

AG Introduces Bill that Would Hold Landlords Criminally Accountable for Tenant Harassment

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Inside Samy Mahfar's 143 Ludlow, August 2012

There is finally a bit of momentum in combating landlords who have made an apparent cottage industry out of tenant harassment. Local offenders are finally being held accountable, even if the punishments don't necessarily fit the bill.

Yesterday, state attorney general Eric Schneiderman introduced a new bill that would hold these controversial building owners criminally accountable for such harassment (<http://www.boweryboogie.com/tag/landlord-harassment/>). In effect, the proposed legislation – known as the “Tenant Protection Act of 2017” – would lower the standard needed to actually criminally convict a landlord of Harassment of a Rent Regulated Tenant.

Schneiderman's Tenant Protection Act, co-sponsored by Senator Liz Krueger and Assemblymember Joseph Lentol, would reverse that, “setting a more reasonable standard that eliminates the need to prove physical injury to a tenant, and opening the door to prosecutions arising out of more commonplace and insidious tactics — such as turning off heat and hot water, exposing tenants to hazardous materials, and making rent-stabilized buildings deliberately uninhabitable for current tenants and their families.”

Buyers beware at 102 Norfolk, May 2015

“The laws should protect tenants, not greedy landlords who make their buildings uninhabitable in an effort to force families out of their homes,” said Attorney General Schneiderman in a statement. “It's clear that our existing criminal laws are simply inadequate when it comes to protecting tenants from these dangerous tactics by landlords. We must give prosecutors the tools necessary to protect tenants – and stem the rising tide of tenant harassment that is undermining affordability around New York.”

From the mailbag:

Under the existing Harassment of a Rent Regulated Tenant statute, a prosecutor must not only prove that the offending landlord intended to cause the tenant to vacate their home, but also that the tenant sustained physical injury due to the landlord's actions and that the landlord intended to cause (or acted with criminal recklessness in causing) such injury. This existing Penal Law statute creates an inexplicably high bar that – in the nearly two decades since the law was enacted – has never been met. In fact, a recent analysis of NYS Division of Criminal Justice Services data shows that not a single landlord has ever been convicted of the crime of Harassment of a Rent Regulated Tenant.

Due to the high bar in the existing criminal tenant harassment statute, prosecutors often can successfully pursue serious criminal charges and tougher penalties against unscrupulous landlords only when there also is evidence of other serious crimes committed by the landlord. For example, the Attorney General's office has charged landlords with mortgage fraud and larceny, which can occur when a landlord looks to inflate the rental income they receive from rent-regulated buildings, upon which they re-finance their loans. While some landlords who commit mortgage fraud and larceny also engage in tenant harassment, prosecutors should not have to rely on other statutes to bring felony charges against these bad actors. Given the prevalence of this type of behavior, the public demands and prosecutors need a stand-alone statute to curb this behavior.

The Attorney General's legislation would eliminate the need to prove physical injury to a rent regulated tenant, and a landlord's specific intent to cause it, in order to secure a criminal conviction for harassment against an offending landlord. Among other things, the legislation would:

- Create a new class A misdemeanor that would apply to landlords and their agents who, with the intent to induce a rent regulated tenant to vacate their home, engage in a "course of conduct" that: "impairs the habitability" of the housing accommodation; creates a condition that endangers the health or safety of the tenant; or is reasonably likely to, and does in fact, "interfere with or disturb the comfort, repose, peace or quiet" of such tenant in the use of their home;
- Expand the existing class E felony Penal Law offense to also make it unlawful for landlords or their agents, with the intent to induce two or more tenants in different rent regulated units to move out, to engage in a "systematic ongoing course of conduct" that: "impairs the habitability" of the housing accommodations; creates a condition that endangers the health or safety of one or more of the tenants; or is reasonably likely to, and does in fact, "interfere with or disturb the comfort, repose, peace or quiet" of one or more of such tenants in the use of their homes; and
- Make it a class E felony for a landlord to commit the new class A misdemeanor offense after he or she has been convicted of that crime or the class E felony tenant harassment offense within the preceding five years.

The new class A misdemeanor carries a maximum penalty of up to one year in jail. The class E felony carries a maximum sentence of up to four years in State prison.