



**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

IN SUPPORT OF

**INTRO 129: REMEDIES FOR THE BREACH OF
THE DUTY OF AN OWNER TO REFRAIN
FROM HARASSMENT OF TENANTS**

PRESENTED BEFORE:

**THE NEW YORK CITY COUNCIL'S
COMMITTEE ON AGING
AND
COMMITTEE ON HOUSING AND BUILDINGS**

PRESENTED BY:

**JASON BLUMBERG
SENIOR STAFF ATTORNEY
MFY LEGAL SERVICES, INC.**

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I. Introduction

MFY Legal Services, Inc. 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 provide advice and representation to more than 8,000 New Yorkers each year.

Each year, MFY serves more than 3600 tenants, including more than 2,000 who are at least 60 years old, throughout New York City. MFY is also part of the Assigned Counsel Project, through which the Manhattan Housing Court refers cases involving tenants over 60 years of age who are facing eviction. MFY is committed to working with the City Council to protect the safety and affordable housing of older New Yorkers so that they can age in place and continue to be an integral part of New York City communities.

II. Our Clients' Experiences

The tenants who seek our help are in danger of eviction or are living in unacceptable housing conditions. Many are long-term rent stabilized or rent controlled tenants with affordable rents. Indeed, it is their continuing presence that represents much of the affordable housing in Manhattan and also what makes them a target of harassment by landlords and investors looking for high rates of return on these “underutilized” apartments.

The wave of “predatory equity” and accompanying harassment has been well documented. In response, the City Council passed Local Law 7, the tenant harassment law, in 2008. MFY’s experience since then demonstrates that landlord harassment of tenants – especially senior tenants – has continued. Our clients still commonly experience typical harassment tactics: baseless non-primary residence eviction cases; vague nuisance allegations; withholding of repairs and maintenance while unregulated – and younger – tenants in the same building receive prime services; and even gut renovations of buildings while small groups of regulated tenants are still living there.

For example, Ms. S, a 77-year-old rent controlled tenant of 44 years, was recently sued by her landlord based on the allegation that she does not live in her apartment. The only basis for this allegation was an electronic search by the landlord showing that she does not have a landline and has not applied for any credit cards in the past two years. In the past four years, the company that owns her building has brought 215 eviction cases against the tenants in 208 apartments that it owns on the Upper West Side – more than one case for every apartment. The majority of these tenants are elderly and have low rents. Some of them will default because they will not know how to contact a legal services lawyer, or the legal services organization will not have capacity to represent them. Some cannot physically make it to court and will be defaulted for not appearing. Those who do make it to court on their own will likely sign unfair stipulations that they do not understand that have been drafted by the landlord’s attorney.

Mr. M is a 73-year-old rent controlled tenant of 56 years in the East Village. In 2012, his landlord began demanding that he pay in cash for the portion of his rent covered by the Senior Citizens Rent Increase Exemption (SCRIE). The landlord’s managing agent confronted Mr. M on the street near his building, shouting and threatening him. In 2013, Mr. M’s landlord sued

him in Housing Court for two thousand dollars already paid by SCRIE. Mr. M travels to Brooklyn several days each week for cancer treatments, and would have defaulted in the court case if he had not been fortunate enough to have a lawyer from MFY Legal Services. His Housing Court case was dismissed, but the landlord has continued to bill him each month for the same rent already paid by SCRIE. It is likely that his landlord will sue for the same rent again this year.

These stories are not unusual. Every week, MFY receives phone calls from tenants whose landlords have accused them of not living in their rent-regulated apartments, failing to pay the Section 8 or SCRIE share of their rents, denying access for nonexistent “emergency” repairs, and other invented claims. The mass-produced nature of these cases means that for every senior citizen who contacts MFY, there are a dozen more who have received identical notices.

III. Recommendations

Landlord harassment of elderly tenants continues because it works, and it works because it is cost-effective. Only a small percentage of harassed seniors have the resources and wherewithal to bring a harassment claim in Housing Court. A one-time single civil penalty of \$5,000 is not significant deterrence to a landlord expecting to profit more than \$2,500 per month in perpetuity if it can drive out an elderly rent-controlled tenant.

For this reason, MFY strongly supports the proposed amendments to double the civil penalty for harassment and make harassment violations visible on the Department of Housing Preservation and Development (HPD)’s website.

Doubling the civil penalties for harassment would bring the law closer to accounting for the fact that each tenant who brings and wins a harassment claim in Housing Court is in fact effectively standing in for dozens more silent victims of harassment. MFY strongly urges the Council to consider even greater increases in penalties, especially where a tenant can show that the harassment they have suffered is part of a broader pattern of harassment against others who are not in court.

Listing harassment violations on HPD’s database and website will further increase the cost to landlords of harassment by providing information to prospective tenants. Tenant harassment is usually part of a scheme to empty, deregulate, and then re-rent apartments on the market. As the law stands now, prospective tenants have no way to know that a history (and probable future) of egregious conduct and uninhabitable conditions lies behind fresh coats of paint and shiny new countertops. Publicly available records of harassment could lower a deregulated apartment’s value on the market, removing some of the financial incentive for harassment.

IV. Conclusion

MFY Legal Services strongly supports Intro 129, and commends the Council for its continuing efforts to curb abusive landlord practices. This bill is an excellent step towards removing the incentives for tenant harassment.