



## A Tale of Two Tenants: MFY Challenges Upper West Side Landlords

*Welcome to the newest hotel/hostel to hit the Upper West Side. The Mount Royal . . . attracts a youthful, budget conscious clientele that enjoys the ambiance of tree lined streets in the midst of the big city . . . Safe and secure, the Mount Royal is . . . a great place to meet international travelers. [From hotel's web site]*

**S**afe for hip travelers but not for Henry (not his real name), a severely psychiatrically disabled 47-year-old who had lived in a tiny room at this Single Room Occupancy hotel for 23 years. Last February, the hotel's owner gave Henry \$2,000 to move out. Disoriented when he was not allowed back in the building, Henry wandered the streets. His mother, who had visited him every week to bring him food and help him clean his room, searched everywhere for him. In mid-April police found him and took him to a hospital. Henry's mother, sought help from MFY after another legal services organization declined the case, believing it could not be won.



*Single-Room Occupancy (SRO) housing, once a common feature in the city, has all but disappeared from gentrified Manhattan neighborhoods as landlords use increasingly unsavory methods to force out rent-stabilized tenants. When a tenant loses an SRO unit, the next stop is the street, a hospital, or a city shelter, as Henry's case shows.*

While Henry was recovering, MFY Staff Attorney Ryan Napoli filed an action to vacate the "surrender" in Supreme Court. After a full hearing, MFY won a preliminary injunction returning Henry to his room. The landlord denied access, stating that the room's new tenant had filed a lockout case. While Napoli continued the fight, filing motions and making several court appearances, Henry trudged around the Upper West Side, unmedicated, undernourished, and confused. He was in such bad shape that his doctor testified at trial that he was "dying on the street."

When the new tenant turned out to be a hotel employee who could not prove tenancy, the court ordered Henry reinstated. Undeterred by the court order, the landlord offered Henry's mother \$30,000 to take Henry away. She refused, and Henry finally moved back to his room. MFY filed a contempt motion against the landlord, which is currently pending. In all, Henry was homeless for 92 days and was hospitalized for 37 days, at an estimated Medicaid cost of \$25,900.

**U**nfortunately, the situation throughout Manhattan is desperate for low-income tenants, especially the elderly and disabled, who have managed to hold on to apartments in private buildings. Theresa Fox, an extern from Willkie Farr & Gallagher LLP, who has worked at MFY since June, defended John (not his real name), a disabled tenant in his mid-50s who, like Henry, was tricked out of the Upper West Side apartment he had lived in with his mother for 20 years.

After John's elderly mother moved to a supportive housing setting, the landlord claimed he had the right to raise the rent by thousands of dollars per month. John, whose disability and pension income is less than \$1000 a month, could not afford the new rent. The landlord offered John a "preferential rent" if he would move to a smaller studio apartment in the building. John unwittingly signed an agreement that kept his rent affordable for only a few months. When he later received a rent bill for \$1400 per month, John found himself in Housing Court for nonpayment of rent.

MFY intervened, filing a motion in Supreme Court to void the new lease that John had signed and to return him to his original apartment, and winning a stay of the Housing

*(continued on page 2)*

# Victory in 20-Year Battle to End Lead Poisoning

For the past 20 years, MFY Supervising Attorney Andy Goldberg has fought to get justice for children poisoned by lead paint and to force the city to enforce laws designed to prevent poisoning. On April 29, the New York Court of Appeals refused to hear the latest landlord challenge, allowing a tough lead paint law passed in 2004 to take effect.

The battle started back in 1985 when Andy worked for Bronx Legal Services and represented several families of lead poisoned children. When the families refused to settle, Andy filed *NYC Coalition to End Lead Poisoning v. Koch*, demanding that the city enforce a 1982 law that required landlords to remove lead paint.

MFY was lead counsel on the case when Andy Goldberg joined the staff in 1989, and remained involved until 1997, when federal regulations barred MFY's participation in class action suits. Other counsel continued the fight, and Andy worked on the case for five years as General Counsel of NYPIRG. Then, in 1999, after three



contempt citations, the mayor pushed a new law through the Council that shielded landlords from libability.

The Courts threw out that law in 2003, restoring the earlier act. Advocates then pressed for a new law, and in 2004 the Council overrode Mayor Bloomberg's veto and passed legislation that compels landlords to annually inspect apartments with young children, mandates time frames for removal and abatement, and requires safe work practices and properly trained workers.

During 20 years of litigation, the city remained under court order to enforce regulations, resulting in a dramatic decline in lead poisoning. With the door now closed on further challenges, advocates can press for more stringent enforcement to eliminate the poison that still remains in poorly maintained buildings in low-income areas.

MFY congratulates Andy Goldberg on his tenacity and expert lawyering in securing justice for New York City's most vulnerable young children.

## Thank You!

We wish to thank the following agencies and foundations for their generous support in 2005:

NYC Department of Health & Mental Hygiene

Hyde & Watson Foundation

American Bar Association  
Law in Aging Program

Equal Justice America

And a our heartfelt thanks to our summer interns for their hard work and dedication:

Sari Bashi  
Kay Bhagat  
Adela Cho  
Annabelle Collado  
Jonathan Connell  
Deric Gerlach  
Anna Haac  
Jason Roth  
Leila Thompson  
Carrie Sears  
Vincent Torregiano

## An Intern Reflects on His Summer at MFY

My summer internship has been an unmitigated success. The attorneys that I worked with at MFY were quick to ask me what I wanted to get out of my internship experience, and took the time both to teach me and to craft assignments that would allow me to explore the areas of law that I was most interested in.

I began participating in client intake interviews and accompanying experienced attorneys to court during my very first week on the job. Most notably, I had the opportunity to be heavily involved in the litigation for one disabled client who had been taken advantage of egregiously and had been rendered homeless. I worked closely with an MFY attorney on all aspects of the case: conducting client interviews, doing ad hoc legal research, serving process on witnesses, drafting complaints, affidavits, motions and answers, and preparing witnesses for testimony; I was even able to have some minor input on litigation strategy.

My involvement in this case not only taught me about the functional aspects of litigation, it also reminded me why I went to law school--so that I would have the opportunity to help people who can't help themselves.

--Jonathan Connell, Duke Law School

## A Tale of Two Tenants

(continued from page 1)

Court proceeding. Unlike Henry, John did not become homeless as a result of the landlord's trickery; he remains in his studio while his case in Supreme Court is pending.

Shortly after John moved to the smaller unit, the landlord gutted his old apartment, combined it with part of the basement to create a duplex, and hiked the rent eight-fold. Not only did the landlord violate John's rights by taking advantage of his disability to coax him to leave his apartment, he appears to have skirted Buildings Department regulations in creating the duplex.

"Almost all of MFY's work in gentrified neighborhoods involves defending the elderly, disabled and/or low-income tenants left in otherwise high-rent buildings," said Adele Bartlett, Supervising Attorney for MFY's Neighborhood Preservation and East Side SRO Law Projects. "The bad news is that these landlords never stop; the good news is that tenants who we represent generally win."

Ninety percent of tenants appear in Housing Court with no representation because they cannot afford an attorney, making MFY's housing work more important than ever.

# in brief

## New MFY Project Reaches Out to Seniors

Kenneth Lau, Supervising Attorney for MFY's Manhattan Legal Aid for Seniors Project, explains benefits options to a senior at a Harlem senior fair. Over the coming year the Project will provide community legal education to seniors residing in Naturally Occurring Retirement Communities (NORCs) with support from the American Bar Association's Law in Aging Program.



## Adult Home Residents Settle Class Action Suit on Personal Needs Allowances

In September 2004 MFY Staff Attorney Lycette Nelson, with pro bono assistance from Pillsbury Winthrop Shaw Pittman LLP, filed *Cortigiano v. Oceanview Manor* after residents complained that the Home withheld their small monthly allowance as a form of behavior control. Residents on SSI receive approximately \$130 per month for personal items, such as clothing, newspapers, toiletries and snacks. In June the U.S. Court for the Eastern District of New York certified a class in the case, enabling all 170 residents to benefit from the settlement. Residents settled the suit after the Home's owner agreed to disburse allowances promptly, not condition payment on behavior, give residents access to account surpluses, and provide appropriate budgeting assistance. MFY will monitor the settlement to ensure compliance.



## City Honors Pro Bono Adoption Project

MFY Executive Director Lynn M. Kelly and Jean A. O'Hare, Senior Corporate Counsel, Pfizer Inc, accepted the Golden Heart Award from John B. Mattingly, Commissioner of the New York City Administration for Children's Services, in May. The award recognized the Pro Bono Adoption Project's leadership and support in enabling positive child outcomes in the community.

## MFY's Suit against Grocery Lock-Ins Spurs OSHA Action and New City Council Legislation

After MFY filed suit against two Bronx stores that locked in cleaning workers overnight, the Occupational Safety & Health Administration fined the stores for inadequate exits and other problems. In September, the City Council voted to increase fines for stores that locked in workers overnight without access to a fire escape from \$500 to \$5,000 for the first offense, and a maximum of \$20,000 for the fourth and subsequent offenses. Violators may face prison terms of up to nine months and are subject to a civil penalty of up to \$5,000 for each individual working in a workplace at the time of the violation. Janitors not party to the lawsuit reported that media attention generated by the lawsuit caused some managers to show workers which door is unlocked overnight. Patterson, Belknap, Webb & Tyler LLP is serving as co-counsel on the case.

## pro bono news

**J**ean A. O'Hare, Senior Corporate Counsel at Pfizer Inc, received the Matthew G. Leonard Award for Pro Bono Achievement at MFY's 2005 Scales of Justice Awards on October 6, 2005. Guest Presenter Hon. Joseph M. Lauria, Administrative Judge of New York City Family Court, cited O'Hare's tireless efforts in recruiting firms to participate in the Pro Bono Adoption Project, which matches foster parents with pro bono attorneys to finalize foster care adoptions. The Project trained 100 attorneys to finalize foster care adoptions and 70 attorneys have handled cases to date.

Pro bono attorneys are a vital part of all of MFY's projects. Volunteer attorneys from 24 firms were honored for their work on behalf of low-income clients--from serving as Guardians ad Litem for clients with diminished capacity, to handling unpaid wage claims for contingent workers and co-counseling with MFY on major impact litigation.

The Honor Roll includes attorneys from:

Akin Gump Strauss Hauer & Feld LLP  
Aufrechtig Stein & Aufrechtig P.C.  
Bryan Cave LLP  
Cadwalader, Wickersham & Taft LLP  
Chadbourne & Parke LLP  
Cleary Gottlieb Steen & Hamilton LLP  
Davis Polk & Wardwell  
Goodkind Labaton Rudoff & Sucharow LLP  
Kassoff, Robert, Lerner & Robert LLP  
Kaye Scholer LLP  
Latham & Watkins LLP  
Morrison & Foerster LLP  
Outten & Golden LLP  
Patterson, Belknap, Webb & Tyler LLP  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
Pfizer Inc  
Pillsbury Winthrop Shaw Pittman LLP  
Proskauer Rose LLP  
Ritz & Clark LLP  
Shearman & Sterling LLP  
Simpson Thacher & Bartlett LLP  
Skadden, Arps, Slate, Meagher & Flom LLP  
Stroock & Stroock & Lavan LLP  
Weil Gotshal & Manges LLP  
Wachtell, Lipton, Rosen & Katz  
Willkie Farr & Gallagher LLP

www.mfy.org

## Visit MFY's New Web Site!

Visit MFY's newly designed and expanded web site to learn more about our history, our work and pro bono opportunities.

### Get the Facts!

Our updated Fact Sheets—in English and Spanish—provide a wealth of information on a broad range of legal issues affecting low-income New Yorkers. Check out our fact sheets on the new **Disability Rent Increase Exemption** and the **Medicare Part D Prescription Drug Benefit . . .** plus dozens of other topics.

## MFY Legal Services, Inc.

Celebrating 42 years of free civil legal services to low-income New Yorkers.

Lynn M. Kelly, Executive Director  
Jeanette Zelhof, Deputy Director  
Adele Bartlett, Supervising Attorney  
Andrew Goldberg, Supervising Attorney  
Kenneth Lau, Supervising Attorney  
Sara Wienkes, Supervising Attorney

### Board of Directors

Eric M. Roth, <i>Chair</i>	Michael J. Gillespie
Alan Mansfield, <i>First Vice Chair</i>	Lindsee P. Granfield
Ariana J. Tadler, <i>Second Vice Chair</i>	John L. Hardiman
Nancy Morawetz, <i>Secretary</i>	David W. Ichel
Bruce L. Stein, <i>Treasurer</i>	David G. Keyko
David Chatterjee	Margaret M. Madden
Lisa E. Cleary	Tariq Mundiya
Lawrence Coleman	Ronald M. Neumann
Albert W. Driver	Timothy G. Reynolds
Thomas E. Dunn	Stephen T. Rodd
Howard A. Ellins	Jeffrey S. Sabin
Dana Escoffier	Mark E. Segall
Robert S. Fischler	Jennifer H. Shurdut
	Arnold Stephens
	Donald I. Strauber
	Nancy J. Walder



NONPROFIT  
ORGANIZATION  
US POSTAGE  
PAID  
NEW YORK, NY  
PERMIT #1110

News from

**MFY Legal Services, Inc.**

299 Broadway  
New York, NY 10007

[www.mfy.org](http://www.mfy.org)

**FALL 2005**