

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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THE CITY OF NEW YORK,

Index No. ___/2022

Plaintiff,

-against-

SUMMONS

ARRON LATIMER, IVYROCK EQUITIES LLC, ANNA TB LLC, DANI TB LLC, MICHAEL AND ERIN LLC, NADIA TB LLC, T BAE 4 BEE LLC, T BAY 3A LLC, TURTLE B 2 BE LLC, TURTLE BAE 1 BEE LLC, TURTLE BAY 2 AYY LLC, APEX EAST MANAGEMENT LLC, ESTHER YIP, THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134, COUNTY, CITY AND STATE OF NEW YORK, and "JOHN DOE" and "JANE DOE," numbers 1 through 10, fictitiously named parties, true names unknown, the parties intended being the managers or operators of the business being carried on by defendants, and any person claiming any right, title or interest in the real property which is the subject of this action,

Defendants.

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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED TO ANSWER the verified complaint in this action and to serve a copy of your answer on the plaintiff CITY OF NEW YORK within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of the venue designated is the residence of the plaintiff and the county in which the properties affected by this action are located. Plaintiff designates New York County as the place of trial.

Dated: New York, New York
June 29, 2022

Hon. Sylvia Hinds-Radix
Corporation Counsel of the City of New York
Attorney for Plaintiff

By:  _____

Austin Hee
Special Assistant Corporation Counsel
Mayor's Office of Special Enforcement
22 Reade Street, 4th Floor
New York, NY 10007
Tel.: (212) 416-5266

TO:

ARRON LATIMER
757 3rd Avenue Fl 20
New York, NY 10017-2046

1630 2nd Avenue APT 5RN
New York, 10028-4490

344 East 51 Street APT 1B
New York, NY 10022-7823

IVYROCK EQUITIES LLC
162 West 4th Street, #3
New York, NY 10014

ANNA TB LLC
344 East 51st Street, Apartment 1A
New York, NY 10022

DANI TB LLC
344 East 51st Street, Apartment 4A
New York, NY 10022

MICHAEL AND ERIN LLC
344 East 51st Street, Apartment 3B
New York, NY 10022

NADIA TB LLC
344 East 51st Street, A
New York, NY 10022

T BAE 4 BEE LLC
344 East 51st Street, Apartment 4B
New York, NY 10022

T BAY 3A LLC
344 East 51st Street, Apartment 3A
New York, NY 10022

TURTLE B 2 BE LLC
344 East 51 Street, Apartment 2B
New York, NY 10022

TURTLE BAE 1 BEE LLC
344 East 51st Street, Apartment 1B
New York, NY 10022

TURTLE BAY 2 AYY LLC
344 East 51 Street Apartment 2A
New York, NY 10022

APEX EAST MANAGEMENT LLC
344 East 51st Street
New York, NY 10022

ESTHER YIP
525 East 80 Street APT 7F
New York, NY 10075-0707

THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134,
County, City and State Of New York

“JOHN DOE” and “JANE DOE,” numbers 1 through 10

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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THE CITY OF NEW YORK,

Index No. _____/2022

Plaintiff,

VERIFIED COMPLAINT

-against-

ARRON LATIMER, IVYROCK EQUITIES LLC, ANNA TB LLC, DANI TB LLC, MICHAEL AND ERIN LLC, NADIA TB LLC, T BAE 4 BEE LLC, T BAY 3A LLC, TURTLE B 2 BE LLC, TURTLE BAE 1 BEE LLC, TURTLE BAY 2 AYY LLC, APEX EAST MANAGEMENT LLC, ESTHER YIP, THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134, COUNTY, CITY AND STATE OF NEW YORK, and “JOHN DOE” and “JANE DOE,” numbers 1 through 10, fictitiously named parties, true names unknown, the parties intended being the managers or operators of the business being carried on by defendants, and any person claiming any right, title or interest in the real property which is the subject of this action,

Defendants.

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Plaintiff, the City of New York (the “City”), by its attorney, Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, for its verified complaint against defendants, alleges as follows:

1. Plaintiff brings this action to shut down illegal transient rentals in a four-story building in Turtle Bay, 344 East 51st Street, New York (“Subject Building”) where Defendants have refused to stop their illegal short-term rental operation despite multiple enforcement efforts from the City, and to hold Defendants responsible for their years of willful neglect of their duty to keep their building in a safe and code-compliant manner.

2. Defendants are short-term rental operator Arron Latimer and the entity LLCs he controls (the “Latimer LLCs” and, collectively with Latimer, the “Operator Defendants”); and

the building owner, APEX EAST MANAGEMENT LLC (“Apex”), its managing member, Esther Yip, and the illegally advertised and converted *in rem* Subject Building itself (collectively, the “Owner Defendants”).

3. To date, the City has attempted to abate these public nuisances through pre-litigation administrative enforcement efforts, to no avail.

4. The City has conducted 4 administrative code inspections on the Subject Building and issued 17 illegal transient occupancy and illegal conversion-related violations—with 3 inspections and 11 violations issued to Defendant Apex, who purchased the building in 2016.

5. These violations cited not only the illegal short-term occupancy of permanent-only residential dwelling units, but the related safety hazards such as: inadequate fire alarm system; inadequate fire sprinkler system; and failure to provide required number of means of egress.

6. Despite receiving summonses, Defendants willfully ignored these violations, continued their unlawful activities, and refused to address the resulting hazardous conditions.

7. Instead of complying with the law, Defendants have either disregarded the violations or paid them without discontinuing their illegal activity—because the violation amount was much lower than the profits that their illicit operation was generating.

8. This represents a conscious choice by Defendants to violate the law and refuse to keep the Subject Building in a safe and code-compliant manner.

9. The conditions created by Defendants’ illegal conduct in the Subject Building negatively affect the health, safety, security, and general welfare of the residents of and visitors to the City of New York, including: (1) the illegal and hazardous rental of permanent residential dwelling units to numerous transient occupants, without having the more stringent fire and safety

features required in buildings legally designed to serve transient occupants; (2) the creation of significant risks in Subject Building not staffed to handle the security issues associated with transient occupancy, and a degradation in the quiet enjoyment, safety, and comfort of permanent residents in the Subject Building and in neighboring buildings caused by noise, filth, and the excessive traffic of unknown and constantly changing individuals entering their places of abode; and (3) the unlawful reduction of the permanent housing stock available to the residents of New York City at a time when there is a legislatively declared housing emergency.

10. Specifically, Defendants ran an elaborate and illegal short-term rental operation by creating and maintaining multiple host accounts and listings advertising unlawful and unsafe short-term rentals on websites like www.Airbnb.com (“Airbnb”), which lured tourists into booking illegal stays. Defendants also advertise the Subject Building on www.TripAdvisor.com and <https://viaggiconsolo.wordpress.com/>.

11. In total, Airbnb disbursed over \$2 million in payments to Defendant ARRON LATIMER (“Latimer”) for short-term stays in the Subject Building and other New York City Buildings from 2018-2021.

12. Upon information and belief, Latimer, a licensed real estate broker, advertised and operated illegal short-term rentals through at least 27 different Airbnb host accounts—each traceable back to him—though which Latimer advertised nearly 80 listings, resulting in over 2,200 Airbnb reservations, and deceiving more than 6,500 guests, in clear violation of Airbnb’s “One Host, One Home” policy for New York City.¹

¹ On November 1, 2016, Airbnb launched a “one host, one home” policy for New York City, and states in an update on that policy that it is “concerned about hosts who may offer space that could otherwise have been on the long-term rental housing market in New York City.” <https://www.airbnb.com/citizen/wp-content/uploads/2016/07/OneHostOneHomeNewYorkCity-1.pdf> (last viewed on June 2, 2022).

13. Here, the dozens of different Airbnb host accounts Latimer used to advertise short-term stays in the Subject Building all utilized fake names, fake host descriptions, and stock images from the internet, thereby further highlighting Defendants were aware that their operation was illegal.

14. Indeed, reviews from Latimer's guests on Airbnb often expressed dismay with his misleading business practices, the physical conditions of the apartments, and his robotic or automated communications.

15. For example, guests described the location as "astonishingly dirty" with complaints of mold, soiled linens, and blood stains.

16. Other guests warned that future visitors should "be aware that the address or listing is different than the actual location" posing a significant concern for travelers unfamiliar with the city.

17. Additionally, reviews reveal that some guests felt as though they were communicating with a robot or third-party agency as indicated by autogenerated responses to inquiries.

18. The City brings this action pursuant to and by authority of Section 20 of the New York General City Law; Section 394 of the New York City Charter; the Consumer Protection Law at Section 20-703 of the Administrative Code of the City of New York (the "Admin. Code"); Section 306 of the New York Multiple Dwelling Law ("MDL"); Sections 7-704, 7-706,

Airbnb admitted that many New York City hosts use fraudulent strategies to bypass the policy in a letter dated March 29, 2019 to the United States District Court, Southern District of New York, providing that "following the adaptation of Airbnb's One Host, One Home policy in November 2016, various entities operating illegal hotels in New York City devised and successfully implemented strategies intended to evade Airbnb's One Host, One Home enforcement efforts."

27-2110, 27-2115, 27-2120, and 28-205.1 of the Admin. Code; and pursuant to the common law doctrine of public nuisance.

19. The City seeks preliminary and permanent injunctive relief and the imposition of civil statutory penalties and restitution as well as compensatory and punitive damages against the owners, managers, operators, and agents of the Subject Building, and against the Subject Building itself, for violations under the MDL, the New York City Building Code (“Building Code”), the New York City Housing Maintenance Code (“Housing Maintenance Code”), the New York City Consumer Protection Law, Admin. Code § 20-700, et seq. (“CPL” or “Consumer Protection Law”), the New York City Nuisance Abatement Law, Admin. Code § 7-701 et seq. (“NAL” or “Nuisance Abatement Law”), and pursuant to the common law doctrine of public nuisance.

BACKGROUND

20. The Mayor’s Office of Special Enforcement (“OSE”) is a governmental entity established by Mayoral Executive Order No. 96 of 2006 to address quality of life issues citywide, including illegal hotels, lawless clubs, and adult establishments.

21. OSE oversees and conducts joint investigations and inspections with various City agencies. When property owners fail to remedy violating conditions for an extended period of time through administrative enforcement mechanisms, the City seeks remedies in courts pursuant to the Nuisance Abatement Law and other statutes to compel compliance and halt flagrant violations.

22. Through Mayoral Executive Order No. 22 of 2016, OSE is also tasked with enforcing unlawful advertising of illegal short-term occupancy in multiple dwellings that can only lawfully be occupied permanently, for 30 consecutive days or more.

23. Tourists and other visitors to New York City are enticed by misleading advertisements on numerous internet websites for short-term apartment accommodations located within buildings designed and constructed only for permanent residency.

24. Many of these visitors are unwittingly led to book accommodations which are not only illegal, but also pose a heightened risk to their health and safety, as well as to the health and safety of the lawful tenants of those buildings.

25. A business that misleads consumers by purveying illegal and unsafe consumer goods or services without any indication that they are not legal or safe commits a deceptive trade practice prohibited by federal, state, and local consumer protection laws. *See Consumer Protection Law, Admin. Code §§ 20-700, et seq.*

26. Moreover, advertising, booking, and permitting transient accommodations in buildings where such accommodations are illegal create a public nuisance under both the Nuisance Abatement Law and the common law.

27. The law has long recognized that the conditions and practices complained of herein, which endanger or injure the property, health, safety or comfort of a considerable number of persons, constitute a public nuisance adversely affecting both tourists and visitors to New York City, those who may lawfully reside in residential units in the Subject Building and in neighboring buildings, as well as emergency personnel who would respond to any situation at the Subject Building.

28. The City continually receives complaints about unlawful short-term transient occupancies from many sources – calls to “311,” letters and emails from the public, communications from elected officials and community groups – regarding excessive noise from

tourists, overflowing trash, vomit in hallways, fires, loud fighting, drugs, prostitution, and the like.

29. Despite occupancy and safety rules prohibiting such use, dwelling units in permanent residential apartment buildings in New York City are increasingly being utilized as transient, short-term occupancy units for tourists and other visitors rather than tenants who intend to establish a permanent residence.

30. This practice has been abetted by the phenomenal growth of the internet travel industry and comes at a time when affordable housing accommodations for the residents of New York City remain at historically low levels.

31. The spread of illegal transient occupancies creates a number of serious problems for the City:

- (1) an illegal siphoning off of a significant portion of the CITY's housing stock, occurring most acutely in the affordable housing sector;²
- (2) harassment of permanent tenants by owners who seek to push out those tenants illegally in order to pursue a more lucrative (albeit unlawful) transient market;
- (3) serious safety hazards, in particular with regard to fire protection, as code requirements for permanent residency buildings are not nearly as stringent as those for units and buildings geared to transient occupancy, and also with regard to severe overcrowding;
- (4) a growing number of complaints from tourists who book accommodations over the internet, in most cases responding to advertisements unaware that rooms are being offered in violation of the law; and

² The City's "acute shortage of dwellings" has created an affordable housing crisis that is a "serious public emergency." See Emergency Housing Rent Control Law § 1, codified as N.Y. Unconsol. Law Ch. 249, § 1 (Lexis 2016) (making these legislative findings in establishing rent control system). See also Local Emergency Housing Rent Control Act § 1(2), codified as N.Y. Unconsol. Law Ch. 249-A, § 1(2) (Lexis 2016); Emergency Tenant Protection Act of Nineteen Seventy-Four § 2, codified as N.Y. Unconsol. Law Ch. 249-B, § 2 (Lexis 2016) (making identical legislative findings in establishing successor rent stabilization systems); *Bucho Holding Co. v. Temporary State Housing Rent Comm.*, 11 N.Y.2d 469, 473 (1962) ("The existence of an emergency justifying continued control of rents in the areas here involved *may not [be]*, and indeed is not, denied.").

- (5) a burgeoning number of transient occupants, inter-mixed with permanent residents and neighbors, whose presence poses significant risks in buildings not equipped to handle the security problems associated with transient occupancy, as well as a degradation of quality of life for residents and neighbors.

32. Due to these deleterious effects on the housing market and the safety concerns for residents, tourists, the general public and emergency response personnel, illegal hotel operations are a point of particular concern to the City and State governments in protecting New Yorkers' quality of life.

33. To begin to address the illegal transient occupancy situation, the Legislature enacted Chapter 225 of the Laws of New York State of 2010 ("Chapter 225"), effective on May 1, 2011, which clarified the historic prohibition on renting units in Class "A" multiple dwellings, as defined under the MDL³ and the HMC, for less than 30 consecutive days.

34. The Legislature enacted Chapter 225 in response to the First Department's 2009 *City of New York v. 330 Continental LLC* decision (60 A.D.3d 226), amending the MDL and other related laws to make clear, among other things, that the rental of any unit in a Class "A" building for less than 30 days is prohibited.

35. The legislative justification for Chapter 225 was explained by the law's sponsor in this manner:

The Multiple Dwelling Law and local Building, Fire and Housing Maintenance Codes establish stricter fire safety standards for dwellings such as hotels that rent rooms on a day to day (transient) basis than the standards for dwellings intended for month to month (permanent) residence. There are substantial penalties for owners

³ In 1929, the Legislature enacted MDL to "ensure the establishment and maintenance of proper housing standards requiring sufficient light, air, sanitation and protection from fire hazards." See MDL § 2. The 1929 MDL created two distinct and mutually exclusive classifications of buildings that continue in the law today: "Class A" buildings used for permanent residence use, and "Class B" housing intended for short-term transient use. The MDL defines buildings used for permanent residence purposes, such as "tenements, flat houses, maisonette apartments, [and] apartment houses," as Class A. See MDL § 4(4) (now, § 4(8)(a)). Similarly, the MDL defines buildings typically used for transient purposes, such as "hotels, lodging houses, rooming houses, [and] boarding houses," as Class B. See MDL § 4(4) (now, § 4(9)(a)).

who use dwellings constructed for permanent occupancy (Class A) as illegal hotels. However, the economic incentive for this unlawful and dangerous practice has increased, while it is easier than ever to advertise illegal hotel rooms for rent to tourists over the internet. This is especially so in New York City, which is attracting visitors and tourists from around the world in record numbers. In most cases tourists responding to such advertisements are unaware that the rooms are being offered in violation of the law. Not only does this practice offer unfair competition to legitimate hotels that have made substantial investments to comply with the law but it is unfair to the legitimate “permanent” occupants of such dwellings who must endure the inconvenience of hotel occupancy in their buildings and it decreases the supply of affordable permanent housing. It endangers both the legal and illegal occupants of the building because it does not comply with fire and safety codes for transient use.

Recently, law enforcement actions against illegal hotels have been hindered by challenges to the interpretation of “permanent residence” that enforcing agencies have relied on for decades . . .

New York State Senate Memorandum in Support of Legislation (S6873B, 233rd Leg. (N.Y. 2010 (Sponsor’s Memo)) Assembly Bill No. A10008), available at <https://www.nysenate.gov/legislation/bills/2009/S6873>, at “Justification.”

36. The plain language of the law, supported by its legislative history, makes clear that the Legislature intended to eliminate all transient use in “all Class ‘A’ buildings in existence” as of the bill’s enactment and all those constructed thereafter. *See* Ch. 225 of the Laws of 2010, at § 8; Governor’s Bill Jacket, Ch. 225 of the Laws of 2010, at 6 -17.

37. No Class “A” building was exempted from its coverage.

38. Following the Legislature’s clear intent in Chapter 225, the First Department unequivocally held that the Chapter 225 provisions applied to all buildings in existence on the date of its enactment, and no dwelling unit in a Class “A” multiple dwelling can be used transiently. *Matter of Grand Imperial, LLC v. New York City Bd. of Stds. & Appeals*, 137 A.D.3d 579 (1st Dep’t), *lv. denied*, 28 N.Y.3d 907 (2016) (“[I]n enacting the amendments, the

legislature’s intent that a 30-day minimum occupancy requirement would apply to all, with only narrow, specified exceptions, was sufficiently clear that petitioner’s saving clause right to continue renting for the shorter period was extinguished.”) (internal citation omitted); *Matter of Terrilee 97th Street LLC v. N.Y.C. Envtl. Control Bd.*, 146 A.D.3d 716 (1st Dep’t 2017), *lv. to reargue or appeal denied*, 2017 N.Y. Slip. Op. 86314(U) (Sept. 19, 2017) (“Under the Multiple Dwelling Law, as amended effective May 1, 2011, none of the units in petitioner’s Class A multiple dwelling may be used for occupancy periods shorter than 30 days.”) (citations omitted).

39. The advertising, maintenance and operation of permanent residential properties for transient occupancy where such use is prohibited and unsafe deceives consumers and creates a public nuisance endangering or injuring the property, health, safety and comfort of residents in those buildings, residents in surrounding areas, and tourists and visitors to New York City.

40. Most recently, in 2016, as a further step to address this issue, the Legislature amended the MDL and Administrative Code to expressly prohibit *advertising* the use or occupancy of dwelling units in Class “A” multiple dwellings for other than permanent residence purposes (i.e., short-term rental for more than 30 days).

41. The law’s sponsor explained the justification for adding a new Section 121 to the MDL and a new Article 18 to subchapter three of chapter one of title 27 of the Admin. Code (i.e., Admin. Code § 27-287.1) as follows:

In 2010, in the face of an explosion of illegal hotel operators in single room occupancy buildings in New York City, New York State clarified and strengthened the laws regarding transient occupancy in class A multiple dwellings. Now, with the proliferation of online home sharing platforms that allow users to advertise their apartments for use that directly violates New York State’s “illegal hotels” law, the purpose of the “illegal hotels” law is at risk of being undone.

While it is already illegal to occupy a class A multiple dwelling for less than 30 days, this legislation would clarify that it also illegal

to advertise units for occupancy that would violate New York law. However, online home sharing platforms still contain advertisements for use of units that would violate New York law. It rests with the city and state to protect communities and existing affordable housing stock by prohibiting advertisements that violate the law, creating a civil penalty structure for those who violate the prohibition, and clarifying activities that constitute advertising (emphasis added).

New York State Senate Memorandum in Support of Legislation (S6340A, 239th Leg. (N.Y. 2016 (Sponsor’s Memo)) Assembly Bill No. A8704C), available at <https://www.nysenate.gov/legislation/bills/2015/S6340>, at “Justification.”

PARTIES

42. Plaintiff, the City, is a municipal corporation incorporated under the laws of the State of New York.

43. Defendants fall into two categories: (1) operator Arron Latimer and the entity LLCs he controls; and (2) the building owner, Esther Yip, Apex, the entity LLC she controls, and the illegally advertised and converted *in rem* Subject Building itself (collectively, the “Owner Defendants”).

A. THE OPERATOR DEFENDANTS: ARRON LATIMER AND HIS TEN (10) ASSOCIATED LATIMER LLCs

44. Defendant ARRON LATIMER is a natural person, and the managing agent of the Subject Building according to the last valid registration filed with the New York City Department of Housing Preservation and Development (“HPD”), which expired on 9/1/2017.

45. Upon information and belief, Defendant Latimer is a licensed real estate agent recetly employed by the brokerage firm R New York.

46. Latimer is the controlling—and only member—of the following nine LLCs associated with the Subject Building (collectively, the “Latimer 344 E 51st LLCs”).

47. Latimer organized all nine LLCs in early December 2019 under the laws of the State of New York, using the Subject Building as the address for service of process, as follows:

- i. Anna TB LLC: THE LLC, 344 E 51st Street 1A, NY 10002;
- ii. Dani TB LLC: THE LLC, 344 E 51st Street 4A, NY 10002;
- iii. Michael and Erin LLC: THE LLC, 344 E 51st Street 3B, NY 10002;
- iv. Nadia TB LLC: THE LLC, 344 E 51st Street A, NY 10002;
- v. T Bae 4 Bee LLC: THE LLC, 344 E 51st Street 4B, NY 10002;
- vi. T Bay 3A LLC: THE LLC, 344 E 51st Street Apartment 3A, NY 10002;
- vii. Turtle B 2 Be LLC: THE LLC, 344 E 51st Street 2B, NY 10002;
- viii. Turtle Bae 1 Bee LLC: THE LLC, 344 E 51st Street 1B, NY 10002;
- ix. Turtle Bay 2 Ayy LLC: THE LLC, 344 E 51st Street 2A, NY 10002.

48. Latimer is the only listed signatory on the Chase Business Signature Card for the bank accounts for the Latimer 344 E 51st LLCs.

49. Latimer's signature represents that he applied to open deposit accounts for the Latimer 344 E 51st LLCs, and that he has the authority to transact business on behalf of these LLCs.

50. Defendant IVYROCK EQUITIES LLC ("Ivyrock") is a limited liability company organized under the laws of the State of New York, with an address for process service of 162 West 4th Street #3, New York, NY, United States, 10014.

51. According to Chase records, Latimer is the controlling—and only—member of Ivyrock.

52. Latimer appears to operate Ivyrock as his primary LLC and uses it as the center of his illegal short-term rental operation.

53. Before December 2019, Latimer routed all Airbnb revenue through Ivyrock directly.

54. After December 2019, Latimer shifted his business structure so that the Latimer 344 E 51st LLCs received Airbnb revenue first, and then funds were moved via wire transfers to Ivyrock.

55. Thereafter, Latimer distributed Airbnb revenue from Ivyrock to himself and to Apex—Esther Yip’s ownership LLC for the Subject Building.

56. Thus, Latimer funneled illegal Airbnb profits through at least two of his LLCs before he issued money to his personal accounts, demonstrating that Latimer likely knew his operation was illegal and was attempting to hide it from the City.

57. Latimer opened Chase bank accounts for the Latimer 344 E 51st LLCs only several months after the City conducted an administrative code inspection of the Subject Building on June 6, 2019, where the City found evidence of transient use in response to a 311 complaint⁴—suggesting that Latimer instituted a more complex business structure for receiving short-term rental revenue for unlawful stays in order to avoid the City’s detection/enforcement efforts.

58. According to Chase records, Latimer directed around \$1,233,000 in Airbnb revenue to Ivyrock Equities LLC from January 2018 to December 2019.

59. According to Chase records, Latimer directed around \$987,729 in Airbnb revenue to the Latimer 344 E 51st LLCs after their creation, in late 2019, to early 2022:

- i. Anna TB LLC received around \$69,825 in Airbnb payments;
- ii. Dani TB LLC received around \$84,715 in Airbnb payments;

⁴ Publicly available 311 complaint 1509796 complained of “constant coming and going of people with suitcases. I sometimes observe another person greeting them with key for access.”

- iii. Michael and Erin LLC received around \$85,321 in Airbnb payments;
- iv. Nadia TB LLC received around \$70,396 in Airbnb payments;
- v. T Bae 4 Bee LLC received around \$164,572 in Airbnb payments;
- vi. T Bay 3A LLC received around \$90,359 in Airbnb payments;
- vii. Turtle B 2 Be LLC received around \$118,679 in Airbnb payments;
- viii. Turtle Bae 1 Bee LLC received around \$137,385 in Airbnb payments; and
- ix. Turtle Bay 2 Ayy LLC received around \$138,699 in Airbnb payments.

B. THE OWNER DEFENDANTS: ESTHER YIP; APEX EAST MANAGEMENT LLC; and THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134

59. Defendant ESTHER YIP, a natural person, is the authorized signatory and manager of Defendant APEX EAST MANAGEMENT LLC.

60. Defendant APEX EAST MANAGEMENT LLC is a domestic business corporation organized under the laws of the State of New York, and owner of record of the Subject Building 344 East 51st Street.

61. Yip purchased the Subject Building through Apex in 2016, which was after the City inspected it and issued six summonses for illegal transient occupancy to the prior owner in 2011.

62. The Subject Building's 2011 transient occupancy violations are public record and should have been known to a purchaser exercising any due diligence in buying a multi-million-dollar property.

63. Further, after purchasing the Subject Building, Apex received 11 more violations related to illegal transient use.

64. Apex admitted fault and paid three violations that were issued on June 6, 2019.

65. But 311 complaints continued and the City inspected the Subject Building again in January and March 2022, finding ongoing illegal transient use and a lack of required fire safety measures and issuing violations each time.

66. Thus, despite knowledge of illegal transient use, Yip and Apex have permitted this public nuisance to persist unabated in the Subject Building.

67. Defendant THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134, COUNTY, CITY, AND STATE OF NEW YORK, is the real property where the activities complained of have taken place and continue to take place.

STATEMENT OF FACTS

I. OSE Inspected and Repeatedly Found Hazardous Transient Accommodations and Violating Conditions Conducted and Permitted by Defendants in the Subject Building

68. Prior to filing this action, DOB Building Inspectors and FDNY Fire Protection Inspectors assigned to OSE (the “OSE Inspection Team”) performed a total of four administrative code inspections at the Subject Building to determine whether it was being operated in compliance with applicable law and, if it was not, whether the unlawful use, occupancy and arrangement of the building posed a danger to the health, welfare and safety of the occupants or of the public generally.

69. On each occasion, the OSE Inspection Team found that Defendants had converted the Subject Building to illegal transient use, and had thereby endangered the public health, welfare and safety.

70. Since 2011, in response to at least five publicly available 311 complaints that the Subject Building was being used as an illegal “Airbnb hotel,” the OSE Inspection Team issued Owner Defendants a total of 17 Notices of Violation (“NOVs”), or “Summonses,” for illegal

short-term rentals and resulting building safety violations found in the Subject Building—14 of which have been Class 1 immediately hazardous violations.

71. The City has issued 11 of the 17 total NOVs to Defendant Apex since Yip purchased the Subject Building through Apex in 2016—nine of which have been Class 1 immediately hazardous violations.

72. Defendant Apex will be subject to tens of thousands of dollars in additional administrative penalties from the City’s Office of Administrative Trials and Hearings (“OATH”) once all 11 NOVs are adjudicated, separate and apart from the statutory NAL and CPL penalties Defendants are liable for after they failed to stop their illegal advertising and occupancy until the City commenced this action.

A. OSE Inspected and Repeatedly Found Public Nuisances, Including Illegal Short-Term Rentals, in Subject Building 344 E 51 Street

73. The legal occupancy of a building is determined based on records maintained by DOB.

74. For buildings constructed after 1938, the applicable record is called the certificate of occupancy (“C of O”).

75. Once a C of O is issued for a given building, it becomes the governing document for the use and occupancy of that building. New York City Charter § 645(b)(3)(e).⁵

76. The applicable DOB record that governs the legal use and occupancy of Subject Building 344 E 51st is C of O No. 102051930, dated March 9, 2001, which states the Subject

⁵ New York City Charter § 645(b)(3)(e) provides that “every certificate of occupancy shall, unless and until set aside, vacated or modified by the board of standards and appeals or a court of competent jurisdiction, be and remain binding and conclusive upon all agencies and officers of the city ... and no order, direction or requirement affecting or at variance with any matter set forth in any certificate of occupancy shall be made or issued by any agency or officer of the city ... unless and until the certificate is set aside, vacated or modified by the board of standards and appeals or a court of competent jurisdiction upon application of the agency, department, commission, officer or member thereof seeking to make or issue such order, direction or requirement.”

Building is a five-story Multiple Dwelling with a permissible use and occupancy of eight total apartments and one doctor's office.

77. Therefore, the only legal occupancy of all apartments within 344 E 51 Street is as permanent residential dwelling units for occupancy of 30 consecutive days or more.

78. Despite this, members of the OSE Inspection Team have observed Defendants' illegal and hazardous short-term rentals in the Subject Building on multiple occasions since September 2011.⁶

a. June 6, 2019 OSE Inspection and Illegal Transient Use Found in Subject Building 344 East 51st Street

79. On June 6, 2019, DOB Inspector Mohammad Yusuf ("Inspector Yusuf") and other members of the OSE Inspection Team conducted an administrative code inspection of Subject Building 344 East 51st Street in response to a publicly available 311 complaint of a "[c]onstant coming and going of people with suitcases. I sometimes observe another person greeting them with key for access."

80. Inspector Yusuf encountered a transient guest in apartment 1B of the Subject Building who stated that he was from Italy, and that he was staying with 5 other individuals who had booked their stay from June 4, 2019 through June 10, 2019 for €3000 through an Italian website.

81. The inspection team was provided access to the apartment and took pictures of the guest's booking confirmation.

⁶ On September 15, 2011, DOB Assistant Chief Inspector Vladimir Pugach ("Assistant Chief Pugach") and several other members of the OSE Inspection Team conducted an administrative code inspection of Subject Building 344 E 51st Street. Assistant Chief Pugach issued 6 summonses related to illegal transient use in the building to its then-building owner, who was found in violation of all summonses and paid fines.

82. Based upon his observations and interview, Inspector Yusuf issued the following three summonses to Defendant APEX EAST MANAGEMENT LLC:

Summons #	Date:	Violation Noted:	Severity:	Remedy:
35425447H	6/6/19	Permanent dwelling used/converted for other than permanent residential purposes.	Class 2	Discontinue illegal use.
35425448J	6/6/19	Failure to comply with automatic fire sprinkler requirements for transient use.	Class 1	Discontinue illegal use.
35425449L	6/6/19	Failure to provide fire alarm system for transient use.	Class 1	Discontinue illegal use.

83. Defendant APEX EAST MANAGEMENT LLC admitted fault and paid penalties on all violations totaling \$4,950.

b. January 4, 2022 OSE Inspection and Illegal Transient Use Found in Subject Building 344 East 51st Street

84. On January 4, 2022, DOB Inspector Gemmill Portelli (“Inspector Portelli”) and other members of the OSE Inspection Team conducted another administrative code inspection of Subject Building 344 East 51st Street in response to a publicly available 311 complaint that stated the Subject Building was being used as an “Airbnb hotel” despite the owner previously receiving a violation for such in 2019.

85. Inspector Portelli interviewed a family of transient guests outside the Subject Building who were staying in apartment 2A, and who had booked their stay from December 12, 2021 through January 4, 2021 on Airbnb for \$1,500.

86. The guests stated that the listed address on Airbnb was incorrect, and that they received instructions right before they checked in to go to 344 East 51st Street instead.

87. Based upon his interview, Inspector Portelli issued the following four summonses to Defendant APEX EAST MANAGEMENT LLC:

Summons #	Date:	Violation Noted:	Severity:	Remedy:
35592396P	1/4/22	Permanent dwelling used/converted for other than permanent residential purposes.	Class 2	Discontinue illegal use.
35592397R	1/4/22	Failure to provide fire alarm system for transient use.	Class 1	Discontinue illegal use.
35592398Z	1/4/22	Failure to comply with automatic fire sprinkler requirements for transient use.	Class 1	Discontinue illegal use.
35592399K	1/4/22	Failure to provide number of required means of egress for every floor.	Class 1	Discontinue illegal use.

c. March 17, 2022 OSE Inspection and Illegal Transient Use Found in Subject Building 344 East 51st Street

88. On March 17, 2022, DOB Inspector Ricky Fontenelle (“Inspector Fontenelle”) and several other members of the OSE Inspection Team returned to Subject Building 344 East 51st Street for another administrative code inspection in response to another publicly available 311 complaint, this time of “groups with suitcases on multiple occasions entering and exiting this building. Sometimes they are getting into/out of airport shuttles,” and discovered multiple instances of illegal transient activity in Apartments 1A, 2A, 2B, and 3A.

89. The transient guests found in 1A, 2A, 2B, and 3A all booked their stays through Airbnb for less than 30 days, and Inspector Fontenelle took photos of the apartments and booking confirmations that he was provided access to.

90. Based upon his observations and interviews with the transient guests, Inspector Fontenelle issued the following four summonses to the building owner, Defendant APEX EAST MANAGEMENT LLC:

Summons #	Date:	Violation Noted:	Severity:	Remedy:
35634880J	3/17/22	Permanent dwelling used/converted for other than permanent residential purposes. Recurring Condition Aggravated I per 1 RCNY 102-01(f). Per 28-202.1 & 1 RCNY 102-01, additional Class 1 daily or Class 2 monthly penalty may apply.	Class 1	Discontinue illegal occupancy.
35634881L	3/17/22	Failure to comply with automatic fire sprinkler requirements for transient use.	Class 1	Discontinue illegal occupancy.
35634882N	3/17/22	Failure to provide number of required means of egress for every floor.	Class 1	Discontinue illegal occupancy.
35634883P	3/17/22	Failure to provide fire alarm system for transient use.	Class 1	Discontinue illegal occupancy.

II. In Addition to OSE Inspections, Defendants' Illegal and Hazardous Transient Rental Operation Is Also Evidenced in Subpoenaed Airbnb Records

60. In addition to repeated 311 complaints and OSE's findings of illegal conversion to transient occupancy, Defendants illegal and hazardous short-term rental operation is also confirmed through Airbnb records.

91. Airbnb records show that from January 2018 to March 2022, Latimer received more than \$2 million in payouts for illegal short-term rentals in the Subject Building and several other New York City buildings.

92. Latimer and his corporate entities created over 30 distinct Airbnb host accounts used to advertise 85 separate Airbnb listings, completed over 2,200 illegal short-term reservations, and deceived over 6,500 guests who stayed in the Subject Building.

93. Earlier host accounts created by Defendant Latimer in 2018 often used his real name (e.g., Airbnb Host ID No. 106746308, "Arron Latimer" and Airbnb Host ID No. 69191994, "Arron Latimer").

94. However, by 2020, Latimer began to move away from using his own name and solely used numerous fake accounts to post his illegal listings, with many accounts using stock photos from commercial and tourism websites to create his various host profiles—for example, a host account named “Lucy” utilized photographs from the St. Lawrence County Tourism website and a host account named “Maria” utilized photographs from an artist named Hojati.

95. Thus, Latimer purposefully misled and endangered consumers through the use of fake profiles and listings that made no mention of the illegality or hazards of the transient stays Latimer advertised.

96. Guest reviews reflect Latimer’s misleading business practices; guests complained of robotic or automated communications and the physical conditions of the apartments—guests described the location as “astonishingly dirty” with complaints of mold, soiled linens, and blood stains.

97. Other guests warned that future visitors should “be aware that the address or listing is different than the actual location” posing a significant concern for travelers unfamiliar with the city, and reviews revealed that some guests felt as though they were communicating with a robot or third-party agency as indicated by autogenerated responses to inquiries.

FIRST CAUSE OF ACTION
DECEPTIVE TRADE PRACTICES

98. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

99. A merchant impliedly represents that the products and services which she or he advertises and sells are both legal and safe.

100. Moreover, the CPL, Admin. Code § 20-700, et seq., provides that “[n]o person shall engage in any deceptive or unconscionable trade practice in the sale, lease, rental or loan or

in the offering for sale, lease, rental, or loan of any consumer goods or services, or in the collection of consumer debts.” Admin. Code § 20-700.

101. Admin. Code § 20-701 defines a deceptive trade practice as:

Any false, falsely disparaging, or misleading oral, written, digital, or electronic statement, visual description or other representation or omission of any kind made in connection with the sale, lease, rental, or loan or in connection with the offering for sale, lease, rental, or loan of consumer goods or services . . . which has the capacity, tendency or effect of directly or indirectly deceiving or misleading consumers. Deceptive trade practices include but are not limited to: ... (2) the use, in any representation, of exaggeration, innuendo or ambiguity as to a material fact, if such use of, or failure to state, a material fact deceives or tends to deceive.

102. Defendants have breached their implied warranty and committed deceptive trade practices by offering and advertising illegal transient occupancy in permanent residential buildings.

103. Defendants’ written statements and advertisements inducing tourists and other visitors to New York City to book accommodations in Class “A” multiple dwellings for stays of less than 30 days, such rentals being illegal and unsafe, have by false representations and omissions of material fact misled or deceived or tended to mislead and deceive consumers as to the use and condition of those accommodations. Defendants have thereby committed deceptive trade practices in violation of § 20-700 of the Consumer Protection Law.

SECOND CAUSE OF ACTION
ADVERTISING OF ILLEGAL OCCUPANCIES IN MULTIPLE DWELLINGS
IN VIOLATION OF THE ADVERTISING ACT

104. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

105. MDL § 121(1) and Admin. Code § 27-287.1(1) (collectively, the “Advertising Act”) prohibit advertising a Class A multiple dwelling unit for other than permanent residence use:

It shall be unlawful to advertise occupancy or use of dwelling units in a class A multiple dwelling for occupancy that would violate subdivision eight of section four of the multiple dwelling law defining a "class A" multiple dwelling as a multiple dwelling that is occupied for permanent residence purposes.

106. Subdivision eight of section four of the multiple dwelling law, MDL § (4)(8)(a), provides that “A class A multiple dwelling shall only be used for permanent residence purposes,” the term “permanent residence purposes” being defined by the statute to “consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more....”

107. MDL § 121(2) and Admin. Code § 27-287.1(2) impose a penalty of \$1,000 for the first violation of Admin. Code § 27-287.1(1), \$5,000 for the second violation, and \$7,500 for the third and subsequent violations:

108. MDL § 121(3) and Admin. Code §27-287.1(3) define the word “advertise” as follows:

For the purposes of this section, the term “advertise” shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media including, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.

109. MDL § 121(4) and Admin. Code §27-287.1(2) authorize the Mayor’s Office of Special Enforcement to enforce Admin. Code §27-287.1.

110. The Subject Building’s C of O authorizes only permanent occupancy of 30 days or more.

111. Defendants created or maintained nearly 80 separate Airbnb listings advertising the unlawful short-term occupancy of the Subject Building resulting in over 2,200 Airbnb reservations in violation of the Advertising Act.

THRID CAUSE OF ACTION
STATUTORY PUBLIC NUISANCE – BUILDING CODE VIOLATIONS
ILLEGAL CONVERSION FROM RESIDENTIAL USE TO TRANSIENT OCCUPANCY

112. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

113. In 1977, the City Council enacted the Nuisance Abatement Law (codified as amended as Admin. Code § 7-701 et seq.), finding that:

Public nuisances exist in the City of New York in the operation of certain commercial establishments and the use or alteration of property in flagrant violation of the building code, zoning resolution, ... multiple dwelling law ... all of which interfere with the interest of the public in the quality of life and total community environment, the tone of commerce in the city, property values and the public health, safety, and welfare; the council further finds that the continued occurrence of such activities and violations is detrimental to the health, safety, and welfare of the people of the city of New York ...

Admin. Code § 7-701.

114. Under Admin. Code § 7-703(d), any premises that is in violation of Admin. Code § 28-210.3 is deemed to be a public nuisance.

115. Admin. Code § 28-210.3, in turn, states that:

It shall be unlawful for any person or entity who owns or occupies a multiple dwelling or dwelling unit classified for permanent residence purposes to use or occupy, offer or permit the use or occupancy or to convert for use or occupancy such multiple dwelling or dwelling unit for other than permanent residence purposes. For the purposes of this section a conversion in use of a dwelling unit may occur irrespective of whether any physical changes have been made to such dwelling unit.

116. As alleged above, the City has determined that Defendants have converted permanent residential dwelling units in the Subject Building for another use, specifically, for illegal transient use – less than 30-day occupancy.

117. Notwithstanding the NOV's/Summonses issued to Defendants providing them with notice of the illegality of the transient occupancies, some of which Defendants acknowledged and paid penalties for, Defendants continue to illegally operate and manage the Subject Building for such unlawful occupancies.

118. Pursuant to Admin. Code §§ 7-706(a) and 7-714, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining such public nuisances.

119. Defendants have intentionally conducted, maintained or permitted the public nuisance alleged in this cause of action.

120. Pursuant to Admin. Code § 7-706(h), the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy, and further ordering that they pay a separate penalty of \$1,000 for each day that Defendants intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

FOURTH CAUSE OF ACTION
STATUTORY PUBLIC NUISANCE – BUILDING CODE VIOLATIONS
ILLEGAL OCCUPANCY

121. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

122. Under Admin. Code § 7-703(d), any premises that is in violation of Admin. Code § 28-118.3.2 is deemed to be a public nuisance.

123. Admin. Code § 28-118.3.2 provides that no change in use or occupancy inconsistent with the last-issued certificate of occupancy shall be made unless and until a new certificate of occupancy is first obtained from DOB authorizing such change.

124. As summarized above, the City has determined that there has been a change in use or occupancy at the Subject Building that is inconsistent with the last-issued certificate of occupancy or otherwise applicable DOB record, and that Defendants have altered such use and occupancy in the Subject Building without first obtaining a permit or new certificate of occupancy from DOB authorizing such change.

125. Pursuant to Admin. Code §§ 7-706(a) and 7-714, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining such public nuisances.

126. Defendants have intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

127. Pursuant to Admin. Code § 7-706(h), the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy, and further ordering that they pay a separate penalty of \$1,000 for each day that Defendants intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

FIFTH CAUSE OF ACTION
STATUTORY PUBLIC NUISANCE – BUILDING CODE VIOLATIONS
WORK WITHOUT PERMIT

128. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

129. Under Admin. Code § 7-703(d), any premises that is in violation of Admin. Code § 28-105.1 is deemed to be a public nuisance.

130. Admin. Code § 28-105.1 states that “[i]t shall be unlawful to construct, enlarge, alter ... or change the use or occupancy of any building ... unless and until a written permit therefore shall have been issued by the commissioner in accordance with the requirements of this code.”

131. Defendants altered the use and occupancy of the Subject Building from Class A permanent occupancy to Class B transient use and did so without approval or permit from DOB.

132. Pursuant to Admin. Code §§ 7-706(a) and 7-714, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining such public nuisances.

133. Defendants have intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

134. Pursuant to Admin. Code § 7-706(h), the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy, and further ordering that they pay a separate penalty of \$1,000 for

each day that Defendants intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

SIXTH CAUSE OF ACTION
STATUTORY PUBLIC NUISANCE – FAILURE TO MAINTAIN BUILDING IN CODE COMPLIANCE

135. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

136. Under the Nuisance Abatement Law, Admin. Code § 7-703(d), any premises that is in violation of Admin. Code § 28-301.1 is deemed to be a public nuisance.

137. Admin. Code § 28-301.1 requires that all buildings and all parts thereof be “maintained in a safe condition,” and that “[a]ll service equipment, means of egress, materials, devices, and safeguards that are required in a building by the provisions of this code, the 1968 building code or other applicable laws or rules, or that were required by law when the building was erected, altered, or repaired, shall be maintained in good working condition.”

138. At all relevant times of their inspections, the OSE Inspection Team observed conditions constituting a failure to maintain the Subject Building in a code-compliant condition.

139. Upon information and belief, those conditions continue unabated to date.

140. As a result of the foregoing, there exist public nuisances at the Subject Building.

141. Pursuant to Admin. Code §§ 7-706(a) and 7-714, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining such public nuisances.

142. Defendants have intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

143. Pursuant to Admin. Code § 7-706(h), the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy, and further ordering that they pay a separate penalty of \$1,000 for each day that Defendants intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

SEVENTH CAUSE OF ACTION
STATUTORY PUBLIC NUISANCE – CRIMINAL NUISANCE

144. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

145. Under Admin. Code § 7-703(l), any building, erection or place wherein there is occurring a criminal nuisance as defined in Penal Law § 240.45 is a public nuisance.

146. Pursuant to Penal Law § 240.45(1), a person has committed a criminal nuisance when, “[b]y conduct either unlawful in itself or unreasonable under all the circumstances, he knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of persons.”

147. Defendants have unreasonably and unlawfully created and maintained conditions which seriously endanger the life and safety of numerous persons, including both those who have booked transient accommodations at the Subject Building and other persons who lawfully reside around the Subject Building, in violation of their legal and permissible use and occupancy.

148. These violations were confirmed to be Class 1 (Immediately Hazardous) violations, including a lack of fire safety measures required to be provided for transient occupancies.

149. Additional fire safety violations have led to the issuance of at least one FDNY Violation Order.

150. The hazardous conditions at the Subject Building has continued uncorrected over a substantial period of time, notwithstanding NOV's and orders from the DOB Commissioner, and findings by OATH.

151. Defendants have intentionally and knowingly endangered the safety of a considerable number of persons.

152. As a result of the foregoing, there exists a public nuisance at the Subject Building.

153. Pursuant to Admin. Code §§ 7-706(a) and 7-714, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining such public nuisance.

154. Pursuant to Admin. Code § 7-706(h), the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy, and further ordering that they pay a separate penalty of \$1,000 for each day that Defendants intentionally conducted, maintained or permitted the public nuisances alleged in this cause of action.

EIGHTH CAUSE OF ACTION
VIOLATION OF THE MULTIPLE DWELLING LAW

155. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

156. MDL § (4)(8)(a) prohibits renting any unit in Class "A" multiple dwellings for less than 30 consecutive days.

157. The law provides that “[a] class A multiple dwelling shall only be used for permanent residence purposes,” the term “permanent residence purposes” being defined by the statute to “consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more ... ”

158. Notwithstanding the requirements of the MDL, Defendants have advertised, permitted, maintained and used, continue to advertise, permit, maintain, and use dwelling units at the Subject Building for transient occupancies of less than 30 consecutive days, in violation of the MDL.

159. Based on the OSE’s inspections of the Subject Building, at least seven of the eight apartments in the Subject Building are being illegally used and occupied.

160. Pursuant to MDL § 306, the City is entitled to judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying, or maintaining, managing, operating, or permitting the use or occupancy of any of the units in the Subject Building for transient use and occupancy as prohibited by the MDL, and further directing them to restore the Subject Building to use and occupancy as permanent residences, as required by the MDL for Class “A” multiple dwellings.

NINTH CAUSE OF ACTION
BUILDING CODE VIOLATIONS – ILLEGAL CHANGE OF OCCUPANCY

161. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

162. Admin. Code § 28-118.3.1 prohibits an alteration or change in the use or occupancy of any building unless and until a written permit has been issued by DOB in accordance with the

requirements of the Building Code, and a certificate of occupancy issued for the new use or occupancy.

163. Admin. Code § 28-101.5 defines “alteration” to be “[a]ny construction, addition, change of use or occupancy, or renovation to a building or structure in existence.”

164. Admin. Code § 28-118.3.2 provides that no change may be made in the occupancy or use of an existing building which is inconsistent with the last issued certificate of occupancy of such building or which would bring it under some special provision of the code or other applicable law or regulation.

165. Admin. Code § 28-118.3.4 provides that a building in existence prior to January 1, 1938, and legally used or occupied without a certificate of occupancy may continue to be so used only so long as there is no change in the existing use or occupancy.

166. Admin. Code § 28-118.3 provides that Admin. Code §§ 28-118.3.1 through 28-118.3.4 apply to all completed buildings.

167. The legally permissible residential use and occupancy of the Subject Building is for permanent residential occupancy.

168. Defendants have changed, or permitted to be changed, the use and occupancy of the Subject Building contrary to their legally permissible use and occupancy, having done so without first obtaining a certificate of occupancy for such changed use.

169. Thus, Defendants have permitted, directed and maintained the arrangement, use, and occupancy of the Subject Building in violation of their legally permissible use and occupancy.

170. Defendants are, therefore, in violation of Admin Code §§ 28-105.1, and 28-118.3.1 through 28-118.3.4.

171. Admin. Code §§ 28-205.1 and 28-202.1 provide that any person who shall violate any provision of the building laws, rules or regulations enforceable by DOB shall be subject to the payment of a civil penalty, to be recovered in a civil action brought in the name of the City in any court of record.

172. By reason of the foregoing, pursuant to Admin. Code § 28-205.1, the City is entitled to judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently enjoining them from using or occupying or permitting the use or occupancy of any of the units in the Subject Building for short-term, transient use or occupancy of less than thirty days, and further directing them to restore the Subject Building to the arrangement and occupancy permitted for it, and to comply with all other sections of the Building Code.

173. Defendants have violated Admin. Code §§ 28-105.1 and 28-118.3.1 through 28-118.3.4 at the Subject Building, all of which are enforceable by DOB.

174. Therefore, the City is entitled to a separate judgment against Defendants in the amount set forth in Admin. Code § 28-202.1 for each violation of the laws referenced above, which laws are enforceable by DOB.

TENTH CAUSE OF ACTION
COMMON LAW NUISANCE

175. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if fully set forth herein.

176. Defendants have advertised, operated, and maintained permanent residential units for short-term stays of less than 30 days, creating serious safety risks for the transient occupants of those units, significant security risks in buildings not equipped to handle the security problems associated with transient occupancy, and a degradation in the quality and comfort of the

surrounding residents and neighbors, created by noise, filth, and the excessive traffic of unknown and constantly changing individuals entering their places of abode.

177. The unlawful activities committed by Defendants and the unsafe building conditions allowed by Defendants are detrimental to the welfare, property, and safety of the citizens of the City of New York and the public at large.

178. They offend, interfere with and cause damage to the public in the exercise of rights common to all, in a manner which endangers the property, safety and well-being of a considerable number of persons.

179. Defendants are therefore maintaining a public nuisance as known at common law and in equity jurisprudence.

180. Unless restrained by order of this Court, Defendants will continue their illegal activities and will absorb the costs of any fines and penalties imposed upon them as routine operating expenses.

181. Meanwhile, the City will be forced to continue expending its limited resources in continued attempts to abate this harmful nuisance through administrative inspections, summonses, and violation orders.

182. Thus, the City is entitled to a judgment against Defendants, their agents, assigns, employees and all persons acting individually or in concert with them, permanently restraining the above described common law public nuisance going on unabated within the Subject Building.

183. Defendants have acted willfully, wantonly, and with a recklessness indicating an improper motive, and have engaged in intentional misconduct and recklessly and wantonly

disregarded the safety, welfare, and rights of others in permitting and maintaining the aforesaid common law public nuisance within the Subject Building.

184. Defendants have continued to engage in their illegal business, unabated.

185. Defendants actively permit rentals of permanent residence units to tourist and visitors to New York City for stays of less than 30 days, knowing that this constitutes an illegal occupancy.

186. Defendants have maintained this activity despite being put on notice by the City through the issuance of repeated violations by DOB, ordering that they immediately cease the transient occupancy violations.

187. The City is thus entitled to compensatory and punitive damages because of the knowing and ongoing common law nuisance created, maintained, and continued by Defendants.

WHEREFORE, Plaintiff, the City, demands judgment against Defendants as follows:

1. Declaring that Defendants and each of them had knowledge of the existence of the unlawful acts complained of herein, and failed to take reasonable measures to abate such unlawful activity;
2. Declaring that Defendants and each of them have managed, used, advertised, booked, and operated numerous dwelling units at the Subject Building for illegal transient use and occupancy though prohibited by State and local laws, and continue to manage, use, advertise, book, and operate the Subject Building in a manner as to constitute deceptive trade practices and a public nuisance;
3. With respect to the FIRST CAUSE OF ACTION, pursuant to Admin. Code § 20-703, an order:

- a. Permanently enjoining Defendants, their agents, employees or representatives, and every person or entity acting individually or in concert with them, from further violating the Consumer Protection Law and from committing the deceptive acts or practices alleged herein; and
- b. Imposing upon Defendants fines for each and every violation of the Consumer Protection Law⁷:
 - i. For violations up until January 23, 2022, in the amount of \$350 per violation and \$500 per “knowing” violation; and
 - ii. For violations on January 24, 2022 to such date Defendants take down their illegal listings, in the amount of \$2,500 per violation and \$3,500 per “knowing” violation under the new penalty structure imposed by Admin. Code § 20-703(d)(1)(i); and
- c. Compelling Defendants to pay in court all monies, property or other things, or proceeds thereof, received as a result of their violations of the Consumer Protection Law and directing that the amount of money or the property or other things recovered be paid into an account from which shall be paid over to any and all persons who purchased the goods or services during the period of violation such sum as was paid by them in a transaction involving the prohibited acts or practices, plus any costs incurred by such claimants in making and pursuing their complaints; and

⁷ On August 26, 2021, the City Council passed Local Law 98 of 2021, which amends the CPL, effective January 24, 2022. The amended CPL, among other things, increases the penalty amount per violation, from a range of \$50-\$350 per violation to \$350-\$2,500 per violation, with an increase in the amount for “knowing” violations from \$500 per violation to \$3,500 per violation. In this case, the City seeks the increased penalties provided by the amended CPL only for violations that occur on or after January 24, 2022.

4. With respect to the SECOND CAUSE OF ACTION, pursuant to § 27-287.1 of the Administrative Code and § 121 of the Multiple Dwelling Law, an order:
 - a. imposing upon Defendants penalties for each illegal advertisement in violation of the Advertising Act of One Thousand Dollars (\$1,000);
5. With respect to the THIRD, FOURTH, FIFTH, SIXTH, AND SEVENTH CAUSES OF ACTION, pursuant to Admin. Code §§ 7-706(a), 7-714, and 7-706(h):
 - a. Directing that the Subject Building shall be permanently and perpetually enjoined and restrained as a place in or upon which to conduct, maintain, advertise, or continue the public nuisances complained of herein by Defendants and by any other person or persons;
 - b. Permanently restraining Defendants, their agents, assigns, employees or representatives, and every person or entity acting individually or in concert with them from in any way permitting the Subject Building to be used, advertised, or occupied in any manner which violates the legally permitted use and occupancy for the premises; and
 - c. Directing Defendants and each of them to pay to the City a separate penalty of \$1,000 for each day that each of the Defendants intentionally conducted, maintained or permitted each public nuisance complained of in the THIRD CAUSE OF ACTION, and for each day that each of the Defendants intentionally conducted, maintained or permitted each public nuisance complained of in the FOURTH CAUSE OF ACTION, and for each day that each of the Defendants intentionally conducted, maintained or permitted each public nuisance complained of in the FIFTH CAUSE OF ACTION, and for each day that each of the Defendants intentionally conducted, maintained or

permitted each public nuisance complained of in the SIXTH CAUSE OF ACTION, and for each day that each of the Defendants intentionally conducted, maintained or permitted each public nuisance complained of in the SEVENTH CAUSE OF ACTION;

6. With respect to the EIGHTH CAUSE OF ACTION, pursuant to Multiple Dwelling Law § 306:
 - a. Permanently restraining Defendants, their agents, assigns, employees or representatives, and every person or entity acting individually or in concert with them from in any way permitting the Subject Building to be used, advertised, or occupied in any manner which violates the legal use and occupancy for the premises, as permitted by MDL § 4 or other State and City laws;
7. With respect to the NINTH CAUSE OF ACTION, pursuant to Admin. Code §§ 28-205.1 and 28-202.1:
 - a. Permanently restraining Defendants, their agents, assigns, employees or representatives, and every person or entity acting individually or in concert with them from in any way permitting the Subject Building to be used, advertised, or occupied in any manner which violates the legal use and occupancy for the premises, as permitted by the MDL and the Building Code, or which violates the provisions of the Building Code, which prohibit a change in the use or occupancy of a building without first having obtained a written permit from DOB and a certificate of occupancy authorizing a change in occupancy; and

- b. Directing that Defendants and each of them pay to the City the maximum penalty set forth in Admin. Code §§ 28-202.1 and 28-202.2 for each violation of the provisions of the building laws;
8. With respect to the TENTH CAUSE OF ACTION, pursuant to the common law doctrine of public nuisance:
 - a. Permanently enjoining Defendants, their agents, assigns, employees or representatives, and every person or entity acting individually or in concert with them, from conducting, maintaining or in any way permitting the common law public nuisance described herein; and
 - b. Awarding the City compensatory damages in an amount to be set by the court, and punitive damages in the amount of \$1,000,000 for the willful and wanton perpetuation of a common law public nuisance by Defendants;
9. Pursuant to Admin. Code § 7-714(g), allowing, in addition to the costs and disbursements allowed by the CPLR, the actual costs, expenses and disbursements of the City in investigating, bringing and maintaining this action, and directing that the City have execution therefor;
10. Taxing and allowing the costs and disbursements against Defendants and directing that the City have execution therefor; and
11. Granting to the City such other and further relief as the Court may deem just, proper and equitable.

Pursuant to section 130-1.1a of the Rules of the Chief Administrator, it is certified that, to the best of my knowledge, information and belief, formed after a reasonable inquiry under the

circumstances, that the presentation of the papers attached hereto and the contentions contained therein are not frivolous.

Dated: New York, New York
June 29, 2022

Hon. Sylvia Hinds-Radix
Corporation Counsel of the City of New York
Attorney for Plaintiff

By: 
Austin Hee

Special Assistant Corporation Counsel
Mayor's Office of Special Enforcement
22 Reade Street, 4th Floor
New York, NY 10007
Tel.: (212) 416-5266

VERIFICATION

SHERYL NEUFELD, an attorney admitted to practice before the courts of the State of New York, hereby affirms the following to be true, under the penalties of perjury pursuant to C.P.L.R. 2106:

I have been duly designated as Acting Corporation Counsel of the City of New York and, as such, I am an officer of the City of New York, a petitioner in the within action. I have read the foregoing petition and know the contents thereof; the same are true to my knowledge except as to those alleged on information and belief, and as to those matters I believe them to be true.

The reason why this verification is not made by the City of New York is that it is a corporation. My belief as to all matters not stated upon my knowledge is based upon information obtained from various departments of the city governments, from statements made to me by certain officers or agents of the City of New York, and from statements, affidavits or affirmations of other persons.

Dated: New York, New York
June 29, 2022



SHERYL NEUFELD, ESQ.

City v. ARRON LATIMER, IVYROCK EQUITIES LLC, ANNA TB LLC, DANI TB LLC, MICHAEL AND ERIN LLC, NADIA TB LLC, T BAE 4 BEE LLC, T BAY 3A LLC, TURTLE B 2 BE LLC, TURTLE BAE 1 BEE LLC, TURTLE BAY 2 AYY LLC, APEX EAST MANAGEMENT LLC, ESTHER YIP, THE LAND AND BUILDING KNOWN AS 344 E 51 STREET, BLOCK 1343, LOT 134, COUNTY, CITY AND STATE OF NEW YORK