

Harlem Homeowners Face Increasing Repairs As Lawsuit Drags On

By Brendan Krisel, Patch National Staff



Joshua S. Bauchner

Partner Joshua S. Bauchner tells *Patch* Reporter Brendan Krisel that his clients, residents of the PS 90 condos in Harlem, have spent more than \$1.5 million for repairs due to the developers' shoddy work.

Residents of the PS 90 condos have paid more than \$1.5 million for repairs they claim were needed because of shoddy work done by developers.

HARLEM, NY — It has been one-and-a-half years since owners of apartments at the PS 90 Condominium in Harlem filed a lawsuit claiming that building developers cut corners — leaving many first-time homeowners on the hook for costly repairs — but residents likely won't see financial relief any time soon, lawyers said.

Lawyers representing L+M Development Partners have begun taking steps toward a settlement with condo owners at the PS 90 development — located on West 148th Street between Frederick Douglass and Adam Clayton Powell boulevards — **residents' attorney Joshua Bauchner of Ansell Grimm & Aaron told Patch.**

It's positive news for residents of the building, but **Bauchner** estimated that settlement negotiations may not begin for at least another year. Then lawyers and residents will have to decide whether to accept or renegotiate a settlement, which could drag the lawsuit out even longer.

"If all goes well [the developers and contractors] pool their insurance and arrive at a settlement," **Bauchner** said. "So, things have improved a little bit because counsel for L+M was replaced by carrier counsel, and they are now doing what is standard in this kind of case. The flip side of this, however, is that it causes a lot of delay."

Bauchner noted that original, in-house counsel for L+M balked at the "standard procedure" often taken in similar cases by fighting the lawsuit for a year before making moves toward a settlement. "They're basically doing substandard work with the expectation that they'll saddle us with the costs, and we won't be able to put up a fight."

L+M Developers said in a statement that the firm is "proud of our more than three-decade track record of commitment to our residents and the communities we build in, and PS90 is no exception."

From the outset, we've been happy to sit down with the Condo Board to amicably resolve any repair disputes and to make any repairs that we're responsible for as the developer.

Instead, the Board's attorney opted to pursue litigation and, as this story reflects, make numerous inaccurate claims. We are confident that the court will rule in our favor."

As tenants wait for a settlement, problems at the building only grow more dire, condominium board finance chair Shaynee Rainbolt told Patch. The condo board has spent more than \$1.5 million on repairs to the building's deteriorating facade and roofs to fix leakage problems and more than \$500,000 on costs such as legal fees, project management and consultations with architects, according to the board's budgeting materials

"We're constantly finding new problems and dealing with new leaks and ultimately had to replace an entire roof beyond what we thought we would have to do," Rianbolt said. "We probably will have to replace all the roofs because they were installed improperly. It's a real hardship on the owners."

The building is currently surrounded by scaffolding because pieces of the facade have fallen off the building, Rainbolt said.

The PS 90 building is also home to the National Dance Institute, a nonprofit that provides dance education to undeserved New York City public school students. Construction defects have caused water damage to spaces used by the nonprofit, Rainbolt said. The wife of L+M Development CEO Ron Moelis, Kerry Sperling Moelis, sits on the nonprofit's board of directors as a vice chair.

"We're talking about a nonprofit institution that services community children. So, they can kind of turn a blind eye to the residents, the unit owners, but they're not turning a blind eye to this nonprofit focused on helping children," **Bauchner** said. "They're holding themselves out to be Santa Claus, and they're The Grinch."



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– *Joshua S. Bauchner, Partner*

The condo board at PS 90 sued L+M Development in June 2017 for \$6 million and claimed that the developer and its contractors conducted shoddy work in order to maximize profits, leaving buyers to foot the bill when the building deteriorated and broke down. Condo owners and L+M were previously engaged in a tolling agreement to make repairs, but L+M eventually dropped out of that agreement, Bauchner said.

L+M converted the former school building into a residential complex with 75 units, launching sales in 2009. The first tenants moved into the building in 2010, but the development was not 100 percent sold until 2012, according to a Real Deal report from that year.

The fact that it took 18 months to fully sell the building meant L+M didn't make a profit from sales, according to the Real Deal report. **The developer's struggle to make money off the project is likely related to their refusal to make and pay for repairs, Bauchner said.**