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June 29, 2021

Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals
For the Second Circuit
Thurgood Marshall United State Courthouse
40 Foley Square
New York, New York 10007

Re: *Elmsford Apt. Associates, LLC v. Cuomo; Docket No. 20-2565*

Dear Ms. Wolfe:

This firm is counsel for the Plaintiff-Appellants in this matter. We submit this post-argument letter in response to the letter of Linda Fang, Esq., Assistant Solicitor General, dated June 28. In her letter, Ms. Fang argued that the appeal was moot based upon Governor Cuomo's having rescinded all pandemic-related emergency Orders.

The rescision of those Orders does not change the posture of this appeal as it was during oral argument, at which time the eviction moratorium had already been lifted and only the security-deposit Order remained in place. Nonetheless, the Court recognized that all such restrictions and Orders could yet be reimposed as conditions warranted, especially if the number of infection cases was to spike. Given the identification of the recent, Delta Variant, the concern that Governor Cuomo might act again remains ever present.

Upon the above, and for the reasons stated by Appellants previously, we urge this Court to determine the appeal on its merits.

Respectfully,



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