

PCSE MONTHLY NEWSLETTER

December 2006

Vol. 1, No.4

**Center on Property, Citizenship, and Social Entrepreneurism
(PCSE) (“Peace”)**



*A CENTER FOR ADVANCED PROPERTY STUDIES
AT THE BURTON BLATT INSTITUTE (BBI)*

Jason Mintz, Esq., Editor

jemintz@law.syr.edu

Copyright Notice

All rights, including copyright, in the content of these PCSE pages is owned or controlled for these purposes by PCSE.

PCSE OVERVIEW

The Center on PCSE brings together experts from a variety of fields and institutions to discuss and explore issues related to modern Real Estate Transactions and Finance; Community Development and Housing; Global Property Law Systems; and Access to Ownership for Inclusion of the Elderly, the Poor, and Persons with Disabilities.

A core principle of PCSE is that a just and accessible property law system is the basis for both good citizenship and successful economic development. Therefore, PCSE engages a diverse group of people to work collaboratively in all areas of property law and theory; including real, personal, intangible, intellectual, and cultural property. In doing this it is understood that property, in all its forms, addresses the fundamental relationships between the state and its citizens, and among the people themselves. For this reason PCSE examines property in terms of its ability to foster democratic forms of governance, advance social justice, promote citizenship, build sustainable and supportive communities, and enhance the stewardship of our global environment and its natural resources.

This newsletter will be available each month at www.law.syr.edu/pcse.

NEWS, ANNOUNCEMENTS, and EVENTS

Join us at the AALS Conference in Washington, D.C. the first week of January. In particular, look for the Workshop on Katrina set for Wed. afternoon, Jan. 3. For more information on the AALS visit www.AALS.org



**Dean Pelton, v 77 Park Avenue
Condominium**

SUPREME COURT OF NEW YORK,
APPELLATE DIVISION, FIRST
DEPARTMENT

2006 N.Y. App. Div. LEXIS 13744

November 21, 2006, Decided

Plaintiff, a condo owner, and his wife, filed an action against the Board individually, the building, and its managing agent, alleging that defendants failed to make reasonable accommodations to allow him access to his apartment. The Supreme Court of New York County denied the Board's motion for summary judgment.

The plaintiff suffered from muscular dystrophy. He had sought to have his condo building made accessible. For the short-term, the Board proposed to install a portable wheelchair lift that could be operated by building personnel. For the long term, the Board proposed to install platform lifts to both elevators. The condo owner would not agree to either of these proposals.

In reversing the trial court, the appellate court stated that the plaintiff failed to show any of the three elements that would trigger judicial scrutiny of the Board's action. The trial court was reversed and the motion for summary judgment was granted in favor of the Board.



Photo of 77 Park Avenue where the price of a 1 bedroom apartment easily exceeds one million dollars



**Association of Community
Organizations for Reform Now v.
FEMA**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2006 U.S. Dist. LEXIS 86048

November 29, 2006, Decided

Plaintiff, a national community organization and some of its members who were hurricane evacuees, claimed that FEMA violated their due process rights by

denying them long-term housing benefits under §408 of the Stafford Disaster Relief and Emergency Assistance Act.

After Hurricane Katrina, plaintiffs received short-term housing benefits. FEMA attempted to transfer plaintiffs into long-term housing; however, when short-term benefits were terminated, thousands were left without any benefits.

Plaintiffs argued that FEMA did not provide them with sufficiently detailed explanations for the denial of their benefits. The letters that had been sent out by FEMA included non-individualized numeric codes that were useless without a separate guide.

The court held that the letters and guide were not adequate notice under the Fifth Amendment to terminate the plaintiffs' property rights in emergency housing. Since plaintiffs had a likelihood of success on the merits, preliminary injunctive relief was granted.



**Preston v. Tenet Healthsystem
Memorial Medical Center, Inc.**

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
LOUISIANA

2006 U.S. Dist. LEXIS 85381

November 21, 2006, Decided

This suit came out of the injuries and/or deaths of hospital patients in New Orleans in the aftermath of Hurricane Katrina. After the storm passed, conditions at Memorial Medical Center went downhill fast. The temperature

quickly rose over 100 degrees. According to reports, over 1000 people were trapped in the hospital. Approximately 35 people in the hospital passed away in the chaos that followed Hurricane Katrina.

Plaintiffs brought this claim against the hospital asserting negligence, “reverse patient dumping”, and involuntary euthanization. The court here found that it lacked subject matter jurisdiction to hear the case. It remanded the action to Civil District Court for Orleans Parish in the state of Louisiana.



Memorial Medical Center in New Orleans
(prior to Hurricane Katrina)

