



L E G A L

S E R V I C E S

I N C O R P O R A T E D

**TESTIMONY FOR A HEARING ON:
REGULATING HOME IMPROVEMENT WORK FOR
GREATER CONSUMER PROTECTION**

PRESENTED BEFORE:

**NEW YORK CITY COUNCIL'S
COMMITTEE ON CONSUMER AFFAIRS**

PRESENTED BY:

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I. Introduction

MFY envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for 50 years MFY has provided 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. We offer advice and representation to more than 8,000 New Yorkers each year.

MFY's Disaster Response Law Project was launched in the wake of Hurricane Sandy to address the legal needs of low-to-moderate income New Yorkers devastated by the storm. We provide advice and counsel and direct representation to clients impacted by Hurricane Sandy on a wide variety of legal issues including housing, foreclosure prevention, consumer protection, insurance, and federal and city disaster relief benefits programs. The Disaster Response Law Project is also working to identify systemic problems facing survivors of Hurricane Sandy and advocating for effective policy change to address those problems.

MFY supports the New York City Council's Consumer Protections and Home Repair Work bill (Int. No. 265) and we urge the Committee to bring the bill to the full body of the Council for passage into law. Our testimony today will highlight some of the problems our clients have experienced with home improvement contractors in the wake of Hurricane Sandy and offer some recommendations to further strengthen consumer protections and regulations for home improvement and repairs.

II. Home Improvement Contractor Fraud

MFY's clients face a diverse range of challenges as they work to rebuild their homes and lives post-Hurricane Sandy. One issue that continues to impact some of our clients is home improvement contractor fraud. When Hurricane Sandy hit, many honest and fair dealing home improvement contractors were on the ground immediately to assist homeowners in desperate need of repairs. At the same time, however, there were just as many unscrupulous home improvement contractors that preyed upon vulnerable homeowners, providing them with shoddy, incomplete home repairs or simply taking payments for work they never did. Our clients have lost hundreds of thousands of dollars to both licensed and unlicensed home improvement contractors.

Many times, our clients have entered into agreements with home improvement contractors that fail to provide written estimates or contracts. When written contracts are provided, they lack specific details regarding the work to be done, contain no information regarding the contractor's business address or the contractor's New York City Department of Consumer Affairs (DCA) license number, and fail to specify estimated start dates or completion dates for the project. Some contractors have demanded upfront payments in full before any services are completed; others have asked that the consumer consent to have any insurance or FEMA money sent directly to the contractor. Many contractors have refused to complete work as agreed, failed or refused to correct substandard work, recommended unnecessary parts or

services, demanded to be paid in cash only, and performed work without a valid license to do such work.

III. One client's experience

One of our clients, Ms. H. of Rockaway Park, Queens entered into a written contract with a licensed contractor to make significant repairs in her basement that was completely destroyed by Hurricane Sandy. She agreed to pay the contractor \$31,000 to make repairs that included sheet rock and insulation installation, repairing heating equipment, and building new frames for walls. The contractor agreed to complete "extra plumbing work" for an additional \$1,600, even though, Ms. H. would learn later the contractor did not have a plumbing license.

The written contract was defective because it failed to include the contractor's DCA license number, the complete address of the contractor, estimated dates of commencement or completion of the project, or a notice of cancellation clause as required by New York City law. The work that the contractor actually performed was just as deficient. The contractor incorrectly installed baseboard heaters and incorrectly installed the bathroom sink, shower, and toilet, leaving Ms. H. without a functional bathroom. The contractor incorrectly performed additional pipe work in an attempt to correct the installation of the baseboard heaters. To make matters worse, the contractor dumped waste in Ms. H's garden, creating a health and environmental hazard.

The contractor's substandard work violated multiple sections of the New York City Administrative Code and rules of the DCA. Ms. H. hired another contractor and spent an additional \$14,000 to fix the work that was supposed to be done by her initial contractor. Luckily, for Ms. H. we filed a complaint with the DCA and after commencing the administrative hearing process, we obtained a consent order to settle the complaint which required the contractor to pay Ms. H. \$8,000. The DCA consent order further required the contractor to meet specific requirements when entering into any future contracts for repair work and any breach of the DCA's demands would result in the contractor paying severe fines or getting his contractor's license revoked.

IV. Support for the amendment

MFY supports Int. 265 because it is a step in the right direction to strengthen consumer protections in home improvement, particularly for those homeowners impacted by Hurricane Sandy that remain in various stages of the rebuilding process. As written, this amendment would deter other licensed professionals not currently regulated by the DCA from taking advantage of consumers like Ms. H. This amendment would give consumers a right of action that they do not currently have within the New York City Department of Buildings, which regulates licensure of electricians and plumbers. Now, with this legislation, consumers will have a tribunal willing to hear their complaints against these professionals and have an opportunity to seek restitution without going through an arduous, lengthy court process.

V. Recommendations to further strengthen consumer protections

In New York City, in order to repair or improve a building, a contractor must be licensed by the DCA. Every DCA licensed contractor is assigned a seven-digit number. Consumers can call 311 or visit the DCA's website to determine whether a contractor has a valid license. Unfortunately, many consumers do not know that they should work with a licensed contractor and that they should ask the contractor for a license number before they agree to sign any contract. Consumers are also unaware that they have a right to file a complaint against the contractor with the DCA or that they can seek restitution, or settle their dispute through the administrative hearing process.

In our experience, the DCA has been generally effective in responding to consumer complaints against licensed contractors. Our clients that have filed complaints against licensed contractors with the DCA have received timely response letters from the agency and have progressed to the administrative hearing process.

We believe that it is just as imperative for the DCA to be responsive to complaints regarding unlicensed home improvement contractors. Unlicensed contractor activity is pervasive, and the DCA must take steps to ensure that those who do not comply with licensing and consumer protection laws are held accountable for their actions. We recommend that the DCA increase its investigations and undercover sting operations to locate and fine unlicensed contractors.

Whether a consumer is dealing with a licensed or unlicensed home improvement contractor it is important that consumers know their rights and know that there are procedures in place outside of the judicial system in which they can seek restitution. The DCA should improve its outreach and education regarding home improvements and repairs so that consumers can avoid being scammed. Outreach and education are particularly important in the wake of disasters like Hurricane Sandy. Given that so many survivors of Hurricane Sandy are still working to repair their homes on their own and through the City's Build It Back program, we recommend that the DCA initiate consumer education and marketing campaigns with ads on subways and bus stops in areas impacted by Sandy to encourage consumers to use licensed home improvement contractor's and refer these consumers to the DCA as a resource to utilize before hiring a home improvement contractor.

We also recommend that the DCA educate Disaster Case Managers (DCMs) that staff various charitable organizations throughout the city. The DCMs are trained, compassionate service providers who work very closely with disaster survivors and serve as a single point of contact to help them access resources and develop disaster recovery plans. Educating DCMs about home improvement contractor licensing, the DCA's resources, and ways to identify and avoid home improvement fraud could help to reduce the number of consumers that might fall victim to such fraud.

VI. Conclusion

We know that most home improvement contractors take pride in their work and deliver on their promises. However, it is the DCA's role to protect consumers against those opportunistic contractors who lack integrity and consistently violate the law. The DCA plays an important role in licensing, regulating and enforcing standards in the home improvement sector. Given the experiences of our clients, we support any efforts to strengthen consumer protections in home improvement and repairs. We support Int. 265 and we encourage further rulemaking that will strengthen consumer protections.

Thank you for the opportunity to testify today on this important issue.