

Hearing Date: January 15, 2026 at 10:00 a.m. (ET)

Objection Deadline: January 13, 2026 at 10:00 a.m. (ET) (by extension)

MORRISON & FOERSTER LLP

Doug Mannal
Raff Ferraioli
250 West 55th Street
New York, New York 10019-9601
Telephone: (212) 468-8000
Facsimile: (212) 468-7900
DMannal@mofo.com
RFerraioli@mofo.com

Co-Counsel for the Brooklyn Tenants, Parties in Interest

-and-

BROOKLYN LEGAL SERVICES

Kailyn Gaines
Parker Winship
1709 St. Marks Avenue, 2nd Floor
Brooklyn, NY 11233
Telephone: (718) 237-5500
KGaines@lsnyc.org
PWinship@lsnyc.org

Co-Counsel for the Brooklyn Tenants, Parties in Interest

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

BROADWAY REALTY I CO., LLC, *et al.*,¹

Case No. 25-11050 (DSJ)

Debtors.

(Jointly Administered)

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**LIMITED OBJECTION OF THE BROOKLYN
TENANTS TO THE PROPOSED SALE OF THE DEBTORS' ASSETS**

¹ The last four digits of Broadway Realty I Co., LLC's tax identification number are 5426. A complete list of the Debtors in these Chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.stretto.com/broadwayrealty>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 2 Grand Central Tower, 140 East 45th St, 12th Floor, New York, NY 10017.

The tenants listed on **Exhibit A** hereto (the “Brooklyn Tenants”), by and through their undersigned counsel, hereby file this limited objection (“Objection”) to the proposed sale (the “Sale”) of the Debtors’ assets as set forth in the *Motion of Debtors for Entry of an Order (I) Approving Bidding Procedures, (II) Authorizing Debtors to Offer Stalking Horse Bid Protections, (III) Approving Assumption and Assignment Procedures, and (IV) Granting Related Relief* [Docket No. 550] (the “Sale Motion”). In support of this Limited Objection, the Brooklyn Tenants respectfully represent as follows:

PRELIMINARY STATEMENT

1. The Brooklyn Tenants are comprised of 11 individuals lawfully residing in two rent-stabilized apartment buildings: (a) 1362 Ocean Ave., Brooklyn, NY 11230 and (b) 240 E. 18th St., Brooklyn, NY 11226 (collectively, the “Buildings”), which are owned by Debtors 1362 Ocean LLC and 18 Street Realty Co., LLC, respectively.

2. The Brooklyn Tenants do not oppose a sale of the Buildings or the Debtors’ other assets. However, the Brooklyn Tenants oppose the proposed Sale to Summit (as defined below) to the extent that the Sale Order (as defined below) does not expressly require the Debtors and/or Summit to comply with applicable housing, health, and safety laws, and timely address and remediate the condition of the apartments occupied by the Brooklyn Tenants. The Purchaser must also provide adequate assurance that it will be able to lawfully operate the Buildings and, unlike the Debtors, provide tenants with a safe and habitable living space. The Brooklyn Tenants also object to the Sale to the extent it purports to convey the Buildings “free and clear” of obligations arising under New York City’s Rent Stabilization Laws, Housing Maintenance Code, Construction Codes, and Health Code and New York State’s Multiple Dwelling Law and Real Property Law,

and other applicable police-power regulations, or to otherwise impair tenants' rights under applicable non-bankruptcy law.

3. The Buildings suffer from extensive and longstanding housing and building code violations, including conditions hazardous to health and safety. They require significant repairs to address structural and systemic defects that are the underlying causes of recurring code violations. The Brooklyn Tenants have been given no assurances by Summit or the Debtors that the Sale will not simply perpetuate unsafe housing conditions they face in violation of the landlord's obligations to them. Therefore, absent adequate assurance of future performance and clear and enforceable provisions in the Sale Order requiring Summit to assume responsibility for remediating these violations and maintaining lawful conditions post-closing, the Sale should not be approved.

BACKGROUND

I. Factual Background

4. The Brooklyn Tenants have faced a myriad of issues in their respective Buildings and units, which are described on the list of conditions attached hereto as **Exhibit B** and the Tenant Declarations attached hereto as **Exhibit C** (collectively, the "Tenant Declarations"). These issues include pervasive rodent and roach infestations, dangerous and frequently out-of-service elevators, mold, plumbing leaks, roof defects, insufficient electrical power and wiring in the individual units, insufficient heat, and non-functioning windows.

5. Despite the Brooklyn Tenants' repeated requests to the Buildings' managers to remedy the unfit conditions of the Buildings, the basic habitational issues described above and in Exhibit B largely remain unresolved.

6. Moreover, as of January 7, 2026, the Buildings suffer from numerous outstanding and longstanding housing code violations, including violations classified as hazardous and

immediately hazardous to health and safety. *See Exhibit D.* Many of these violations predate the commencement of these chapter 11 cases and remain outstanding as of the date hereof.

7. On January 7, 2026, the Brooklyn Tenants provided the Debtors with a list setting forth certain of the conditions in need of repair. An updated version of that list is attached hereto as Exhibit B. As of the date hereof, neither the Debtors nor Summit have committed to take steps to complete the necessary repairs and maintenance.

II. Procedural Background

8. On May 21, 2025, the Debtors commenced cases under chapter 11 of the Bankruptcy Code, and on May 22, 2025, the Court entered an order [Docket No. 3] directing joint administration of these cases. No trustee or examiner has been appointed in these cases.

9. On September 19, 2025, the Debtors filed the Sale Motion. The Sale Motion sought to establish, among other things, bidding procedures (the “Bidding Procedures”) for the sale of the Debtors’ assets, including the Tenant Leases and a timeline for the bidding and sale process.

10. On October 1, 2025, the Court entered the *Order (I) Approving Bidding Procedures, (II) Authorizing the Debtors to Offer Stalking Horse Bid Protections, (III) Approving Assumption and Assignment Procedures, and (IV) Granting Related Relief* [Docket No. 571] (the “Bidding Procedures Order”). The Bidding Procedures provide that “each Bid must provide for the assumption of . . . all existing tenant leases at the applicable Asset(s).” *See Bidding Procedures at 9.*

11. On December 22, 2025, the Debtors filed the *Notice of Filing of Schedule of Cure Amounts and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases* [Docket No. 914], which provides “[a]ny sale, transfer of ownership, or other Transaction for any of the Debtors’ properties will be done subject to the existing tenant leases, which means that all

existing tenant leases will be assumed and assigned to the Successful Bidder as part of the Transaction(s)."

12. Pursuant to the Bidding Procedures Order, the Debtors filed a notice on December 23, 2025 [Docket No. 916] (the "Stalking Horse Designation"), which designated Summit Gold, Inc. ("Summit," or the "Purchaser") as the stalking horse bidder with a bid to purchase substantially all of the Debtors' assets for approximately \$451 million (the "Stalking Horse Bid"). The Stalking Horse Designation made clear that "in accordance with the Bidding Procedures, the Stalking Horse Bid is seeking to assume all existing tenant leases."

13. On January 9, 2026, the Debtors filed the *Notice of Successful Bid and Identity of Successful Bidder* [Docket No. 946], designating Summit as the successful bidder and the Stalking Horse Bid the successful bid. Summit also provided a statement (the "Summit Statement"), noting that it "is well-capitalized and has received a sufficient financing commitment from the buildings' long-term lender." (emphasis omitted). The statement also provided that "Summit has sufficient resources and capital to honor and perform all obligations under the existing resident leases and comply with all regulatory obligations." As of the date hereof, the Debtors and Summit have provided no other assurances that they will perform under the Tenant Leases.

LIMITED OBJECTION

I. The Proposed Purchaser Must Provide Adequate Assurance of Future Performance

14. The Sale contemplates assumption and assignment of the Tenant Leases to Summit.² Section 365(b)(1)(C) of the Bankruptcy Code provides, in pertinent part, that if there is

² As defined in the *[Proposed] Order Confirming First Amended Chapter 11 Plan and Granting Related Relief* [Docket No. 916, Exh. J] (the "Sale Order"). For the avoidance of doubt, the definition of "Tenant Leases" must be clarified to include legal occupants with the statutory right to a tenancy, notwithstanding the presence of a written lease or other agreement.

a default under an executory contract or unexpired lease, a debtor may not assume such contract or lease unless the debtor . . . provides adequate assurance of future performance under such contract or lease.” 11 U.S.C. § 365(b)(1)(C). Moreover, “adequate assurance of future performance [is required] by the assignee” of an assumed lease “whether or not there has been a default.” 11 U.S.C. § 365(f)(2). Therefore, the Debtors must provide all necessary information establishing the winning bidder’s ability and intention to perform under the Tenant Leases.

15. It is well settled under New York law that “[l]andlords have a legal obligation to provide tenants with a safe and habitable living space, ensuring the property is structurally sound, has functioning plumbing and electricity, and is free from health hazards like mold or vermin.” *Wheeler v. D’Antonio*, 241 N.Y.S.3d 624, 625 (N.Y. City Ct. 2025).³ The obligation to provide tenants with safe and habitable living space “is a fundamental part of New York State Landlord Tenant Law and applies even if it is not explicitly written in a lease.” *Id.* For the avoidance of doubt, the obligation to provide tenants with safe and habitable living space and comply with applicable law is not extinguished upon the sale of the Buildings by the Debtors to Summit. *See In re Inwood Heights Housing Development Fund Corp.*, 2011 WL 3793324 at *7 (Bankr. S.D.N.Y. Aug. 25, 2011) (stating that restrictions put in place by the New York City Department of Housing

³ To that end, under section 235-b of the New York Real Property Law, a warranty is implied in every residential lease that the dwelling place is habitable and that no hazardous conditions exist on the premises. *See* N.Y. Real Prop. Law § 235-b(1) (“In every written or oral lease or rental agreement for residential premises the landlord or lessor shall be deemed to covenant and warrant that the premises so leased or rented and all areas used in connection therewith in common with other tenants or residents are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subjected to any conditions which would be dangerous, hazardous, or detrimental to their life, health, or safety.”); *see also Park West Management Corp v. Mitchell*, 47 N.Y.2d 316, 328 (NY Ct App. 1979) (“[A] residential lease is essentially a sale of shelter and necessarily encompasses those services which render the premises suitable for the purpose for which they are leased... a landlord is not required to ensure that the premises are in perfect or even aesthetically pleasing condition; he does warrant, however, that there are no conditions that materially affect the health and safety of the tenants.”).

Preservation and Development or similar governmental authorities are “deed restrictions [which are] restrictive covenants that run with the land”).

16. As set forth above and in Exhibit B, the Brooklyn Tenants have been experiencing a multitude of issues in both their respective units and the Buildings’ common areas. Additionally, the various letters submitted to this Court by tenants of other Debtor-owned buildings indicate that many of these issues are not unique to the Brooklyn Tenants—rather, they are a widespread problem across the Debtors’ residential buildings.⁴

17. As of the filing of this Objection, no evidence of adequate assurance has been provided that shows Summit is willing and able to lawfully operate the Buildings in compliance with applicable housing laws post-closing and ensure that the conditions that materially affect the health and safety of the Brooklyn Tenants are remediated. Indeed, the Brooklyn Tenants have not been provided any financial or other records that demonstrate Summit is financially capable of operating the Buildings in compliance with applicable law on a go-forward basis. Meanwhile, available public records indicate that comparable residential buildings in Summit’s existing portfolio had a high number of hazardous and immediately hazardous code violations per unit between November 2023 and October 2024.⁵

⁴ See Docket No. 806, Docket No. 807, Docket No. 808, Docket No. 810, Docket No. 811, Docket No. 812, Docket No. 813, Docket No. 819, Docket No. 824, Docket No. 913, Docket No. 920, Docket No. 927, Docket No. 928, Docket No. 929, Docket No. 932, Docket No. 933, Docket No. 941, Docket No. 943.

⁵ At least six residential buildings with property profiles at the website listed in the letterhead of the Summit Statement also appear on the Office of the New York City Public Advocate’s 2024 Worst Landlord Watchlist. See Office of the New York City Public Advocate, *Buildings on the 2024 Watchlist*, <https://www.landlordwatchlist.com/buildings> (last visited January 11, 2026). The addresses for the six buildings are: 900 Bronx Park South, Bronx, NY 10460; 1064 Ward Avenue, Bronx, NY 10472; 1818 Clay Avenue, Bronx, NY 10457; 2265 University Avenue, Bronx, NY 10468; 2390 Creston Avenue, Bronx, NY 10468; 3007 3 Avenue, Bronx, NY 10455. They were included on the Public Advocate’s 2024 Building Watchlist based on a calculation that factors the number of units in each building and the average number of hazardous and immediately hazardous Housing Maintenance Code violations open between November 2023 and October 2024. See Office of the New York City Public Advocate, *About the 2024 Watchlist*, <https://www.landlordwatchlist.com/about> (last visited January 11, 2026) (explaining building selection criteria and methodology for ranking worst landlords in New York City). Zohar Levy is registered with the New York City Department of Housing Preservation and Buildings as a “Shareholder” of all six of the buildings, indicating that he

18. Merely stating that “Summit has sufficient resources and capital to honor and perform all obligations under the existing resident leases and comply with all regulatory obligations,” and that “Summit’s objective is to invest in the buildings while preserving affordability and long-term housing for New Yorkers,” falls short of adequate assurance of future performance required by section 365 of the Bankruptcy Code. *See* Summit Statement. Instead, Summit must demonstrate, through reasonable assurances, its financial ability to operate the Buildings in compliance with applicable housing, health, and safety laws on a go-forward basis. *See Matter of U. L. Radio Corp.*, 19 B.R. 537, 543 (Bankr. S.D.N.Y. 1982) (noting adequate assurance of future performance entitles the counterpart to the full benefit of its bargain (quoting S. Rep. No. 989, 95th Cong., 2d Sess. 59 (1978); H.R. Rep. No. 595, 95th Cong., 2d Sess. 348 (1978) (“If the trustee is to assume a contract or lease, the court will have to insure that the trustee’s performance under the contract or lease gives the other contracting party the full benefit of his bargain.”)); *see also In re Giftcraft Ltd.*, 672 B.R. 173, 183 (Bankr. S.D.N.Y. 2025) (“What constitutes ‘adequate assurance’ is to be determined by factual conditions. The chief concern is the assignee’s ability to satisfy [its proposed] financial obligations.”) (internal citations omitted). The fact that hazardous conditions remain un-remediated as of the date hereof bears directly on what constitutes adequate assurance of future performance to operate the Buildings in compliance with applicable housing laws after the Sale closes. *See Androse Assocs. of Allaire, LLC v Great Atl. & Pac. Tea Co., Inc. (In re Great Atl. & Pac. Tea Co., Inc.)*, 472 B.R. 666, 674 (S.D.N.Y. 2012) (“The

owns a greater than 25% share of the corporate entities that own each building. *See* Administrative Code of the City of New York § 27-2098(a)(2) (“[i]f the owner of a multiple dwelling is a corporation, the [multiple dwelling registration] identification shall also include the names and addresses of any person whose share of ownership of the corporation exceeds twenty-five percent”). Zohar Levy is identified as the Chairman of the Board of Summit Properties USA in investor materials available at the website appearing in the letterhead of the Summit Statement. Summit Properties USA, *About Book*, https://cdn.prod.website-files.com/64f001cfb2907b8d87862bc7/6938ca7077a54400f6a484c1_2025-12-08%20Summit%20Properties%20-%20Corporate%20Book.pdf (last visited January 11, 2026).

term ‘adequate assurance of future performance’ is not statutorily defined, but courts have determined that ‘[w]hether ‘adequate assurance of future performance’ has been provided is determined by the facts and circumstances of each case.’” (quoting *In re M. Fine Lumber Co.*, 383 B.R. 565, 572 (Bankr. E.D.N.Y. 2008))).

19. In order to provide adequate assurance of future performance, the Sale Order must clarify that Summit will be responsible for all existing and future housing code violations impacting the Buildings, and shall timely cure such violations in accordance with both applicable law and a work plan, to be agreed upon by Summit and the Brooklyn Tenants. Additionally, Summit shall cooperate with New York City and any other party in its efforts to assess the physical needs of the Buildings.

II. The Sale Cannot Be “Free and Clear” of Legal and Regulatory Obligations and Claims Concerning the Health and Safety of the Brooklyn Tenants

20. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell property free and clear of any interest in such property of an entity other than the estate only if: (i) applicable nonbankruptcy law permits the sale of such property free and clear of such interest; (ii) such entity consents; (iii) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (iv) such interest is in bona fide dispute; or (v) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f). None of these conditions extinguish or alleviate the need to comply with legal and regulatory laws enacted to protect health and safety.

21. As set forth above, “[l]andlords have a legal obligation to provide tenants with a safe and habitable living space, ensuring the property is structurally sound, has functioning plumbing and electricity, and is free from health hazards like mold or vermin.” *Wheeler*, 241 N.Y.S.3d at 625. This obligation is not an “encumbrance,” and the Buildings cannot be sold free

and clear of the implied warranty of habitability. Moreover, obligations arising under New York City's Rent Stabilization Laws, Housing Maintenance Code, Construction Codes, and Health Code and New York State's Multiple Dwelling Law and Real Property Law, and other applicable housing laws are ongoing regulatory duties that attach to ownership and operation of the Buildings.

22. The Sale should not be approved to the extent that it purports to extinguish or dilute non-bankruptcy regulatory obligations or tenant rights, including tenant rights to raise defenses to purported rent arrears, claims, and counter-claims for breach of the warranty of habitability, and tenant-initiated Division of Housing and Community Renewal proceedings such as overcharge and rent reduction orders. The order approving the Sale must make clear that Summit assumes responsibility for compliance with all applicable housing and rent-regulatory laws so that it may not invoke the Sale Order as a defense to enforcement actions or tenant rights arising under non-bankruptcy law.

RESERVATION OF RIGHTS

23. ***Out-of-Pocket Expenses Incurred in Connection with Self-Help.*** Upon information and belief, certain of the Brooklyn Tenants have paid out-of-pocket to make necessary repairs to their apartments. The rights of any such individuals to seek reimbursement for such repairs should be expressly reserved and not impaired by approval of the Sale or entry of the Sale Order.

24. ***Additional Arguments.*** This Objection is without prejudice to, and the Brooklyn Tenants hereby fully reserve, the right to raise additional arguments in respect of the Sale, and any proposed assumption, assignment, or rejection of the Tenant Leases, as well as to supplement this Objection.

JOINDER

25. The Brooklyn Tenants joins in any other tenant's or tenant group's objection to the Sale or the Plan, to the extent such objections are not inconsistent with this Objection.

CONCLUSION

WHEREFORE, for all the foregoing reasons, the Brooklyn Tenants request that the Court modify the Proposed Sale Order to provide that:

- Summit shall work in good faith with the Brooklyn Tenants on a written work plan that shall be acceptable to both Summit and the Brooklyn Tenants that requires Summit to make all repairs identified in Exhibit B and required under the Tenant Leases and applicable law, that shall be delivered to housing court by the later of (a) 30 days following closing of the Sale, or (b) 30 days following delivery of a report containing New York City's conclusions of a "roof-to-cellar" inspection and assessment of system replacement needs. The Brooklyn Tenants and Summit agree that any dispute concerning the work plan shall be determined on an expedited basis. The Bankruptcy Court shall retain jurisdiction to enforce the Sale Order, including for failure to comply with the terms of this paragraph.
- Summit shall assume full responsibility for all existing and future housing code violations impacting the Buildings (whether issued or arising pre- or post-closing), and shall timely cure any such violations in accordance with applicable law;
- Summit shall cooperate and not interfere with New York City or any other party in its efforts to fully assess the physical needs at the Buildings, including the performance of a "roof-to-cellar" inspection or assessment of system replacement needs;
- Nothing in the Sale Order shall extinguish or dilute non-bankruptcy regulatory obligations or tenants' rights under applicable law, or prejudice the Brooklyn Tenants from continuing any pending, or otherwise commencing any, tenant-initiated action or raising any claims and defenses, including with respect to purported rent arrears and overcharges and claims and counter-claims for breach of the warranty of habitability; and
- Granting such other relief as the Court deems just.

Dated: January 13, 2026
New York, New York

Respectfully Submitted,

/s/ Doug Mannal
MORRISON & FOERSTER LLP
Doug Mannal
Raff Ferraioli
250 West 55th Street
New York, New York 10019-9601
Telephone: (212) 468-8000
Facsimile: (212) 468-7900
DMannal@mofo.com
RFerraioli@mofo.com

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Parker Winship

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CERTIFICATE OF SERVICE

I certify that on January 13, 2026, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of New York. Additionally, the foregoing document will be served by mail and via electronic mail, as applicable, as set forth in a forthcoming certificate of service.

/s/ *Doug Mannal*

Doug Mannal