



**LEGAL  
SERVICES**

**INCORPORATED**

**TESTIMONY IN OPPOSITION TO**

**INT. NO. 1589: A LOCAL LAW TO AMEND THE NEW YORK CITY  
BUILDING CODE AND ADMINISTRATIVE CODE OF THE CITY OF NEW  
YORK, IN RELATION TO BOARDERS, LODGERS OR ROOMERS IN A  
PRIVATE DWELLING**

**PRESENTED BEFORE:**

**THE NEW YORK CITY COUNCIL'S  
COMMITTEE ON HOUSING AND BUILDINGS**

**PRESENTED BY:**

**MARTI WEITHMAN  
SUPERVISING ATTORNEY  
MFY LEGAL SERVICES, INC.**

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**MFY LEGAL SERVICES, INC.**, 100 William Street, New York, NY 10038  
212-417-3700 [www.mfy.org](http://www.mfy.org)

## **Introduction**

MFY Legal Services, Inc. (soon to be called Mobilization for Justice) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 20,000 New Yorkers each year. MFY's Housing Project provides advice and representation to thousands of tenants annually and is dedicated to preserving affordable housing in New York City.

MFY opposes Int. No. 1589 because it is not narrowly tailored to achieve its intended purpose, which MFY supports in theory. It is MFY's understanding that the intended purpose of the bill is to protect from enforcement of illegal short-term rentals the limited universe of small business bed and breakfast (B&B) owners in 1- and 2-family homes that are licensed with the City, affiliated with the State trade group StayNYC, pay taxes, have liability insurance, and purportedly comply with required fire and building requirements for accommodating transients. In actuality, Int. No. 1589 casts a much wider net by amending the definition of "family" to increase the number of boarders, roomers and lodgers from two to four for Class A multiple dwellings. MFY believes that increasing the number of boarders in Class A multiple dwellings creates broader issues of illegal short-term rentals that negatively impact the City's available housing stock, particularly the segment of rental housing that is available to New Yorkers who have no other option but to share an apartment.

## **Int. No. 1589 is an End-Run Around ULURP**

If the intended purpose of Int. No. 1589 is to protect B&Bs currently operating lawfully as small business owners – despite the absence of a classification for B&Bs – the City should utilize the Uniform Land Use Reform Procedure (ULURP), which is the appropriate process to achieve this intended purpose. Through ULURP, the City could create a lawful classification for B&Bs so there would no longer be confusion about 1- and 2-family homes that are licensed by the City and pay hotel taxes and thus should not be subjected to enforcement for illegal short-term rentals. Anything short of creating a lawful B&B classification is an end-run around ULURP and creates

unintended consequences for the larger housing market and New Yorkers in need of rental housing.

### **The Need for Shared Housing is a Critical Source of Housing for Many Poor and Low-Income New Yorkers**

Many poor and low-income New Yorkers who are evicted or priced out of their homes rely on the segment of housing that includes private rooms for rent. As more and more New Yorkers can no longer afford their homes due to increasing rents and stagnant or decreasing incomes, this available housing stock is more critical than ever. For example, fifty-five percent of all New York City renter households are considered rent burdened.<sup>1</sup> Twenty-five percent of these households are considered moderately rent burdened, which is defined as spending between thirty and fifty percent of the household's income on rent.<sup>2</sup> Another thirty percent of New York City households are considered severely rent burdened with rents exceeding fifty percent of their household income.<sup>3</sup> With stagnant incomes, any increase in rent could be the final increase that a household – particularly single adults – can afford before losing a home, and a roommate-type living arrangement is the only option.

MFY works with many aging tenants who have been priced out of their apartments and are not become the roommate of a leaseholder. This type of housing is also critical for people with disabilities who may not qualify for federal disability benefits and thus do not qualify for DRIE, and young people who are new to the City or have recently graduated from college and cannot afford an apartment on their own or may not have the credit necessary to obtain an apartment.

To provide some context of the impact of short-term rentals of private rooms listed on Airbnb, I refer you to data collected by Murray Cox, founder of Inside Airbnb, who will provide further detail in his testimony today. Mr. Cox's data reveal trends that the number of private rooms listed on Airbnb has increased from 11,116 to 19,806 over the last twenty-four month period. Of those listings, there were 6,051 multiple private room listings, meaning that one-third of private

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<sup>1</sup> New York University, *State of New York City's Housing and Neighborhoods in 2015*: 66.

<sup>2</sup> Id. at 66, 87, 109, 167.

<sup>3</sup> Id.

room listings are by hosts with multiple private rooms, 10,052 of which were rented frequently. This supports the real potential that increasing the number of permissible boarders from two to four could lead to increased numbers of private room listings and create incentive for hosts to do so.

### **The Negative Impact of Illegal Short-Term Rentals in Class A Residential Buildings**

When considering illegal occupancies in residential buildings, we focus mainly on the loss of entire homes or apartments because of the devastating impact it has on our affordable housing stock. However, there is also the portion of the available rental market that includes private rooms, which are not unlawful to rent under the Multiple Dwelling Law<sup>4</sup>, and are a necessary segment of the housing market for many New Yorkers, as mentioned above. There is concern that the passage of Int. No. 1589 in its current form – which permits increasing the number of allowable boarders from two to four in Class A multiple dwellings – would create increased incentives and opportunities for landlords and tenants alike to rent additional rooms in Class A apartments on a short-term basis and thus deprive many New Yorkers of this critical housing.

The potential loss of available private rooms for rent would only add to the negative impact that the conversion of residential units into transient short-term rentals continue to have by threatening the fabric of our communities and creating instability. The negative impact that illegal hotels have on New York City is well documented: a diminishment in the quality of life of permanent residents; threats to the safety and security of permanent residents and tourists alike; and, most troubling, the removal of desperately needed residential units from the rental market, further exacerbating our housing crisis. Illegal hotels have plagued New York City for well over a decade, and the problem has only worsened with the advent and rapid growth of online platforms, such as Airbnb, VRBO, HomeAway and others.

Most recently, the report *Short Changing New York City: The impact of Airbnb on New York City's housing market*, commissioned by MFY Legal Services and Housing Conservation

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<sup>4</sup> This activity is not unlawful if the leaseholder is present in the apartment during the short-term stay, however it may be in violation of the tenant's lease, a co-op or condo by-laws, or other laws that prohibit the commercialization of a rent regulated apartment.

Coordinators, examined the negative impact that Airbnb has on New York City's housing market. The report examined Airbnb booking data from calendar year 2015, which revealed striking findings. The key findings from the report focused primarily on the short-term rental of entire apartments/homes, which revealed the negative impact that Airbnb – the biggest of the short-term online platforms – has on the City's rental housing market:

- Over half of the 51,397 Airbnb listings in the City are unlawful.
- Over 90% of the listings were concentrated in the boroughs of Manhattan and Brooklyn.
- More than 55% of Airbnb's listings were for entire homes/apartments, which violates the New York State Multiple Dwelling Law.
- The 8,058 listings identified as "Impact Listings," if made available on the rental market, would increase the number of vacant rental units available citywide would increase by 10 percent and the vacancy rate would increase to 4 percent.
- There is a strong correlation between the geographic concentration of Airbnb listings and rapidly changing neighborhoods.
- There is an extremely strong correlation of 0.93 between Airbnb listings and the median asking rental price for residential rental units, indicating that the number of Impact Listings and asking prices are increasing at a similar rate over time.

Similarly, there are currently 18,919 private rooms listed on Airbnb.<sup>5</sup> These are potential rooms that could be available to New Yorkers who otherwise cannot afford an apartment alone and/or cannot meet the stringent credit checks required by landlords in today's market. The potential for increasing the number of boarders from two to four would only exacerbate this loss.

### **Recommendations**

In order to ensure that the intended purpose of Int. No. 1589 is achieved, MFY recommends that the City engage in ULURP to create a lawful classification of B&Bs in the zoning regulations and pass legislation to create a registration process for owners who seek to operate under this classification.

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<sup>5</sup> Inside Airbnb, available at: <http://insideairbnb.com/new-york-city/>.

## **Conclusion**

In conclusion, while MFY supports the purported intended purpose of Int. No. 1589, MFY opposes the bill in its current form as it has much broader application than intended. MFY respectfully submits that the intended purpose can only be accomplished through ULURP. While ULURP is admittedly a lengthier process than passage of a bill, it is the correct process and one that would not recklessly create a different unintended consequence – the reduction of a critical source of affordable housing for many poor and low-income New Yorkers and incentivization of unlawful short-term rentals while trying to rectify another.