

# Stand for Tenant Safety (STS)

Summary of Data to Document Construction  
as Harassment in Rent Stabilized Buildings  
and the STS Legislative Solution



By the Stand for Tenant Safety Coalition  
with Research Support from the Community Development Project at the Urban Justice Center  
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## About the Stand for Tenant Safety Coalition

Stand for Tenant Safety (STS) is a citywide coalition of community organizations who are fighting to protect the lives and homes of New York City tenants where landlords are using construction as harassment. Through this community driven effort, we demand the systemic reform of the Department of Buildings.

*[www.standfortenantsafety.com](http://www.standfortenantsafety.com)*

### STS member organizations include

- Asian Americans for Equality
- Association for Neighborhood and Housing Development, Inc.
- Brooklyn Legal Services, Corp. A
- CAAAV: Organizing Asian Communities
- Catholic Migration Services
- Chhaya CDC
- Community Development Project at the Urban Justice Center
- Cooper Square Committee
- Fifth Avenue Committee/Neighbors Helping Neighbors
- Goddard Riverside Law Project
- Good Old Lower East Side
- Housing Conservation Coordinators
- Los Sures
- Met Council on Housing
- MFY Legal Services
- New York Lawyers for the Public Interest
- Northern Manhattan Improvement Corporation
- Northwest Buswick Community Map
- St. Nicks Alliance
- Tenants & Neighbors
- Urban Homesteading Assistance Board
- West Harlem Environmental Action, Inc.

## About the Community Development Project (Research Partner)

The Community Development Project (CDP) at the Urban Justice Center strengthens the impact of grassroots organizations in New York City's low-income and other excluded communities. We partner with community organizations to win legal cases, publish community-driven research reports, assist with the formation of new organizations and cooperatives, and provide technical and transactional assistance in support of their work towards social justice.

*Photos courtesy of Cooper Square Committee*

## I. Methodology

This research was designed by members of the Stand for Tenant Safety (STS) coalition with research support from the Community Development Project at the Urban Justice Center. 150 surveys were collected in English, Spanish and Chinese in Manhattan and Brooklyn from January to June 2015. Surveys were administered to tenants in buildings that were currently undergoing or had recently undergone major construction and were collected via door-to-door outreach and at events and meetings. The tenant profiles are the result of one-on-one interviews with tenants in buildings that were surveyed.

The Department of Buildings (DOB) data is based on 57 buildings that were identified via the STS surveys as buildings that are undergoing major construction. For each unique address on the surveys, researchers at the Community Development Project conducted research via the DOB website to explore complaints, violations, and permits for each address.

The survey aims to document how major construction has impacted the health and well-being of tenants in rent-stabilized apartments in New York City and to explore the extent to which such construction constitutes tenant harassment. The survey and supplemental secondary data from the Department of Buildings also aims to better understand how effectively the Department of Building's inspection units address problems with construction when they are reported by tenants. The DOB data also documents the degree to which the DOB fines landlords that violate rules and regulations, and the status of collecting those fines.

## II. The Problem

Across New York City, at an increasingly alarming rate, landlords are conducting gut renovations and other major renovation projects in occupied buildings where people continue to live. As our data and tenant stories illustrate, these tenants, many of whom are rent stabilized, experience harassment by their landlords and suffer threats to their health and safety because of this construction work. These tenants are rarely given notice that work will be done or how long it will last.

During construction, fire escapes are inaccessible, dust and debris are in the hallway, doors to the building are left unlocked, and excessive noise and construction work after hours are commonplace. Physical damage to personal property occurs and disruption of basic services such as heat, hot water and cooking gas is frequent and long lasting. Further, there is evidence that landlords are systematically using construction as a way to push tenants out of rent stabilized housing, pressuring tenants to take buyouts to make way for tenants that will pay higher rent.

The Department of Buildings' response to complaints by tenants in buildings undergoing major renovations is slow and ineffective and inspectors often close complaints without a thorough investigation. Many complaints are closed without an inspector ever gaining access to a building to evaluate the nature of the complaint. Tenants have a hard time navigating the DOB system and rarely get their problems solved by the DOB. Stop work orders are rarely issued by the DOB and fees are too low to act as a deterrent to bad acting landlords. Furthermore, the City is not collecting the fines it does impose and many landlords continue to rack up violations without paying the fines they have accrued.

These problems are serious and life threatening, as we have seen recently with the explosion of a building on 2nd Avenue. The need to reform the DOB and create better enforcement mechanisms and stronger deterrents to bad acting landlords is critical. As the Mayor looks to solve the affordable housing crisis, we need to ensure that the City is also protecting the affordable housing and rent stabilized tenants we already have.

### III. Legislative Solution

The Stand for Tenant Safety coalition in partnership with several members of the New York City Council has developed a legislative package that will strengthen the NYC Department of Building's ability to address reckless construction and the tenant harassment that is often associated with such construction.

The following survey and secondary data from the Department of Buildings shows the degree to which construction is used by landlords in rent stabilized buildings as a form of harassment. The data provides concrete evidence of the need for the legislative package. More information about the policy recommendations can be found on pg. 8.

### IV. Survey Findings (based on 150 surveys)

**1. Tenants are severely impacted by demolition, renovation of apartments, overhauls of building systems and renovations of hallways and common areas.** Tenants reported the following had occurred in their building:

- 74% of respondents reported demolition of apartments.
- 73% reported renovation of apartments.
- 57% reported overhaul of building systems.
- 42% reported renovations of hallways or common areas.

**2. Construction is directly linked with attempts to displace tenants.**

- 52% of respondents considered moving out of their apartment because of the construction.
- 53% were offered a buyout either before or during the construction.
- 34% said they felt pressure from landlord or landlord representative to take the buyout.

**3. Landlords often do not give advance notice of construction.**

- 61% were NOT given ANY advance notice that construction was going to happen.
- 86% were NOT told in advance how long the construction would last.

**4. Construction causes conditions that impact the health and safety of tenants.**

- 71% reported that construction was a threat to their health and safety.
- 82% reported excessive noise.
- 87% reported excessive dust.
- 42% reported excessive fumes.
- 44% reported problems with vermin.
- 73% reported construction debris in the hallway.
- 74% reported doors to building left open or unlocked.
- 14% reported fire escapes were not accessible.

**5. Construction causes serious damage to apartments and common areas.**

- 73% reported cracks or holes in the wall.
- 30% reported that the ceiling collapsed.
- 55% reported water leaks.
- 29% reported that personal items were broken.

#### 6. Basic services were frequently disrupted during construction.

- 39% frequently had disruptions of heat.
- 46% frequently had disruptions of hot water.
- 33% frequently had no water.
- 22% frequently had no cooking gas.
- 19% frequently had no electrical service.
- 47% frequently had disruptions of the intercom.
- 15% frequently had disruptions of smoke and carbon monoxide alarms.

#### 7. Service disruption could last for weeks or months.

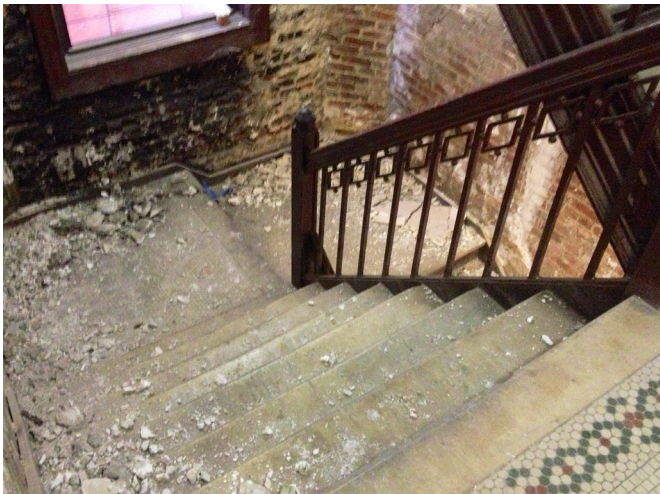
- 17% had disruptions of heat for more than a month and 31% for a week or more.
- 16% had disruptions of hot water for more than a month.
- 36% had disruption of intercom service for more than a month.
- 16% did not have a smoke or carbon monoxide detector for more than a month.

#### 8. Work often violates basic Department of Buildings (DOB) rules and guidelines.

- 40% reported construction work before 7am or after 6pm.
- 27% reported that emergency contact info was removed from the lobby.
- 43% reported that superintendent of building was not responsive to tenant needs.

#### 9. Tenants that called 311 to report construction problems to DOB were not satisfied with the experience and felt that DOB often did not solve the problem.

- 71% rated overall experience reporting problem to 311 as fair or poor.
- 58% said they did NOT think that calling 311 led to the problem being resolved.
- 70% rated DOB fair or poor in addressing their problem. 22% said the problem was not addressed.
- 55% said it was somewhat difficult or very difficult to access information from DOB about their complaint.



*Construction debris fills stairwell*



*Bathroom not usable due to construction*

## V. Tenant Profiles

### Tenant Profile 1: Anne Hayes

Before construction even began in Anne's rent stabilized apartment in the East Village, she received a call telling her that the planned construction would be very disruptive, dusty, noisy and unpleasant and that she should consider a buy-out. Anne declined the buy-out and the owners began the work. First, they erected a sidewalk shed, installed surveillance cameras on each floor, and installed an electronic front door entry system. Building management refused to give more than one of the new electronic coded key fobs per apartment, which meant that apartments with more than one tenant did not have enough keys for everyone to access the building, denying access to tenants that were rightfully in their apartments. Construction also impacted the health of Anne and her neighbors, also rent regulated tenants. During major construction phases, when multiple apartments on multiple floors were being gut renovated, the dust, noise, and debris led most of the remaining tenants to develop dry coughs. In addition, Anne suffered irritation in her eyes: at her regular eye checkup the doctor was able to capture the image of layer of dust on the surface of her eyes. When Anne contacted the Department of Buildings via 311, she reports that inspectors typically did not respond at all, and when they did respond, they claimed that they could not gain entrance to the building or that there was no work in progress at the time of inspection. Anne notes that this seems peculiar given that the work schedule has been consistent 8am-4pm, 5 days a week for the past several years.

### Tenant Profile 2: Maribel Lopez

Maribel has lived with her family in a rent stabilized building in Brooklyn for over thirty years. For the past 6 years, the building has been under construction. Currently, there are only 2 apartments occupied in the 6 unit Rent Stabilized building. In 2012, the landlord refused to renew the leases of the remaining tenants, so they filed a non-renewal case with NYS Division of Housing and Community Renewal (DHCR) with the help of Brooklyn Legal Services Corp. A. However, in response to the case, the landlord claimed he planned to demolish the building. In June 2015, the tenants won the case, but the harassment has become more hostile. The landlord has made life miserable for the tenants. There have been times when the construction work caused vibrating of the whole building and caused debris to land on Maribel's roof. Recently, the landlord left tenants without heat and hot water for 2 weeks while he installed a new boiler. Now construction in the apartment next door has caused Maribel and her family constant problems. The construction and stress has made worse the general health of Maribel and her family and specifically her mother's heart condition.

### Tenant Profile 3: Ana Minaya

Ana's building is a 6 unit building in Brooklyn with 4 vacant units where she has lived for 15 years. Starting in late 2013, Ana has called the Department of Buildings several times because the building's owner is doing construction without permits and after hours, but the DOB was very slow to inspect. Despite her persistent calls to the DOB, the landlord continued doing gut rehabilitation to vacant units and they have shut off Ana's heat and hot water for over a month. In addition to lack of heat and hot water, Ana has had to live with dust from the construction and constant harassment from the landlord and his workers. Since Ana refuses to leave despite bad conditions, she was harassed with constant knocking on her door at all hours of the night, has been offered buy outs, and the building owner started a holdover case against her.

### Tenant Profile 4: Catalina Hidalgo

Catalina lives in Williamsburg, Brooklyn. When construction started, Catalina complained to the DOB to let them know that the construction was leaving debris in the unoccupied units and was being done without permits. By the time the DOB came it was too late, and Catalina had already been issued a partial vacate order after dealing with having no heat, roaches, rodents, and a sinking bathroom (and eventually no bathroom). Catalina and her family have been vacated from their apartment since December 2013. With nowhere to go, Catalina and her family have been homeless and struggling to maintain a roof over their heads.

## VI. Department of Buildings Data Summary

### ***Overview and Methodology***

The following data is based on 57 buildings that were identified via the STS surveys as buildings that are undergoing major construction. For each unique address on the surveys, researchers at the Community Development Project conducted research via the DOB website to explore complaints, violations, and permits for each address. The following is an analysis of the data from the DOB website including examples of comments summarizing the complaints by tenants and response by DOB inspectors.

### ***Findings***

#### **1. DOB's response time to complaints is slow and inspectors often close complaints because they "can't gain access" to the building.**

- The average time between a complaint being filed and a DOB inspection is about 42.54 days.
- The longest response time to a complaint was 926 days.
- Out of about 957 complaints inspectors reported that they could not gain access 102 times.
- Slow response rates mean that when the DOB inspector arrives on scene, the issue at hand may no longer be evident, meaning that an unsafe situation was never documented, the building owner was never penalized, and residents may be subjected to similar unsafe conditions in the future.

#### **Examples of tenant complaints and DOB response:**

***Comments of Complainant 1:*** CONTRACTORS ARE DIGGING INTO FOUNDATION AT BLDG. ON STANTON ST BTWN ATTORNEY & PITT ST. CONTRACTORS ARE CAUSING BLDG. AT 146 ATTORNEY ST TO SHAKE & CREATING CRACKS IN FLOOR, CEILING & WALLS IN APT. 5B

***DOB response 1:*** NO BRICKS FALLING AT TIME OF INSPECTION ***(one day delay)***

***Comments of Complainant 2:*** THE ELECTRICAL BOX HAS WIRES HANGING OUT IN THE PUBLIC HALLWAY. KIDS ARE TOUCHING IT AND THE ELECTRICIAN SAYS THEY ARE LIVE. THE WORKERS ARE THERE NOW.

***DOB response 2:*** INSPECTOR UNABLE TO GAIN ACCESS – 2ND ATTEMPT ***(six day delay)***

***Comments of Complainant 3:*** 6 APTS IN BLDG WERE RENOVATED & NO PERMITS WERE POSTED. PLZ INVESTIGATE - ALSO PLUMBING & ELECTRICAL WORK INVOLVED

***DOB response 3:*** INSPECTOR UNABLE TO GAIN ACCESS - 2ND ATTEMPT ***(105 day delay)***

**2. There is a disconnect between the high number of complaints for work without a permit and the actual violations that follow, and penalty amounts are low.**

- While there were 197 documented complaints for work without a permit, only 12 resulted in any type of violation being issued. It took inspectors an average of 58.47 days to inspect complaints that were made about work without a permit.
- Average dollar amount for fines for work without a permit: **\$2,529.03**

**Examples of tenant complaints and DOB response:**

**Comments of Complainant 1:** THERE IS CONSTRUCTION WORK BEING DONE WITHOUT A PERMIT. THEY ARE RIPPING UP CEILINGS AND WALLS. THEY HAVE REALLY HEAVY EQUIPMENT. NO PERMIT IS POSTED/WORK BEING DONE IN BASEMENT W/OUT PERMITS

**DOB RESPONSE 1:** Inspector unable to gain access, CLS [CLOSED]

**Comments of Complainant 2:** THERE WAS A ROOF DECK BUILT WITHOUT A PERMIT AND I FEAR THAT THE DECK IS NOT SAFE AND WILL COLLAPSE THE CEILING. I LIVE IN THE APT RIGHT UP UNDER IT. I SEE SIGNS OF THE DECK AFFECTING THE CEILING

**DOB response 2:** Inspector unable to gain access, CLS [CLOSED]



*Ceiling collapse in living room*



*Ceiling collapse making bathroom unusable*



## VII. Stand for Tenant Safety (STS) Legislative Solutions

The Stand for Tenant Safety Coalition calls on the Department of Buildings (DOB) Commissioner, the Mayor and the City Council to institute the following systemic reforms to address the problems documented in the above data:

➤ **Create a Real Time Enforcement Unit.**

Research shows a significant lag time between when problems are reported and DOB inspections occur. Accordingly, the DOB must create a Real Time Enforcement Unit who will conduct targeted enforcement in buildings where landlords harass tenants and/or that have extensive construction, which is defined as buildings where more than 10% of the total units are simultaneously undergoing gut renovation.

➤ **Require DOB to certify plans of at-risk buildings instead of allowing for self-certification.**

Self-Certification, also known as Professional Certification, is a process by which licensed professionals may bypass a full review of a building project by the NYC Department of Buildings. Allowing owners to self-certify the occupancy of their buildings means that they can falsify information and engage in negligent construction practices that endanger the lives and safety of current tenants. We call upon the DOB to conduct evaluations of plans in buildings where more than 10% of units are occupied or are owned by a person who has been found guilty of tenant harassment prior to the issuing of any construction permits.

➤ **Expand the City's power to place liens on properties with unpaid Environmental Control Board (ECB) fines and to commence foreclosure proceedings based on those liens.**

Violations adjudicated by the Environmental Control Board (ECB) are often related to negligent construction in residential properties. The City has the power to put liens on a specific category of properties if they fail to pay their ECB fines. The City should expand the category of properties that they can put liens on to include more apartment buildings (buildings with 20 units or more with at least \$60,000 of ECB fine judgments against them and buildings with six to nineteen units with at least \$15,000 of ECB fine judgments against them). The City should also be able to commence foreclosure proceedings on the worst offenders. Foreclosure proceedings often provide the urgent pressure on landlords needed to incentivize them to pay their fines and correct the violations.

➤ **Increase fines and violations when landlords do work without a permit.**

Currently the penalties for doing work without a permit do not sufficiently deter reckless landlords from doing construction work without permits. Penalties must be increased so that the fines act as an actual deterrent.

➤ **Increase fines and violations when landlords do work while a stop work order is in effect.**

The DOB issues stop work orders when their inspectors find hazardous or unsafe work and/or conditions. As such, stop work orders should be one of the most powerful tools tenants, workers, and the DOB have to ensure safe, responsible construction work. However, too many landlords and construction contractors ignore stop work orders, continuing to put workers and tenants in danger. In order to increase the pressure on reckless landlords and contractors, the fine for continuing to work while a stop work order is in effect should be raised \$5,000 to \$10,000 for the first violation and fines for subsequent violations should be \$20,000.

➤ **Create a centralized list of contractors with multiple violations and increase oversight of them.**

Bad acting contractors are putting workers, tenants, and passersby in danger. The City should create a watch list of contractors with over three violations or who have done work without a permit in the preceding two years. Contractors on this list should be subjected to additional oversight to ensure that they do not commit negligent construction again.

➤ **Create a Community Liaison between DOB and tenants.**

As the survey shows, the majority of tenants have only fair to poor experiences with the DOB. In order to help improve these interactions and aide the DOB in being more sensitive to community needs and issues, the DOB should institute a Community Liaison Unit. The Unit's contact information must be posted on the DOB website.

This Unit's duties should include (but not be limited to):

- Establishing a system to receive comments and complaints about construction work in NYC;
- Providing outreach to communities regarding programs and services offered by the DOB;
- Making recommendations to the DOB Commissioner about community engagement.
- In buildings where landlords have been found guilty of tenant harassment, prohibit gut renovations or structural rehabilitation unless such work is necessitated by documented hazardous conditions.

➤ **In buildings where landlords have been found guilty of tenant harassment, prohibit gut renovations or structural rehabilitation unless such work is necessitated by documented hazardous conditions.**

Unless the landlord can prove that there is a hazardous condition that requires construction work, the DOB should not give permits for gut renovation or structural rehabilitation work in occupied buildings where the landlord has been found guilty of tenant harassment. Without this extra protection, landlords with a track record of harassment will continue to harass tenants using negligent construction as another harassment tactic. Also, it should be mandatory that the landlord post occupancy status around the building so that tenants can see if the landlord is falsely claiming that their apartment is vacant or not rent stabilized.

➤ **Require DOB oversight over tenant protection plans under the Construction Code.**

Currently landlords are required to file a tenant protection plan whenever they file construction documents for occupied buildings. This plan must contain information about the means and methods to be employed to safeguard the health and safety of occupants. However, these tenant protection plans are rarely filed or enforced. Consequently, the DOB should inspect buildings whenever a landlord files a tenant protection plan to verify the information provided by the landlord and ensure compliance. The DOB should also impose sizeable penalties and/or fines if landlords are found to have provided false information on tenant protection plans, or if they do not comply with the terms of the plan.

➤ **Create a Safe Construction Bill of Rights for occupied buildings.**

In order to help educate and empower tenants, landlords should be required to send to tenants via mail, and post when possible, a Safe Construction Bill of Rights during construction. On that Bill of Rights, the landlord should list in simple English and the top six languages in New York City:

1. Hours of construction;
2. Description of the work being performed and its potential impact on tenants;
3. Timeline which will be updated and mailed to tenants every month for the duration of construction;
4. What services or utilities that might be affected (e.g. loss of hot water or heat) and mitigation measurements the landlord is using to protect the tenants against hazardous conditions (e.g. dust, debris, fumes, etc.);
5. Landlord's duties during the period of work/construction, e.g.:
  - a. Take adequate steps to mitigate dust;
  - b. Take adequate steps to abate asbestos;
  - c. Keep noise to legally permissible levels;
  - d. Keep public areas free of debris.
6. The landlord's obligation to file a tenant protection plan whenever they perform construction work in an occupied building, and information about where to access a copy of the plan;
7. Who to contact at the landlord's office if there is a problem, (24 hours a day); and
8. Who to call in the City (i.e. 311, or the DOB community liaison department as proposed below) if the tenant is concerned work is not complying with those permits obtained.

➤ **Create an interagency task force.**

Because various city and state agencies have jurisdiction and mandates to oversee the types of issues that routinely arise for tenants during residential renovation and construction work, an interagency task force should be created to enable these agencies to communicate clearly and meet regularly. Although we were happy to see the formation of the Tenant Harassment Taskforce by Mayor de Blasio and Attorney General Schneiderman we believe NYC tenants need legislation to codify the taskforce and take on this issue of construction long-term.

➤ **DOB should issue orders to correct simultaneously with vacate orders.**

Currently when the DOB judges a building unsafe or unfit for habitation, it issues a vacate order to help maintain tenant safety while the underlying problem is solved. While a vacate order is helpful in protecting tenants' safety, if not issued concurrently with a order to correct, landlords can use the vacate orders as a way to displace tenants and/or to not improve building conditions. This creates a perverse incentive for landlords to make buildings unsafe or unfit for habitation to remove tenants.

## **VIII. Call to Action**

As development and construction proliferates across New York City, the impact on tenants and neighborhoods is hard to ignore. This is especially true for those living in rent stabilized buildings that have increasingly become a target for renovation. At an alarming rate, rent stabilized tenants are experiencing construction work that is unsafe and is frequently used as a tactic to harass them out of their apartments in order to make way for market rate units. The formation of The Tenant Harassment Taskforce by Mayor de Blasio and Attorney General Schneiderman, the recent corruption exposed in the Department of Buildings inspection system as well as the horrific gas related building explosions in the East Village in March of this year and in Harlem in March of 2014, all call attention to the growing issue of unsafe construction and the devastating consequences that can occur if the system is not reformed.

The Stand for Tenant Safety legislative platform is a comprehensive package of bills that will dramatically change the landscape of how construction is conducted in occupied buildings. We need new laws to put an end to construction as harassment and to improve the response of the Department of Buildings to this issue. We need the full City Council to act now and support this much-needed legislative reform effort. In addition, we need the Department of Buildings to work collaboratively with the City Council, STS coalition, tenants across New York City and other city agencies to implement the proposed reforms.

## Stand for Tenant Safety Member Organizations

