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New Haven Register

Northland settles New Haven Church Street South suit for \$18.7 million

By Mary E. O'Leary
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Photo: Arnold Gold / Hearst Connecticut Media

Attorney David Rosen photographed at his office in New Haven on March 5, 2020.

NEW HAVEN — The Northland Investment Corp. will pay \$18.75 million to settle a class action suit benefiting an estimated 1,000 former residents of the now razed Church Street South housing project in the Hill.

Attorney David Rosen, who represented an estimated 300 of the former tenants at the long-troubled complex, that has since been razed, said the payouts will range from \$5,000 to \$17,000 depending on how long a tenant was there between Dec. 2013 and Dec. 2016.

In addition, Northland will pay up to \$200,000 for administrative fees and expenses for guardian ad litem for minors and disabled tenants. As a part of the \$18.75 million, Rosen's firm gets \$2.850 million in attorney's fees and expenses for experts.

Both parties credited former Superior Court Judge Jonathan Silbert with helping them reach a compromise after he was called in as a mediator 15 months ago.

The hard fought litigation was originally filed in December 2016 and could have gone on for many more years, except for his intervention, Rosen and Henry Sullivan, the attorney for Northland, agreed in a press conference Thursday in Rosen's office.

It was the first time that Rosen and Larry Gottesdiener, the chief executive and chairman of the board at Northland, had met in person.

Silbert, who retired as a Superior Court judge seven years ago, said "it was a very difficult case ... the variety of factual, legal and procedural hurdles for both sides were immense. He called it the greatest challenge he has had since he took on the role of mediator full time.

"This was not a slam dunk for either party," the former two-decade judge said.

The agreement was filed in Superior Court Friday morning where Superior Court Judge Linda Lager will review it, with payouts to the clients likely to start at the end of the summer.

The rent records show that there are 956 tenants from Dec. 2013 through Dec. 2016, 450 of whom were minors. While Northland bought the property in 2008 at the urging of

then Mayor John DeStefano Jr., the suit could not reach back further because of the statute of limitations.

Both Rosen and Gottesdiener said they were proud of the settlement.

Others who can prove they were tenants at that time will be added to the list.

Each tenant will get a baseline payment of \$5,000, Rosen said. Those on the rent rolls would also get an additional \$3,000 for each year they lived at the complex during the agreed upon time period.

Rosen calculated that if someone was there for more one year and a half, they are counted for two years, so they get \$5,000, plus \$6,000 which is a payment of \$11,000. If they are there another year they get \$5,000, plus \$9,000 which is \$14,000. Tenants there for another year get \$5,000, plus \$12,000 which is a total of \$17,000.

The total money for the class to be paid by Northland is \$18,750,000. The base payments to tenants following the guideline recited by Rosen is \$13,250,000 of the \$18,750. If the payouts don't exhaust that fund, the balance can be used for additional administrative costs.

Still part of the \$18.750 is a \$2,650,000 pot which will be allocated to those suffering from alleged mold-related injuries. These additional payments will be decided by three local special masters to be hired by the court. Those tenants whose furniture was destroyed as the result of water and mold issues will also be eligible for payment from this portion of the settlement.

The settlement could be moot if 26 or more individuals opt out of the deal. Alternatively, Northland could keep the settlement, and receive a pro rata reimbursement from the funds for each opt-out over 25. Rosen said former clients who decided to file individual suits have not been successful.

Those who opt out “get the chance to fight with a well educated, well funded and highly determined adversary,” Rosen said. “It really makes sense to take this agreement.” The deadline to opt out is June 9.

Silbert said it took a lot of hard work and compromise by everyone involved. Silbert said both parties had “comparable - equal but opposite” arguments, but in addition, Northland had a piece of property it wanted to develop, but couldn’t because of the suit.

“There was a lot to be gained by reaching this resolution,” Silbert said. “Trials are risks ... there is a great benefit to certainty of an outcome.” Before Silbert came in, “it was unsupervised combat,” Rosen said. “Appropriately so,” Sullivan added.

Gottesdiener said there might be different views on “who caused this, who is at fault, is anybody at fault? But no one is arguing that these families suffered disruption and distress. That is indisputable and 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.”

Sullivan said “it was worth waiting for.”

Sullivan said members of the class have to file claims to get the funds. They have the names of 956 former tenants. The notices will be sent out by April 15 and tenants have to file with the settlement administrator by early summer. The back and forth between the parties was cordial as they exchanged compliments.

Rosen said he was happy to obtain “a measure of justice” for his clients. “We think we have taken a very good step to getting them relief we are convinced they fully deserve.”

He said he was sure Northland entered into the agreement as part of a “sober, rational business analysis, but that is not anything to be taken for granted. For a business person to allow a thoughtful analysis of what is best for his business and the people he is responsible for and what is best for a community that he wants to be a part of is not a small thing. We very much appreciate our choice of adversary in this case, because we

could not have achieved what we consider to be a real measure of justice without our litigation adversaries and negotiating partners coming together with us for this agreement.”

Gottesdiener said “under the circumstances, that was the kindest thing you could possibly say and we really appreciate it.”

Barbara Goren, Rosen’s legal partner and spouse, said without Silbert’s “persistence, his wisdom, his patience and his guidance, without that I am not sure we would be where we are today.”

Silbert said on the one hand the plaintiffs won significant monetary payments, plus other benefits for the former Church Street South tenants, while for both there was the certainty of an outcome rather than what looked like up to seven more years of litigation given appeals.

Two of the early plaintiffs in the case, Wednesday said they were grateful to Rosen, Goren and the team of paraprofessionals who saw them through the process from the time they left Church Street South up until the settlement.

They both said they will use the money to help their children. Yomaly Rivera has five children ranging in age from 7 to 17; Rosa Rodriguez has four, most of whom are young adults now. They both concluded however, that the money is not everything.

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

She said she will help her daughter, who at some point may use her culinary skills to open a pastry shop. She also mentioned a son who is advancing his manufacturing skills.

Rivera, who lived there for two years, said she was “happy it (the suit) was coming to an end.”

Asked to describe what she remembered in her apartment, “There was a lot of mold. Every time it rained, it would be like water coming through the wall.” Rivera said. She said her kids are asthmatic.

Rodriguez described similar problems that started with a leaking boiler. She said her 19-year-old daughter will be taking medication for the rest of her life because of the “inside allergies” she experiences. Rodriguez said she had to wash the sheets and curtains three times a week to make it more comfortable for her daughter.

Both women love the apartments they now rent using Section 8 vouchers. Rodriguez said the “managers are awesome.”

The former tenants get priority in applying for new units that Northland plans to build on the old site. Rivera said her kids don’t want to go back to that part of the city, while Rodriguez said would definitely consider moving to a newly build apartment and her children still have friends and cousins there.

Rivera works now at the Amazon warehouse in North Haven, while Rivera is the office manager/accountant at the Grove Street Cemetery. For 11 years before that, she was a department head at the Schick factory in Milford.

The suit charged that Northland allowed conditions at the Church Street South complex “to become uninhabitable beyond repair” after which it planned to raze it to build upscale housing in its place. Northland denied the company was operating under the guise of “demolition by neglect,” purposefully allowing it to deteriorate although there always was a plan to replace the housing.

Part of the settlement is that “no party makes any admissions and the settlement assigns no blame or liability to any party.” They have pledged to not disparage each other.

“That is only right,” Rosen said. “After you settle a lawsuit you don’t bad mouth the other people ... We want to look forward.”

Sullivan said the parties disagree on the facts, disagree on the law, but they have agreed on a solution. "That is the story today. It is a solution. It is a good one. It is a good one for David's clients, it is a good one for the community and it is good for Northland." Sullivan said.

The extent of the deterioration at Church Street South was highlighted in a series of actions by the New Haven Legal Assistance Association, who represented clients with asthma or who were living in apartments with mold and structural issues. The Building Official also stepped in requiring repairs or declaring the units unsafe.

This culminated in a thorough inspection by the U.S. Department of Urban Development in 2015 when it found that Northland had failed to provide "decent, safe and sanitary" conditions for the tenants, giving it a score of 20 out of 100 when it assessed the conditions at the complex.

After that, tenants, as part of the New Haven Legal Assistance Association complaints, were moved into hotels until the apartments could be fixed.

Northland soon agreed to turn over its HUD payments to other landlords. The complex started to empty out in 2015, but was not completely ready for demolition until May 2018.

The general plan now is to construct an estimated 1,000 apartments on the 13-acre desirable space across from the train station. Years ago, Northland promised to designate 30 percent as affordable, a plan that has been stalled by the suit, even as it has been working with the city.

There is an estimated \$50 million funding gap in the \$500 million replacement project as state funds for this have dried up, according to Gottesdiener.

Northland estimated it paid millions in security deposits to the new landlords, as well as in hotel bills where tenants stayed after vacating their units before finding new

apartments. Other costs involved storage fees and security at Church Street South as the number of tenants dwindled.

As part of the the settlement, Northland will return those security fees to the tenants, if they move from their new apartments in the future.

The mediation route was suggested by Lager, who has been overseeing the case in the complex litigation court in Waterbury.

There were a total of 200 court filings with the parties exchanging 400,000 pages of documents in addition to retaining multiple medical, and construction experts and producing extensive briefings and arguments in court on the topic of class certification, which was the heart of the case.

Rosen said he would not have settled if he thought he could have gotten more money out of Northland.

It is up to Lager to approve or reject the settlement, but both parties were confident it will be approved with multiple administrative steps to be taken in the next few months.