

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

\_\_\_\_\_  
MATTHEW NORWOOD

Plaintiff

-against-

587 RIVERSIDE ASSOCIATES LLC  
PROPERTY MARKETS GROUP

Defendants

\_\_\_\_\_X

**SERVICE COPY**

Index No.  
017204 CVN 2005

**ANSWER**

Defendants 587 RIVERSIDE ASSOCIATES LLC and PROPERTY MARKETS GROUP  
(the "answering defendants") by its undersigned attorneys answer the complaint in the above  
captioned action and state as follows:

1. Deny the allegations set forth in the complaint.

**SEPARATE AFFIRMATIVE DEFENSES  
TO THE VERIFIED COMPLAINT**

**AS AND FOR A FIRST SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

2. The complaint and causes of action therein fail to state causes of action upon  
which relief can be granted in favor of the plaintiff and against the answering defendants.

**AS AND FOR A SECOND SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

3. The complaint and causes of action therein are barred by the very provisions of  
the subject lease.

**AS AND FOR A THIRD SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

4. The complaint and causes of action therein are barred by plaintiff's breach of the implied and express provisions of the lease, including but not limited to the conditions precedent and subsequent contained therein.

**AS AND FOR A FOURTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

5. The complaint and causes of action therein are barred against the answering defendants by the doctrines of waiver, estoppel and laches.

**AS AND FOR A FIFTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

6. The complaint and causes of action therein are barred against the answering defendants by the applicable provisions of the New York General Obligations Law and the Statute of Frauds.

**AS AND FOR A SIXTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

7. That at all relevant times referred to in the complaint, the answering defendants, agents and/or employees, were not guilty of any breach of legal duties, contractual or otherwise, or any violation of law that may or may not have existed towards the plaintiff.

**AS AND FOR A SEVENTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

8. Without admitting or conceding same, any damages loss or other injury alleged to have been sustained by the plaintiff, were due to acts, omissions and/or culpable conduct on the part of the plaintiff, and any such damages in whole or in part are as a result barred by the CPLR.

**AS AND FOR AN EIGHTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

9. Without admitting or conceding same, any damages, loss, or other injury alleged to have been sustained by the plaintiff, were in whole or in part due to plaintiff's failure to mitigate and take such reasonable steps which would have reduced, lessened, or eliminated such damages.

**AS AND FOR A NINTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

10. Without admitting or conceding same, any damages, loss or injury alleged to have been sustained by the plaintiff, were wholly caused and attributed to third persons and/or independent contractors over whom, and whose acts complained of, these defendants exercised no authority, control or supervision.

**AS AND FOR A TENTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

11. Without admitting or conceding same, any damages, loss or injury alleged to have been sustained by the plaintiff, were wholly caused and attributable to facts and conditions at all times referred to in the complaint over which these defendants had no authority, control or supervision.

**AS AND FOR AN ELEVENTH SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE ON BEHALF OF  
THE ANSWERING DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

12. At all relevant times complained of, the defendants acted in good faith, within its business judgment and with ordinary care and diligence, and at all times the acts of the defendants were lawful and in accordance with the terms of the lease.

**AS AND FOR A TWELFTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANT TO EACH OF THE CAUSES OF ACTION**

13. The court lacks jurisdiction of the within action and over the defendants herein for a lack and/or want of proper process and service upon these answering defendants.

**AS AND FOR A THIRTEENTH SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE ON BEHALF OF  
THE ANSWERING DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

14. Defendants have a defense founded upon documentary evidence.

**AS AND FOR A FOURTEENTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

15. The defendants are ready, willing and able and will take steps to correct any condition which constitutes a violation of the warranty of habitability promptly upon discovering it. Full correction may not be completed because of technical difficulties, an inability to obtain necessary materials and labor and/or a refusal of plaintiff to provide access.

**AS AND FOR A FIFTEENTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION**

16. "PROPRERTY MARKETS GROUP" is improperly named and included in the caption of this action.

**AS AND FOR A SIXTEENTH SEPARATE AND DISTINCT  
AFFIRMATIVE DEFENSE ON BEHALF OF THE ANSWERING  
DEFENDANTS TO EACH OF THE CAUSES OF ACTION AND  
FOR A FIRST COUNTERCLAIM**

17. Defendants repeat and re-allege each and every allegation contained in the above paragraphs with the same force and affect as though fully set forth at length herein.

18. That as a result of the foregoing, defendants have incurred thus far and will incur in the future costs, disbursements and attorneys' fees in defending this proceeding.

19. Defendants hereby demand that this court issue a judgment in its favor and against plaintiff in an amount reflecting the actual costs incurred by defendants for costs, disbursements and attorneys' fees in defending and prosecuting this proceeding in a sum determined by the court, but in no event less than \$5,000.00.

**WHEREFORE**, these answering defendants demand judgment:

1. Dismissing the complaint of the plaintiff against these answering defendants, with prejudice, together with costs, disbursements and reasonable attorneys' fees;
- 2 Awarding judgment in favor of the answering defendant and against plaintiff on the counterclaim; and
3. Awarding the answering defendants such other and further relief as this court deems just, proper and equitable in the circumstances.

Dated: New York, New York  
May 20, 2005

Yours, etc.,

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