

Highlights from the Docket

Lower Manhattan Justice Project

MFY Legal Services, Inc.

MFY Legal Services' Lower Manhattan Justice Project works to preserve cultural and economic diversity in Lower Manhattan neighborhoods adversely affected by the events of September 11, 2001 by expanding access to justice for low- and moderate-income tenants and low-wage earners who work in the community. The project is made possible by a grant from the Lower Manhattan Development Corporation, which is funded through Community Development Block Grants from the U.S. Department of Housing and Urban Development. This docket highlights some of the hundreds of cases handled by the project since its inception in 2008.

PRESERVING AFFORDABLE HOUSING

Anti-Displacement

81 Bowery



Tenants at 80 Bowery rally.

The 60 SRO tenants of this building were forced out of their homes and relocated to a Bronx homeless shelter after the city issued a vacate order that cited the owner for illegally low ceilings that blocked the sprinkler system and problems with emergency exits. Although the SRO management promised to correct the violations, it did nothing, and the tenants were forced to bring a housing court proceeding to force the landlord to make the legally-required repairs. Working closely with the Committee Against Anti-Asian Violence (CAAHV), MFY represented the tenants in housing court, helped resolve problems arising with the homeless shelter, advocated with NYC's Department of Buildings and Department of Housing Preservation and Development to address the problems in the building, and coordinated with Community Board 3, the offices of the Mayor, State Senator Daniel Squadron, City Council Member Alan Gerson and other elected officials to resolve the dispute favorably to the tenants, who were restored to possession after the necessary work had been accomplished. Tenants spoke only Mandarin, Cantonese and/or Fukiense.

196 Elizabeth Street

Working closely with University Settlement, MFY represented tenants of this six-storey walk-up who found

themselves out on the street after the building suffered extensive damage from an accidental fire. When the landlord's promise of timely repairs did not materialize, MFY initiated a Housing Part (HP) proceeding to force action. The landlord then began a series of maneuvers to delay the process, including filing for bankruptcy on the eve of trial, which generated an automatic stay of the HP case. The Bankruptcy Court granted MFY's motion to lift the stay, after which the landlord settled the HP proceeding by agreeing to a repair schedule. In the context of the bankruptcy proceeding, MFY also negotiated property damage settlements for the tenants who lost property in the fire in the collective amount of approximately \$60,000. After more than a year of litigation in multiple fora, the tenants were restored to their apartments. MFY also successfully obtained dismissals or settlements of three separate eviction proceedings the landlord brought against tenants during this same time period. Many tenants spoke only Spanish.



Elizabeth Street tenants meet with their attorneys at MFY.

Preventing Evictions

80 Delancey Street

MFY preserved the tenancy of a husband and wife who had resided in their rent-controlled apartment since 1967 when they emigrated from Hong Kong. Shortly after buying their building, the new landlord sued to evict our clients, both seniors. After MFY thoroughly prepared for trial, recruiting our clients' long-term neighbors to testify on their behalf and gathering decades of documentation evidencing our clients' tenancy, the case settled at trial when the landlord agreed to withdraw the eviction proceeding. Clients spoke only Cantonese.

136 Orchard Street

The landlord sought to evict our client and his elderly parents who reside with him, claiming that he had abandoned the Orchard Street apartment and moved to Rivington Street. The landlord continued to pursue the eviction even though the tenant had already provided documentary proof that he resides at 136 Orchard Street and also testified to that fact at a deposition. At that point, our client contacted MFY because he was gravely concerned that his elderly parents could be evicted if he lost at trial. The landlord's case began to unravel when MFY served a trial subpoena on the owner of the Rivington Street building in which the landlord claimed our client lived. When the managing agent of that building stated under oath and in court that our client did not reside there and that he had never met or seen our client, the Orchard Street landlord agreed to settle the case recognizing our client's parents as the rent-stabilized tenants of the subject apartment, which allowed them to apply for the Senior Citizen Rent Increase Exemption (SCRIE) to help reduce future rent increases. Clients spoke only Mandarin.

83-85 Baxter Street

After ownership of this building changed hands, the new landlord sought to terminate the tenancies of at least five tenants, claiming that they no longer resided in the building. On behalf of one client, MFY filed an action in New York County Supreme Court for declaratory judgment and for an injunction prohibiting the institution of a holdover proceeding; the court granted a preliminary injunction and the case remains pending. MFY is defending four other tenants in separate housing court holdover proceedings. All but one client speaks Cantonese only.



MFY Paralegal Fanny Chan presents a workshop on health care proxies and advance directives to Chinatown seniors.

Preserving Succession Rights

283 Broome Street

MFY represented the mother and mother-in-law (both seniors) of the tenant of record in a non-primary residence eviction proceeding brought against their son/son-in-law. After filing an answer to the petition in which we sought to establish the right of both women to succeed to the son/son-in-law's tenancy, we received a very favorable settlement offer from the landlord that acknowledged the women as tenants of record and preserved the modest rent-regulated rent. The landlord also agreed to perform extensive repairs and to attend to numerous items of deferred maintenance. Mother spoke Fukieneese only; mother-in-law spoke only Mandarin.

Nonpayment Allegations

7 Rivington Street

MFY represented an adult son and his mother, who the landlord sued for nonpayment of rent seeking payment of the SCRIE portion of their rent. The landlord discontinued the suit after we filed an answer and followed that with a motion to dismiss, arguing, inter alia, that the landlord had no legal right to seek the SCRIE portion of the rent from tenants. Clients spoke Cantonese only.

New York City Housing Authority (NYCHA)

Smith Houses

MFY successfully represented the son of the tenant of record in a Remaining Family Member grievance in hearings at 250 Broadway. MFY also helped advocate for a one-shot payment of about \$6,000 from HRA to pay rental arrears.

Stopping Unfair Rent increases through Administrative Hearings

380 Broome Street

MFY's client's landlord claimed he had performed \$96,869 of major capital improvements and asked DHCR to pass that cost on to the tenants at the rate of \$20.97 per room per apartment. Following MFY's objection to the claim on behalf of our client, DHCR allowed only a \$0.95 per room increase. MFY's work benefited not only our individual client, but also 12 other rent-regulated tenants in two buildings, saving them collectively about \$14,000 per year for the remainder of their tenancies.

32 Henry Street

MFY's client's landlord sought to increase all rent-regulated tenants' rents based upon its installation of new electrical wiring. DHCR denied the rent increase request as defective after MFY demonstrated that the landlord failed to include the building's commercial units in the application. MFY further demonstrated that, even if the

landlord submitted a proper application, our client was exempt from any increase because the landlord had failed to register the apartment with DHCR since 2005.

65 Columbia Street

MFY's client was a 78-year-old principal of a charter school she founded and someone who has devoted her entire professional life to public service. In the 1960s she and her husband became tenants of record of their Mitchell-Lama apartment, where they raised a family. In 1984, the client and her husband divorced and she moved out; she struggled financially and lived for more than a decade in an SRO unit. In 2005, however, her ex-husband became gravely ill, and she moved back into the apartment and nursed him through his final illness. Thereafter, however, the management company commenced an administrative eviction proceeding against her, claiming that she did not primarily reside at the apartment. MFY represented the client in the administrative proceeding, arguing that her absence from the apartment was excusable, and the management company ultimately agreed to allow our client to remain in the apartment for the remainder of her life.

DEFENDING WORKERS' RIGHTS

Unpaid Wage Claims

Restaurant Worker

MFY won a big victory in settling an unpaid wage claim case for a Cantonese-speaking Chinese restaurant waiter, whose employer paid below minimum wage and no overtime over four years. On average, the client worked 60 hours a week. While the exact amount of the settlement cannot be made public, it was the largest settlement for a single worker in MFY's history.

Lower East Side Superintendent

MFY represented a long-term superintendent for a number of Lower East Side buildings who, after the buildings were sold to a new landlord, worked for several years without being paid his promised salary. When he told the landlord he could no longer work for free, the landlord sued him for back rent and sought to terminate his rent-stabilized tenancy. MFY successfully stayed the housing court case and filed a wage and hour suit in Supreme Court. When the landlord failed to answer the complaint, the court awarded our client \$30,000 in unpaid wages and damages, although the landlord is now seeking to reopen the case to prevent enforcement of the judgment. The client is a native Spanish speaker.

Two Chinatown Construction Workers

MFY won back wages for two Cantonese-speaking construction workers who live in Chinatown. They quit their jobs for a Bronx contractor after he failed to pay them for six weeks of work. When the contractor reneged on repeated promises to pay, MFY filed a mechanic's lien on the property on behalf of the workers. The contractor immediately paid our clients the wages they were owed.

Unemployment Insurance Benefits

Pregnant Temporary Worker

MFY successfully won unemployment benefits for a worker at a temp agency who was denied benefits after she left the agency job due to complications with her pregnancy. The agency did not allow any absences or time off for doctors' visits. She was found ineligible for benefits for having voluntarily quit her job without taking steps to preserve employment. On appeal, the Unemployment Insurance Appeal Board granted benefits, finding that the client's medical appointments were good cause to leave the job in light of the temp agency's policy on absences or sick time. The client also testified about her experience at a City Council hearing on proposed legislation to provide paid sick days. She is a native Spanish speaker.

Water Street Security Guard

MFY won benefits for a security guard who had worked for a private company at the front desk of a building on Water Street for many years. When he returned from an approved leave of absence to visit his family in Ghana, the company made him re-apply and said there was no work for him. They contested his unemployment application, saying that he had never returned from his leave and tried to disqualify him from receiving benefits by making false offers of employment and claiming he missed shifts that he had never been scheduled to work. MFY helped the client gather documentation of his leave and successfully represented him at the appeal hearing.

Consequences of Criminal History

Home Health Aide

MFY helped save the job of a Cantonese-speaking home health aide who worked in Chinatown after he was arrested in the subway and charged with a misdemeanor for allowing a passenger who was unable to purchase a MetroCard at the machine to use his card in exchange for \$2. MFY helped him to win an adjournment in contemplation of dismissal of the criminal case, but the arrest was reported to the Department of Health and he was suspended from his job. MFY contacted his employer and the Department of Health, explaining that the charge should in no way affect his employment. Soon afterward he was back at work.

PROTECTING CONSUMERS



the judgment was vacated, the creditor discontinued the case, and Mr. Z got his money back.

Disabled Client

MFY won the return of \$4,000 that had been seized from the bank account of a lower Manhattan resident with mental illness. A debt buying company brought a lawsuit to collect on an invalid debt – for a product that the client had purchased on a payment plan, but had returned promptly because it was defective. The client was never served with court papers, and the debt buyer enforced its default judgment by levying the client's bank account while he was hospitalized. The only funds in the account were from the client's Supplemental Security Income (SSI), which are exempt from collection. MFY moved the court to vacate the default, forcing the debt buyer to return the seized funds.

Challenging Improper Debt Collection

Identity Theft Victim

Mr. Z, pictured above with MFY Attorney Anamaria Segura, went to withdraw money from his bank only to find his account had been frozen pursuant to a judgment from a 1994 lawsuit for medical debt that was not his. He had not been served court papers so he knew nothing about the suit until \$3,900 disappeared from his account. After MFY filed an Order to Show Cause,

Victim of "Sewer Service"

On behalf of low-wage retail worker, MFY won dismissal of a debt collection case. The original creditor brought a case against the client and, because it had failed to serve her with court papers, won a default judgment. The client successfully moved to vacate the default judgment. After the creditor failed to respond to discovery requests, LMJP moved to compel a response. When the creditor did not respond, the court ruled the case dismissed.



MFY LEGAL SERVICES, INC.

299 Broadway
New York, NY 10007
212-417-3700 fax 212-417-3890
www.mfy.org

