

A bill backs fining owners who harass their tenants

By Joe Pompeo

It was scalding water that prompted Susi Schropp to file a housing complaint with the city on Nov. 9.

She said the temperature in her shower would change from icy to burning within 30 seconds, and that the water coming out of the faucet in her kitchen sink would get so hot she had to use a potholder when turning the metal knob that shuts it off.

When inspectors from the Department of Housing Preservation and Development arrived at her rent-stabilized East Village studio apartment to investigate, they measured water temperatures up to 200 degrees Fahrenheit.

“It really was almost impossible to take a shower,” said Schropp, a graphic designer in her early 40s, adding that her hands were burned from doing a load of dishes.

The water problem didn’t surprise Schropp, who has lived on St. Mark’s Pl. since 1990. In fact, it had been happening on and off since 2003, and consistently for the past year and a half. She said it was part of a pattern of quality of life-related problems she has experienced since her building changed ownership in 2002, and which she believes are a form of tenant harassment.

Schropp is not alone, especially in Downtown Manhattan. Many tenants in rent-stabilized and rent-controlled apartments charge that their landlords repeatedly deny essential services or intentionally fail to make repairs, hoping to force them out to make way for tenants who can pay market-rate rent.

Legislation pending in the City Council, however, would for the first time enable tenants to sue landlords for harassment in Housing Court. Currently, a tenant can take a landlord to Housing Court for a specific violation, but not for a series of violations that may indicate a pattern of harassment.

Under the bill, which is up for a public hearing on Thurs., Dec. 6, landlords would face fines of \$1,000 to \$5,000 per complaining dwelling unit. Thus, a landlord simultaneously hit with harassment complaints from five apartments could be fined up to \$25,000. A judge would determine if the landlord is guilty of harassing tenants by means of various tactics, including verbal or physical threats, repeatedly turning off the heat or hot water, commencing baseless or frivolous court proceedings, changing the locks or “repeatedly causing or permitting other acts...which substantially interfere with...[a tenant’s] comfort, repose, peace or quiet.”

The Council bill was introduced Oct. 17 by Speaker Christine Quinn and Councilmembers Dan Garodnick and Melissa Mark-Viverito, all Democrats from Manhattan.

“This law will ensure no tenant is powerless when faced with an unscrupulous slumlord intent on getting them out of their home. With this bill, we give tenants a direct line to confront their harasser,” said Quinn in a statement.

Some landlords fear the legislation would open a floodgate of frivolous litigation.

John Gorman, an attorney who has represented tenants in Manhattan for the past 25 years, said gentrification and tenant harassment in Downtown neighborhoods is “moving at an alarming rate.” He estimates that this area of the city comprises 40 percent of his overall caseload.

“[The harassment’s] been pretty constant for the past five to six years,” Gorman said, noting that tenant harassment in Manhattan isn’t new, but “has been going on for quite some time.”

Wasim Lone, director of organizing for GOLES (Good Old Lower East Side), a housing preservation and tenant advocacy organization that lobbied for the harassment bill, agreed.

Lone said he averages five new tenant cases a day, and that 17 new tenants sought assistance from GOLES on the day he was interviewed for this article. During the hour he met with a reporter one Friday evening in early November, two tenants came into the organization’s small Avenue B office to talk to him about landlord issues, and three called him on the phone.

“It’s systematic harassment,” Lone said. “Block by block, every single rent-stabilized tenant is under pressure to move out.”

Not surprisingly, the Rent Stabilization Association, an organization representing New York City landlords, is opposing the tenant harassment bill. Frank Ricci, the Rent Stabilization Association’s director of government affairs, said landlords suffer financially from unscrupulous tenants who file false claims of not having services, pay their rent late every month or owe thousands of dollars in back rent. Ricci also said that tenants with frivolous harassment claims outnumber those with legitimate ones. He cited the fact that there is no finding of harassment in many of the complaints filed with the Division of Housing and Community Renewal, the state agency that screens harassment claims and attempts to resolve them through a formal review process.

“The fact of the matter is, there’s nowhere near as much harassment as people would like you to believe,” Ricci said.

D.H.C.R. statistics also illustrate that fewer harassment cases are being filed now than in the past.

The heaviest volume of Manhattan D.H.C.R. harassment cases was between 1983 and 1999 — with the most cases filed in a single one-year period, 677, between 1989 and 1990. Sixty-three cases have been filed so far during the current fiscal year. However, GOLES’s Lone said the lower numbers in recent years might indicate tenants are not reporting harassment because they have lost faith in the effectiveness of the complaint process, or because landlords have succeeded in, as he put it, “systematically hemorrhaging” rent-regulated apartments.

While it’s difficult to prove how much tenant harassment exists, there’s no question that rent-regulated units are in decline.

As of 2006, there were 279,265 rent-stabilized apartments in Manhattan, down from 311,927 in 2002, and 329,331 in 1997, according to D.H.C.R.'s rent registration data. Data on the number of the borough's rent-controlled units — generally found in buildings built before Feb. 1, 1947, where a tenant has continuously lived since before July 1, 1971 — is not available, according to James Plastiras, a D.H.C.R. spokesman. However, the city's Rent Guidelines Board estimates there are about 50,000 rent-controlled units left in the city.

Similarly, census figures analyzed by New York University's Furman Center for Real Estate and Urban Policy show that between 2002 and 2005, the number of units renting in New York City for \$830 or less dropped from 1,189,962 to 985,063 — a decrease of more than 200,000, or roughly 17 percent. And according to a recent report from the Rent Guidelines Board, the city lost an estimated 6,022 rent-stabilized apartments in 2006.

While the bill's supporters see a direct correlation between tenant harassment and the decrease in low-rent apartments, the attorneys, tenants and activists interviewed for this article said the bill was also necessary because the state's harassment complaint process is ineffective, unlikely to yield results and, above all, lengthy.

Currently, D.H.C.R. screens complaints to determine if they outline a valid harassment claim, which is defined as "a course of conduct by the owner intended to unlawfully cause the tenant to vacate his or her rent-regulated apartment." If a complaint passes this initial screening, a case is opened and an agency staff attorney attempts to resolve the complaint in a conference with both the tenant and the landlord. If the complaint is not resolved at this stage, the owner then faces a formal legal hearing, which can require as many as 30 days of proceedings.

Schropp, the St. Mark's tenant who battled scalding water — and a long list of other problems she claims to have experienced in her apartment over the past five years — filed a harassment complaint against her landlords, Jonathan and Benjamin Ohebshalom, in March 2006. She had her D.H.C.R. conference three months later — but a hearing is still pending. Alan Vinegrad, the Ohebshaloms' attorney, said, "Their position is that they do not harass any of their tenants in any way."

In addition to the protracted state procedure, Housing Court requires tenants to appear before a judge with each new complaint of unmade repairs or withheld services. As a result, Don Sypher, 48, who has lived in a rent-regulated apartment on E. 10th St. for 15 years, would prefer the legal recourse provided by the proposed Council legislation.

After four years of being in and out of Housing Court with individual complaints against his landlord, Sypher decided to file a civil lawsuit, which he said was a last resort, given the amount of time and money it involves. To take his landlord to Housing Court on a single harassment charge covering all of the complaints he was alleging would have been much easier, he said, adding, "This bill would help people" who can't afford lawyers or take significant blocks of time off from work to present their cases.

Schropp is less optimistic.

Though she supports the legislation, she said proving a pattern of harassment can be an extremely difficult and time-consuming undertaking.

"The constant haggling for repairs, having a hostile relationship with your landlord — as a rent-regulated tenant, this becomes your lifestyle," she said.