



**L E G A L
S E R V I C E S**

INCORPORATED

TESTIMONY

IN SUPPORT OF

**INTRO NO. 688: ON AMENDING THE DEFINITION OF
HARASSMENT IN THE NEW YORK CITY
ADMINISTRATIVE CODE TO INCLUDE ILLEGAL
CONVERSIONS OF DWELLING UNITS**

PRESENTED BEFORE:

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

PRESENTED BY:

**MARTI WEITHMAN
SUPERVISING ATTORNEY
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Introduction

MFY envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 20,000 New Yorkers each year.

MFY is a member of the Coalition Against Illegal Hotels, a coalition of more than 40 housing and tenants' rights organizations, that has been fighting illegal hotels for more than a decade. The coalition grew out of the Illegal Hotels Working Group, which includes city, state and federal elected officials, community based organizations and housing groups.

Conversion Of Residential Dwelling Units To Short-Term Stays Creates Incentives For Landlords To Harass Tenants Out Of Their Homes

Illegal short-term rentals in residential buildings, commonly referred to as illegal hotels, have plagued New York City for over a decade. Illegal hotels negatively impact tenants' lives, creating quality of life issues – including increased noise at all hours of the day and night, overcrowding of elevators and common areas of the building, and overall degradation of building services – and safety risks as residential buildings do not have to comply with the stringent safety and fire standards that commercial hotels and other transient accommodations do because permanent residents, unlike guests, are familiar with their surroundings and how to evacuate in the event of a fire.

The worst actors in the illegal hotels industry are building owners and third-party commercial operators that remove multiple units from the residential rental market to lease for short-term stays. Since the advent of online platforms such as AirBnB, VRBO, and HomeAway, to name a few, illegal hotels have grown exponentially in the City, which has only worsened the impact on the lives of permanent tenants living in these affected buildings and exacerbated New York City's housing crisis.

The illegal hotel industry creates the potential for owners to gain substantial profits and deregulate units. Recognizing the significant profits to be made, landlords increase pressures on tenants – particularly rent regulated tenants – and step up harassing tactics to empty units for conversion to illegal hotels. In an effort to gain bigger profits from residential buildings while avoiding renting to permanent tenants, owners rent to tourists on a nightly basis, often netting the equivalent of an entire month's lawful rent in only a few nights. We have repeatedly seen a correlation between heightened tenant harassment in residential buildings – ranging from frivolous lawsuits, reduced services and failure to make repairs – when the landlord is illegally renting some units to tourists on a nightly basis.

We have seen this particular correlation in many SRO buildings. SRO owners have historically harassed tenants out of their homes to make way for more lucrative occupants, or simply warehoused the rooms until the building was empty. As the potential profits were realized with

the birth of the illegal hotels industry, owners increased their efforts to harass long-term rent-stabilized tenants from their homes to make room for illegal hotel operations.

One example is the Grand Imperial Court Hotel, which is a residential SRO hotel on West 79th Street. The Grand Imperial began renting to tourists in approximately 2005, gaining enormous profits and concurrently stepping up harassing tactics to push out the long-term permanent tenants living in the building. The harassment came in many forms, including one brazen act involving the owner's efforts to illegally convert an entire line of units in the building by constructing an interior stairwell to attempt compliance with the more stringent Fire Code requirements for commercial hotels with regard to egress. The DOB erroneously issued a permit to the building without requiring a Certificate of No Harassment ("CONH"), which is required before an owner can lawfully obtain permits to alter the use or occupancy of an SRO building. Based on this erroneously-issued permit, the owner sent notices to the tenants in the affected units informing them that they had to vacate their units within 30 days. Once this error was brought to the attention of the proper City officials within DOB, the permits were rescinded.

The Grand Imperial subsequently applied for a CONH in 2011. Based on submissions by tenants and community groups, HPD made an initial determination that harassment had occurred and commenced a proceeding against the Grand Imperial at the Office of Administrative Trials and Hearings to challenge its application. After a hearing during which more than 10 tenants testified, Administrative Law Judge Casey issued a 36-page decision recommending denial of the CONH based on findings of harassment and intimidation by the owner and its staff, including commencement of frivolous eviction proceedings against the permanent SRO tenants, denial of essential services and refusal to make repairs. Deputy Commissioner Vito Mustaciuolo denied the Grand Imperial's CONH application on December 12, 2012.

Although the illegal conversion of residential dwellings has not traditionally been classified as harassment, it is time for it to be so classified as it creates an unlivable environment that can seriously erode tenants' quality of life and put the lives of tenants and guests at risk.

Recommendations

Landlord harassment of tenants continues because it works, and it works because it is cost-effective. Tenant harassment is usually part of a business model to empty, deregulate, and illegally convert units to illegal hotels, renting for periods of shorter than 30 days. As the law stands now, the action by landlords who unlawfully convert their buildings rental units for short-term stays of less than 30 days is not explicitly deemed harassment under the Administrative Code, and thus, this tactic continues to proliferate as a common and legal practice undertaken to pressure rent-regulated tenants to vacate their homes. For these reasons, MFY strongly supports the proposed amendment to include the illegal conversion of dwellings units within the definition of harassment in the Administrative Code.

Conclusion

MFY Legal Services strongly supports Intro 688 and commends the Council for its continuing efforts to curb abusive landlord practices. If passed, Intro 688 would enable tenants to combat harassment by landlords who illegally convert residential buildings into short-term illegal hotels. In addition to creating quality of life issues for tenants, illegal hotels put the safety of permanent tenants and tourists at risk. It is also necessary in order to hold building owners accountable to the law and their tenants. As a member of the Illegal Hotels Coalition, MFY supports Intro 688 as another tool to deter landlords from illegally converting residential dwellings and to preserve affordable housing.