

Berg & Androphy

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Berg & Androphy Files Class Action Lawsuit Against New York City Housing Authority Over Rampant Neglect and Deplorable Conditions of City-Owned Housing

Suit follows years of incompetence and deception by NYCHA, landlord to over 400,000 New Yorkers; NYCHA's failures to maintain livable housing are typified by three named plaintiffs, who recount litany of broken promises to make needed repairs and overall unresponsiveness to substandard conditions; suit seeks rent abatement and other relief for NYCHA residents.

NEW YORK (February 26, 2020) – Exposing the serial failings of New York's biggest – and worst – landlord, **Berg & Androphy** has filed a class action lawsuit against the New York City Housing Authority over the agency's persistent inability to alleviate widespread substandard living conditions across its properties, which house more than 400,000 New York City residents. The suit was brought today in New York State Supreme Court, in Brooklyn.

The action seeks rent abatement and damages for the decrepit and often unlivable conditions at many city-owned properties, circumstances that push residents to spend out of their own pockets for basic services that NYCHA is legally responsible for providing. In some cases, residents of apartments have gone without gas or a stove for months. Rampant elevator outages trap physically challenged or wheelchair-bound NYCHA tenants in their apartments. Proliferating mold, often caused by pervasive leaks, causes or exacerbates asthma and forces tenants to buy inhalers, while untreated insect and rodent infestations compel them to purchase traps, poison, and cats.

The complaint alleges that tenants' appeals to NYCHA for legally required service or repairs – whether for electricity or gas, plumbing issues, vermin infestation or lead paint abatement – are not answered in a timely manner, if answered at all.

A copy of the complaint, along with photos and videos of the terrible conditions in NYCHA housing developments, can be found here: <https://www.bafirm.com/new-york-city-housing-authority-class-action-lawsuit/>

Moreover, plaintiffs assert that NYCHA's manifold service, maintenance, and repair failures have been deliberately concealed from inspectors sent by the U.S. Department of Housing and Urban Development's Public Housing Assessment System. The complaint notes that while drawing as much as \$1 billion in annual HUD funding, NYCHA deceived federal inspectors by turning off water service in order to hide leaks, locking doors to locations that would fail inspection, and moving working equipment such as fans from one area to another ahead of inspection to give the appearance of functioning service. NYCHA even had a deception manual in its official training materials. The complaint paints an overall portrait of a Potemkin building that is disassembled as soon as authorities move on.

The Berg & Androphy complaint cites a NYCHA tenant who compared city-owned residential housing to “a third-world country,” and notes that New York City Public Advocate Jumaane Williams has identified NYCHA as the city’s worst landlord for two consecutive years.

“New Yorkers should be outraged at how terribly NYCHA has treated the tenants of its properties,” said Berg & Androphy New York partner **Jenny Kim**, who filed the lawsuit. “Hard-working, rent-paying New Yorkers should not be forced to endure neglect and indifference, broken promises, and outright deceit on the part of any landlord – especially a city agency supposedly dedicated to providing decent, livable public housing. NYCHA has breached its contracts with its tenants and acted with an appalling lack of care, ethics, and empathy. It is well past time to hold the agency accountable.”

NYCHA is estimated to house as many as 7% of New York City residents. Nearly a fifth of NYCHA tenants are 62 or older, the complaint says, and 37,000 are older than 62 and live alone. More than one-quarter of NYCHA residents are children. Yet, a March 2018 sampling of 225 public housing apartments found that 212, or 94%, had at least one severe condition that could pose a health hazard to residents.

The NYCHA tenant handbook is titled “A Home to Be Proud Of,” but the complaint details how far the agency, established in 1935, has strayed from its mission to provide homes for low- and moderate-income New Yorkers. It says, “Although these developments were, when built, models of affordable public housing, NYCHA has failed in its responsibilities to its tenants and allowed the NYCHA Developments to fall into disrepair, rendering such housing unsanitary, dangerous and, at times, uninhabitable.”

NYCHA’s notorious track record at its 316 properties has been well reported and is well known to the federal government, which entered into a settlement and consent decree with the agency in 2018 that forced NYCHA to acknowledge its failures to its tenants and duplicity toward HUD inspectors. Although a federal monitor was appointed as part of the settlement, as noted in the complaint, the Director of Columbia Law School’s Health Justice Advocacy Clinic described that appointment as “the equivalent of nailing a 2-by-4 to a collapsing building.”

According to the complaint, among NYCHA’s many breaches of its obligations to its tenants, and of city, state, and federal law, are the following:

- The city reported in 2018 that as many as 130,000 NYCHA apartments, or 75%, contain lead paint. Lead can permanently damage human brains and vital organs, and is known to have contributed to developmental delays in children living in NYCHA housing. Over a four-year period, 820 children living in NYCHA developments were found to have dangerous levels of lead exposure – it is virtually certain that many more who were not tested were also exposed. NYCHA failed to undertake lead inspections mandated by federal law for years, and has misrepresented to both city and federal authorities the extent of its lead paint inspection and abatement efforts.
- Elevator service interruption is common, stranding residents in their apartments and forcing others to climb multiple flights of often unlit stairs. In other instances, barely functioning elevators have injured residents who attempted to use them. In 2016, a resident was killed due to a faulty elevator. Between January and August 2019, there were 28,400 elevator outages at NYCHA properties. The New York Department of Buildings served NYCHA with more than 11,000 elevator violation notices in 2019. Of the more than 3,200 elevators at its properties, NYCHA estimates that more than two thirds are in “fair” or “poor” condition.

- Badly leaking water pipes in kitchens and bathrooms and resulting mold are pervasive, reported by all three of the named plaintiffs. One named plaintiff waited over a year for a severe leak to be repaired. According to the complaint, mold was found to have returned in 47% of the instances in which NYCHA claimed it remediated a mold problem. A health issue for children as well as adults, mold releases toxins and allergens and can require residents to purchase mold cleaners, medications, and inhalers. Aging and unmaintained pipes have also leaked sewage into residents' homes.
- All three named plaintiffs reported continuing infestation by insects and/or rodents, which gain entrance through unrepaired holes and leaks. A Department of Health investigation found that nearly half of NYCHA dwellings had insect infestations and almost 20% had evidence of rodents.
- Poorly lit halls, stairways, entryways, and other common areas, broken locks on exterior doors, and non-working intercom systems are ubiquitous in NYCHA developments and create unsecure and unsafe conditions inside buildings. The complaint says, "In 2018, there were 979 arrests for criminal trespass in the NYCHA Developments and 5,671 arrests for index crimes (which include murder, rape, robbery, aggravated assault, burglary, larceny and motor vehicle theft)."

Berg & Androphy's Ms. Kim says, "The exact causes of action in our complaint may sound legalistic – breach of lease agreements and the warranty of habitability – but in fact, they stand for the harsh and shameful reality that NYCHA mistreats its tenants and has done so with impunity for a long time. We are proud to stand with these tenants as fellow New Yorkers and obtain real relief for NYCHA tenants who have suffered for too long."

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