

Top 2024 legal developments affecting New York's commercial real estate industry - by Thomas Kearns



Thomas Kearns

1. City of Yes. The city passed a large and complex revision to local codes to promote construction of new housing. The changes are significant - experts, municipal departments and developers will no doubt take many months to fully analyze the hundreds of pages of changes and how they impact on a particular parcel. Highlights of the changes include broadening the possible receiving sites for the sale of air rights from landmarked properties, increasing the permitted size of residential housing if af-

fordable housing is included, reducing or eliminating parking requirements in certain neighborhoods, and reducing some standards for the minimum distances between buildings.

2. LLC Transparency Laws. While the federal LLC transparency statute continues to be litigated, New York amended its own copycat statute in 2024. The New York filings are presently scheduled to start January 1, 2026, with a deadline of January 1, 2027, for entities formed prior to 2026. Both statutes require disclosure of the ownership and management of LLCs.

3. NAR Settlement. After an adverse anti-trust verdict in Missouri, the National Association of Realtors (NAR) settled with the plaintiffs. While many New York real estate brokers are not members of NAR, the settlement will affect the New York market since many national brokerage

companies have opted into the settlement. The settlement will require changes in the typical residential brokerage commission customs since listing brokers will no longer be able to require the seller to pay the commission for brokers hired by the buyer.

4. Good Cause Eviction. The free market rental housing market will be affected by 2024's Good Cause Eviction Law which now governs New York City and any other jurisdictions that opt in. Under this law, landlords can remove a tenant from a residential unit only if there is good cause even after the expiration of a lease. Examples of good cause are nuisance and illegal use of the premises. The law also imposes rent increase caps and notice requirements on landlords. Unreasonable rent increases are those that are above the inflation index or 10%, whichever

is lower, subject to adjustment for significant repairs. Exempt from the law are co-op's and condo's, seasonal rentals, and buildings with 10 units or less owned by small landlords or which are owner occupied.

5. Voting by Estates. Two recent decisions, one in Delaware (Gurney-Goldman v Goldman) and one in New York (Weinstein v Wallace), have raised doubts about the longstanding "pick your partner" principle in LLCs. Under that principle it was long thought that estates did not have voting rights after the death of an individual member in an LLC. The two decisions cast doubt on that understanding and hold that in the circumstances presented in the particular cases, the estates did in fact have certain voting rights.

Thomas Kearns is a partner with Olshan Frome Wolosky LLP, Manhattan, N.Y