that lead to the poor conditions in her former Church Street South apartment, Rodriguez said.

She said her 19-year-old daughter developed “inside allergies” because of the mold. “My daughter is living with medical conditions for the rest of her life.”



Rosen staffers Anna Maria Chicoine and Shelley Adkins, former Church Street South tenants Rivera and Rodriguez, attorneys Rosen and Barbara Goren, and Rosen staffer Marley Connor.

Rodriguez works as an office manager and account at the Grove Street Cemetery downtown. She said she would consider moving back to the Church Street South site if Northland built new affordable units because so much of her extended family still lives in that area of the Hill, and her kids are always going back to that neighborhood to play with friends and cousins. “They know that area,” she said.

She said she plans to use whatever money she gets from the settlement to help her kids pursue their own careers. She said her daughter is a currently a culinary student at Gateway Community College. “She wants to open a pastry shop,” she said. This money might help provide a foundation for her career.

Reflecting on the value of the money in comparison to the dollar amount she might receive from Northland if the settlement goes through, Rodriguez was cautiously optimistic.

“It’s not going to cover what we went through,” she said. “It’s not. But it will definitely help us in the future.”

Rivera agreed. “It’s not going to make go away what we went through. But it’s going to help us a lot.”

“Fair, Just & Reasonable”



Rosen said that he ultimately agreed to the proposed settlement on behalf of the roughly 300 former Church Street South tenants he has represented in the class action case over the past three years because, quite simply, he feels it is the best deal he could get for those tenants.

“We had to push and push and push against determined and sincerely held resistance until we got to a point where we were convinced that we had gotten the last dollar,” he said. “I think we are all confident that this is a fair, just, and reasonable settlement for the tenants of Church Street South.”

Sullivan and Gottesdiener said that Northland agreed to the settlement to put an end to a longstanding legal battle that has served as one of the impediments to the developer rebuilding on the now vacant parcel. They said they also concluded the agreement does right by the hundreds of families who were displaced from the apartments.

“No one is arguing that these families [didn’t] suffer disruption and distress” by having to leave Church Street South, Gottesdiener said. “That’s indisputable. Once it was clear there was an opportunity to fairly compensate them for that ... we really worked together to keep that at the forefront of our minds. From that point forward,

what made this special was that the families were at the forefront of everyone in this room's minds.”



Framed newspaper clippings and legal recognitions on the wall in Rosen's office.

Rosen and Sullivan pointed out that eligible former Church Street South tenants do have the right to opt out of the proposed settlement if they feel that the deal is not good enough and want to pursue individual legal action.

However, if more than 25 such class members affirmatively opt out of the settlement, then Northland can terminate the class settlement entirely. Or it can stay in the settlement and receive a *pro rata* reimbursement from the funds for each opt-out over 25.

“I think it would be far and away the most sensible thing” for eligible Church Street South to participate in the settlement, Rosen said.

Fighting such a well-funded, well-educated legal adversary on one's own will not likely lead to more money, he said.

He added that the settlement, if approved, would prohibit either party from disparaging the other. And it is not a recognition by either party that they were in the wrong.

“Nobody's pleading guilty,” Rosen said. “This is the settlement of a lawsuit.”

He said he saw little value in trying to wring concessions out of Northland after they proved that they were interested in doing something so much more valuable than just “mouthing the right words.”

“They were actually providing important benefits to people. So, for that reason, we readily agreed to a no-disparaging provision.”