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Housing Activists' Fall Agenda

by Joe Lampport

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While the scarcity of affordable housing continues to grab most of the attention when people talk about housing issues, advocates are pushing for answers to other problems. They have a full agenda for the fall, some of it a continuation of battles already begun – one is against the city's flawed rent subsidy program, little more than a year old, called [Housing Stability Plus](#), another is the effort to [repeal the Urstadt Law](#), which prevents the City Council from strengthening rent regulation laws that affect about one million apartments in the city.

Building on the momentum housing issues have gained politically over the last year, though, advocates are now mounting new campaigns. In coming months some are hoping to persuade the City Council to pass legislation that would:

- Establish a "repair board" to enforce the city's housing maintenance code
- Establish the right to counsel for senior citizens in housing court
- Make it illegal to discriminate against a person because of her or his source of income under the city's human rights law
- Make it possible for tenants to sue landlords for harassment in housing court

Few advocates pretend that any of these issues will be easy to achieve. They are building support among a wide variety of groups for the inevitable political fights ahead.

Repair Board

For months John Williams has been trying to get his landlord to remedy a mold problem that is turning the floor of his Brooklyn apartment black. A tenant for 26 years who has always paid his rent, Williams has a problem that is far from unique in New York. Repair problems are as common in the city as cockroaches, which themselves are a problem that landlords are obligated to "repair" under the city's Housing Maintenance Code.

When a tenant reports a problem to the city, an inspector is sent to confirm a violation of the housing code. That violation is entered in the Department of Housing Preservation and Development's computer database and the landlord is then informed. And that's usually where it stops. The exception is when the tenant – or the city's housing department -- starts a lawsuit against the landlord in housing court.

"The current system isn't working," argues Ben Dulchin of [Association for Neighborhood Housing and Development](#), which has spearheaded a campaign to make violations of the housing code like violations of the building code or the traffic code: Inspectors would be writing tickets and landlords would have to appeal to a newly created repair board, which would be an administrative tribunal.

"Just look at the statistics, Dulchin said. The Department of Housing Preservation and Development "writes 400,000 violations a year. About 25 percent are heard by a judge in housing court and most of those get corrected. But the other 75 percent are dealt with by sending a notice of violation ... a polite suggestion to the landlord" to make a repair. "There is a misconception that notices of violation have teeth. They don't."

This explains why the city's computers contain a list of three million housing code violations reported but never resolved.

The idea of a repair board has been around since the early 1980s, but got a boost recently when Attorney General Eliot Spitzer, the Democratic candidate for governor, expressed his support for its creation.

Landlords generally do not like this idea: "Anyone who thinks that penalizing the landlord is going to make more money available for repairs is fooling themselves," said one landlord who asked to remain anonymous because he deals frequently with government agencies. "It's going to mean *less* money for repairs."

But some tenant attorneys feel the same way. The remedy a repair board offers "is not repairs; it's fines," said Susan Cohen, an attorney at [MFY Legal Services](#). "The fine will be a cost of doing business. An administrative tribunal would have no authority to order repairs. It would just levy fines."

Right To Counsel For Low-Income Senior Citizens

Of all the problems in housing court, none strikes more people as less fair than the uneven distribution of attorneys. While almost all landlords have legal representation, almost no tenants do. Free legal services available in the city are woefully under-funded and can represent only a small fraction of the people who qualify for their services.

For more than two decades advocates have sought to establish a right to counsel at housing court to remedy this problem. A small step in that direction is now under consideration: Establishing a right to counsel for low-income senior citizens in housing court.

"Housing laws in New York are very complex and on top of that the court system is difficult to navigate," said Craig Acorn of the Community Service Society, one of the organizations pushing the proposal. "People who are brought to court on eviction actions are often very intimidated by those two things.... And landlords have an unfair advantage over those who are un-represented."

Landlords have long opposed a right to counsel in housing court, arguing that giving tenants attorneys would be too expensive and slow down eviction proceedings. The court, they say, would need more judges, court personnel and space.

Acorn argues that the costs would be less than they are now. Evictions are expensive: "People who get evicted – in inordinate numbers elderly people – end up in nursing homes, hospitals, shelters," he said. "One way or another, the city and state become responsible for their care. "And there's an intangible benefit [to preventing their evictions] because we think that maintaining the character of a community and a neighborhood in large part depends on allowing long-term residents to stay where they've lived for years."

Income Discrimination

The city's human rights law, among the most comprehensive in the nation, outlaws discrimination in housing for a number of "protected classes." One reason advocates say tenants are being forced out of affordable housing is landlords' refusal to accept rent subsidies like Section 8 and public assistance. The answer is to update the city's human rights law to prohibit discrimination based on "source of income."

"It has become a very frightening way to push out long-term residents," said Anne Lessy of the Pratt Area Community Council in Brooklyn. "Landlords are refusing to renew leases for tenants with Section 8 or other subsidies. And it's harder for people to identify new housing opportunities if they receive income support or other assistance."

The City Council is now considering legislation that would add source of income to the list of protected classes under the city's human rights law.

The same landlord who cringed at the thought of a repair board was apoplectic at the thought of being forced to accept Section 8 and other rent subsidies: "The government behaves horribly in those programs," he said. "I've had hundreds of bad situations. The city would be two years behind in paying. The city takes two years to figure out (a rent increase) and I'm supposed to go back and whack this tenant for two years rent?"

In fact, whether landlords should have to accept Section 8 in rent stabilized apartments – where leases automatically renew under "the same terms and conditions as the original lease" – has been a source of contention between landlords and tenants for a few years now. An appeals court decision is expected before the end of the year on this issue because housing court judges have come down on both sides.

But Lessy pointed out that other cities around the country have expanded their human rights laws to prohibit discrimination based on where their money is coming from. The answer to inefficient bureaucracies is not discrimination; the answer is to fix the bureaucracy, she said.

Suing For Harassment

When he was an organizer at the Fifth Avenue Committee in Brooklyn, Ben Dulchin recalls a landlord who put a bomb in the lobby of a building. The tenants filed an harassment complaint with the state's Division of Housing and Community Renewal, which oversees rent regulated apartments.

"But (the division) said because he only planted one bomb, it wasn't harassment," Dulchin recalled. "Harassment, they said, was a pattern of behavior. That was the last time I filed an harassment claim with DHCR." Dulchin is hoping the City Council will make harassment a "right of action" for tenants at housing court, allowing them the possibility of counter-suing when landlords file frivolous cases. Again, because landlords are almost always represented by attorneys, they do not have to go to housing court themselves. Most tenants do not get attorneys and end up spending hours at court, often losing at least a day's pay as a result.

"We get calls from people who have been taken to court even though they've paid the rent," said Jenny Laurie of the [Met Council on Housing](#). "Some mechanism for getting landlords to stop suing tenants just to harass them would be good."

It is not clear what punishments landlords would face for filing frivolous cases. But giving tenants the power to counter-sue for harassment would be a powerful deterrent against hauling tenants into court for rent that's already been paid or subletting their apartments when all they have done is found a roommate.

Joe Lamport is the assistant director of the [City-Wide Task Force on Housing Court](#), a coalition of community housing organizations.