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### **ADVOCATES FILE SUIT TO FORCE HOUSING AUTHORITY TO FIX ITS ELEVATORS**

*Attorneys working with Manhattan Borough President Scott Stringer bring class action lawsuit under Americans with Disabilities Act*

*Charge that inoperable elevators in NYCHA buildings leave thousands of disabled residents unable to live normal lives, vulnerable to medical emergencies*

(New York, NY - April 21, 2009) – Citing cases of disabled residents being confined to their apartments for days at a time, forced to hobble down multiple flights of stairs in a leg brace, or stuck for hours in wheelchairs in building lobbies, the New York Legal Assistance Group and the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP, working with Manhattan Borough President Scott M. Stringer, today announced the filing of a class action suit under the Americans with Disabilities Act (ADA) to force the New York City Housing Authority to repair and maintain its more than 3,300 elevators.

The lawsuit is being filed today in the United States Court for the Eastern District of New York.

The lawsuit, brought on behalf of thousands of NYCHA residents with serious mobility problems, challenges NYCHA's "widespread and systemic failure to maintain the elevators in its buildings in operable working condition."

The suit, which also accuses the Housing Authority of violating Section 504 of the Rehabilitation Act of 1973 and the New York State and New York City Human Rights laws by denying people with disabilities the full use of their homes, includes plaintiffs who use wheelchairs or walkers because of conditions including cerebral palsy, rheumatoid arthritis, complications from strokes, and chronic asthma.

Borough President Stringer, whose 2008 study of NYCHA elevators found that 75% had failed routine inspections over the previous five years, said, "The only things broken as frequently as Housing Authority elevators are promises from NYCHA that they're fixing this crisis. This is one of New York City's oldest and most shameful problems. The lawsuit brought by NYLAG and Paul Weiss will, I hope, put an end to this dangerous and unacceptable situation once and for all. No one in New York City should be living under these conditions."

"Every tenant of a high rise building prefers to ride in an elevator rather than walk up many flights of stairs. But for people with disabling mobility impairments, broken elevators are more than an inconvenience - they deprive residents of the full use and benefit of their homes. NYCHA's failure to maintain its elevators in



operable working condition violates the Americans with Disabilities Act's mandate that people with disabilities have equal access to benefits," said Jane Greengold Stevens, NYLAG's Director of Litigation.

"The stories of the lead plaintiffs in this lawsuit are merely representative of the hardships faced by many thousands of New Yorkers with disabilities who live in NYCHA housing. Those residents are rendered effectively homeless when they return home and find that the elevator in their building has failed, so that they cannot access their apartment for hours, if not days. At other times, they are trapped in their homes by malfunctioning elevators—a terrifying prospect to those who suffer from serious medical conditions that may require care at a moment's notice. This lawsuit seeks to remedy this fundamental violation of the rights of people with disabilities," said Andrew J. Ehrlich, a litigation partner at Paul, Weiss.

### **Elevators malfunctioning or inoperable**

The lawsuit cites numerous occasions when NYCHA buildings are completely without elevator service. The lawsuit also describes instances when these buildings have only one working elevator, leaving residents waiting in long lines to use the functioning car. Other frequent malfunctions cited include elevator doors without sensors, elevators which fail to stop at particular floors, or which stop above or below floor level, making entrance or exit difficult for residents who use wheelchairs or walkers. The lawsuit also alleges that residents often must wait hours or days for NYCHA to make repairs, and that the elevators typically break almost immediately after having been repaired.

Among the individual plaintiffs cited are NYCHA residents Phyllis Gonzalez and Wilma Brito:

Phyllis Gonzalez, a 61-year-old resident of Chelsea Houses who suffers from congestive heart disease, asthma, high blood pressure, diabetes and thyroid problems, lives on the 12th floor of a 21-story building and cannot because of her health problems walk up or down stairs. In February 2008 she suffered a respiratory attack at 3 a.m., and had to wait while her daughter ran down 12 flights of stairs to get the elevator, which at that time would only work if called from the building lobby. Due to this delay, Ms. Gonzalez collapsed before the elevator finally arrived and required emergency medical treatment.

According to the Borough President's report last fall, Chelsea Houses, where Ms. Gonzalez lives, had a failure rate of 92.9 per cent for elevator inspections in the previous five years. Indeed, both elevators in Ms. Gonzalez's building were broken simultaneously on two occasions in the last two weeks, making it impossible for residents with mobility impairments to reach their homes.

Wilma Brito is a 38 year-old resident of Carver Houses in East Harlem. As a result of cerebral palsy, Ms. Brito uses a wheelchair at all times and cannot walk up or down stairs. In March 2009, both elevators in Ms. Brito's building were broken simultaneously for three days, trapping Ms. Brito in her apartment. She missed a doctor's appointment and was forced to arrange for someone else to take her children to and from school. On another occasion when both elevators were broken simultaneously, Ms. Brito was stuck outside her building from 7pm to 2am. During that time, Ms. Brito's wheelchair batteries died, leaving her completely immobilized.



The Borough President's report found that nearly half of the elevator inspections at all buildings in Carver Houses in the previous five years resulted in an "unsatisfactory" rating, with some buildings failing inspections 60 per cent of the time.

### **Litigation background**

The New York City Housing Authority (NYCHA) operates more than 2,600 buildings in the five boroughs with a total of nearly 180,000 apartments. The lawsuit is the first citywide class action suit brought against the Housing Authority challenging the Authority's failure to adequately maintain its elevators, though there has been previous litigation about elevator operations in particular NYCHA developments.

NYLAG attorney Jane Greengold Stevens, with other legal services and Legal Aid attorneys, sued NYCHA in 1994 under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act in an effort to force the Authority to provide reasonable accommodations to mobility impaired tenants in their own apartments and the common areas of their buildings. That case was settled in 2000, with the Authority agreeing to modify apartments for tenants with mobility impairments who requested accommodations and to make nearly 5,000 apartments accessible for residents with mobility impairments.

The New York Legal Assistance Group (NYLAG), founded in 1990, is a not-for-profit law office providing free civil legal services to low-income New Yorkers. A full service agency, NYLAG provides consultation, representation, and advocacy. In 2008, NYLAG directly served more than 31,000 individuals and NYLAG's Special Litigation Unit (SLU) helped thousands of additional clients through successful impact litigation.

Paul, Weiss, Rifkind, Wharton & Garrison LLP is a New York-based international law firm of more than 500 lawyers with diverse backgrounds, personalities, ideas and interests who collaboratively provide innovative solutions to clients' most critical and complex legal and business challenges. The firm represents a varied range of clients, including some of the largest publicly and privately held corporations and financial institutions in the U.S. and abroad. Paul, Weiss is equally committed to representing those in need, and maintains a leading pro bono practice.

Borough President Stringer's report finding that three-quarters of NYCHA elevators failed inspection was released on September 26, 2008 after a painstaking process of determining the individual address of each Housing Authority building, including those covered by a different principal address for each project, and feeding each address through the computerized database of the City's Department of Buildings. Borough President Stringer criticized a "culture of neglect" at the Housing Authority that has made elevator operations a source of frustration and, in too many cases, a real danger for residents.

The suit asks the court for a permanent injunction ordering the Authority to (1) maintain its elevators in operable working condition by repairing, modernizing and where necessary replacing its elevators, and (2) provide accommodations for disabled residents while elevators are not working.