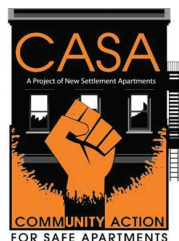
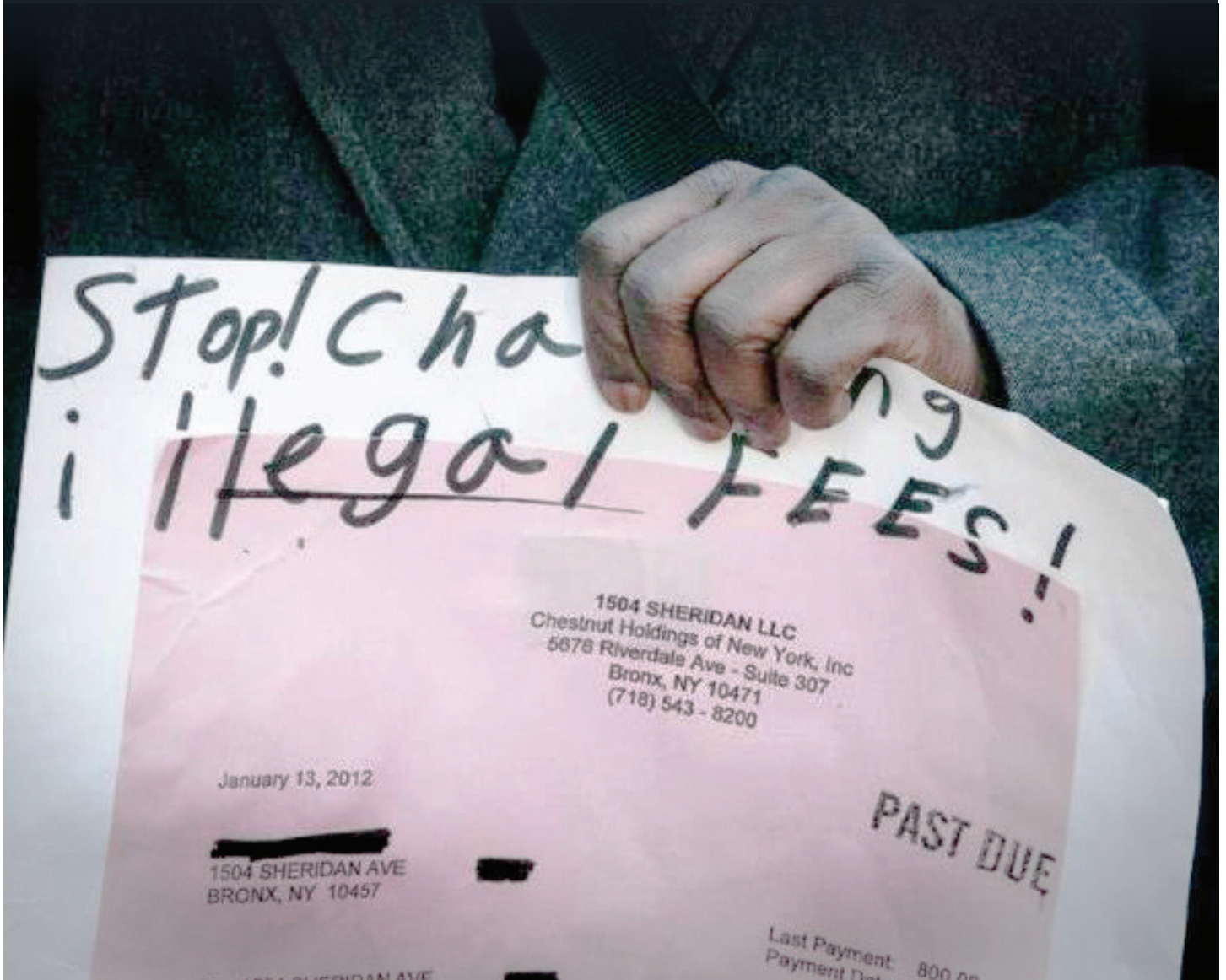


THE BURDEN OF FEES

How Affordable Housing is Made Unaffordable



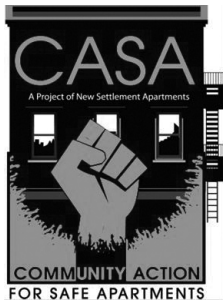
URBAN
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CENTER



COMMUNITY DEVELOPMENT PROJECT

ABOUT THE AUTHORS

New Settlement Apartments' Community Action for Safe Apartments



Community Action for Safe Apartments (CASA) is New Settlement Apartments' housing organizing initiative. CASA began in 2005, out of the need in the community to improve the poor housing conditions that persist for many families in our densely populated and underserved area of the Southwest Bronx. CASA is made up of community residents who work together to improve the living conditions in our neighborhood and maintain affordable housing through collective action. CASA's multifaceted work combines building-specific efforts to improve housing conditions with neighborhood-wide campaigns focused on tenants' rights to a safe, healthy and stable home. CASA also heavily participates in the work of other coalitions that advocate for legislation to preserve affordable housing and better protect tenants.

Community Development Project at the Urban Justice Center



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. CDP'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.

ACKNOWLEDGEMENTS

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TABLE OF CONTENTS

I. Introduction and Methodology	1
II. Background	3
III. Overview of Fees	5
IV. Lack of Government Oversight and the Need for Tenant Organizing	14
V. Call to Action and Recommendations	15
Endnotes	16



CASA tenants debut their new t-shirts at a monthly meeting

I. INTRODUCTION AND METHODOLOGY

Tenants in New York City's poorest neighborhoods are under attack. Despite the existence of laws such as rent stabilization to protect tenants from high rents, landlords are creating new ways to push rent stabilized tenants out of their homes. One such tactic is the use of non-rent fees, a confusing and often times unwarranted set of charges that are added to a monthly rent statement (see Figure 1). These include fees on appliances (air conditioner, washing machine, dryer, and dishwasher), legal fees, damage fees, Major Capital Improvement (MCI) rent increases and other miscellaneous fees. Often these fees appear on a tenant's rent bill without any explanation. If a tenant fails to pay, even if they are unaware of why the fee was imposed, they are sent letters that make them feel that they are being harassed and are threatened with eviction by the landlord. Most tenants have a right to object to many of these fees, and landlords are legally prohibited from taking tenants to Housing Court solely for non-payment of additional fees. But many tenants don't know their rights about the fees and often pay them when they shouldn't. For low-income and working class tenants who struggle each month to pay rent, these fees add up and make their housing costs unaffordable. While some of the fees are legal, many of them are not, and the consistency and pattern of the way the fees are being charged and collected suggests that some landlords are intentionally increasing tenants' rent burdens to push out long-term, rent stabilized tenants.

This problem is proliferating in the Bronx, where New Settlement's Community Action for Safe Apartments (CASA) works to improve living conditions and maintain affordable housing. This is particularly apparent in buildings owned by Chestnut Holdings, a company that is fast becoming one of the biggest landlords of rent stabilized buildings in the Bronx. In order to learn more about how these fees are impacting rent stabilized tenants in the Bronx and develop recommendations to reform the fee collection system, members of CASA partnered with the Community Development Project at the Urban Justice Center, New York Communities for Change (NYCC) and Northwest Bronx Community and Clergy Coalition (NWBCCC) to conduct research about these fees.



Tenants of Chestnut Holdings share their concerns

Staff and members from the above organizations collected surveys at legal clinics, tenant association meetings and organizational events. All survey respondents live in rent stabilized buildings owned by Chestnut Holdings. In total, the coalition collected 172 surveys from 23 buildings, representing 13% of the number of apartments in those buildings. The research sample accounts for 4% of all the apartments that Chestnut Holdings owns, and 28% of the buildings. Researchers also collected rent bills and other supplemental materials (including letters to and from landlords, housing court decisions, and more) from 196 Chestnut Holdings tenants. Coalition members chose to focus on these buildings because they are rent stabilized and located in the neighborhoods where each organization is actively working. Data in this report comes from surveys, recent rent bills collected from Chestnut Holdings' tenants and interviews with tenants.

Overall, we found that the problem of non-rent fees is serious and widespread in the Bronx. 81% of the tenants we surveyed had been charged some sort of fee. From the rent bills we reviewed for this report, the average tenant had \$671.13 in non-rent fees on their most recent rent bill.

FIGURE 1: EXAMPLE OF A RENT BILL WITH ADDITONAL CHARGES

Code	Description	Previous Balance	Current Charges	Amount Due
DAM	DAMAGES	260.10		260.10
LEG	LEGAL FEES	900.00		900.00
RNT	RENT			
WM	WASHING MACHINE	244.84	13.62	258.46

II. BACKGROUND

The Critical Need to Protect Affordable Housing in the Bronx

Despite the enormous amount of wealth in New York City, nearly half of all New Yorkers are at or close to the poverty line.² According to a recent UN Habitat report, titled “State of the World’s Cities,” New York is the second most unequal city in the country.³ This is especially apparent in the Bronx, where almost 40% of Bronx renters make less than \$18,500 per year⁴ and the median Bronx household income is \$33,495, the lowest of all five boroughs.⁵

Bronx Community Board	Percent of Housing Units that are Rent Regulated¹
Community Board 4	83%
Community Board 5	76%
Community Board 7	92%

Due to this level of poverty and inequality, it is critical that New York City have protections in place to safeguard its residents’ basic necessities—one of the most important of these being housing. With an average rent of over \$1,000 in the City, programs that reduce people’s rent burden are essential.⁶ One important example is New York City’s system of rent stabilization, which provides a myriad of tenant protections governed by the state legislature. It is estimated that close to a million apartments and 2 million people are protected by rent stabilization in New York.⁷ The West Bronx, in particular, is home to some of the highest concentrations of rent regulated housing in the Bronx, and among the highest in all of NYC (See Table 1).⁸

Under rent stabilization, increases in rent are controlled by a group of people appointed by the Mayor to the Rent Guidelines Board (RGB), not by the landlord. This means that tenants can count on a stable percentage in rent increases, typically between 2-8% a year, instead of worrying that their landlords will suddenly and drastically increase rents. In addition, tenants have a right to stay in their apartment indefinitely as landlords are required to renew their leases every 1-2 years.⁹ Together, these provisions mean that tenants have a choice to raise their children and grandchildren in the same home, which ultimately contributes to neighborhood stability.

Despite the dire need for these protections, rent stabilized tenants are facing unethical and unscrupulous practices by landlords. One of these practices—and the focus of this report—is the use of non-rent fees. Rent stabilized tenants feel that these fees are being used to harass, intimidate and ultimately displace them. Each fee is unique in terms of pricing, applicability, and government regulation, making it complicated and confusing for tenants to understand. If tenants want to challenge these fees, the current complaint driven system puts the onus on tenants to know their rights and submit formal complaints to the appropriate agency or court. In the end, these fees increase a tenant’s rent burden, leading to unnecessary displacement, and threatening affordable housing and neighborhood stability. In the Bronx, CASA members have seen fees being charged by landlords who own large amounts of rent stabilized housing, such as E&M Associates, Finkelstein and Timburger and Gazivoda Realty Co. While multiple landlords employ this problematic practice, this report will focus on one of the worst offenders, Chestnut Holdings.

Chestnut Holdings' Use of Non-Rent Fees Throughout the Bronx



Tenants of Chestnut Holdings and allies rally outside their landlord's house

Chestnut Holdings, a company that is fast becoming one of the biggest landlords of rent stabilized housing in the Bronx, regularly adds non-rent fees to the rent bills of many of their tenants. Chestnut Holdings almost exclusively owns rent stabilized buildings with a total of 82 buildings in the City, 72 of which are in the Bronx, and of those, almost all of them are in the North and Southwest Bronx. Chestnut Holdings is one of the worst examples because instead of simply adding these fees to rent bills, they send tenants 3-day eviction notices for non-payment of non-rent fees, even when the tenant is current on their rent. Before Chestnut Holdings took

over a few years ago, tenants had never before been charged for non-rent fees. As this report will demonstrate, both the amount and the way in which the fees are collected by landlords like Chestnut Holdings creates an unnecessary strain on thousands of low-income tenants in New York City.

Chestnut Holdings Tenant Coalition

Challenging non-rent fees, is one of the many obstacles that Chestnut Holdings tenants face. For example, tenants at 1520 Sheridan got their cooking gas restored after living without it for more than six months, only after taking their landlord to court. When the landlord denied their request for compensation, tenants filed another lawsuit in small claims court and announced the court case at a press conference. They were greeted by staff of Chestnut Holdings, who staged a protest, screaming and shouting at them.

Additionally, in a tenant coalition effort, more than 400 tenants from 18 Chestnut Holdings buildings sent a letter to their landlord in February of 2013 that outlined their concerns. These included insufficient heat and hot water, unresponsive and disrespectful management, lack of quality repairs, lack of adequate security, lack of adequate extermination, lack of respect for tenants' right to organize, and others. For tenants who struggle with all of the above, receiving rent bills marked urgent with numerous non-rent fees feels like the landlord is doing everything possible to make them move out, short of changing the locks.



Chestnut Holdings staff stage a protest outside of 1520 Sheridan, where tenants are holding a press conference

III. OVERVIEW OF FEES

This section includes some basic information about common non-rent fees that are appearing on many tenants’ monthly rent bills. Overall, 81% of the tenants we surveyed had been charged some sort of fee and 54% reported that they had paid these fees at some point. From the rent bills we reviewed for this report, the average tenant had \$671.13 in non-rent fees on their most recent rent bill.

The fees below have a few things in common. First, landlords cannot take tenants to housing court solely for non-payment of any of these types of fees. However, once a tenant and landlord are in court for non-payment of rent, the landlord can also pursue payment of all of the non-rent fees. Secondly, all of these non-rent fees are contestable, meaning that a landlord’s right to charge them is questionable and varies on a case by case basis. Thirdly, these fees almost always appear on tenants’ rent statements without any explanation of their origin, further confusing tenants and making them difficult to challenge. Additionally, all of these fees are charged in addition to rent, which often significantly strains tenants’ finances. Lastly, some of these fees (washing machine, air conditioning fees and MCIs) are determined by the New York State Division of Homes and Community Renewal (HCR) and exist as part of the system of rent stabilization. However, with little regulation and proactive efforts from the state agency, landlords collect these fees in an unscrupulous manner.

Types of Fees:

- Legal Fees
- Air Conditioning Fees
- Washing Machine Fees
- Major Capital Improvement (MCI) Rent Increases
- Damage Fees
- Miscellaneous Fees



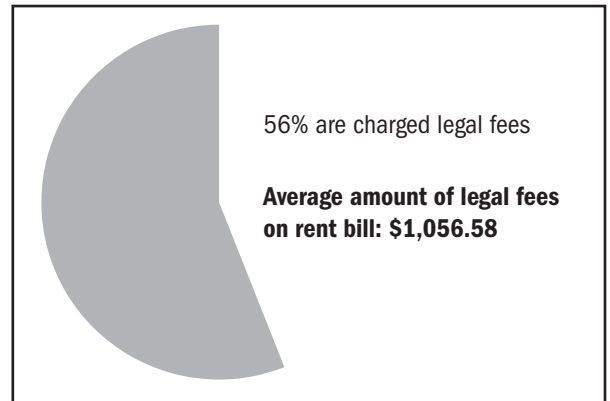
FIGURE 2: EXAMPLE OF A RENT BILL WITH ADDITIONAL CHARGES

Code	Description	Previous Balance	Current Charges	Amount Due
CMD	CARBON MONOXIDE DE	7.38		7.38
LEG	LEGAL FEES	3,860.00		3,860.00
MCI	MCI RETRO	162.48		162.48
NG	NG CHARGE	25.00		25.00
RNT	RENT			
WM	WASHING MACHINE	656.70	16.82	673.52

Legal Fees

- 56% of surveyed tenants were charged legal fees.
- Tenants had an average charge of \$1,056.58 and a high of \$3,860.

One of the most confusing fees that tenants find on their rent bills is a “legal fee.” Landlords cannot impose legal fees on tenants unless: (1) the tenant’s lease has a legal fees clause that allows the landlord to seek such fees if the landlord is successful in a lawsuit against the tenant, (2) the tenant is actually sued by the landlord in a court (such as having a case commenced against the tenant in Housing Court or Small Claims Court) and (3) either a judge has ordered a tenant to pay the legal fees (after determining that the landlord did indeed prevail in their lawsuit against the tenant) *or* the tenant has consented to pay legal fees in a court-approved stipulation or agreement. However, even if a tenant’s lease allows for legal fees or they are in housing court, tenants still have a right to object to legal fees. These fees have even been added to the bills of tenants who have not been sued in Housing Court. These tenants have no idea what the legal fees are for since tenants are not sent any information explaining why the landlord is charging the tenant for legal fees.



56% of surveyed tenants were charged these fees. For the rent bills we reviewed for this report, the average tenant was charged \$1,056.58 and a high of \$3,860. Many tenants feel forced to pay these outrageously high fees because they show up on rent bills and landlords, like Chestnut Holdings, follow-up with letters that tenants feel are threatening.

FIGURE 3: EXAMPLE NOTICE FROM LANDLORD

1504 SHERIDAN LLC
Chestnut Holdings of New York, Inc
5676 Riverdale Ave - Suite 307
Bronx, NY 10471
(718) 543 - 8200

PAST DUE

January 10, 2012

Last Payment: 800.00
Payment Date:

Re: 1504

Dear Resident:

We are writing to inform you that your account is currently past due. Our records show that as of the above date the following items are outstanding:

Date	Description	Charges	Payments / Credits & Adjustments	Balance Due
9/17/2007	LEG LEGAL FEES	150.00	0.00	150.00
10/25/2007	LEG LEGAL FEES	150.00	0.00	150.00
11/26/2007	DAMDAMAGES	233.54	11.69	221.85
12/14/2010	LEG LEGAL FEES	150.00	0.00	150.00
1/14/2011	LEG LEGAL FEES	150.00	0.00	150.00
3/16/2011	LEG LEGAL FEES	100.00	0.00	100.00
3/16/2011	LEG LEGAL FEES	150.00	0.00	150.00
5/1/2011	MCI MCI RETRO	13.68	11.83	1.85
6/1/2011	MCI MCI RETRO	13.68	0.00	13.68
7/1/2011	MCI MCI RETRO	13.68	0.00	13.68
8/1/2011	MCI MCI RETRO	48.57	0.00	48.57
9/1/2011	MCI MCI RETRO	48.57	0.00	48.57
10/1/2011	MCI MCI RETRO	48.57	0.00	48.57

TENANT PROFILE #1: Ramona Alvarez, 1305 Sheridan Avenue

Ramona, a monolingual Spanish speaker, moved into 1305 Sheridan Avenue in 2011 with her daughter and grandchildren. Ramona is retired and living on a fixed income. She was able to get a preferential monthly rent of \$1,150.00 (the apartment is currently registered at \$1,555.13). But her daughter lost her job and now they are trying to make ends meet. “To feel that I am one step away from becoming homeless is difficult,” she said.

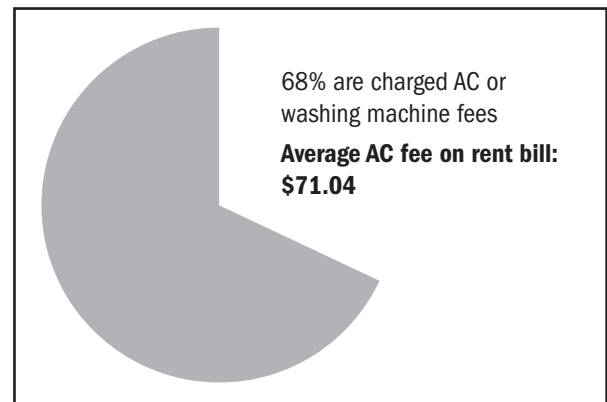
Ramona’s current rent bill and rent demand letters state that she owes \$2,430.00 in legal fees. Ramona is desperate and confused as to how much she has to pay in rent and how much Chestnut Holdings is charging her with other fees. “I didn’t know I didn’t have to pay legal fees. They made me pay so much money I didn’t owe.” Ramona has already paid close to \$2,000 in legal fees. With all of the added fees, Ramona and her family will not be able to afford to live in this apartment anymore.

Air Conditioning Fees

- 68% of surveyed tenants report that they had been charged AC or washing machine fees.
- On average, tenants are being charged \$71.04 in back AC charges.

Many landlords charge tenants additional fees if they have an air conditioner (AC) in their apartment. While landlords of rent stabilized and rent controlled apartments are legally allowed to charge AC fees, the specifics of the fees are regulated by the New York State Division of Homes and Community Renewal (HCR). Currently, landlords are allowed to charge a monthly fee of \$5 for *each* air conditioner if that unit protrudes past the window, assuming the tenant pays their own electric bill.¹⁰ The current fees are in effect until September 30th, 2013, at which point HCR will release the next year’s fees.¹¹

However, HCR has made it clear that landlords waive the right to collect AC fees if they do not begin collecting this fee within a reasonable time after learning about the installation of the air conditioner.¹² It is unclear what HCR means by “reasonable time” and it often depends on the individual circumstances, however it is usually not more than a year.¹³ That means that if a tenant has had their air conditioner for a long time and was not charged, the landlord has waived the right to charge that tenant. In addition, if a prior landlord waived the right to collect these fees, any new landlord loses his right to collect these fees as well.¹⁴



Research with tenants reveals that these fees are pervasive in rent stabilized housing. 68% of surveyed tenants reported that they had been charged AC or washing machine fees. For the rent bills we reviewed for this report, the average tenant was charged \$71.04 in back AC charges. Many of these fees are assessed by landlords like Chestnut Holdings who collect fees they have already waived the right to collect. These fees add up over the years and make “affordable” rent stabilized housing that much more expensive for truly low-income New Yorkers.

TENANT PROFILE #2: Judith Morrishow, 1310 Sheridan Avenue

Three years ago, the year that Judith retired from her health care profession, Chestnut Holdings (CH) bought her building, 1310 Sheridan Avenue, where she has lived for over 19 years. Since 2009, CH has added a monthly \$5 fee in her rent bill for an air conditioner which she has had since she moved in. She paid the fee for a few months, until she learned that she didn't have to. Since then, twice a month she becomes aggravated when the super inserts a 3-day notice letter under her door. The last letter stated that she had to pay \$1,022.84. Judith is current in her rent and she has proof of all her payments.

Judith feels harassed and thinks that this is a way of "exploitation", because the landlord takes advantage of tenants that don't understand the letters and feel afraid to be homeless. She sends the landlord over a thousand dollars in rent for her apartment every month, but the landlord is not helpful and doesn't maintain her apartment. When she calls to ask for repairs or complain about the letters, they never respond.

In April of 2013, the super removed her air conditioner saying that she didn't have the right bracket to hold the air conditioner safely. When she asked how she could put the right bracket on, the super told Judith that this was not his job. Today, the \$5 fee has finally been removed and the air conditioner is sitting on the floor in Judith's living room.



Tenants asking for respect from Chestnut Holdings

TENANT PROFILE #3: Mr. & Mrs. Manuel Gonzalez, 200 Marcy Place

Alice and Manuel Gonzalez have lived in 200 Marcy Place for 21 years and have always had an air conditioner. They saw an AC fee in their rent bill for the first time in October of 2012. Since then, Alice has been challenging that fee by sending the landlord letters and organizing a tenant association in her building, hoping that together they can address this issue and many others in her building. The building manager came to meet with the tenant association only to tell them that he has to talk with the landlord and that he will get back to the tenants. He never got back to them.

Alice and Manuel have never paid the AC fees and they receive monthly rent demand letters for this fee. Alice is affected by these letters, “This fee is put on me as if we are not in compliance. I worry about other tactics this landlord will use against us in the near future”. Alice has sent letters questioning the fee and attached a copy of their original lease. She believes that the landlord knows that he can’t charge her this fee.

“As I went over the lease, I noticed that in the Part A section, fourth sentence, the following language appears: “separate charge if applicable.” I noticed where the word “other” appears, there is a charge in the amount of \$10. Is that for the AC? If so, why not put it in the AC section?” The landlord continues to ignore her attempt to contact them and refuses to give an answer as to why they are charging her that fee. Alice has submitted an overcharge application with HCR and is planning to go to civil court if she can’t address this issue with the state and if the landlord continues to send her rent demand letters.

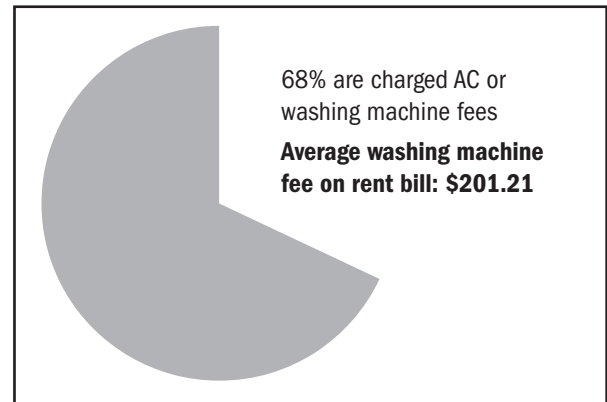
Washing Machine Fees

- On average, tenants are being charged \$201.21 in back payment for washing machine fees.
- One tenant is being charged \$673.52 in washing machine fees.

Similarly, landlords of rent stabilized apartments may charge tenants with washing machines an extra fee as set forth by HCR. For example, if a tenant recently acquired and installed a washing machine, the landlord has a right to charge that tenant a monthly fee of \$16.82 per washing machine if the tenant pays for the electric bill (which is the case in most Chestnut Holdings buildings).¹⁵ HCR reassesses these fees every few years.¹⁶

Again, the landlord must begin charging these fees within a reasonable time after learning about the installation of the washing machine, or the landlord waives the right to collect this fee. Indeed, even if a landlord discovers a new washing machine within the reasonable time frame, fees may only be collected moving forward and not retroactively.¹⁷ Just like air conditioning fees, new landlords lose the right to collect washing machine fees if the prior landlord waived the right to collect these surcharges.¹⁸

68% of surveyed tenants report that they had been charged AC or washing machine fees. For the rent bills we reviewed for this report, the average tenant was charged \$201.21 in back payment for washing machine fees. One tenant surveyed had accrued almost \$675 in washing machine fees. Clearly, these “little charges” add up to a lot over time and can substantially increase a low-income tenant’s overall rent burden.



TENANT PROFILE #4: Beverly Clee, 1549 Townsend Avenue

“I have lived in this apartment since 1982. I’m a senior and I live on a fixed income. I can’t be paying these fees,” said Beverly Clee a resident from 1549 Townsend Avenue. Chestnut Holdings bought her building in April of 2008 and immediately Beverly’s May rent bill came with a washing machine fee of \$18.62. In October, her rent bill came with an air conditioner fee of \$5.00. Beverly had her washing machine and air conditioner for more than 26 years before Chestnut Holdings took over. Legally, she shouldn’t have to pay these fees. Yet, as of today, Beverly has paid Chestnut Holdings approximately \$1,230 in washing machine and air-conditioner fees.

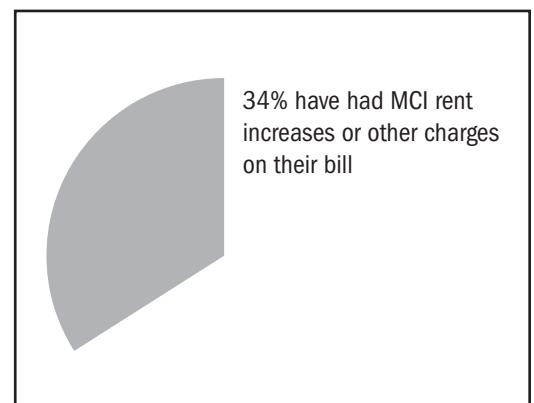
“I kept paying them because I thought I had to pay them”, she says, but now she is afraid that the landlord could take her to court if she stops paying the fees. “I just don’t want to go to court. I don’t like to deal with legalities.” She would like to have an “official document” stating that she has the right not to pay the fees.

In addition to her rent, Beverly has to pay other bills, “I will be relieved if I get those fees off my rent bills, it will be a big difference.” Beverly doesn’t understand why Chestnut Holdings needs the fees from her: “I never made an agreement with them to pay these fees, why are we paying extra? We don’t have extra money.”

Major Capital Improvement (MCI) Permanent Rent Increases

- 34% report that they had been charged an MCI, repair or late fee.
- In the past 5 years, 26% of the buildings we surveyed had an MCI rent increase.

If a landlord makes improvements to a building, in accordance with rent stabilization laws, that landlord may seek approval from HCR to permanently raise tenants’ rents.¹⁹ This is called a Major Capital Improvement (MCI) rent increase and recently, many Chestnut Holdings’ tenants have seen such charges added to their rent bill. Only certain types of improvements approved by HCR, like new boilers or roofs, are eligible.²⁰ The improvements must “be for the operation, preservation and maintenance of the building” and “be a new installation and not a repair to old equipment.”²¹ HCR regulates how much the MCI rent increase will be for each apartment based on a set formula.²² For rent-stabilized apartments there is a 6% limitation on the annual MCI rent increases, but this is only enforced through tenant complaints, which rarely happen because tenants often do not know this is a violation.²³ HCR has the power to approve or deny these applications, but in practice, they rarely deny MCI rent increases.



A big challenge is that HCR’s reviews of MCI applications do not typically include a proactive investigation into the conditions at the building. Additionally, HCR might not investigate conditions unless they receive complaints from tenants. HCR does send a letter to all tenants to give them 30 days to object to a MCI rent increase. However, these letters only arrive in English, so automatically non-English speakers are unlikely to respond. Furthermore, many tenants do not understand the complex reasons for a possible MCI rejection, and so, for example, don’t know to look to see if their building has any open “C” (immediately hazardous) violations. The central problem with this system is that it puts the burden on tenants to research their landlord and building and to raise possible objections to the MCI application with HCR.

MCI rent increases have become increasingly common in the Bronx. Of the tenants who were surveyed, 34% report that they had been charged an MCI, repair or late fee. In the past 5 years, 26% of the buildings we surveyed had an MCI rent increase.

MCI at 255 East 176th St

The Daily News recently profiled a Chestnut Holdings building at 255 East 176th St where MCI rent increases were approved for work done to the roof, in spite of the fact that the roof was leaking into tenants' apartments on the top floor.²⁴ Unfortunately tenants in this building weren't organized at the time of the application and because HCR didn't proactively investigate, the landlord got a permanent rent increase for work that wasn't done or wasn't done well. Once MCI's are approved, they are very difficult, if not impossible to challenge.



Tenants of Chestnut Holdings, rally outside of the landlord's office, after being denied access inside

TENANT PROFILE #5: Soledad Franco, 1504 Sheridan Avenue

“I moved into this apartment on February 15th 1972 when I was 10 years old.” says Soledad Franco, now 51, who lives in 1504 Sheridan Avenue. Chestnut Holdings bought the building in 2004. Soledad describes Chestnut Holdings as “the worst landlord that I’ve ever had.” In 2005 she was offered \$10,000 to move out of her seven room apartment. “This is my home and I’m not going anywhere.” Soledad has been an active tenant leader of her building, fighting for tenants’ rights and empowering her tenant neighbors.

Chestnut Holdings has received four consecutive MCIs since they bought 1504 Sheridan Avenue. “We have four MCIs. One for the elevator that was working fine, one for repairs in the lobby and for painting our apartment doors, and another one for electrical work and pipe work.” In August of 2011, after an unlicensed electrician did some electrical work in Soledad’s apartment, they had a fire. She lost all her belongings and became homeless. Soledad and her family returned to her apartment after four months. The fourth MCI was for the work done to repair the roof after the fire. “My rent increased by up to \$200 because of these MCIs.”

Soledad’s current rent is \$1,018.11 and she pays her rent on time every month. “We have organized and fought back against this landlord, there have been small wins but I feel frustrated and tired of this landlord. I don’t hold back rent and I pay my rent on time. They used to come take pictures of repair needs, and asked me for a list of the needed repairs but didn’t do anything. They’ve only actually done something in my apartment after I’ve called 311.”

Damage Fees

- 17% reported that their landlord had charged them a damage fee.
- One tenant has a damage fee for \$925.

Landlords are required to make any necessary repairs due to normal wear and tear of an apartment at no additional cost to the tenant.²⁵ However, if a tenant or their guest causes damage to their apartment through negligent or intentional conduct, the tenant may be liable to the landlord for the costs of repairing that damage. A landlord may attempt to charge a tenant these costs by adding a damage fee to the tenant’s rent. Some landlords have attempted to charge tenants a flat “damage fee” or even charge tenants for something they did not damage. Of the tenants we surveyed, 17% reported that their landlord had charged them a damage fee.

Miscellaneous Fees

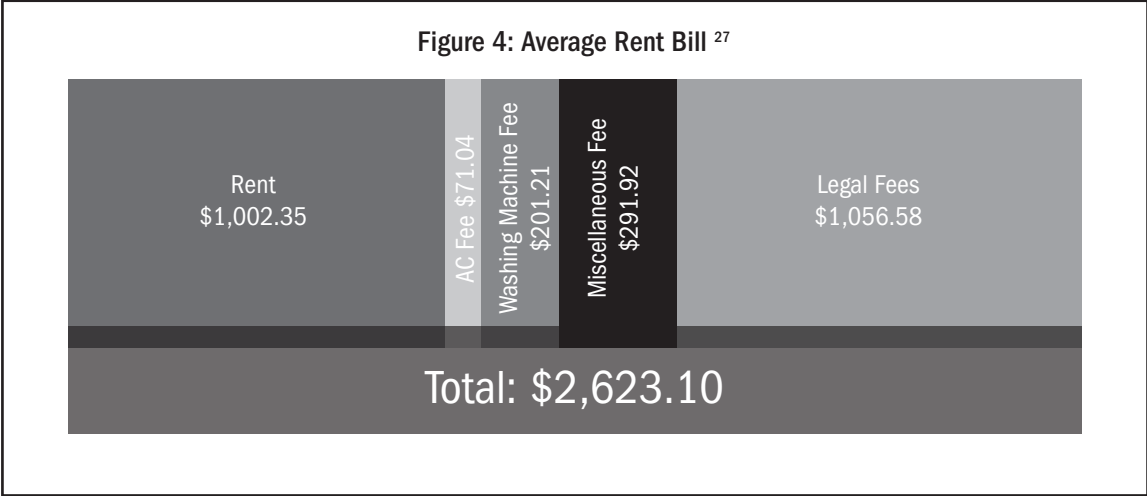
The following are other fees that have been seen on Chestnut Holdings rent bills.

Painting Fees: Chestnut Holdings has gone so far as to charge tenants painting fees even though landlords are legally required to pay to paint a tenant’s apartment at least every 3 years.²⁶ In many cases this means, if a landlord hasn’t painted an apartment recently, it is illegal for them to charge tenants a painting fee or another paint-related charge. One tenant had a painting fee of \$1,350 on her rent bill.

HPD violation fees: Chestnut Holdings has attempted to pass on the cost of fines that they must pay to HPD to tenants by charging tenants “HPD violation” fees.

NG charge: It is unclear what exactly an “NG charge” is for, but these fees have appeared on Chestnut Holdings rent bills.

Other fees: Some leases also include an “other fee” line, and again it is unclear what this charge is for.



*Average for all rent bills reviewed for this report.



Tenants of Chestnut Holdings march to their landlord’s home

IV. LACK OF GOVERNMENT OVERSIGHT AND THE NEED FOR TENANT ORGANIZING

The New York State Division of Homes and Community Renewal (HCR) oversees rent stabilized housing and thus the administration of most non-rent fees in those buildings. However, HCR has joint jurisdiction with Housing Court, which is also able to enforce the regulations related to non-rent fees. While HCR and Housing Court should both create mechanisms to make sure tenants are not being charged non-rent fees, they are falling short.

Officially, tenants who are rent stabilized can file rent overcharge complaints with HCR about appliance surcharges (including air conditioners and washing machines). Additionally, HCR may possibly investigate other allegations of false charges (such as damage fees). Few tenants are aware they can submit complaints and even if they do, the application process is complicated, slow and time consuming. HCR's limited capacity to investigate complaints causes notoriously slow responses with tenants routinely waiting close to a year and a half. HCR's lack of oversight provides little incentive for landlords to change their behavior. Ultimately, landlords capitalize on the lack of oversight and enforcement by HCR to collect extraneous fees.

For allegations relating to legal fees, there is no oversight or complaint process from HCR or any other government agency. As the tenant profiles show, many tenants pay fees despite trying hard to understand the charges and to get the fees removed.

Many tenants have turned to organizing as a way to get the non-rent fees removed from rent bills. Tenants have formed tenants associations in their buildings and joined with those from other Chestnut Holdings buildings to try to get their common concerns addressed. For example, tenants from two buildings--1504 Sheridan Ave and 1520 Sheridan Ave--sent a detailed letter to the principal owner of Chestnut Holdings, in August of 2012, outlining which tenants are erroneously paying washing machine fees, including those who don't even have a washing machine. The letter also asked that Chestnut Holdings stop charging these fees and refund them to the affected tenants. The tenants never heard back.

In February of 2013, tenants from 18 buildings owned by Chestnut Holdings formed a Coalition called the Chestnut Holdings Tenant Coalition for Decent Housing and wrote a letter to the principal owner of Chestnut Holdings, asking for him to come to a meeting in February to address their common concerns, including the fees. When tenants didn't hear back, they personally delivered the letter to Chestnut Holdings at their office in Riverdale only to be greeted by the police and by a counter protest of Chestnut Holdings staff. Tenants then delivered the letter to managers at Chase Bank in Riverdale where Chestnut Holdings holds a mortgage, only to be met again by police and a counter protest. When the landlord did not come to February's meeting, tenants tried once again for another meeting in May and finally went directly to the landlord's house in Riverdale.

Tenants have diligently tried to meet with their landlord to discuss these fees, yet instead of agreeing to meet or responding to tenants' letters, Chestnut Holdings has responded by staging protests against tenants.

V. CALL TO ACTION AND RECOMMENDATIONS



CASA members at the Our City, Our Homes Launch, advocating for a real affordable housing mayoral platform

As the data in this report documents, low-income tenants in rent stabilized buildings are being unnecessarily and unfairly burdened by non-rent fees. Use of these fees is widespread and disastrous for low-income people struggling to get by. The consistency and patterns in how the fees are being charged and collected suggests that landlords are intentionally increasing tenants' rent burdens to push out long-term, rent stabilized tenants. This does not have to continue. Together, as tenants, advocates, policy makers and elected officials we can put an end to these fees.

We call on HCR and the Office of Court Administration to create enforcement mechanisms that will make this pattern impossible to continue.

We call on HCR to:

- Increase enforcement on this issue by:
 - o Proactively auditing landlords who are suspected of violating these regulations.
 - o Clarifying the regulations to make it clear what a “reasonable time” is.
 - o Creating a fact sheet for tenants to understand non-rent fees and know how to challenge them.
 - o Creating a watch list of rent stabilized landlords and monitor their behavior and actions by working with tenants associations, interviewing tenants, and proactively sending out notices to tenants about their rights.

We call on the Office of Court Administration to:

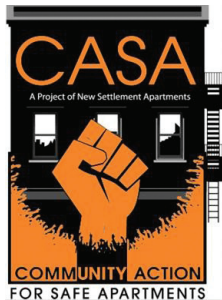
- Work with Officials in Housing Court to eliminate the negotiation of non-rent fees, by:
 - o Educating all Housing Court officials, but especially court attorneys, clerks and judges to understand HCR laws and regulations regarding these fees.
 - o Ensuring that judges fully allocute stipulations according to Honorable Fern Fisher’s Advisory Notice, paying special attention to the payment of any of these fees.
 - o Requiring all staff to educate tenants about their right to object to non-rent fees.
 - o Not allowing any pre-printed stipulations that include non-rent fees.

ENDNOTES

- ¹ *State of New York City's Housing and Neighborhoods, 2011*. The Furman Center for Real Estate and Urban Policy. New York University. Available online at: http://furmancenter.org/files/sotc/SOC_2011.pdf
- ² http://www.huffingtonpost.com/bill-de-blasio/bridging-nycs-income-inequality-gap_b_3428231.html
- ³ *State of the World's Cities 2010/2011- Cities for All: Bridging the Urban Divide*. UN Habitat. Available at: <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=2917>
- ⁴ *Nowhere to Go: A Crisis of Affordability in the Bronx, 2013*. UNIV. NEIGHBORHOOD HOUS. PROGRAM, Available at <http://unhp.org/pdf/Nowhere-ToGo.pdf>.
- ⁵ *State of New York City's Housing and Neighborhoods, 2011*. The Furman Center for Real Estate and Urban Policy. New York University. Available online at: http://furmancenter.org/files/sotc/SOC_2011.pdf
- ⁶ *State of New York City's Housing and Neighborhoods, 2011*. The Furman Center for Real Estate and Urban Policy. New York University. Available online at: http://furmancenter.org/files/sotc/SOC_2011.pdf
- ⁷ *Housing and Vacancy Survey- 2008*. Department of Housing Preservation and Development. Available online at: <http://www.nyc.gov/html/hpdc/html/pr/HVS-Archive.shtml>
- ⁸ *State of New York City's Housing and Neighborhoods, 2011*. The Furman Center for Real Estate and Urban Policy. New York University. Available online at: http://furmancenter.org/files/sotc/SOC_2011.pdf
- ⁹ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #1 Rent Stabilization and Rent Control (May 2008), available at <http://www.nyshcr.org/Rent/FactSheets/orafac1.pdf>.
- ¹⁰ The \$5 per month fee only applies to tenants who purchased and installed their own AC unit between October 1 2012 and September 30 2013. Fees for all units installed before 1985 are governed by whatever was the “lawful practice then in effect” according to the Operational Bulletin. N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #27 Air Conditioners (Apr. 2002), available at <http://www.nyshcr.org/Rent/FactSheets/orafac27.pdf>.
- ¹¹ N.Y. Div. of Hous. and Cmty. Renewal, Twenty Seventh Annual Update of Section B of Supplement No. 1 to Operational Bulletin 84-4 (Sept. 27 2010), available at http://www.nyshcr.org/Rent/OperationalBulletins/orao844_27.pdf.
- ¹² N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #27 Air Conditioners (Apr. 2002), available at <http://www.nyshcr.org/Rent/FactSheets/orafac27.pdf>.
- ¹³ N.Y. Div. of Hous. and Cmty. Renewal, Opinion Letter (Jun. 16 2005).
- ¹⁴ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #27 Air Conditioners (Apr. 2002), available at <http://www.nyshcr.org/Rent/FactSheets/orafac27.pdf>
- ¹⁵ These fees vary on whether or not tenants pay the electricity. N.Y. Div. of Hous. and Cmty. Renewal, Amended Operational Bulletin 2005-1 Supplement No. 1 (Jul. 14 2009), available at <http://www.nyshcr.org/Rent/operationalbulletins/orao20051sup1.pdf>.
- ¹⁶ *Id.*
- ¹⁷ *Id.*; *Hillside Place LLC v. N.Y. Div. of Cmty. Renewal*, No. 42622012, slip op. at 1 (N.Y. Sup. Ct. June 25, 2012); *Arias v. Pascal*, 958 N.Y.S.2d, 374 (App. Div. 2013).
- ¹⁸ N.Y. Div. of Hous. and Cmty. Renewal, Opinion Letter (Jun. 16, 2005).
- ¹⁹ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #24 Major Capital Improvements (MCI) (Aug. 2008), available at <http://www.nyshcr.org/Rent/factsheets/orafac24.pdf>.
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² The maximum amount a landlord can collect in fees is equal to 1/84th of the cost of the improvement. This amount is then divided by the number of rooms in the building and each tenant must then pay for each of the rooms in their particular apartment. So, for example, if an elevator improvement is approved which costs \$380,000.00, and there are 389 rooms in the building, and the tenant's apartment has three rooms in it, the permanent rent increase due to the MCI is $\$380,000.00 \times 1/84^{\text{th}} = \$4,522$ divided by 389 rooms = $\$11.63 \times 3$ rooms = \$34.89. *Id.*; 9 N.Y.C.R.R. § 2522.9 (West 2000); N.Y. UNCONSOL. LAW § 26-511 (Mckinney 2011) (the “Rent Stabilization Law”).
- ²³ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #24 Major Capital Improvements (MCI) (Aug. 2008), available at <http://www.nyshcr.org/Rent/factsheets/orafac24.pdf>.
- ²⁴ Daniel Beekman, *Tenants accuse landlord of unfair rent hikes based on bogus capital improvements at Mount Hope building*, N.Y. Daily News, Nov. 28, 2012, <http://www.nydailynews.com/new-york/bronx/chestnut-holdings-accused-patchy-repairs-rent-hikes-article-1.1208967>.
- ²⁵ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #9 Security Deposit (Sept. 2012), available at <http://www.nyshcr.org/Rent/FactSheets/orafac9.pdf>.
- ²⁶ N.Y. Div. of Hous. and Cmty. Renewal, Fact Sheet #28 Painting Rent Controlled Apartments (Oct. 2011), available at <http://www.nyshcr.org/Rent/FactSheets/orafac28.pdf>.
- ²⁷ Average rent charge from *2013 Income and Expense Study*. New York City Rent Guidelines Board. Available at: http://www.housingnyc.com/downloads/research/pdf_reports/ie13.pdf All other data from surveys.

September 2013

**A Report by New Settlement Apartments' Community Action for Safe Apartments and
the Community Development Project (CDP) at the Urban Justice Center**



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