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SPRING 2017

# The Last Frontier in Tenant Displacement and Harassment: The Bronx

No one who lives or works in the Bronx has any doubt that gentrification is wreaking havoc on the lives of the borough’s low- and moderate-income residents. The pattern has been evident for years: developers stake a claim, buying up old industrial stretches along the waterfront; artists and young people priced out of Brooklyn move in; rowhouses are snatched up at foreclosure auctions and rents skyrocket; and outraged community members speak out and organize.

A March 2017 report by the Regional Plan Association found Bronx residents at greatest risk of displacement in the New York City metropolitan region. Seventy-one percent of the borough’s census tracts, with 355,420 households, are at risk of displacement. Thirty-six percent of those households are very low-income renters, with incomes under \$25,000, and 56% pay an inordinate share of their income for rent.

New York University’s Furman Center for Real Estate and Public Policy found that Mott Haven,

Hunts Point, Morrisania and Belmont are among the city’s fastest-gentrifying areas. The first two saw a 28% increase in average rents in recent years, while all four neighborhoods showed a decrease in average income during the same period, making it harder for longtime residents to stay. Average household income is only \$32,250 in Mott Haven/Hunts Point.

## City’s Right to Counsel Initiative Helps to Stem the Tide of Evictions

In February 2017, New York City became the first city in the nation to provide a right to counsel in housing court for low-income households that earn at or below 200% of the federal poverty level. Last year, however, the City began a pilot project to provide free legal assistance to Bronx tenants who live in certain zip codes with high eviction rates. This allowed MFY to hire 11 new staff, who handled some 1,500 Bronx housing cases in 2016, a 300% increase over the previous year.

With the opportunity to raise rents for higher-income people who are looking for apartments in the Bronx, landlords use increasingly strongarm tactics to force out tenants, according to MFY Supervising Attorney Leah Goodridge.

“Bronx landlords sometimes induce tenants to live in their buildings by offering a ‘preferential rent’ — a rent lower than the legal rent under the Rent Stabilization rules,” said Ms. Goodridge. “But many of these tenants do not

*(continued on page 2)*



**MFY joined tenants and advocates at City Hall to press for a Right to Counsel.**

# Gentrification Intensifies in the Bronx

(continued from page 1)



understand that the preferential rent is not in fact their legal rent and when the lease is up and the amount substantially increases to an unaffordable rate, tenants are pushed out.”

MFY has been able to save these apartments when the original lease indicated a preferential rent for the duration of the tenancy rather than the length of the lease but oftentimes it is unclear what the legal rent actually is.

Another aspect of gentrification is widespread buying and flipping of buildings, with tenants never informed that ownership has changed. Tenants send in their rent to the original owner and their checks disappear. For tenants living in subsidized apartments, subsidies often continue to be sent to the old owner, creating a messy situation that is difficult to untangle. Without an attorney, tenants quickly lose these cases in Housing Court.

## Rampant Repair Problems

“Almost all clients in the Bronx have repair problems and in many cases building-wide repairs are needed,” said Andrew Darcy, an MFY housing staff attorney who is also handling cases in the Bronx. Frustrated by unsafe and unhealthy conditions, some tenants give up and leave. Others stop paying rent in the hope that this will motivate the landlord to make repairs. When they do that, the landlord almost always takes them to court for non-payment of rent.

In some buildings landlords appear to be deliberately withholding essential services in an effort to force tenants out. Such is the case in

three buildings in Highbridge where tenants have been without cooking gas for months. MFY has filed a lawsuit against the landlord to compel him to finish the repairs and to demand a rent abatement for the time residents have been without this essential service.

The difficulty in getting repairs is especially serious for tenants living in subsidized Section 8 apartments. Section 8 inspects apartments annually and can suspend payments to the landlord and then terminate the Section 8 contract if repairs are not made. “It’s up to the tenant to then find another Section 8 apartment, which is very difficult,” said Ms. Goodridge. If the tenant cannot get a transfer to another apartment, and stops paying rent, the landlord can take him to court for his portion of the rent. “It’s a huge problem,” said Ms. Goodridge. “We would like to see the courts holding landlords accountable for pushing out Section 8 tenants by failing to repair conditions, thereby causing them to fail an annual Section 8 Housing Quality Standards inspection.”

## Landlords Claim “Illegal Business”

The Bronx is unique in New York City in having the largest number of drug-related evictions. A growing number of cases involve phony charges of “illegal business” being carried out in the apartment. In a recent case, a 60-year-old Vietnam veteran was charged with running an illegal business after the young son of a family friend visited him. During the visit an informant came and offered to buy drugs from the young

man. The young man was arrested and the veteran’s landlord attempted to evict him for running an illegal business. With MFY’s help, the veteran’s apartment was saved.

A similar situation occurred for an older tenant with disabilities who lives in a New York City Housing Authority (NYCHA) apartment. NYCHA brought an administrative proceeding based on its strict policy of evicting tenants if any illegal activity occurs in the apartment, even if the tenant had nothing to do with it.

## Court-Based Assistance

After the City announced plans to implement the Right to Counsel initiative citywide, efforts to reach tenants at risk of eviction increased, with MFY and other legal services providers staffing tables in Bronx Housing Court each day on a rotating basis to meet and assist tenants before they go before a judge.

Will these efforts stem the tide of gentrification in the Bronx? Since the City started its pilot program in certain high-risk zip codes, evictions citywide are down 24% over the past two years. Extending the program will result in many more people getting the legal help they need to keep their affordable apartments.

“Right to Counsel is an important step in the right direction toward addressing the underlying issues causing homelessness such as losing affordable housing and inability to keep up with rising rent, which cause families and single adults to cycle in and out of shelters,” said Ms. Goodridge.

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# in brief

## MFY Launches New Taxpayer Assistance Project



In recent years, MFY has seen an increase in the number of clients seeking help to resolve tax controversies before the IRS. These tax disputes often result in large liens, levies or the denial of refunds. For low-income New Yorkers, these penalties often prevent them from meeting other financial commitments, including rent or mortgage payments, which can mire them in a host of civil legal issues. As a result, in January 2017, MFY launched its Low Income Tax Clinic to provide assistance with tax audits and examinations; Earned Income Tax Credit appeals; liens and levies; employee/independent contractor disputes; injured spouse claims; innocent spouse relief requests; and identity theft. The project is supported with a grant from the IRS.

## Judge Blasts NYS for Undermining Adult Home Class Action Settlement

At a hearing on March 22, 2107, Judge Nicholas G. Garaufis criticized New York State agencies for using the state courts to try to undermine a federal class action settlement. “There’s some sort of a deal,” Garaufis said. “That’s how it appears. and we’re going to find out exactly what the deal is, because if there is a deal, I would consider it a fraud on the court.” Under a 2013 settlement the state agreed to provide 2,000 units of supportive housing—and more if needed—for adult home residents with mental illness who want to live more independently in supported housing in the community. But in response to litigation by the adult home industry filed in Albany County, the state agreed to a temporary restraining order enjoining its own regulations, which could render the federal settlement null and void. The state’s actions prompted the NYS Attorney General to request permission to withdraw as counsel for the Governor, New York State, and several state officials in two related civil rights cases. The Judge authorized lawyers for adult home residents to depose state officials and said he would conduct a new trial in July if necessary. He also said he was intent on exploring possible sanctions against the state.

## MFY and Allies to Develop Policy Changes to Access-A-Ride

The New York Community Trust has awarded a grant to MFY Legal Services, New York Lawyers for the Public Interest, Center for Independence of the Disabled-New York, and Brooklyn Center for Independence of the Disabled for community organizing, policy, and legal support to advocate for transformative improvements to the New York City Transit Authority’s Access-A-Ride program and to achieve equal access to transportation for people with disabilities. The overarching goal is to make the current Access-A-Ride system significantly more responsive to the needs of people with disabilities and transform the system into one that actually works for them. The groups’ organizing and advocacy will advocate for straightforward policy and operational changes to Access-A-Ride while also exploring other, much more dramatic changes, including an integration of the city’s vast taxi system into paratransit services.



## pro bono news

## Pillsbury and MFY Join Forces for Workplace Safety and Health

Each year Pillsbury Winthrop Shaw Pittman LLP awards a one-year Stimson Fellowship to a first year associate to do public interest legal work at a non-profit organization. Marissa Cooper, the recipient of the 2016 Fellowship, chose MFY, excited by the prospect of starting a new project.



Marissa Cooper at MFY

In October 2016, Ms. Cooper joined the staff of MFY’s Workplace Justice Project to develop a new Workplace Safety and Health practice, including an initiative to provide free legal assistance to workers who were injured on the job and whose Workers’ Compensation claims were denied, and to workers who were fired or otherwise penalized for having filed a Workers’ Compensation claim.

Ms. Cooper is completing a manual to help advocates—both attorneys and non-attorneys—understand the Workers’ Compensation system and know how to pursue a successful claim. She has also built a relationship with the Mount Sinai Seelikoff Centers for Occupational Health, which provide medical care for injured workers, regardless of immigration status.

“Our clients are workers who would not be able to get legal assistance from the private bar,” said Ms. Cooper. Her first victory came for a building porter who developed a hernia after lifting heavy stacks of cleaning solvent. Although his doctor agreed that he needed surgery and could not work until he received it, the insurance company denied it. Ms. Cooper prevailed, the porter recently underwent surgery, and he will now recover a portion of his salary for the time he could not work.

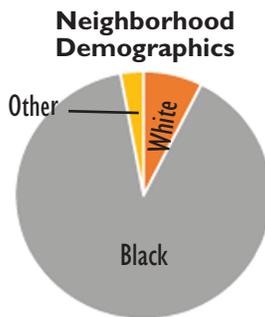
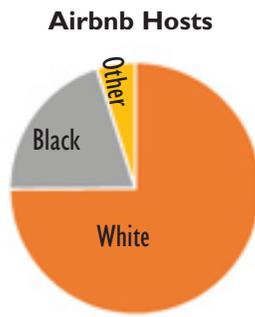
Ms. Cooper hopes to continue helping workers on a pro bono basis when she returns to Pillsbury in October and to encourage other associates to do the same.

# AIRbnb: A Tool of Racial Gentrification

## MFY Takes Leadership Role against Illegal Hotels

Since MFY Legal Services and Housing Conservation Coordinators released a groundbreaking report last June documenting the negative impact that Airbnb and other short-term rental agencies are having on New York City's housing market, debate has escalated on what to do about it. The report showed that 55% of Airbnb's New York City listings are illegal and that 30% of listings are controlled by illegal "commercial" hosts, who keep units that would normally be regular rentals off the market. Given the crisis of affordable housing in New York City, the impact of Airbnb is staggering: 8,000 units of rental housing were lost to Airbnb in 2015, reducing available housing by 10%.

"If the city and state are really interested in preserving affordable housing, they need to step up their enforcement efforts and rein in these illegal hotels," said Marti Weithman, an MFY Supervising Attorney for housing and a leader in the citywide Coalition against Illegal Hotels. "No one is worried about the homeowner who rents his home through Airbnb for a week or two while he's on vacation," said Weithman. "It is the units that are being rented on a short-term basis for several months out of the year and



thus removing available housing from the housing market. It is these commercial rentals that are destroying communities across New York City."

Adding fuel to the demand to end illegal short-term rentals is a new report from Inside Airbnb, which makes the case that Airbnb is a tool of gentrification in predominantly black neighborhoods. It analyzed 72 such neighborhoods in New York City and found that, while the white population is 13.9%, the Airbnb host population is 74% white. The chart on the left shows the impact of Airbnb in Stuyvesant Heights in Central Brooklyn. Airbnb boasts that use of its service in black neighborhoods increased 78% and put more than \$43 million into hosts' pockets in 2015. The report found that black neighborhoods with the most Airbnb use are racially gentrifying and the economic benefits, which are often illegal, accrue disproportionately to new, white residents and white speculators while black residents in those communities suffer the most from the loss of housing, tenant harassment and the disruption of their communities.

policy advocacy

## City Council Acts to Protect Three-Quarter House Tenants

After years of organizing and advocacy by MFY, the Three-Quarter House Organizing Project (TOP), Neighbors Together, VOCAL-NY and other advocates in the Three-Quarter House Reform Coalition, the New York City Council passed in February a package of five bills to protect tenants' rights and restrain abusive three-quarter house operators.

As New York City's housing crisis intensified in recent years, adults re-entering society after incarceration or recovering from addiction were recruited to three-quarter houses with the promise of treatment, employment assistance, and help finding permanent housing. Instead, they were given a bunkbed in a crowded apartment and compelled to attend a treatment program chosen by the operator. When residents completed a six- or nine-month treatment program, operators routinely locked them out or illegally evicted them.

Preventing operators from forcing tenants to attend certain programs has been a key demand of tenants. Among the bills passed by the City Council and later

signed by the Mayor was one making it illegal for landlords to force tenants to attend medical treatment, interfere with tenants' medical treatment, or discriminate based on whether tenants received medical treatment or not. It is widely alleged that operators receive kickbacks from treatment programs, and some operators have been indicted for Medicaid fraud.

Most three-quarter house residents do not have leases so if their building is the subject of a vacate order due to dangerous conditions, tenants face difficulty in getting relocation assistance. The new legislation eliminates time limits for a person to apply for relocation services and allows the City to accept alternative forms of documentation from people who do not have leases.

Other bills require the City's Human Resources Administration to provide all tenants receiving shelter allowances with information about their rights against illegal evictions and mandate that the City's Task Force on Three-Quarter Housing report information publicly.

"Too many predatory and unscrupulous landlords are taking advantage of New Yorkers who are on the verge of homelessness, relapse, or recidivism, and simultaneously scamming taxpayers out of millions of dollars. With the enactment of these bills, we will finally be doing more to protect the rights of tenants in three-quarter houses, while ensuring the responsible use of tax dollars," said Public Advocate Letitia James.

