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FOR IMMEDIATE RELEASE

For an Adult Home Resident Battling Injustice, a Small Triumph

***MFY Legal Services Secures a Monetary Award
in Unconscionable Contract Case***

NEW YORK, N.Y., March 5, 2012-After years of speaking out about injustices at her adult home, Ilona Spiegel is finally seeing justice in the form of a monetary award by the New York State Supreme Court. Justice Francois A. Rivera of the Kings County Supreme Court awarded Spiegel \$2,945 in damages because the adult home's contracts for air conditioning services with her were unconscionable. "Finally, justice has prevailed in a fight for my own needs and, hopefully, the needs of other residents living at the Garden of Eden. And me and my attorneys fought relentlessly," said Spiegel. Spiegel was represented by MFY Legal Services, Inc.

Spiegel is a resident of Garden of Eden Home for Adults, a residential facility that houses people with disabilities. She has severe breathing problems and, because of her medication, her body has a weakened ability to regulate its temperature. "I can't understand how anyone with breathing difficulties or taking medication that makes them susceptible to the heat could live in 90 degree weather with no relief," says Spiegel. For several years, in order to get air conditioning to help her breathe, Spiegel was charged \$1,000 per summer to cool her small room at Garden of Eden. "I tried to negotiate lower rates with the staff at Garden of Eden but they refused, even though my doctor advised that I must have air conditioning in my room. I had no choice but to fight the unreasonable fees the home was charging," Spiegel explained.

In March 2011, Spiegel won a default judgment against Garden of Eden declaring that her air conditioning contracts for 2003 through 2010 were unconscionable. A court may find a contract to be "unconscionable" and, therefore, unenforceable, when it contains grossly unreasonable terms, such as excessive prices, and where there was unequal bargaining power between the parties to the contract.

When Spiegel's attorneys tried to negotiate a new contract for the 2011 season, the home responded that it had not yet decided whether to provide any air conditioning services to residents in the future. When rising temperatures and humidity threatened Ms. Spiegel's health, her attorneys won an emergency motion to require the home to provide the air conditioning services it had offered for many years. "We were concerned that the home had retaliated against Ms. Spiegel for bringing the lawsuit; fortunately, we convinced the court that, regardless of the

motivation for withholding services, an order ensuring medically necessary air conditioning was warranted,” said Jota Borgmann of MFY Legal Services.

Last summer, an inquest was held to determine Spiegel’s damages on the air conditioning contracts. The court’s monetary award was based on its finding that \$50 per month would have been a reasonable rate to cool Spiegel’s room. The court did not credit the testimony presented by Garden of Eden, whose witnesses testified that energy costs were \$242 per month to run a window air conditioner and that there were \$755 in additional costs for installation, maintenance, removal and storage each year. Spiegel said she is not the only resident who has paid too much for air conditioning. “I asked other residents who were being overcharged to join in my efforts, but they were too frightened to get involved in a lawsuit.” Spiegel would like to use part of her award to buy an accordion so she can play music at social events.

Spiegel has complained in the past about mistreatment by her adult home. When there was a serious bed bug infestation in the home, she was forced to throw away most of her personal belongings, including gifts she had received and poems she had written. “I was told that, if I did not throw them away, I would be evicted and that an attorney had already been retained. They claimed that my personal belongings had contributed to the infestation, even though the home had had bed bugs for over a year.” Based on the complaints by Ms. Spiegel and other residents’ about harassment and retaliation, the New York State Department of Health has brought an enforcement proceeding against the home to remove its current administrator and to levy monetary penalties.

MFY provides free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform, and policy advocacy. MFY’s Adult Home Advocacy Project serves residents of adult homes throughout New York City, providing training on their rights and representing residents in individual matters and in affirmative litigation.