



TESTIMONY ON

RENT INCREASES FOR  
SINGLE ROOM OCCUPANCY HOTELS

PRESENTED BEFORE:

NEW YORK CITY  
RENT GUIDELINES BOARD

PRESENTED BY:

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MFY LEGAL SERVICES, INC.

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Good afternoon, Chairman and members of the Board. My name is Brian Sullivan. I am a senior staff attorney in the SRO Law Project at MFY Legal Services, Inc.

MFY 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. For over 20 years, MFY's SRO Law Project has provided free legal services to the City's SRO tenant-population. Thank you for inviting MFY to speak about the impact a rent increase would have on the SRO community.

As the Board knows, SROs are the housing of last resort for poor New Yorkers. They are the safety net at the bottom of the market that keeps thousands of people off the street and out of shelters. Unfortunately, this safety net is steadily fraying. Homeless rates continue to climb<sup>1</sup> and the City continues to suffer a poverty rate higher than the national average.<sup>2</sup> A rental increase for SRO tenants would only exacerbate these problems.

SRO owners, on the other hand, continue to find profitable operating strategies, such as renting to transient guests and institutional tenants<sup>3</sup> that will not be affected by a rental increase. MFY therefore requests that the Board decline to approve a rent increase for 2013-2014. A rent increase will cause great hardship for poor New Yorkers while conferring negligible benefit on SRO owners.

### **SRO Housing in New York City**

SROs are the most basic form of housing available in New York City. They come in many different forms, but generally consist of a small, single room (often between 60 and 100 square feet) that shares a communal bathroom and lacks any access to cooking facilities. Some SRO units are as basic as small cubicles with chicken wire ceilings in a shared loft space.

SROs are a critical segment of the City's housing stock. Rent regulated SROs make up a significant percentage (5-15%) of all units affordable<sup>4</sup> to poor New Yorkers.<sup>5</sup> Rents for SRO units are lower than those for any other form of non-subsidized housing.<sup>6</sup>

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<sup>1</sup> New York City Rent Guidelines Board, 2013 Income & Affordability Study, p. 3.

<sup>2</sup> Id. at p. 7.

<sup>3</sup> See, e.g., Joseph Berger, For Some Landlords, Real Money in the Homeless, New York Times, February 8, 2013; David Seifman and Amber Sutherland, City's Ex-'Homeless' Homeless Honcho in New Storm, New York Post, August 14, 2012.

<sup>4</sup> A housing unit is affordable if the rent is equivalent to 30% or less of a household's income. See, e.g., U.S. Department of Housing and Urban Development, "Affordable Housing" (available at <http://www.hud.gov/offices/cpd/affordablehousing/>) ("Families who pay more than 30 percent of their income for housing are considered cost burdened...").

<sup>5</sup> MFY estimates that SROs constitute between 5% and 10% of all units affordable to households earning less than 50% of the Area Median Income (AMI) and a significantly higher percentage of all units affordable to households living at or below the poverty line. As much as 45% of all low-income housing units lost over the last decade were SRO units. According to the Furman Center, in 2008 there were approximately 39,000 fewer units affordable to households earning 50% of the AMI or less than there were in 2002. Furman Center for Real Estate & Urban

Over the last several decades, tens of thousands of SRO units have been converted to other uses.<sup>7</sup> Rents for the remaining units have increased dramatically while the cheapest units—those renting for less than the public assistance shelter allowance—have disappeared. The City has been left scrambling to find shelter for the 43,000 New Yorkers who do not have a place to stay each night.<sup>8</sup>

### **SRO Tenants Cannot Afford a Rent Increase**

It is difficult to adequately describe the effect that even small rent increases have on SRO tenants. The majority of SRO tenants live below the poverty line.<sup>9</sup> They pay an unconscionable percentage of the little income they have toward rent. Since the mid-1990s, SRO tenants' rent burdens have actually increased<sup>10</sup> as rent increases<sup>11</sup> have far outstripped income growth.<sup>12</sup> The

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Policy's Key Findings on the Affordability of Rental Housing from New York City's Housing and Vacancy Survey 2008 (June 2009) (available at [http://furmancenter.org/files/publications/Key\\_Findings.pdf](http://furmancenter.org/files/publications/Key_Findings.pdf)). During this period, as many as 18,000 SRO units were converted to non-SRO uses (assuming consistent loss of SRO units similar to losses recorded between the early 1990s and early 2000s). An unknown, though likely significant, number of additional units were lost to the low-income market through lawful and unlawful rent increases. Compare Rent Guidelines Board Hotel Order # 39 – Explanatory Statement (estimating median registered legal rent at \$977.00) with Rent Guidelines Board Hotel Order # 42 – Explanatory Statement (providing median registered legal rent of \$1,094.00) with Rent Guidelines Board Hotel Orders # 1 – 42 (Summary) (showing that the RGB approved a single 3% increase between 2009 and 2012).

<sup>6</sup> Data compiled from DHCR rent registrations and Housing and Vacancy Survey (HVS) by the West Side SRO Law Project suggest that in 2002 the median rent for an SRO unit was \$450 per month. Assuming only lawful increases since 2002, the median rent in 2013 would be approximately \$521 per month. The median rent for a rent-controlled unit, the next least-expensive form of housing, is \$895 per month. 2011 HVS, at pp. 5-6.

<sup>7</sup> In the early 1950s there were approximately 200,000 SRO units in New York City. See Malcolm Gladwell, NY Hopes to Help Homeless by Reviving Single Room Occupancy Hotels, Washington Post, April 25, 1993. By 1993 there were approximately 46,744 SRO units. Id. By 2002 this number had dropped to 35,227. See U.S. Bureau of the Census, 2002 HVS. Unfortunately, the US Census has not surveyed SROs since 2002.

<sup>8</sup> According to Coalition for the Homeless, “New York City’s homeless shelter population soared to its highest levels ever, *with more than 43,000 homeless New Yorkers – including a record 17,000 children – bedding down each night in municipal shelters.*” See Coalition for the Homeless, State of the Homeless 2012: “If Not Now, When?” (June 2012) (emphasis supplied).

<sup>9</sup> HVS data from 2002 suggested that approximately 48% of SRO tenants lived below the federal poverty line. 2002 HVS at pp.4-5. Since 2009, however, New York City has used a poverty measure that is substantially more accurate than the federal measure. Sam Roberts, City Report Shows More Were Near Poverty in 2011, New York Times, April 21, 2013. The poverty income-threshold under the New York City measure is approximately 25% higher than under the federal measure. Id. It is therefore reasonable to project that, under the New York City measure, a significant majority of SRO tenants would fall below the poverty line.

<sup>10</sup> According to Single Room Living (1996), the median rent burden for rent regulated SRO tenants in 1993 was 33%. Data compiled by the West Side SRO Law Project and submitted to the Rent Guidelines Board in 2008 suggested that the median rent burden for SRO tenants had increased to approximately 39% by 2002. The median rent burden for all renters was 28.6% in 2002. 2002 HVS at p. 6.

<sup>11</sup> According to the Single Room Living (1996), the average monthly rent for an SRO in 1991 was \$324.00 and the median was \$280.00. Data compiled by the West Side SRO Law Project and submitted to the Rent Guidelines Board in 2008 suggested that, as of 2002, the average rent for an SRO was \$705 and the median was \$450. Information compiled by the Rent Guidelines Board in 2008 from DHCR rent registration data indicated that the median contract rent in “buildings that are at least 85% rent stabilized” was \$705 in 2008. Rent Guidelines Board, Explanatory Statement – Hotel Order #39, p. 9.

average SRO tenant now pays around 50% of his/her income toward rent and approximately one-quarter to one-third pay in excess of 70%.<sup>13</sup> This situation is largely a consequence of the fact that SRO tenants, already positioned at the bottom of the housing market, cannot relocate in response to rent increases.

The real life impact of statistics like those above is brutal: after rent is paid, most SRO tenants have somewhere in the approximate range of \$150-\$400 per month to cover all other expenses (food, clothing, medicine, etc).<sup>14</sup> Entire days' worth of desperately needed financial resources would be wiped out by even a small rent increase.<sup>15</sup>

MFY client R.G. illustrates the severity of this situation. In 2012 his rent increased from \$664.09 per month to \$684.01 after the Board authorized a rent increase. R.G. lives on a fixed income of \$819 per month, and thus after the rent increase of 3%, his disposable income (after paying rent) contracted by 13%.<sup>16</sup> He is now left with only \$134.99 each month to feed, clothe and care for himself. R.G. is on the verge of homelessness, and any further rent increase could force him into the street.

### **Property Owners Have Not Demonstrated a Need for a Rent Increase**

The term "SRO owner" is misleading. According to the Board's own figures, more than half of all units in the buildings we term "SROs" are not rented as regulated SRO units. The individuals and companies that own these buildings are not "SRO owners." They are property owners who, having done everything in their power to drive permanent tenants out, are left holding some residual number of SRO units. To treat these property owners as though they were legitimately concerned with SRO policies—to pretend that their activities are significantly informed by the Board's SRO orders<sup>17</sup>—does not comport with the reality of the situation.

Importantly, the profitability of SRO buildings is not based upon the rents owners collect from permanent SRO tenants. Regulated rents serve only as a small supplement to the revenues owners realize from the large number of SRO rooms that are rented outside the regulated system.

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<sup>12</sup> Average real income for households at the 75<sup>th</sup>, 50<sup>th</sup>, and 25<sup>th</sup> percentiles of the earnings distributions have fallen since 1999. Real non-managerial/non-professional wages fell by nearly 5% between 2007 and 2010. See Community Service Society, Poverty in New York City; Fiscal Policy Institute, New York City Poverty 2010.

<sup>13</sup> These estimates are based upon HVS data and upon MFY's experience.

<sup>14</sup> This estimate is based upon conclusions drawn in the Community Service Society's report, Making the Rent: Who's at Risk, released in May 2008 (available at: <http://www.cssny.org/publications/entry/making-the-rent-whos-at-risk>). The report indicates that, as of 2005, average monthly, per-capita residual income was \$132 for poor renters and \$393 for near-poor renters. Id. at p. 9.

<sup>15</sup> The amount of income lost depends, of course, on the tenant's income and the rent he pays. Assuming a rent of \$450, and a monthly residual income of \$450, a 4.5% increase represents a loss equivalent to more than four days' worth of income.

<sup>16</sup> R.G.'s monthly disposable income (after rent is subtracted) was \$154.91 and fell by \$20.14 to \$134.99 (rounding up). This is a loss of 3.9 days' worth of income each month.

<sup>17</sup> Over the last two decades, SRO owners have done everything in their power to frustrate the Boards' attempts to manage SRO rents. While the Board has approved a cumulative increase of approximately 30%, owners have unlawfully increased SRO rents by many times that amount. Compare Blackburn, *supra* note 11 (noting a median monthly rent of \$280) with Rent Guidelines Board Hotel Order # 42 – Explanatory Statement (providing median registered legal rent of \$1,094.00).

Owners lawfully and unlawfully rent regulated SRO units to transients, tourists, and institutional lessees at rates that significantly exceed stabilized rents. For example, the New York Times recently reported that as part of its homelessness prevention effort the City will pay as much as \$3,000 per month rent a room in an SRO.<sup>18</sup> In the Bowery, it is common to see SROs operated as traveler hostels or boutique hotels.<sup>19</sup>

Some buildings are also being given over to use by so-called three-quarter houses. These operations falsely hold themselves out as supportive housing to draw tenants from prisons, mental hospitals, homeless shelters, and so forth.<sup>20</sup> They evade rent regulation and turn a profit by overcrowding rooms, churning tenants, and taking advantage of various government subsidies.

In past years, Board members have questioned whether increasing SRO rents would cause owners to return a significant number of units to the regulated system. The answer is no. There is no evidence that owners rent units outside of the regulated system to cover costs or secure a reasonable return from their properties. SRO owners rent units outside of the regulated system in pursuit of windfall profits—unregulated revenues from regulated buildings. Relatedly, there is no increase that would eliminate a building owner's incentive to illegally increase rents. Unless the Board increases rents to the market rate, owners will continue to have a strong incentive to convert units and overcharge tenants. A solution to this problem will require legislative action that is, obviously, beyond the scope of the Boards' authority.

### **Conclusion**

We respectfully request that the Rent Guidelines Board decline to approve a rent increase for SRO units. SRO owners are not dependent upon the rents paid by the dwindling permanent tenant population to cover their overhead and make a profit. However, even the smallest rent increase will have a devastating impact upon tenants and will further exacerbate the City's homelessness crisis.

***For any questions about this testimony, please feel free to contact Brian Sullivan at (212) 417-3713 or bsullivan@mfy.org, or Chris Schwartz at (212) 417-3755 or cschwartz@mfy.org.***

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<sup>18</sup> Joseph Berger, For Some Landlords, Real Money in the Homeless, New York Times, February 8, 2013 (“The City’s Department of Homeless Services pays many times the amount the rooms would usually rent for – spending \$3,000 a month for each threadbare room without a bathroom or kitchen...”).

<sup>19</sup> Dan Berry, On Bowery, Cultures Clash as the Shabby Meet the Shabby Chic, New York Times, October 12, 2011.

<sup>20</sup> Patrick Arden, Deep Concerns about ‘Three-Quarter’ Housing, City Limits, March 9, 2012; Cindy Rodriguez, Drug Rehab for Housing: Alleged Scheme Targets City’s Most Vulnerable, WNYC, December 15, 2010.