



TESTIMONY ON

RENT INCREASES FOR
SINGLE ROOM OCCUPANCY HOTELS

PRESENTED BEFORE:

NEW YORK CITY
RENT GUIDELINES BOARD

PRESENTED BY:

BRIAN J. SULLIVAN
SENIOR STAFF ATTORNEY
MFY LEGAL SERVICES, INC.

April 21, 2016

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 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. For over 25 years, MFY's SRO Law Project has provided free legal services to Single Room Occupancy (SRO) residents. Thank you for inviting MFY to speak about the impact a rent increase would have on the SRO community.

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. Over 60,000 people in New York City go to bed each night without a home or shelter of his or her own.¹ SRO tenants are amongst New York City's poorest residents, and a rent increase for SROs would likely push more of these tenants out of their homes and into the shelter system.²

SRO owners, on the other hand, continue to exploit profitable operating strategies, such as renting to transient guests and institutional tenants³ that will not be affected by the rent increases set by the Rent Guidelines Board. Furthermore, while even a slight increase to SRO rents can have a devastating impact on very low income tenants, the benefit conferred to SRO owners would be negligible. MFY therefore requests that the Board decline to approve a rent increase for 2016-2017.

The Basics of 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 and classifications, but generally consist of a small, single room, often between 60 and 100 square feet, with shared bathrooms and/or kitchens in the common areas of the building. These rooms can be found in both small and large buildings. Larger SRO buildings often resemble traditional hotels, with multiple rooms on long hallways. Some larger SRO buildings, classified as lodging houses, such as those on the Bowery, are massive loft spaces

¹ Coalition for the Homeless, Basic Facts About Homelessness, available at: <http://www.coalitionforthehomeless.org/the-catastrophe-of-homelessness/facts-about-homelessness/>.

² A 1980 survey of homeless men entering shelters indicated that approximately 50% had previously resided in an SRO. See Malcolm Gladwell, NY Hopes to Help Homeless by Reviving Single Room Occupancy Hotels, Washington Post, April 25, 1993; historically, SRO residents have subsisted on the verge of homelessness (Anthony J. Blackburn, Single Room Living in New York City 8 (N.Y. City Dep't of Housing Preservation and Dev't 1996)). For a more detailed discussion of the role SROs have played in housing New York's most vulnerable residents, see Brain J. Sullivan & Jonathan Burke, Single-Room Occupancy Housing in New York City: The Origins and Dimensions of a Crises, 17 CUNY L. Rev. 113 (2013).

³ 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.

divided by basic walls into cubicles often four feet by six feet in size. These larger SROs can be found throughout the City, but in MFY's experience are mostly located in Manhattan.

Smaller SRO buildings more closely resemble apartment buildings, and the rooms themselves can resemble dormitory units. Like their larger counterparts, these SROs typically have communal bathrooms. It is more common in these buildings to find basic kitchen facilities in individual rooms, though communal cooking facilities are not uncommon. Smaller SROs can be found in brownstones or other small buildings throughout the City. Over the past year MFY has assisted a number of tenants living in smaller SROs in the Brooklyn neighborhoods of Crown Heights, Brownsville, and East New York.

SRO Tenants Cannot Afford a Rent Increase

The majority of SRO tenants live below the poverty line.⁴ They pay a disproportionate percentage of the little income they have toward rent. Since the mid-1990s, SRO tenants' rent burdens have actually increased⁵ as rent increases⁶ have far outstripped income growth.⁷ The 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%.⁸ 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, and can seldom afford to upgrade to a full studio or apartment.

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 \$4.40 per day to cover all other expenses (food,

⁴ 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 fall below the poverty line.

⁵ 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 30.9% in 2011. Dr. Moon Wha Lee, Selected Initial Findings of the 2011 New York City Housing and Vacancy Survey 6 (N.Y. City Department of Housing Preservation and Development, 2012).

⁶ 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. Data from the Rent Guidelines Board's Explanatory Statement for 2013 suggests that the median legal rent for SROs (based on owner filings) is \$1,065. Rent Guidelines Board, Explanatory Statement – Hotel Order #43, p. 10.

⁷ Average real income for households at the 75th, 50th, and 25th 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.

⁸ These estimates are based upon HVS data and upon MFY's experience.

clothing, medicine, etc.).⁹ Entire days' worth of desperately needed financial resources would be wiped out by even a small rent increase.¹⁰

SRO buildings have been subject to rent regulation since the enactment of the modern Rent Stabilization Code in 1987.¹¹ Because of their historically low rents, SROs are a critical segment of the City's housing stock. They make up a significant percentage (5-10%) of all units affordable¹² to poor New Yorkers.¹³ Rents for SRO units are lower than those for any other form of non-subsidized housing.¹⁴ To increase these rents would be disastrous for SRO tenants, who already survive on so little.

Property Owners Cannot Demonstrate a Need for a Rent Increase

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 property owners who have a fixed number of SRO tenants and have no intention of re-renting to new permanent, rent-stabilized tenants when a tenant moves out or is evicted. 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 orders¹⁵—does not comport with reality.

⁹ This estimate is based upon conclusions drawn in the Community Service Society's report, Making the Rent: Before and After the Recession, released in June 2012 and updated in September 2013 (available at: http://b3cdn.net/nycss/2b541395152c0a6d1e_vpm6b5w43.pdf).

¹⁰ 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.

¹¹ W. Dennis Keating, Landlord Self-Regulation: N.Y. City's Rent Stabilization System 1969 – 1985, 21 Wash. U.J. Urb. & Contemp. L. 77 (1987).

¹² 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...").

¹³ Based on Census data, MFY estimates that there are approximately 30,000 SRO units in New York City, the vast majority of which are affordable. See U.S. Dep't. of Commerce, U.S. Census Bureau, 2011 Housing and Vacancy Survey, available at: <https://www.census.gov/housing/nychvs/data/2011/ser1a.html> (table 15). These units are under great pressure and are constantly being converted to higher rent use. A common means of such conversion is 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).

¹⁴ 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 2014 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. See Sullivan & Burke, supra note 2 for a more detailed analysis.

¹⁵ Over the last two decades, SRO owners have disregarded 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).

Importantly, the profitability of SRO buildings is not based upon the rents owners collect from permanent SRO tenants paying their legal rent. 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. Owners lawfully and unlawfully rent regulated SRO units to transients, tourists, students, and institutional lessees at rates that significantly exceed lawful stabilized rents. On the East Side of Manhattan, for example, many large residential hotels, such as the Jolly Madison and Martha Washington hotels (where there are approximately 11 permanent tenants in the 309 unit building), have been converted to almost exclusively luxury use, renting for as much as \$400 or \$500 per night. On the Bowery, it is common to see SROs operated as tourist hostels or boutique hotels.¹⁶ Although the practice appears to be on the decline, some SRO owners still rent rooms to the City as part of its homeless diversion program.¹⁷

Some buildings are also being given over to use by so-called three-quarter houses.¹⁸ These operators falsely hold themselves out as providing supportive housing to draw tenants recently released from prison and substance abuse programs and for whom finding housing quickly is of paramount importance.¹⁹ They evade rent regulation and turn a profit by overcrowding rooms, disregarding even basic maintenance and upkeep, churning tenants, and taking advantage of various government subsidies.²⁰

In light of historically low operating costs this year, even those SRO owners renting exclusively to rent regulated tenants cannot demonstrate a need for a rent increase. The price index of operating costs is negative 3.8% for rent stabilized hotel buildings, lower than any other category of rent regulated housing. A 0% increase is particularly appropriate this year.

The Changing Housing Market

New York City's housing market is on the verge of significant changes. Particularly in neighborhoods designated for rezoning, such as East New York and Brownsville, large residential developments and new infrastructures are going to place new pressures on tenants; new housing and amenities will increase the desirability of these neighborhoods and put upward pressure on rents.²¹ Over the past several years, MFY has served a number of tenants living in smaller, rooming-house style SRO buildings in and around these neighborhoods. For example, our client DC lives in a 9-unit SRO located in a brownstone on the border of Brownsville. Predicting changes in the neighborhood, DC's landlord has brought a series of frivolous cases against him. Fortunately, because of the RGB's 0% rent increases for SROs, DC's landlord has

¹⁶ Dan Berry, On Bowery, Cultures Clash as the Shabby Meet the Shabby Chic, New York Times, October 12, 2011.

¹⁷ 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..."). Andrew Rice, Why Run a Slum If You Can Make More Money Housing the Homeless?, New York Magazine, December 1, 2013.

¹⁸ John Jay College of Criminal Justice, Prisoner Reentry Institute, Three Quarter Houses: The View From Inside (October 2013).

¹⁹ 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.

²⁰ See note 22, p. 13.

²¹ The Editorial Board, Affordable Housing vs. Gentrification, New York Times, November 27, 2015.

not been able to raise his rent to pressure him out of his room.²² While MFY has been able to beat back the frivolous lawsuits, because DC lives on a fixed income, even a small increase in rent would likely force him out of his home.

There are thousands of tenants in DC's position. To provide historical context, in the 1970s and 1980s, the SRO market collapsed, and the City experienced a sharp spike in homelessness.²³ We are still living today with the structural problems created by this collapse. This tragic history puts emphasis on the necessity of preserving affordable housing, particularly SRO housing. Virtually none of the affordable housing that is currently being created will be affordable to those at the very bottom of the income scale.²⁴ Therefore, the SRO housing stock must be zealously protected. While the City's increase in funding for civil legal services can help low income tenants defend against a landlord's attempts to evict them, only the RGB can keep SRO tenants' rents at affordable levels. This means freezing SRO rents. A 0% increase for SROs will contribute to the preservation of a desperately needed portion of the housing stock, which fits squarely into the Mayor's plan of preserving 120,000 units of affordable housing. As the price at the bottom of the housing market inches up, more and more New Yorkers will slowly be priced out of all housing in the City, and will be forced into homelessness.

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 Marti Weithman at (212) 417-3755 or mweithman@mfy.org.

²² In MFY's experience, many of these smaller SROs are not being warehoused and would not benefit from the warehousing proviso.

²³ See Sullivan & Burke, *supra* note 2.

²⁴ Jeff Mays, De Blasio Affordable Housing Plan Not Affordable Enough: Activists, DNAinfo, December 15, 2015.