

THE ORSID

— DIGEST —

Q2 Newsletter

Insurance Special Edition

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Recording of 2024 Insurance Webinar

This webinar focused on the continuing challenges facing the insurance industry and what Orsid has done to try and stabilize the portfolio. The presentation covered relevant aspects of Property, General Liability, Directors & Officers Liability, and Umbrella/ Excess Liability insurance as they pertain to habitational real estate. The panel discussed evolving industry concerns relative to social inflation and adverse development. The webinar concluded with a discussion about risk mitigation strategies and the role of homeowners insurance, followed by a Q&A.

ORSID
— NEW YORK —

2024 Insurance Webinar

Wednesday, June 26 4-5pm

Hosted by Orsid's Executive Vice President & Director of Risk Management, Eric McPhee. Featuring panelists from IMA Financial Group, the Owens Group, and a Senior Representative from Greater New York Mutual Insurance Company.



[CLICK HERE TO VIEW THE RECORDING](#)

Insurance Renewals

One of the most challenging conversations Orsid's Account Executives have had with our boards has been around the unprecedented costs to procure adequate insurance coverage, specifically in the umbrella markets. New York City coops and condos typically carry (or are required to carry, by their mortgagee and governing documents) insurance with sufficient coverage limits to insure against routine and potentially catastrophic claims. As the Director of Orsid's Risk Management, Eric McPhee, oversees a team of dedicated insurance specialists who work together to place the majority of our clients into an insurance program covering over two hundred buildings annually. Because of Orsid's extensive footprint in the New York condo coop landscape, and well-established risk management program, our clients have historically enjoyed more favorable renewal premium rates that have outperformed the broader market industry rates. Most of our clients purchase primary coverages as part of a "Package" policy, which includes multiple coverages such as Property and Casualty (liability) insurance, among other types of coverage.

State of the NYC (New York City) Umbrella Market / Increases in Claims & Losses: Recently, Umbrella insurance policies have seen steep premium increases, regardless of whether or not a coop or condo has experienced significant losses. Over the last two years, our clients have had to grapple with reduced limits and annual premium increases that can sometimes far exceed budget expectations. Umbrella insurance is a supplementary insurance policy which is intended to cover losses that exceed the primary limits of the General Liability and Director's & Officer's Liability policies. Umbrella coverage was once one of the more affordable coverages offering high limits (\$100 Million or more). Today, this coverage is much harder to come by at any limit and the cost of obtaining this coverage for many buildings

has become a more material factor in the scheme of the overall insurance budget. Some coops and condos who have experienced claims or whose underwriting profile includes other risk factors have been dropped altogether (non-renewed) by insurance companies that write umbrella insurance policies.

These umbrella premium increases are largely due to the unique New York State Labor Laws that impose "strict liability" on property owners where an employee of a contractor or subcontractor is performing a protected activity at a property. Protected activities include construction and repair work. Injured workers may seek remedies, from property owners beyond the statutorily required Worker's Compensation for injuries sustained while engaged in a protected activity on the premises. In other words, the employee injury exposure for construction and repair activity transfers from the third-party contractor, whose liability policies often exclude these labor law claims, to the cooperatives and condominiums where the contractor is performing the work. Litigation of labor law claims in New York State has resulted in case law that has expanded the reach and value of these claims. As a result, insurance carriers have paid out billions of dollars in claims and costs causing a retraction in the marketplace where capacity is shrinking, and premiums are escalating at an unprecedented rate. This coverage is more elusive and expensive than ever before, particularly if a building is engaged in what could already be expensive construction mandated by law (i.e., Local Law 11 – exterior building façade repairs).

Other factors that are affecting this important coverage relate to the impact of COVID-19 court closures which has delayed the development of existing claims that would have otherwise been expected to resolve during that period. This is being amplified by litigation funding which has allowed many cases to linger and avoid settlement within the actuarial forecasts concerning both time and value metrics.

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Insurance Renewals

Risk Management: Despite these challenging market conditions, Eric McPhee and his team have been able to assist coops and condos through this turbulent period by doubling down on several important risk management strategies. Some of these measures include requiring contractors to carry adequate insurance and execute a comprehensive indemnity form before scheduling work in a building. The indemnity form transfers the risk of construction or repair activities back to the contractor or sub-contractor who was responsible for the injured employee. Orsid also requires most contractors to carry minimum limits of General Liability, Umbrella Liability, Worker's Compensation and other important coverages depending on the scope of work. Strict enforcement of these requirements helps to protect the building insurers from the substantial losses that can result from the very onerous NYS Labor Laws.

Earthquake Insurance: Prior to the earthquake on April 5, the epicenter of which was only 62 miles from New York City, earthquake insurance was largely under regarded by many. In 2017, Orsid was successful in getting the Property carriers who serviced the Orsid portfolio to offer earthquake limits as high as \$25 Million at a favorable premium. Many buildings took advantage of that offer. Larger buildings have achieved higher limits through the purchase of Difference in Conditions (DIC) policies. So far, carriers have not reduced earthquake limits due to the April 5 events. Whether these limits will be reduced in the future by property carriers remains to be seen. What is clearer than ever before is that the New York Metropolitan area does have the potential to be a seismically active area. Orsid believes earthquake is an important coverage that all buildings should continue to consider. Since the earthquake, there have been approximately two hundred aftershocks. Minutes after the April 5th

earthquake, our risk management department issued extensive guidelines to Orsid Account Executives and superintendents/resident managers to inspect gas and other utility infrastructure, mechanical systems such as elevators (including roof bulkhead structures, water tanks, tank enclosures, supporting dunnage, noting any new leaks or apparent (or suspected) damage. Special attention was paid to examining areas involving sidewalks above below-grade cavity spaces abutting public utilities, such as vaulted sidewalks or transportation systems. Supplementing the above were those clients with oil tanks, whether above or below grade, as sudden changes in oil storage levels could be indicative of a breach.

Eric McPhee and his team will continue to monitor the state of the insurance market procuring insurance that is both suitable and affordable for our clients.



Vetting Building Contractors & Vendors' Insurance

Ensuring the safety, financial stability, and compliance of our cooperative and condominium buildings is one of Orsid New York's top priorities. One critical aspect of this responsibility is vetting the insurance coverage and limits of all contractors working in the properties we manage. Here are several reasons why vetting contractors/vendors insurance is important.

Risk Management: Ensuring that contractors have appropriate insurance coverage mitigates financial risks associated with accidents, damages, or liabilities that may arise during construction projects, repairs, and/or service and maintenance projects. If a contractor lacks proper insurance, the insurer for the building and property management company may end up paying for the misdeeds of the contractor.

Contractual Risk Transfer: Contractual risk transfer by which a property owner transfers the risk of claims arising from the contractor's work on-premises to the contractor or subcontractor who are in the best position to control the risks related to the work being provided. The buildings' insurance carriers have risk transfer requirements for contractors being hired to work in the building. These requirements include an expectation that the contractors being hired have adequate insurance coverage limits and that the contractors/vendors' policies do not contain exclusions that would prevent the risk transfer from being successful. When the risk transfer fails, the building's insurance carrier gets stuck paying costly claims which could result in the building's insurance policy not being renewed and the building having to replace their insurance policies and significant exposure to higher premiums and deductibles. It could also result in disqualification from being able to purchase umbrella insurance coverage in the traditional markets.

Compliance with New York State Labor Laws: New York State has stringent labor laws. These laws impose strict liability on property owners and contractors for gravity-related injuries to workers. This means that if a worker falls or is injured due to a height-related hazard, the building could be held liable absent active negligence. Ensuring that contractors have adequate insurance coverage mitigates this risk and ensures compliance with these legal requirements.

Protecting Property Owners and Shareholders: Vetting insurance coverage protects the interests of property unit owners and shareholders. It provides assurance that any damage caused by the contractor will be covered, minimizing disruptions and financial burdens on the community, and building owners.

Indemnity Agreements: These agreements, absent another agreement, are a tool by which contractual risk transfer is achieved. If a claim arises from the contractor's operations, the indemnity agreement enables the property owner to hold the contractor responsible contractually by requiring the contractor (and its insurer) to defend, indemnify and hold the indemnified party harmless against those claims, including associated costs, thereby protecting the building and property management company from potential lawsuits and financial losses.

Professionalism and Reliability: Contractors who have the necessary insurance and are willing to sign indemnity agreements demonstrate professionalism and reliability. It indicates that they are serious about their business and committed to adhering to industry standards and regulations.

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Vetting Building Contractors & Vendors' Insurance continued

Orsid Account Executives were responsible for vetting the contractors/vendors' insurance prior to any work being performed on behalf of the building. Due to the complexities of vetting contractors' insurance policies which involves, among other things, collecting certificates of insurance, verifying the scope of coverage, checking policy limits, and obtaining indemnity agreements, Orsid New York has partnered with Business Credentialing Services (BCS), a third-party insurance credentialing company. BCS will work with each contractor/vendor and their insurance agent to help them meet the insurance requirements of the buildings' insurance carriers. BCS will collect and review the

contractors/vendors insurance documents, identify and correct compliance gaps, and track expiration dates and changes in compliance. This system will reduce the amount of paperwork and administrative effort that the vendor must deal with to comply with each building's insurance requirements, and will simplify the contractor/vendor qualification for each building. Once compliant, the contractor/vendor is qualified to work in all buildings managed by Orsid New York.

By diligently vetting building contractors' insurance coverage and limits, we safeguard our cooperatives and condominiums against economic loss, legal issues, and project delays. This due diligence is not just a best practice; it is a necessity in maintaining the financial stability and security of the buildings we manage.



Employee Spotlight: Meet the Risk Management Department

Sticking with the insurance and risk management theme of this whole newsletter, we are thrilled to shine the spotlight on yet another Orsid Team this quarter – our Risk Management department.

As seasoned property management professionals, we know that risk simply comes with the territory in this business. While claims cannot be avoided altogether, a solid risk management plan can certainly help to reduce the likeliness that a loss will occur, as well as minimizing the severity and financial impact should a loss occur.

Orsid has proudly had a Risk Management program since 2005. Today, the team is comprised of 3 amazing individuals:

- **Eric McPhee**, Executive Vice President & Director of Risk Management
- **Luciann Berrios**, Risk Management Associate
- **Shonda McGregor**, Insurance Coordinator

Eric McPhee has been with Orsid since April 1, 2005. Prior to joining Orsid, Eric was already a seasoned veteran of the insurance industry, as a Claims Manager and General Adjuster for a boutique insurance program manager that underwrote much of the Orsid portfolio. He advised Orsid over the course of several years on issues of Property and Casualty insurance

exposures such as toxic mold, water damage, legal liability, New York Labor Law, and construction and contractual liability claims, to name just a few. He also has experience in other critical areas of this industry like Directors & Officers liability exposures including breach of fiduciary duty, allegations of wrongful acts, such as discrimination and sexual harassment and the litigation that often ensues.

Eric’s extensive experience in the areas of claims investigations, litigation, loss prevention, hazard identification/elimination and management of habitational risks has been at the core of his efforts since he arrived at Orsid in 2005. From these skills we quickly set about developing and running our in-house Orsid Risk Management program. Eric’s level of experience is invaluable, and he has built a sincere and enduring level of trust with our clients, to which Eric attributes a major component of his job satisfaction.

Luciann Berrios has been with Orsid since June 1, 2021. When she first started, Luciann’s primary focus was supporting Eric on the insurance renewals for our buildings. Now that we have also added Shonda to the team, Luciann focuses mainly on BCS (Business Credentialing Services), which is a tool Orsid started using about a year ago to help us minimize risk even more by ensuring that vendors that work for our buildings have adequate insurance.

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Eric McPhee
 Executive Vice President &
 Director of Risk Management



Luciann Berrios
 Risk Management Associate



Shonda McGregor
 Insurance Coordinator

Meet the Risk Management Department continued

Shonda McGregor has been with Orsid since June 20, 2023. Her background was from the insurance agency side. Now, Shonda works with us and is enjoying gaining further insight into habitational risks from management's perspective. Shonda's primary focus is on maintaining our records and streamlining onboarding of the insurance component when we transition new buildings into our portfolio. She also works with our Account Executives and Administrative Assistants to get any insurance information they may need for underwriting purposes.

Making sure our buildings are adequately insured takes a great deal of background and behind-the-scenes work, particularly during the underwriting process. This process takes place over the course of several months for our entire portfolio of 200+ buildings. The amount of data needed per building is substantial in what can often be a very short turnaround time.

When asking the team what the core function of this department is, the answer was simple: being able to harness the power of our ever-growing portfolio and to manage risk factors across the portfolio. Our current portfolio of 200+ buildings performs better than the industry average because we place an emphasis on educating our clients and those tasked with the day-to-day management of the buildings. Over the years there has been much focus on industry best practices, claims management, contract administration considerations, risk transfer, loss mitigation, and developing solutions around emerging industry trends and evolving exposures. Creating an environment of heightened awareness provides benefits to Orsid and our clients. Our portfolio is desirable to the insurance markets and providers because it has performed well over a long period of time. Our program is uniquely successful, and we feel fortunate to have an experienced professional like Eric McPhee who sees himself as an advocate for our clients as he functions with their best interest in mind.

On June 26th, 2024, Eric discussed the insurance landscape and how we are coping with it in the year ahead at his annual "State of the Insurance Market" webinar. Eric was joined by Liz Heck of Greater New

York Mutual Insurance Company and a panel of outside professionals.

We truly take pride in managing risk the right way: educating our clients and minimizing exposure wherever possible. And this, all on its own, gives our clients an advantage in the marketplace that they may not even be aware of. For us to identify and stay ahead of trends and evolving exposures in the insurance market, we must remain vigilant. It is important to anticipate where and when we'll need to reinforce our program. And that is just what Eric, Luciann, and Shonda do day in and day out. Thank you, Orsid Risk Management Team!



Owner Risk Mitigation

Each day, coop and condo owners arrange for large deliveries and/or small repairs in their apartments without thinking there may be consequences if something were to go awry. For example, a reputable furniture store delivers a bed and as it is brought into the building, the wood panels in the elevator are scratched or the walls in the hallway are dented or marked. Or an appliance repair company visits an apartment and when the repairman does something that results in a claim (ex. fails to properly install a water supply line to the ice machine then the ice machine floods several units below. Or even more likely, a tradesman (i.e., painter or electrician) comes into an apartment for a small repair and falls off a ladder injuring himself. These are just two of the many scenarios that could have an adverse impact on the apartment owner as well as the coop or condo.

Insurance is necessary to cover any claim or loss for which the contractor/vendor may be responsible for. Orsid recommends that a brief memo be sent to apartment owners annually reminding them that vendors or delivery companies cannot be allowed into the building without the proper certificate of insurance (COI). The memorandum can include a sample COI which can be procured from the building Account Executive and then forwarded to the vendor. The COI is sent to the Account Executive in advance for review, approval, and verification of coverage. Many times, the COI from the vendor or contractor must be revised, so owners should not wait until the last minute to provide the COI, or the delivery or repair may need to be rescheduled.

The COI should include certain minimum coverages which your Account Executive can review with the board. Each COI must include the following:

- The correct name of the vendor or repair

company which should match the company who is providing the service.

- The coverage is in full force and effect during the period that the services will be offered.
- The COI must list the coop/condo organization, the managing agent, and the apartment owner as additional insured parties.

This may seem like a nuisance for a unit owner or shareholder, but with management approval, not only will the building be protected by such coverage, so will the apartment owner. With the amount of litigation in New York, this process will ensure that everyone has the appropriate coverage in place should any incidents occur.

Homeowner Insurance: While a significant part of this quarter’s newsletter is dedicated to the state of the insurance industry and contractor insurance, let us not forget about “homeowners insurance.” This important topic was covered in detail in our [First Quarter 2022 Newsletter](#).

When we refer to “homeowners insurance” in this article, we are not referring to the insurance that one would typically obtain for a single-family home, but rather the coverage shareholders and condominium unit owners should carry. This type of insurance is often referred to as “coop apartment insurance” or “condominium unit insurance.” It is this type of insurance an apartment owner should procure to protect against third-party liability and damages due to property damage or bodily injury.

A common misconception apartment purchasers make is when they buy coop or condo insurance and assume that their building’s own insurance policy (the master policy) will cover all interior apartment damages in the event of a claim. Neither a condominium or cooperative’s insurance policy will cover damages to your personal belongings or permanent installations (betterment and improvements)

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Owner Risk Mitigation

...that were installed by you or by a predecessor shareholder or unit owner during an apartment renovation. It is essential to read and understand the governing documents of the condominium or cooperative corporation, which delineate the rights and responsibilities of the unit owner/shareholder versus the condominium/cooperative in the event of a casualty loss.

A board can adopt a policy that requires the owners of apartments in condominiums and cooperatives to purchase and maintain insurance. Many boards have made homeowners insurance mandatory for every owner or shareholder. If a board considers establishing such a policy or revising an existing policy, it should start by consulting with your building's management professional who can advise the board about what current building requirements may exist, and whether a board should consult with the building's general counsel and insurance broker to understand how best to create and adopt a policy that will be enforceable. Many boards have adopted policies via the House Rules, while others have amended other governing documents to ensure the board's ability to enforce any new policy and achieve the desired result.

Individual coop and condo apartment insurance policies should include basic types of coverage for contents, surfaces and finishes (paint, wallcovering, floorcovering) and all other permanently installed betterments & improvements as well as personal liability. In addition, Orsid can provide specific recommended coverages for owners if requested by the board or owners. Boards are considering what personal liability limits are appropriate, and many have chosen to require a \$1,000,000 umbrella policy and, in some cases, more.

Vacant Apartment Inspections: With summer here and apartment owners traveling, some boards feel

it is important that arrangements are made with building staff to regularly inspect the unoccupied apartment. If an owner plans to be away for an extended period (generally two weeks or more), it is a good idea to have a staff member visit the apartment and inspect it. During this time, staff should also run all faucets, flush all toilets, and inspect under sinks and around washing machines for signs of puddling water. However, some boards do not feel comfortable allowing staff members into vacant apartments. Keeping drain traps blocked also eliminates a potential pathway for vermin to find their way into your home. Another option is to install water sensors by the toilets and sinks (and other "wet" areas) in the apartment which could be monitored remotely by the resident. Alternatively, some buildings have considered installing building wide monitoring systems in each apartment at the building's expense which would alert the super/resident manager. Damage can happen at any time and it's quite possible a concealed leak- perhaps from a pipe in the wall in a closet- may go undetected, even if the resident is at home.

As a shareholder in a cooperative or as a unit owner in a condominium apartment building, an apartment owner's exposure to financial loss may be greater than that of a single-family homeowner since vertical living can result in damage to several apartments and neighbors. Orsid highly recommends that all boards require:

- Homeowners (and renters) insurance
- Obtaining coverage for their property and liability exposures, including umbrella coverage, and to have unoccupied apartments monitored to ensure that there are no issues or leaks
- Require the appropriate COI when there are deliveries or minor repairs.



Legislative Updates

Good Cause Eviction: In April, the Good Cause Eviction law was enacted giving many unregulated “market rate” tenants significant protections. Landlords of homes covered by the new Good Cause Eviction requirements cannot end a tenancy without a “good cause” reason, including removal by non-renewal of a lease, and tenants can use this law as a defense in Housing Court. Tenants can also use the law to challenge rent increases above a certain level if they are evicted for nonpayment of rent. A rent increase is presumed unreasonable if it is above the inflation index or 10%, whichever is lower. For New York City, the inflation index is defined as 5% plus the annual percentage change in the consumer price index for all urban consumers for all items as published by the United States Bureau of Labor Statistics for New York-Newark-Jersey City. However, there are many exempted housing accommodations including, but not limited to, units on or within a building that is owned as a condominium or cooperative. There are new notice provisions of the law which apply to all initial and renewal leases in the city beginning in August.

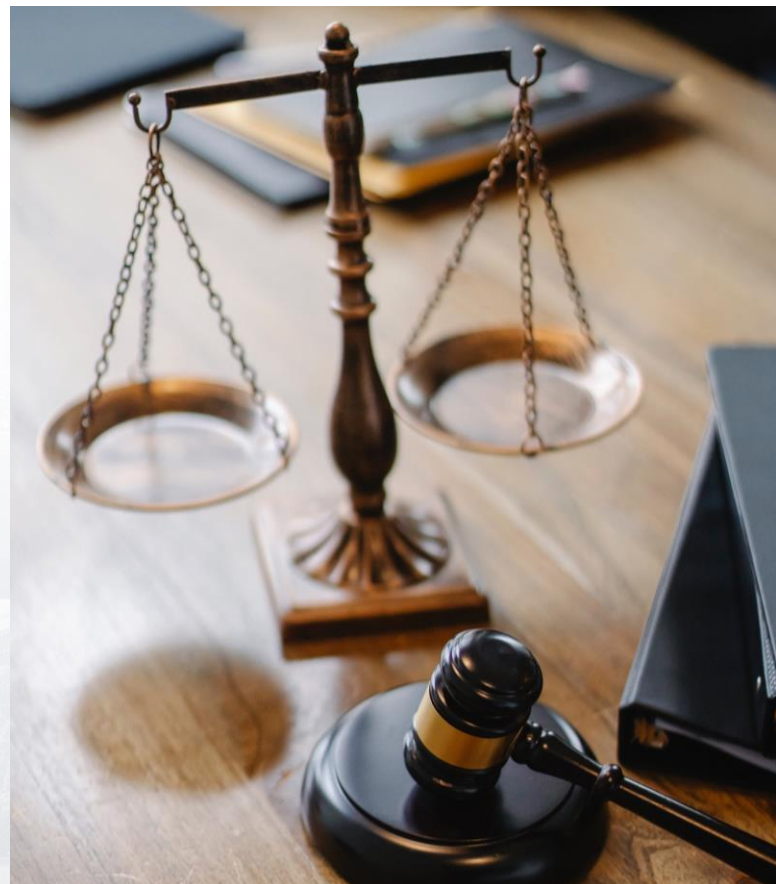
Smoke Detectors in Common Areas (S3249): This bill passed both houses and awaits the signature of the Governor. The law will require the installation of smoke detectors in common spaces, including but not limited to, lobbies, hallways and stairwells. The actual rules regarding the placement of the devices are forthcoming but we expect to comply with this new law in 2025.

Mandatory Composting: While some neighborhoods are already participating in the city’s composting program, it will be rolled out citywide in October 2024 and become mandatory in April 2025. Collection bins will be put out in common areas for the deposit of food scraps, food-soiled paper and yard waste. The city will collect compostables on the respective recycling collection dates for all buildings. We will be

circulating city flyers and bins for collection this fall for all properties. One piece of advice we have learned from those already participating is for residents to collect these materials in a container stored in your freezer until just before collection dates!

LL126 Garage Inspections: Previous editions of this newsletter described the different cycles for parking structure inspections in all NYC Boroughs based upon Community District # and the new **August 1, 2024 deadline** for initial inspection of structures that have not yet been inspected in the first cycle that ended December 31, 2023. New city laws (Int. [No. 170](#) and [231](#)) were passed doubling the applicable fines for any violations of the law and increasing the frequency of inspections after the first cycle to every four years. Further, the law now requires follow-up assessments to be conducted within two years after a parking structure is deemed safe with repair or monitoring.

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Legislative Updates continued...

There are two bills previously mentioned in this column that did not pass in Albany but are expected to come up again in the next legislative session...

Coop Ground Lease (S7825/A5031A): The bill would have limited ground rent increases in “Residential Ground Lease Cooperatives” (“RGCLs”) to the greater of 3% or the change in the Consumer Price Index (CPI). Secondly, the bill would have allowed RGCLs that are otherwise prohibited by their land leases to obtain mortgages to borrow for major capital and safety related projects. Thirdly, the bill would have given RGCLs the right to renew to avoid a landowner from simply refusing to renew which would effectively evict all RGCL shareholders. Finally, the bill would have given all RGCLs the right of first refusal any time a landowner chooses to sell. The

RGCL would have the right to buy the land at any price set by the market. Sponsors of the bill have committed to trying again in 2025.

The GREEN Buildings Act (S943A/A5050): The GREEN (Growing Resilient & Energy Efficient NY) Buildings Act sought to give homeowners financial resources needed to comply with the Climate Mobilization Act (“CMA”) and would have provided real estate tax abatements and exemptions for capital improvements made to reduce carbon emissions as a “carrot.” The law would significantly change the Return on Investment (ROI) for building retrofits which are largely unaffordable for many building owners including Cooperatives and Condominiums. With penalties beginning in 2025 for many buildings, there is significant pressure to make the required but expensive retrofits needed for compliance with the CMA more affordable.





Welcome to Orsid

We have welcomed the following buildings to the Orsid family:

378 West End Ave
378 West End Ave
New York, NY 10024

River Terrace Apartments Inc.
2621 Palisade Ave
Bronx, NY 10463

Lincoln Plaza Tenants Corp.
44 West 62nd Street
New York, NY 10023

49 West 12 Tenants Corp.
49 West 12th Street
New York, NY 10011

515 East 72nd Street Condominium
515 East 72nd Street
New York, NY 10021

Rocky Hill Tenants Corp.
47-21 215th Place
Queens, NY 11361

Phoenix Owners Corp.
160 East 65th Street
New York, NY 10065

Seward Park Housing Corporation
413 Grand Street
New York, NY 10002

In Q2 2024, we have welcomed the following new associates to the Orsid family:

Nancy Castellano, *Transfer & Closing Agent*

Adam Densky, *Senior Account Executive*

Jose Valdez, *On-Site Administrative Assistant*

Merima Mrzljak, *Associate Account Executive*

Carla Bianco Biagini, *Closing & Transfer Administrative Assistant*

Eric Celdo, *IT Support Analyst*

Raynier Perez, *Controller*

Anthony Colon, *Account Executive*

Barbara Berrisford, *Account Executive*

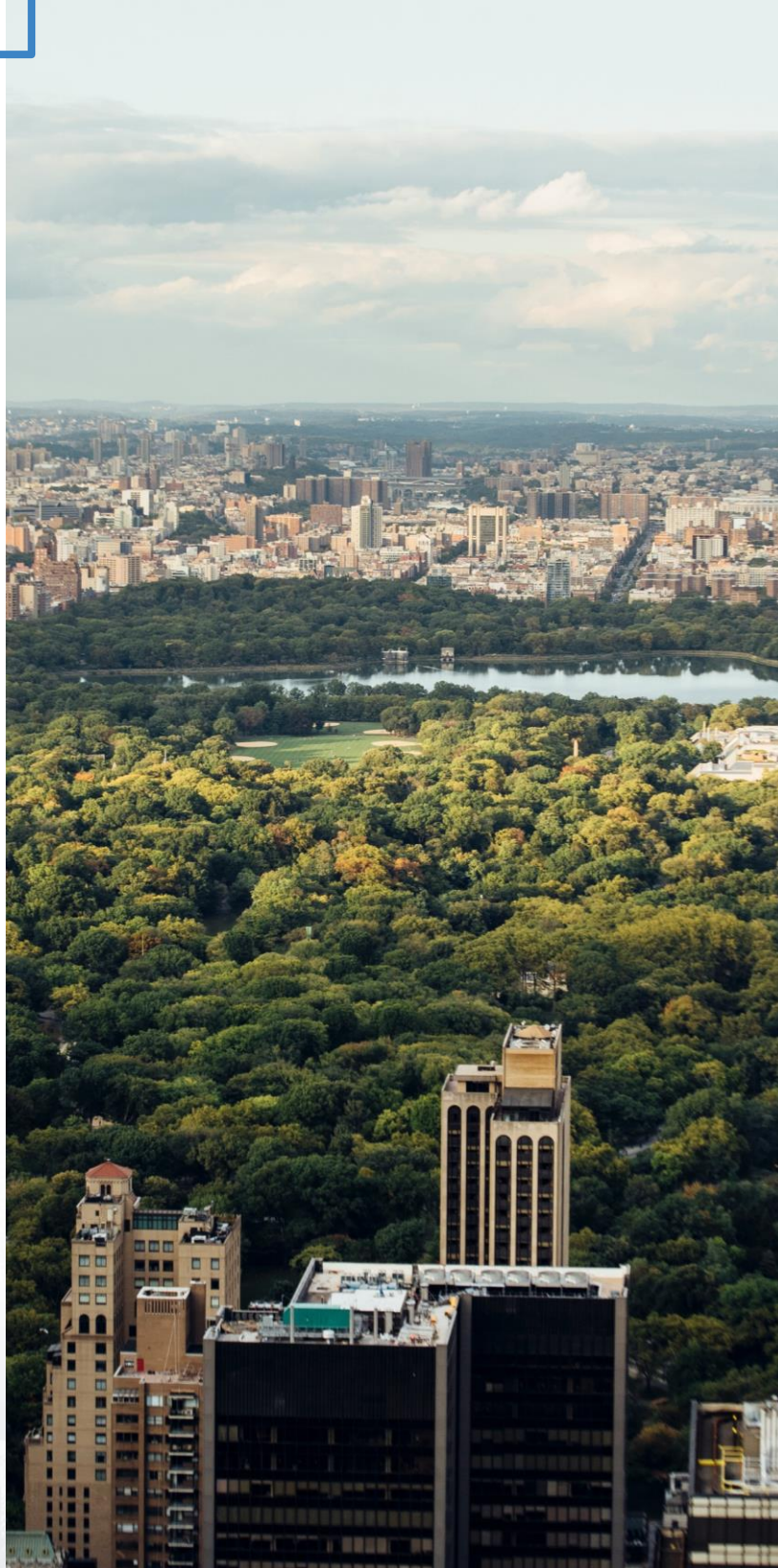
Mayumi Medrano, *Administrative Assistant*

Mavi Bengzon, *Alterations Coordinator*

Enriko Dodaj, *Bookkeeper & Accounts Receivable*

Stephanie Elkaim, *Housekeeping*

We hope you found this newsletter informative. If you have any questions or a story to share for a future edition, please email info@orsidny.com



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