



Remedies for Harassment and Loss of Regulated Tenancies

Testimony to the
New York State Assembly Standing Committee on Housing
July 24, 2006
Adele Bartlett, Supervising Attorney
MFY Legal Services, Inc.

My name is Adele Bartlett, and I am a supervising attorney at MFY Legal Services. I supervise staff attorneys who defend disabled, elderly and low-income tenants throughout the City who face loss of their homes through eviction actions.

First, I would like to express my gratitude to this Committee for its demonstrated concern for the rights of tenants. I'm particularly grateful that the Committee is examining the current forces and owner tactics that would drive many of our most vulnerable citizens into homelessness.

MFY is a not-for-profit legal services organization. We have been in existence more than 40 years, and over these years have provided crucial representation, advice and education to low income, disabled and elderly New Yorkers. Currently, our programs assist thousands of tenants each year.

Today in New York City tenants in affordable regulated housing face intense pressure, and the rate at which tenants are being displaced and regulated units are being permanently lost is at an all time high. The dwindling supply of safe, affordable housing for low-income, working people, the disabled and the elderly is driving New York toward disaster since, when a rent-regulated tenant is evicted, the apartment is, in almost every case, removed from regulation and affordability. The crisis is the result of various factors working simultaneously:

1. The State agency charged with enforcement of the regulatory systems refuses to interpret and enforce the law in a neutral manner. The actions and inaction of the Division of Housing and Community Renewal (DHCR) have worked to facilitate and encourage landlords to attempt to vacate buildings and harass out, "buy out" or evict stabilized tenants;
2. The current real estate market provides an enormous financial windfall to any landlord who can evict a stabilized tenant;
3. Legislation over the last nine years has severely eroded legal and regulatory protection for stabilized tenants, and regulated units, including their rights in Housing Court; and
4. There continues to be a shameful lack of state funding support for the provision of legal services to the poor and working poor.

The non-profit tenant bar cannot assist a reasonable percentage of tenants who face the loss

of their homes. Especially when tenants are faced with eviction through holdover actions, involving complex claims and legal issues, tenants need competent, expert representation in Housing Court to have a fair chance to remain in place.

For these reasons, the remedy we strongly recommend is for the Legislature to impose an immediate moratorium on evictions in New York City.

Regarding the Division of Housing and Community Renewal: MFY attorneys deal with only a very few proceedings at DHCR, and in fact avoid the jurisdiction of the agency whenever possible by opting to present an issue in court. But the impact of the agency's interpretation of the Rent Stabilization Law and Code has a huge impact on our clients. Its support of two of the owners' methods *du jour* for ousting tenants from stabilized apartments has had a ripple effect, making it easier to frighten or harass tenants from their homes.

The first of the currently popular strategies is to seek permission from the DHCR to remove an entire building from the rental market, to demolish it and purportedly put up a new building containing a higher number of housing units. Of course the new units will be neither stabilized nor affordable. The agency is approving these applications rapidly. As far as we have seen, DHCR has done nothing to educate, protect or empower tenants facing this devastating situation. Indeed, it has expanded the definition of "demolition" in these cases to include plans to gut and rehab a building.

The growing popularity of this new tactic, and rumors and misinformation that has trickled down to tenants have benefited owners tremendously. Attorneys at MFY have met an alarming number of tenants who, having been told by their landlords that the building will be demolished (even though no DHCR application had been filed), and that they will have to leave sooner or later, give up their homes for little or no compensation, or for amounts grossly inadequate to pay for new housing, and that don't begin to compensate for the loss of an affordable apartment.

A second tactic that is becoming popular with landlords is the termination of tenancies based on the claim that the owner needs the entire building for his personal use. An owner's need for a single apartment for his or a family member is one of the bases for not renewing a stabilized lease. But now this is being used to attempt to empty entire buildings. This ploy has been held improper by a Supreme Court Justice, explaining that, since it clearly constitutes removal of the entire building from the rental market, the owner must seek permission of DHCR, just as it would if seeking to demolish the building. DHCR almost immediately reacted by supporting the owners' position, stating that the landlord does not need to make an application for permission to demolish, but can remove an entire building from the rental market by evicting every tenant, emptying a building claiming that he needs the entire building for his own personal use.

Protection of regulated tenants and laws aimed at preserving affordable housing have been

steadily undermined and eroded by State legislation. Supported by the current administration, the Legislature, over the last ten years, has regularly amended the Rent Stabilization Law, as well as the RPAPL, to undercut the ability of tenants to retain their homes, and to advantage owners seeking to force them out. In light of this, we support all efforts -- that we know you will exert -- to repeal the Urstadt Law immediately and return to New York City the right to enact laws that are evenhanded and protect all its citizens rationally.

As an attorney who has for twenty years represented low income tenants struggling for their homes, and as a representative of MFY Legal Services, an agency that year in and year out helps thousands of New Yorkers facing eviction, the most effective remedy for the present crisis would be the provision of more funding for legal services programs that work to protect tenants and preserve affordable housing. The law has become less protective of tenants' rights. Landlords are developing more insidious methods to force tenants out. Tenants cannot look to the DHCR for evenhandedness or protection. Threat of eviction – both in and out of Housing Court – is growing. Defending tenants requires more legal expertise than ever before. Without support for legal services to provide significant numbers of tenants with assistance and representation to defend themselves and their homes, the most vulnerable among us – the elderly, the disabled, the struggling families of the working poor, will continue to face the catastrophic consequences of eviction from an affordable home.

MFY Legal Services remains eager to assist this committee and its individual members in any efforts to address these issues.

Thank you for your time and attention.