

Unfinished Business at the Department of Buildings: The Gaps in Laws Intended to Protect Tenants from Construction as Harassment, and Our Community-driven Solutions

Executive Summary

Introduction

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, STS demands the systemic reform of the Department of Buildings (“DOB”). Many New Yorkers generally understand the hardship caused by construction work within their buildings. For rent regulated tenants, construction and renovation are also a nightmare, but landlords have a particular incentive to use dangerous or negligent construction as a way to harass tenants out.ⁱ

In 2017, STS won a legislative campaign that resulted in the passage of a dozen bills by New York City Council, designed to protect tenants from construction as harassment in New York City.^{ii iii} This was an historic step in the fight to end this harassment tactic. Two years later we saw the landmark passage of The Housing Stability and Tenant Protection Act of 2019 (the “Act”). Before the passage of the Act landlords could successfully evict, displace, or harass rent stabilized tenants out of their homes and then lease those apartments at a much higher rent to the next tenant, which added to the loss of affordable housing stock in New York City.^{iv} Although the Act repealed high rent vacancy deregulation and repealed vacancy decontrol, among other crucial reforms, construction as harassment still persists throughout the city. This distinct form of harassment is unlike any other.

In the years following our legislative victories, STS member groups and the tenants we organize with noted deficits in both the implementation and enforcement of the enacted legislation, leaving tenants vulnerable to the continued practice of construction as harassment and related tactics.^v

We call for improvements in the implementation and enforcement of our initial legislative package, as well as new regulations to achieve the systemic protections that tenants need and deserve. This report is the culmination of a participatory action research project in partnership with TakeRoot Justice. Our research explored and documented the experience of tenants whose buildings underwent construction in 2019 and 2020. It is supplemented by analyses of secondary public data published by the DOB and the New York City Housing Preservation & Development (“HPD”).

Select Research Findings

These findings are based on surveys administered to 39 tenants as well as secondary data collected from NYC OpenData sets. Please see our [full report](#) to read all of the findings from our research, as well the detailed description of our methodology.

- **Pervasive disruptions of essential services.** 97% of tenants experienced at least one disruption to essential services such as cold and hot water, electricity, and gas during the most recent construction in their building.

- **Health and safety hazards.** 97% of tenants experienced at least one health and safety hazard as the result of construction, including unsafe construction practices, fumes, and dust.
- **Physical and mental health consequences.** Most tenants report that their physical and emotional health was impacted by construction as harassment. Stress and anxiety were nearly universal, as were numerous other impacts.
- **Interconnected forms of tenant harassment by landlords and property management companies** during construction and in the months leading up to it. Over half of tenants (62%) felt personally targeted by their landlord or management company during construction and over half (59%) reported issues with lease renewals.
- **Insufficient notice and postings about construction and tenants’ rights during construction.** Tenants’ rights documents are not consistently posted as required by law. Over half of tenants (55%) reported that their landlord never gave them advance notice of disruption of services and nearly half (47%) reported not seeing Tenant Protection Plan Notices in the landings of their building.
- **Missing information and lack of compliance for Real Time Enforcement Unit inspections.** At least a quarter (27%) of inspections took place on a timeline that is out of compliance with Local Law 188 of 2017, and an additional quarter of complaints could not be evaluated because they were missing complaint times. Less than half (47%) of complaints for work without a permit in multiple occupied buildings were definitively inspected the same day the complaints were entered into the system. Inspection time stamps were missing from the city-run databases we reviewed.
- **Meaningless correct-by dates for vacate orders.** The DOB does not individually assess vacate orders and does not provide individual and specific dates for the corrections needed to address the violations that led to the vacate order. 100% of the sampled vacate orders had the same correct-by date as the vacate effective date.
- **Insufficient distribution of “know your rights” messaging on behalf of city agencies.** 86% of tenants learned about their rights via community organizations.¹
- **Lack of remedies for tenants who self-advocate during construction.** While 82% of tenants contacted 311 regarding a problem with construction in their building, over half of them (56%) do not think their issue was resolved by calling 311.

Policy Recommendations

STS calls on the City Council, Department of Buildings (“DOB”), Department of Housing Preservation and Development (“HPD”), Department of Environmental Protection (“DEP”), and the Department of Health and Mental Hygiene (“DOHMH”) to take the following steps to effectively protect tenants from construction as harassment. Please see our [full report](#) for detailed recommendations.

1. **The City Council should revise Local Law 150 of 2017 to require meaningful dates for correcting violations resulting in the issuance of a vacate order. In the meantime, we call on the DOB to adopt this revision and implement it.** In its current form, Local Law 150 is impractical because it calls on landlords to correct violations “immediately,” on the same day the vacate order becomes effective. Although the intent of this language is to express severity

¹ We acknowledge that respondents to the survey are connected to organizing groups either through membership or referrals, and that may be reflected in this data.

and urgency, by failing to set a meaningful correction date the language invites noncompliance and undermines the purpose of setting a correction date. The “immediately” language currently in use invites landlords to set their own timetable for correction, delaying more time-intensive corrections and leaving tenants displaced from their homes indefinitely. Lack of a firm deadline for correction impedes enforcement and prevents tenants from seeking appropriate legal remedies. Where a violation can be corrected immediately, the current implementation should be upheld. DOB should start specifying in every vacate order that the deadline to correct the violations giving rise to the order is four months from the date of issuance. Where the correction cannot be made within four months, DOB should require building owners to apply for one additional four-month extension prior to the end of the initial four-month period. If an owner fails to correct the violation within the four-month deadline, DOB shall impose penalties which shall accrue at the beginning of month five. The DOB and HPD must also continue to keep track of vacated tenants and ensure that tenants are aware of their right to return, if applicable. Landlords should be required to show proof that they contacted displaced tenants.

2. **The DOB should communicate more effectively with tenants about the status and resolution of their complaints. The DOB should publicize a list of the various complaint statuses as well as the different types of outcomes and resolutions tenants can expect.** 311 should communicate the status of the matter via a letter to the tenant outlining the steps taken by the relevant city agency to resolve the issue and options for the tenant to dispute the type of resolution if the tenant is dissatisfied with the outcome.
3. **Enforce Local Laws 154 and 159 and NYC Administrative Code § 28-105.11, which require posting documents related to tenants’ rights and construction permits. Make those documents easier to understand and more accessible to tenants. Make Tenant Protection Plans more accessible to tenants online and in buildings and provide a sample of a correctly filled out Tenant Protection Plan for the public.** Further, the DOB should ensure that documents related to tenants’ rights during construction are written in plain language with codes and acronyms spelled out, consider using QR codes to reveal pertinent documents, and streamline the process of locating and highlighting active Tenant Protection Plans online.
4. **DOB and HPD inspectors should make concerted efforts to contact tenants when they are on the premises to conduct inspections, they should send status updates, appointment reminders and other relevant information to tenants via text, and inspection notices should include the time of inspection and the contact information of the inspector.** 311 operators should ask tenants whether they want to be present for inspections and tenants should be given the opportunity to be contacted by inspectors.
5. **The DOB should continue their targeted public awareness and educational campaigns about tenants’ rights during construction and construction as harassment and reach out to tenant advocacy groups for guidance.** Campaigns should focus on how the DOB is supposed to protect tenants from construction as harassment and include the rights available to tenants in the event of vacate orders, the right of tenants to seek reasonable accommodations during construction, and the right of tenants to file a complaint with the New York City Commission on Human Rights regarding requests for accommodations. Other relevant educational topics include education and resources about various programs for creating and maintaining healthy homes, the responsibilities of city agencies and how to best use the 311 app.

6. **Complaint summaries in the Building Information Search should include the time complaints were made, as well as the time the corresponding inspection was conducted or attempted. Complaint times and inspection times should also be included in relevant Open Data sets.** Tenants and advocates are unable to evaluate compliance with Local Law 188 without such data.
7. **The DOB, DOHMH and DEP should work together to share inter-agency information on health-related complaints, such as dust and lead, and create a publicly accessible database with information related to health-related issues similar to the DOB's Building Information Search,** so that tenants and advocates can be up to date on health-related issues in apartment buildings.
8. **Expand Local Law 1 to identify and remediate lead-based paint hazards in all multiple occupied dwellings regardless of whether children are present and pass legislation for building-wide rent reductions where lead dust hazards have been found.** While Intro. 874 which was recently enacted, calls for more stringent standards to remediate lead-based paint hazards, it does not include a provision for reduced rent for tenants impacted by lead-based hazards.^{vi} Rent reductions would bring a sense of justice to impacted tenants and increase pressure on building owners to remediate such hazards.
9. **The DOB and Office of the Tenant Advocate should work together to create and disseminate a document for tenants about the physical and emotional risks of construction as harassment, and where to seek support.** The document should outline the possible physical risks and emotional impact of experiencing construction as harassment and include borough-based resources and support for tenants and know-your-rights information regarding construction as harassment.
10. **Escalate Class C violation fees weekly for disrupted essential services in buildings with more than 16 units until violations are corrected.** Regular daily fees for disrupted essential services should incur the first and second week of such violations and should be doubled the third week and tripled the fourth week. Limitations should be placed on building owner's avoidance of fees and HPD and DOB should make concerted efforts to collect fees for DOB building violations from building owners during legal proceedings.

Call to Action

The failure of meaningful and proactive implementation and enforcement of the laws that were designed to protect tenants has deep consequences across the city. Construction as harassment threatens the physical and mental health and safety of tenants who are forced to experience it. Construction as harassment especially endangers the health of children, aging adults, and those with pre-existing conditions. Construction as harassment causes tenant displacement and makes our low-income communities more vulnerable. We call on the City Council and city agencies listed throughout to prioritize stronger protections for the tenants who suffer in their homes due to construction as harassment. We call on these city agencies to engage meaningfully with tenants and with each other to reform the laws that our research shows aren't working.

About the Authors

Stand for Tenant Safety Coalition (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. STS member organizations include:

- Asian Americans for Equality
- Association for Neighborhood and Housing Development, Inc.
- Communities Resist
- CAAAV: Organizing Asian Communities
- Catholic Migration Services
- Chhaya CDC
- 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
- Mobilization for Justice
- New York Lawyers for the Public Interest
- Northern Manhattan Improvement Corporation
- Northwest Bushwick Community Map
- St. Nicks Alliance
- TakeRoot Justice
- Tenants & Neighbors
- Urban Homesteading Assistance Board
- West Harlem Environmental Action, Inc.

TakeRoot Justice partnered with STS to conduct this research. TakeRoot provides legal, participatory research and policy support to strengthen the work of grassroots and community-based groups in New York City to dismantle racial, economic, and social oppression. TakeRoot's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a participatory action research model in which low-income and excluded communities are central to the design and development of research and policy.

ⁱ Navarro, Mireya. "Bills Aim to Protect Renters During Construction Work". New York Times. Sep. 29, 2015. Retrieved from: <https://www.nytimes.com/2015/09/30/nyregion/bills-aim-to-protect-renters-during-construction-work.html>

ⁱⁱ Progressive Caucus of the New York City Council. "New York City Council Passes Stand for Tenant Safety Legislative Package, Endorsed by Progressive Caucus, to End Construction as Harassment". August 9, 2017. Retrieved from: <https://nycprogressives.com/2017/08/09/new-york-city-council-passes-stand-for-tenant-safety-legislative-package-endorsed-by-progressive-caucus-to-end-construction-as-harassment/>

ⁱⁱⁱ Stand for Tenant Safety website. DOB Platform. Retrieved from: <https://www.standfortenantsafety.com/sts-dob-platform>

^{iv} Strengthening New York State Rent Regulations. The Housing Stability and Tenant Protection Act of 2019. New York State Homes & Community Renewal presentation dated February 19, 2020. Retrieved from: <https://hcr.ny.gov/system/files/documents/2020/02/rent-regulation-hstpa-presentation.pdf>

^v Stand for Tenant Safety website. Report Card. Retrieved from <https://www.standfortenantsafety.com/reportcard>

^{vi} The New York City Council. Intro. 0874-2018. Lead Package-Improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction. Retrieved from: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498489&GUID=5AEDE1B2-26A1-4794-8400-C21C6017BA91>