

Edgar Filing: HOME PROPERTIES OF NEW YORK INC - Form 4

HOME PROPERTIES OF NEW YORK INC

Form 4

August 30, 2002

U.S. SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934,  
Section 17(a) of the Public Utility Holding Company Act of 1935 or  
Section 30(f) of the Investment Company Act of 1940

Check box if no longer subject to Section 16. Form 4 or Form 5 obligations  
may continue. See Instruction 1(b).

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1. Name and Address of Reporting Person\*

Gardner David P.

-----  
(Last) (First) (Middle)

105 Fiddlers Hollow

-----  
(Street)

Penfield New York 14526

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(City) (State) (Zip)

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2. Issuer Name and Ticker or Trading Symbol

Home Properties of New York, Inc. (HME)

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3. IRS Identification Number of Reporting Person, if an Entity (Voluntary)

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4. Statement for Month/Year

August 29, 2002 - See footnotes 3 and 5

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5. If Amendment, Date of Original (Month/Year)

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6. Relationship of Reporting Person to Issuer  
(Check all applicable)

Director  10% Owner  
 Officer (give title below)  Other (specify below)

Senior Vice President and Chief Financial Officer

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7. Individual or Joint/Group Filing (Check applicable line)

- Form filed by one Reporting Person  
 Form filed by more than one Reporting Person

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 Table I -- Non-Derivative Securities Acquired, Disposed of,  
 or Beneficially Owned  
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| 1.<br>Title of Security<br>(Instr. 3) | 2.<br>Transaction<br>Date<br>(mm/dd/yy) | 3.<br>Transaction<br>Code<br>(Instr. 8) |   | 4.<br>Securities Acquired (A) or<br>Disposed of (D)<br>(Instr. 3, 4 and 5) |                  |       |
|---------------------------------------|---|---|---|--|------------------|-------|
|                                       |   | Code                                    | V | Amount   | (A)<br>or<br>(D) | Price |

|                               |          |   |   |   |   |  |
|-------------------------------|----------|---|---|---|---|--|
| Common Stock, Par value \$.01 | 01/30/02 | G | V | 2 | A |  |
|-------------------------------|----------|---|---|---|---|--|

Common Stock, Par value \$.01

Common Stock, Par value \$.01

\* If the Form is filed by more than one Reporting Person, see Instruction 4(b)(v).

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

(Print or Type Response)

(Over)

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FORM 4 (continued)

Table II -- Derivative Securities Acquired, Disposed of, or Beneficially Owned  
(e.g., puts, calls, warrants, options, convertible securities)

| 1.<br>Title of<br>Derivative<br>Security<br>(Instr. 3) | 2.<br>Conver-<br>sion<br>or<br>Exer-<br>cise<br>Price<br>of<br>Deriv-<br>ative<br>Secur-<br>ity | 3.<br>Trans-<br>action<br>Date<br>(Month/<br>Day/<br>Year) | 4.<br>Trans-<br>action<br>Code<br>(Instr.<br>8)<br>-----<br>Code V | 5.<br>Number of<br>Derivative<br>Securities<br>Acquired (A)<br>or Disposed<br>of (D)<br>(Instr. 3,<br>4 and 5)<br>-----<br>(A) (D) | 6.<br>Date<br>Exercisable and<br>Expiration Date<br>(Month/Day/Year)<br>-----<br>Date Expira-<br>tion<br>Date | 7.<br>Title and Amount<br>of Underlying<br>Securities<br>(Instr. 3 and 4)<br>-----<br>Amount<br>or<br>Number<br>of<br>Shares |          |              |              |    |
|--|---|--|--|--|---|--|----------|--------------|--------------|----|
| Units of Limited Partnership                           | (2)   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$20.50   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$26.50   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$25.1250   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$27.1250   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$31.3750   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$30.15   | *  | *  | *  | *   | *  | *        | *            | *            | *  |
| Option to Purchase Common Stock                        | \$34.65   | 08/05/02   | A  | V  | 15,000  | 08/05/02   | 08/05/12 | Common Stock | 15,000       |    |
| Phantom Stock Unit                                     | 1-for-1   | (3)  | A  | V  | 24  | (3)  | (4)      | (4)          | Common Stock | 24 |

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Explanation of Responses:

\* Previously reported

(1) Jointly with spouse.

(2) Units of Limited Partnership interests in Home Properties of New York, L.P. a New York Limited Partnership of which the Issuer is the General Partner. The Reporting Person has the right to redeem the Units for cash. The Issuer may elect to acquire the Units to be redeemed for shares of Common Stock, at the rate of one Unit for one share of Common Stock or cash, at the option of the Issuer.

(3) Represents phantom stock units accrued to the Reporting Person's account pursuant to the Issuer's Deferred Bonus Plan from January 1, 2002 through August 29, 2002 at prices ranging from \$31.6197 to \$33.6346 per unit, including hypothetical shares accrued pursuant to the dividend reinvestment feature of the plan. The number is net of 222 phantom units the value of which was used to pay withholding tax on phantom units that settled earlier in 2002.

(4) The Reporting Person's account will be paid in the form of the Issuer's common stock on the 3rd, 5th or 10th anniversary of the deferral depending on the election of the Reporting Person.

(5) Please note that the disclosed items were not previously required to be disclosed on a current basis.

/s/ David P. Gardner by Ann M. McCormick attorney-in-fact August 30, 2002

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\*\*Signature of Reporting Person Date

\*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations.

See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, see Instruction 6 for procedure.

Alternatively, this form is permitted to be submitted to the Commission in electronic format at the option of the Reporting Person pursuant to Rule 101(b) (4) of Regulation S-T.

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POWER OF ATTORNEY

Know all by these presents, that the undersigned hereby constitutes and appoints each of Ann M. McCormick and David P. Gardner, signing singly, the undersigned's true and lawful attorney-in-fact to:

(1) execute for and on behalf of the undersigned, in the undersigned's capacity as a director of Home Properties of New York, Inc. (the "Company"), Forms 3, 4 and 5 in accordance

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with Section 16(a) of the Securities Exchange Act of 1934 and the rules thereunder;

- (2) do and perform any and all acts for and on behalf of the undersigned which may be necessary or desirable to complete and execute any such Form 3, 4 or 5 and timely file such form with the United States Securities and Exchange Commission, the New York Stock Exchange and the Company and any other required recipient; and
- (3) take any other action of any type whatsoever in connection with the foregoing which, in the opinion of such attorney-in-fact, may be of benefit to, in the best interest of, or legally required by, the undersigned, it being understood that the documents executed by such attorney-in-fact on behalf of the undersigned pursuant to this Power of Attorney shall be in such form and shall contain such terms and conditions as such attorney-in-fact may approve in such attorney-in-fact's discretion.

The undersigned hereby grants to each attorney-in-fact full power and authority to do and perform any and every act and thing whatsoever requisite, necessary or proper to be done in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as the undersigned might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that such attorney-in-fact, or such attorney-in-fact's substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted. The undersigned acknowledges that the foregoing attorneys-in-fact, in serving in such capacity at the request of the undersigned, are not assuming nor is the Company assuming, any of the undersigned's responsibilities to comply with Section 16 of the Securities Exchange Act of 1934.

This Power of Attorney shall remain in full force and effect until the undersigned is no longer required to file Forms 3, 4 and 5 with respect to the undersigned's holdings of and transaction in securities issued by the Company, unless earlier revoked by the undersigned in a signed writing delivered to the foregoing attorneys-in-fact.

IN WITNESS WHEREOF, the undersigned has caused this Power of Attorney to be executed as of this 20th day of August, 2002.

/s/ David P. Gardner

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Signature