



Aging Precariously in New York City

Among seniors, the desire to age in one's own home is universal. Over 90% of seniors 65 and older, and all seniors 75 and older, want to remain in their homes, according to an AARP survey. When seniors are forced to relocate, they lose friendships, the comfort of houses of worship, and trusting relationships with medical providers, resulting in a significant loss in the quality of life, personal control and dignity. For those who have outlived their spouses, siblings and peers, the security of home and neighborhood may be all they have. They are truly alone.

In today's frenzied housing market, landlords bent on turning affordable units into luxury apartments and condos are using a variety of tactics to force out seniors. Over the past year the number of seniors seeking help from MFY has doubled and the problems they present are increasingly complex, as shown by a few recent cases from MFY's docket.



On a Friday afternoon in November, Mrs. V's son walked into MFY's offices with a final judgment of eviction against his mother, a homebound older adult who has lived in her Manhattan apartment for 30 years. The landlord had stopped accepting money orders for rent and had withheld repairs in an effort to force out the family. Because Mrs. V could not leave her home and her son was not capable of responding appropriately to court papers, Mrs. V was found in default. MFY attorney Bernadette Jentsch went to Court the following Monday and argued that the tenant's failure to appear was excusable due to her disability. The judge agreed and ordered the landlord to accept the money orders for the amount owing and vacated the order to evict. Without MFY's help, a homebound disabled woman and her son would have become homeless. Despite receiving all the money, the landlord is not giving up and has filed an appeal.

Housing problems can create health problems, as seen in the case of Ms. L. After buying out all tenants except Ms. L, a Manhattan landlord filed plans with the city's Department of Buildings (DOB) to turn a five-unit building into a one-family residence. The landlord's architect self-certified the plans, which DOB rubber stamped with no inspection and without asking if any tenants remained. Ms. L, who is mentally disabled, found herself under siege. Chemicals used for demolition caused respiratory and eye problems, hot water all but disappeared, the walls and ceiling buckled, and ventilation was blocked. The noise was unbearable, and entering and exiting the building was extremely dangerous. In failing to follow its own regulations to protect tenants, DOB severely compromised Ms. L's health and safety. When attempts by MFY Staff Attorney Allegra Chapman to get DOB to resolve the problem failed, MFY filed suit against DOB to compel it to enforce its own regulations.



Photos courtesy of U.S. Administration on Aging

In Ms. K's case, a health problem gave rise to a housing problem. Since she was a teenager, Ms. K, now in her 80s, collected salt and pepper shakers. She stored them in armoires and when these were filled, in cardboard boxes. Three armoires lined the narrow entry hallway of her small apartment, forcing her to walk sideways, and boxes filled the living room and bedroom. To sleep, Ms. K moved a mattress on top of boxes piled six feet high, and fashioned a staircase of boxes up to it. When there was no more room inside the apartment, Ms. K placed some boxes on the fire escape, drawing the attention of her landlord who investigated and filed for eviction when she would not remove the boxes. What probably began as an innocent hobby turned into a form of Obsessive Compulsive Disorder (OCD), an increasingly common occurrence among isolated, anxious seniors who find comfort in

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hoarding objects, clothing, newspapers, and pets. To save Ms. K's tenancy, MFY Staff Attorney Jadhira Rivera spent many hours with Ms. K to win her trust and eventual agreement to part with most of her collection. Ms. Rivera found an agency to sell some of her collection and located charities that accepted donated items. Ms. K, like others suffering from OCD, did not recognize she had a problem and it took many months to work out a resolution satisfactory to both the landlord and Ms. K.

To age in place successfully, seniors must maintain assets to produce a sufficient income stream to live comfortably. Financial abuse of the elderly is rapidly becoming one of the most prevalent problems facing our nation's elderly, according to the National Senior Citizens Law Center, and confirmed by MFY's experience. This abuse takes many forms—from sweepstakes scams to phony annuities, identity theft, and illegal debt collection practices (and outright swindles, like the adult home case described below).

Seniors frequently find that they have been sued only after their bank accounts are frozen. Mr. R, a 61-year-old HIV+ man living on Social Security Disability, panicked when

he could not withdraw money for rent, food and basic expenses. He had neither been served with court papers nor notified by the creditor that certain funds are exempt, as required by New York law. Although a social worker sent proof to the collection agency that Mr. R's only source of income is Social Security, his account remained frozen. His social worker contacted MFY staff attorney Karuna Patel, who intervened to get the account released one week later. All told, Mr. R was without money for 28 days, jeopardizing his fragile health and causing extreme anxiety.

One in four of the close to 4,000 cases MFY handles each year involves a senior. In addition to advice, counsel, and representation in court, MFY works for systemic change. MFY participates in the Right to Counsel Coalition, which has proposed legislation to provide a right to counsel for seniors in housing court. In recent months, MFY attorneys have provided expert testimony at city and state agency hearings recommending changes in the Department of Buildings enforcement procedures; improvements in SCRIE eligibility; and reforms in debt collection process to protect exempt funds, require proof of service, and impose penalties for

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failure to notify consumers.

MFY Staff Attorney Jadhira Rivera summed up the problems facing seniors in recent testimony at the New York City Department for the Aging: "Most of the seniors we serve have worked hard all their lives, raised families, and faithfully paid their taxes. But now they are living on the edge. Their retirement income is simply not enough to pay the escalating costs of housing, forcing seniors to choose between having a roof over their heads or food on the table. Clearly, our elected officials need to re-examine Social Security payments and other entitlements in light of the urban housing market and find ways to either put more cash in seniors' pockets or subsidize their rents."

Lawsuit Exposes "Headhunting" Racket in Adult Home Industry

MFY Legal Services, Inc. (MFY) and **Patterson Belknap Webb & Tyler LLP** filed suit in federal court on September 21 on behalf of three seniors and one older adult with mental disabilities who allege that they were exploited by a "headhunter" who receives fees for placing people in adult homes. The suit charges that in addition to pressuring people into inappropriate placements in exchange for money, the headhunter and her associates also stole more than \$40,000 from three of the resident plaintiffs.

One resident alleges that the headhunter told her that she had been evicted from her apartment and could not return, which was not true. Two plaintiffs, who had been awarded \$18,000 each in a class action settlement after their nursing home was closed, alleged that the headhunter told them she was the lawyer on that case, in order to procure powers of attorney from them, thus enabling her to steal their money. With another resident, it is alleged that she stole the resident's checkbook and forged multiple checks over the course of five months.

Plaintiffs assert claims against the headhunter, her company Healthsease Ltd., and the New South Shore Manor adult home

in Brooklyn under the federal Racketeer Influenced and Corrupt Organizations Act, the Americans with Disabilities Act, the Rehabilitation Act and the Fair Housing Act. Of the four plaintiffs filing suit, three reside in New South Shore Manor, a Brooklyn adult home, which the suit charges actively participated in the scheme to steal residents' funds. The fourth plaintiff alleges that she managed to return to her apartment from another adult home, despite the headhunter's threats that she would have her committed to a psychiatric institution if she resisted.

"While at first glance headhunters seem little different from private housing brokers, in reality they prey on vulnerable people in vulnerable situations and operate with virtually no oversight," said Jean Philips, MFY's attorney on the case. "Many hospital discharge planners, faced with scarce housing options for people with mental illnesses, ask few questions when someone offers to place patients for them, and adult homes do little to prevent financial exploitation of residents," continued Ms. Philips, "At every stage, people with mental disabilities—especially seniors—are sitting ducks."

in brief

MFY Expands Services to Immigrants and Working Poor

Support from the New York City Council's Legal Services for the Working Poor and Immigrant Opportunities Initiatives is enabling MFY to serve more clients who are legally indigent and to build collaborative projects with neighborhood-based organizations that serve immigrant workers. MFY hired two new staff attorneys to address the many issues faced by working poor individuals and families, including housing, public benefits, access to health services, consumer and employment. MFY's ongoing Workplace Justice Project is working closely with the Fifth Avenue Committee in Brooklyn to assist workers in Sunset Park who are creating the new Sunset Park Workers Center, where immigrant workers can receive legal and other services. MFY, with assistance from **Patterson, Belknap, Webb & Tyler LLP**, recently settled a suit against two Bronx supermarkets that had locked in janitors working overnight.



MFY Staff Attorney Amy Carroll joins a plaintiff in the janitor lock-in suit and Artemio Guerra, organizer for the Fifth Avenue Committee at a City Hall press conference.

MFY Survey Finds Small Claims Court a Dead End for Workers Who are Owed Wages

With assistance from **Skadden, Arps, Meagher & Flom LLP**, MFY surveyed low-wage workers who had filed unpaid wage claims in Small Claims Court over a 19-month period. The survey found that slightly over half of all wage and salary claims resulted in a decision; of these, 80% were resolved in favor of the workers. However, 40% of the workers who won judgments were unable to collect their money from their employers. MFY's report, *Making Small Claims Court Work for NYC Workers*, recommends that the Court actively help workers to get information on employers' assets and that the NYS Legislature consider amending the NY Civil Court Act to strengthen mechanisms for collecting judgments.

MFY's Consumer Rights Project Extends Its Reach

MFY staff attorney Karuna Patel is participating in the Civil Legal Advice & Referral Office (CLARO) in Brooklyn Civil Court, staffing an advice table where pro se litigants receive advice and help drafting pleadings on debtor/creditor issues. Ms. Patel also helped train 45 volunteer lawyers to advise litigants seeking help and conducted a session for the New York State Judicial Institute's orientation program for new civil court judges on consumer credit cases. In January, Ms. Patel will begin training social service workers on senior consumer issues, in collaboration with United Neighborhood Houses and with support from the American Bar Association's Law in Aging Program.



The Office that Plays Together . . .

. . . has a really great time! MFY staff and interns held a softball game in July in Brooklyn with a lively celebration afterwards. Touch football, anyone?

pro bono news

Since launching the **Pro Bono Kinship Caregiver Law Project** in June, the project has placed 45 cases for 37 clients, including 21 adoptions, 15 guardianship and custody matters and one wills case. The project has generated an enthusiastic response from the private bar, with attorneys from the following firms and corporations currently participating:

Alston & Bird LLP
Citibank Global Markets Inc.
Cleary Gottlieb Steen & Hamilton
Davis Polk & Wardwell
Greenberg Traurig LLP
Hughes Hubbard & Reed LLP
Kaye Scholer LLP
Mayer, Brown, Rowe & Maw LLP
McDermott, Will & Emery
Milberg Weiss Bershad & Schulman LLP
JPMorgan Chase
Morgan, Lewis & Bockius LLP
Morrison & Foerster LLP
O'Melveny & Meyers LLP
Orrick, Herrington & Sutcliffe LLP
Patterson, Belknap, Webb & Tyler LLP
Sidley Austin LLP
Skadden, Arps, Slate, Meagher & Flom, LLP
Stroock & Stroock & Lavan LLP
Weil, Gotshal & Manges LLP

Start-up funding for the Project has been provided by **Greenberg Traurig LLP** and **The Hite Foundation**. For further information, contact Ramonita Cordero, Supervising Attorney, at rcordero@mfy.org.

MFY Staff News

MFY welcomed four new staff this year. From left to right: **Uchenna Emeagwali** and **Diarmuid Houston** joined the Mental Health Law Project; **Carolyn Coffey** is working



to expand services to the working poor on housing, consumer and employment issues; and **Orier Okumakpeyi** is focusing on health access and public benefits issues.



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299 Broadway, New York, NY 10007
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FALL 2006

TWO GREAT WAYS TO SUPPORT MFY

2007 *Fête*

Enjoy open bar with premium cocktails, hors d'oeuvres and great music and support free legal services for all New Yorkers

Thurs., Feb. 1, 7-11 pm

THE GRAND

41 East 58th Street between Park & Madison Avenues

Tickets online at: www.mfy.org/fete,
call 212-417-3726 or e-mail
bkraus@mfy.org
\$85 per ticket by January 5
or \$100 thereafter

Save the Date!

**MFY's Annual
Theater
Benefit**

**Thursday,
June 7, 2007**

Details coming soon.

MFY Legal Services, Inc.

Celebrating 43 years of free civil legal services to low-income New Yorkers.

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