

Tenants celebrate harassment bill victory

BY CHRIS LOMBARDI

Hortense Bermudez, a longtime resident of 455 W. 34th St., has been taken to housing court so frequently that she can no longer count the appearances. Every time, court judges dismiss the case because her rent has been paid. But the suits keep coming, because Bermudez is only one of a handful of rent-stabilized tenants left in the building.

Farther downtown at London Terrace Gardens, which occupies the block from 24th to 25th Sts. at Ninth Avenue, the owners send the rent-regulated tenants near-weekly requests for "income verification," tenants said, requiring another round of paperwork to prove their rent shouldn't double.

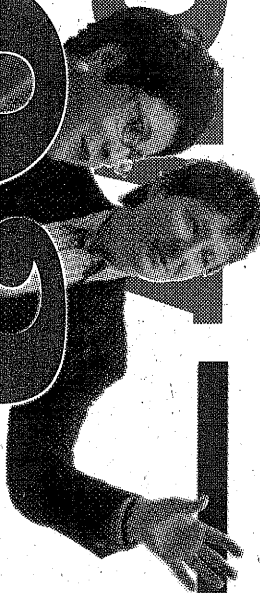
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And somewhere in Chelsea, according to the district office of Assemblyman Richard Gottfried, the president of a tenants' association had been personally sued by the landlord—with a demand that her association vacate so that the landlord could have the building to himself.

In the past year, cases like the above have escalated throughout Hell's Kitchen and Chelsea, but tenants had little recourse against such harassment. But now, thanks to years of work by advocates, tenant associations and Chelsea's City Council representative, Speaker Christine Quinn, tenants have a new method to fight back.

On Wednesday, after a quick, last-minute victory in the City Council's Housing and Buildings Committee, Quinn secured unanimous passage of her "Tenant Protection Act," which for the first time allows tenants to bring their landlords to court for harassment. The measure also threatens offending landlords with both fines (from \$1,000-5,000 per unit) and a permanent violation on their compliance record with the city Department of Housing Preservation and Development.

After the full Council vote, Quinn was exuberant—and careful to laud the troops that had helped deliver the vote. In addition to thanking the two sponsors of Intro 627—the Village's Dan Garodnick and Upper West Side rep Melissa Mark-Viverito—she singled out the tenant associations and advocates that had kept the pressure on, including local allies the London Terrace Tenants Association and the Hell's Kitchen nonprofit Housing Conservation Coordinators.

"This is a powerful new tool that tenants can use to fight back against harassment," said HCC organizing director John Raskin. "It's especially relevant in our neighborhood, where landlords are trying to push rent-stabilized tenants out to bring in wealthier, higher-paying tenants."

At the office of Chelsea Assemblymember Richard Gottfried, calls about landlord harassment come in fast and furious from his Chelsea and Clinton constituents. Now that the bill's been passed, said aide Shannon Flaherty, "we're sitting down talking about all the cases that involve harassment. And there are a lot!"

In addition to the endemic frivolous lawsuits, Flaherty said, harassment takes many forms. Some tenants describe regular visits from the city's Adult Protective Services (APS) division, after landlords have reported an "unstable person" at a specific apartment. "You open your door, and suddenly there's a social worker," said Flaherty. "Every day? Every week? That's harassment." Tenants have also reported threats that sound like something out of the 1970s: "Landlords tell them, 'I'm gonna get you out of here, whatever it takes.'" And in an environment when many landlords want to perform gut renovations on older buildings, rent-stabilized tenants find themselves living on construction sites, with contractors working above them or next door at all hours of the night, "instead of from 8 a.m. to 8 p.m.," said Flaherty. "That's illegal. It's also harassment."

At London Terrace, the weekly landlord mailings described by tenant association president Edrie Cole continue a pattern dating back to 1993, when the first "luxury decontrol" laws were passed.

Tenants of the venerable building ignored repeat invoices that would have brought their rents above legal limits—until they defended themselves in court and won, with a judge ruling in September 1993 that the invoices and "three-day notices" were "deceptive and misleading," and did not constitute grounds for eviction.

The complex, once fully protected by rent-stabilization, now rents 40 percent of its apartments at market rate, starting at \$3,000 for a studio apartment. Cole told Chelsea Now last fall that many of her neighbors are being priced out of their apartments, despite a legal provision that protects those with incomes under \$75,000. "People are increasingly living in fear of losing their homes, of getting kicked out," she said. Cole's association then organized, lobbied and joined tenants for each hearing on the bill.

After Wednesday's vote, Quinn echoed her constituents' travails, speaking for a moment as if she were still canvassing City Hall as a tenant organizer for the



Chelsea Now photo by Jefferson Siegel

City Council Speaker and Chelsea representative Christine Quinn speaks before assembled residents and organizers at the West Side Tenants Conference last fall, a week before the now-passed tenant harassment bill was introduced.

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— John Raskin, organizing director,
Housing Conservation Coordinators

Association of Neighborhood Housing Development. "Those of us who are involved in tenant activism all know what the building owners do," she said at Wednesday's hearing. "They choose tenants, maybe because they're older and therefore maybe a little weaker. Then they begin to deliberately harass them. The object is to get them to move out. Then, thanks to what they call luxury decontrol, that unit leaves the system, and it is decontrolled forever," she added.

"A tenant could go to court, sue their landlord every time their heat or hot water was turned off," Quinn continued. "But they could never talk about harassment—until this bill. Now our law will make that actionable so you can take your landlord to court."

Until this week, the only way a tenant could file charges of harassment was with the state Division of Housing and Community Renewal (DHCR), a slow and often fruitless process, according to tenants and their advocates. Under former governor George Pataki, "we were discouraged from filing at all," Flaherty said. "Now it normally ends up in some sort of mediation."

"This legislation gives tenants a much clearer set of legal remedies," added Gottfried, who spoke to Chelsea Now on Thursday. In particular, he likes Intro 627's definition of harassment as any act or omission—such as repeated baseless lawsuits, or interruption or withholding of services—by a landlord that "causes or is intended to force a legal tenant to vacate an apartment," the measure states. The word "omission," Gottfried said, means that a landlord cannot claim ignorance, for instance, in the case of an outside contractor performing illegal work late at night.

With a newly defined offense come new penalties. Declaring harassment a "Class C violation" under Section 27-2005 of the administrative code of the city of New York, the new law states that if a judge finds a landlord guilty of harassment, the court "shall impose a civil penalty in an amount not less than one thousand dollars and not more than five thousand dollars for each dwelling unit in which a tenant or any person lawfully entitled to occupancy of such unit has been the subject of such violation,

and such other relief as the court deems appropriate."

What's also important, Gottfried noted, are the law's provisions allowing a judge to issue restraining orders to landlords deemed offenders. "The ability of housing court to issue a court order is a crucial tool," he said. "If somebody violates a court order, you can hold them in contempt, and keep issuing orders until they comply."

Such a complex and strongly worded bill was not passed without a fight, of course. And Quinn and her allies were prepared for it: At the West Side Tenants Conference last fall, the week before the bill was introduced, Quinn spoke before the assembled tenants and organizers.

"The Rent Stabilization Association—that's the landlord's lobby—was very helpful on safe housing law. But they will not support the harassment bill," Quinn said at the October meeting. In addition, she said some of her Council colleagues were already nervous. "I hear a lot of—'do you have to do this? Really have to? I got a call,' etc.' We may need to come back to the people in this room, and ask you to help us send a tenant message to City Hall."

The RSA's response was as Quinn expected. In a January 2008 "Legislative Alert," RSA head Joseph Strasburg told his members that Intro 627 "goes too far" in allowing tenants to sue, and "will affect your ability to manage your property." Lucas Ferrara of the Real Estate Law Blog, in a post entitled "How Disastrous is Intro 627?" said darkly, "You will have to hire your own lawyer if you want to fight back." Both Ferrara and Strasburg urged landlords to contact their councilmember on behalf of a different "anti-harassment" bill, Intro 628, which would allow landlords to sue tenants for harassment instead.

In response, Quinn, Garodnick and Mark-Viverito called on the troops, including the London Terrace tenants, Tenants & Neighbors and HCC. To HCC's Raskin, those tenants are the story. "Tenants were well organized and worked collaboratively with their councilmembers for more than a year to make sure the bill got through," he said. "It goes to show what you can accomplish when you have a well-organized tenant movement."

While Intro 628 is still theoretically somewhere at the Housing and Buildings Committee, Quinn's press representatives said that the passage of Intro 627 was a powerful statement of where the Council actually stands and the strength of community organization.

Now, tenant advocates and Quinn's aides are bracing themselves for the inevitable backlash, including from building owners who are already calling the bill "unconstitutional." But first, they want to celebrate, and plan a major City Hall signing ceremony soon with Mayor Bloomberg. Asked if he feared that the businesslike Bloomberg would decline to sign, Quinn spokesperson Andrew Doba said simply, "I don't think it's an issue."

"The landlord lobby fought really hard against this one, but Speaker Quinn and the City Council pushed back," Raskin added. "It's a good day for tenants at the City Council."