
TENANTS' RIGHTS PROJECT

STUDENT MANUAL

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A Joint Project Of:

Columbia Law School, Social Justice Initiatives

Columbia Law School, Tenants' Rights Project

Goddard Riverside Community Center's
SRO Law Project

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INTRODUCTION

THE TENANT'S RIGHTS PROJECT

The Tenant's Rights Project (TRP) is a Columbia Law School in-house program that was created in partnership with the Columbia University Tenant Assistance Project and Goddard Riverside's SRO Law Project. The Tenant Assistance and SRO Law Projects are staffed by attorneys and tenant organizers who work with tenants to preserve their buildings and improve living conditions. The SRO Law Project was created in 1981 in response to the alarming decline in single room occupancy (SRO) housing as a result of emptying tactics used by many owners who wanted to convert their buildings to luxury housing. The Tenant Assistance Project is funded by Columbia and run by Goddard Riverside to help preserve affordable housing in Manhattan Valley, which is bounded by 100th and 110th Streets, Broadway and Central Park West. TRP provides legal assistance for individuals and tenant groups in tenant-initiated proceedings called "HP actions."

"HOUSING PART" ACTION

"Housing Part," or "HP" Actions are tenant-initiated actions that seek orders to correct violations of laws that relate to housing standards. The New York City Civil Court Act, N.Y. City Civ. Ct. Act § 110(a), grants broad jurisdiction to the Court's Housing Part to entertain "actions and proceedings involving the enforcement of state and local laws for the establishment and maintenance of housing standards, including but not limited to, the multiple dwelling law, and the housing maintenance code, building code and health code of the City of New York." In case law, the term "housing standards" broadly "encompasses any legislative standard which directly impacts the health and safety of the occupants of buildings covered by the Building Code and HMC." Various Tenants of 515 East 12th Street v. 515 East 12th Street, Inc., 128 Misc.2d 235, 489 N.Y.S.2d 830 (Civ. Ct. N.Y. County, 1985). For our purposes, the Housing Maintenance Code, N.Y. City Admin. Code §§ 27-2115(h)–(i), provides the statutory basis for the proceedings.

CONTACT INFORMATION

Your involvement with TRP should never feel like a solo operation. In addition to your project partner, you have plenty of support from the leadership at TRP. Do not hesitate to contact us with any questions. You should first contact the TRP Board Member supervising your case. However, if he or she is unavailable or if it is an emergency, you should feel free to contact one of the other Board Members. The lawyers at the SRO Law Project are also more than happy to assist.

TRP CHAIRS (COLUMBIA 2LS)

Aliya Sanders	ajs2215@columbia.edu
Clint Cohen	ccc2157@columbia.edu
Jeff Izant	jjj2109@columbia.edu

SRO Law Project

Marti Weithman	mweithman@srolaw.org
51 West 109 Street	
New York, NY 10025	(212) 799-9638
www.goddard.org/srolawproject.html	

FREQUENTLY USED WEBSITES

TRP WEBSITE - Includes template documents, digital copy of manual, links, and more (under resources). <http://www.columbia.edu/cu/law/trp>

HPD WEBSITE - Use this to find past housing violations for your tenant's unit and building. <http://www.nyc.gov/html/hpd/html/home/home.shtml>

ACRIS WEBSITE - Find the registered owner of the building from the city's finance records. <http://www.nyc.gov/html/dof/html/acris.html>

DOB WEBSITE - Find elevator and construction violations. <http://www.nyc.gov/html/dob/html/bis/bis.shtml>

TIMELINE FOR HP ACTIONS

Once you and a partner are assigned a case, a case supervisor (one of the TRP Co-chairs), and a lawyer, it is in everyone's interest to proceed through the preliminary steps as quickly as possible. We would like to reach a resolution for the clients as well as to give you a chance to follow through on your action to the court stage if necessary. This is an overview of the timeline for an HP action (you will find details on each of these steps in the pages that follow):

1) Meeting with the Client

Once your group is assigned a client, you should arrange to meet with the client as soon as possible. Coordinate this meeting with your partner and the lawyer assigned to your case. The meeting will occur at the tenant's dwelling.

2) Preparing the Phase I Documents

Immediately following the client meeting, you should:

- Meet with your partner and complete the forms for the HP action
- Email the completed forms to the lawyer and copy your case supervisor within 24 hours
- Develop print film or print out any digital photos and send to the lawyer.

The lawyer will return the documents with comments within a few days. After you have incorporated the comments, email the final versions to your case supervisor and your supervising attorney as soon as possible.

3) Completion of Inspection Report

The inspection report will be completed by you later at the SRO Law Project office when the tenant signs the other documents in the presence of a notary.

4) Inspection of the Property

Please determine what dates are good for your client to be home for HPD to inspect the building before the papers are filed and inform the lawyer of the date and time (available time slots include daily 10 a.m.-2 p.m./2 p.m. – 6 p.m./5 p.m. – 9 p.m./weekend 10 a.m. – 3 p.m.). As soon as the papers are filed with the Court and an inspection date is scheduled for HPD, your attorney will notify you. Please notify your client as soon as possible so that they can make appropriate arrangements to be at home for the inspection during the time designated. In addition, you should call your client two days before the inspection to remind her of the upcoming inspection and to make yourself available to answer any questions she may have. Also ask her if the conditions in the dwelling have changed since your initial visit.

5) Appearing in Court

Your attorney will notify you of the court date. Again, please notify your client as soon as possible so they can plan accordingly, and call to remind them a day or two in advance. In preparation for the court appearance, you should check the HPD website, <http://www.nyc.gov/html/hpd/html/pr/violation.shtml>, to review the

results of the inspection, and you should bring four copies to court. You should also bring your photos to court.

6) **After the Court Appearance**

Hopefully, the landlord will obey the court determination and remedy the violations. There are, however, alternatives if the landlord fails to comply or appear in court.

- **Contempt Order:** If the landlord does not fulfill the requirements of the court order or default judgment, the court can find the landlord in contempt. In this case, you will work with the tenants to file a Contempt Order against the landlord.
- **7A Action:** If the landlord fails to appear in court, you should discuss with your tenants the possibility of beginning a 7A Action against the landlord. The result of this further legal action is that an administrator will take management of the property and begin to repair the violations.

MEETING WITH THE CLIENT

PURPOSE OF THE FIRST MEETING

When you meet with the client for the first time, you have two main duties. First, you want to meet the tenants and let them know who you are and that you want to help. You should try to understand what the clients want from the proceedings.

Second, you must investigate the home for any violations. Your goal in this first visit is to collect virtually all of the details of the bad conditions in need of repairs so that you can accurately and efficiently prepare the Phase I documents. Some, though not necessarily all, of the conditions may violate the legal standards set forth in the Housing Maintenance Code.

You will attend the first meeting with the SRO lawyer assigned to your case. The lawyers at the SRO Law Project are very busy, so be sure to get a list of dates and times that will work for your supervising attorney before you call the client, keeping in mind that evening hours will often work best. Aim to dress in attire that is both professional and practical.

PERSONALIZE YOUR RELATIONSHIP WITH THE CLIENT

In order to get the information you need from this first visit, you need to make the tenant feel comfortable. Be friendly, but also serious. Do not judge the tenant or the conditions in which she lives. Many clients are embarrassed about their living situations, so be careful not to criticize. It is okay to point out problems and express concern about the conditions (as some are quite despicable), but remember you are in someone's home.

Identify yourselves as law students being supervised by lawyers from the SRO Law Project. Explain what the SRO Law Project does, if your client does not know already. You may also want to say why you are involved with TRP. Then you should explain to the client that you will be the one calling to set up court dates, notify her of the inspection date, ask questions, and generally check in. This is your client and she should feel comfortable speaking to you and generally know who you are when you call.

Provide your client with your phone number. However, if you are uncomfortable doing so, please contact your case supervisor. All communication should be with you, and not with your supervising attorney. Your supervising attorney will relay the court dates and other pertinent information to you so that you can tell your tenant.

Some of the clients will be extremely sweet, some will be demanding, and some may be difficult to work with. Please be prepared for anything. Generally, clients are thankful for the help we are able to give them. Unless they say something that particularly offends you and it is necessary to speak up, it is best to let awkward comments roll off your back. If you have a very challenging client, please contact your case supervisor, who will speak with the lawyer in charge of your case and find a solution.

INVESTIGATING THE DWELLING

This is very important! You want to be able to fill out the first set of court document based almost exclusively on this visit so pay attention and ask plenty of questions.

Prepare

Before you go, review examples the Phase I documents you will be drafting and make a list of what you will want to look for. The most obvious pieces of information you should remember to collect include:

- 1) Name of the tenant(s)
- 2) Address and room number
- 3) Phone number if the tenant has one
- 4) Dates of occupancy
- 5) Bad conditions or conditions in need of repair
- 6) Landlord's name and contact information
- 7) The general relations that the clients have with their neighbors and landlord
- 8) Whether and when the tenant(s) have tried to contact the landlord in the past about the conditions in need of repair
 - a. Get as specific dates as possible
 - b. How the tenant contacted the landlord
 - c. What the landlord did to fix (or not fix) the conditions
 - d. This is to establish exhaustion of extra-judicial remedies (and frankly, to show just how bad the landlord is)
- 9) Whether any other tenants in the building are interested in joining an action against the landlord. Tenant organizers will have already spoken to the tenant about this, but you should check to see whether anyone has changed her mind.

This is not a complete list. Before going, you should skim the Housing Maintenance Code to find some example violations, or look at our model documents for ideas. You should also check the **violations report** of the HPD website www.nyc.gov/hpd/html/online-tools/hpd-online-portal.html and click on "Proceed to HPD Online." Print a copy and bring it with you so you have some idea of what to look for and who the registered landlord is. Do not be surprised if old violations have not been repaired, or if the named landlord no longer owns the building.

Look

Look around the dwelling and check the doors, windows, walls, ceiling, and floor. Look at the public spaces of the building, such as the hallways, stairs, entranceways, bathrooms and kitchen.

Ask

Ask about any problems that are not visible (such as heat, hot water and electricity) or that you may not have noticed. Ask about roaches, mice, rats, bed bugs, or other pests – these can be violations even though many New Yorkers have them at some point.

Write

Take detailed notes. Write down everything that looks bad, even if you are not sure it is a violation. Include all details, e.g., “3x5 foot hole in wall near ceiling of room on far side near the window.” Cardinal directions are also very important (remember that most of New York City is on a grid in which the Avenues run generally North-South and the Streets run East-West). Remember, the more descriptive your notes are, the more descriptive your inspection request can be and the more likely it is that the inspector will find the problem. You should explain to the tenant why you are taking notes.

Take Pictures

This is strongly recommended. It gives the judge an idea of just how bad the conditions are, and it also conveniently reminds you what the situation is with your clients. Also, when you check the website before your court appearance, if you find that some of the violations were not noted, it will greatly improve your case at court if you can provide pictures in support. However, oftentimes the pictures do not come out and some violations are either impossible to photograph or just will not show up on film (peeling paint is hard to capture, a broken window or wall is not).

Listen

Your client may only care about his hot water, but you may notice other bad conditions such as rickety stairs or lack of light in the entryway. Take notes on every condition in need of repair. However, remember what is most important to your client so that you can make a bigger deal of it on the court papers and in court.

Feel

This is most important. If you're thinking too hard, you may miss some obvious lifestyle problems which may be violations. Before you leave, step back for a minute and get a feel of the dwelling to see if there is anything that feels wrong beyond the obvious flaws.

PREPARING THE DOCUMENTS

You will draft between five and eight different documents in the course of your case. Examples of each of Phase I documents are located at the end of the manual and all documents can be downloaded from the TRP website (www.columbia.edu/cu/law/trp/resources.html).

Phase I Documents: following the initial site visit, you should prepare the following documents:

- 1) Order to Show Cause
- 2) Petition
- 3) Tenant's Affidavit
- 4) Request for Inspection

Court Appearance: for the court appearance, you may have to prepare documents including:

- 5) Consent Order
- 6) Stipulation

Additional Documents: if the landlord fails to appear in court or does not fulfill his obligations pursuant to the court determination, you may advise your tenants to pursue either a Contempt Order or a 7A Action, and may include the following documents:

- 7) Contempt Order to Show Cause, Tenant Affidavit,
- 8) 7A Order to Show Cause, Notice of Petition and Affidavit
- 9) 7A Schedule

In each document, you should identify the parties to the case in the caption, including:

Petitioners

- List all tenants who are party to the suit.

Respondents

The following parties are required respondents to the action:

- The registered owner of the building (available on the HPD website. <http://www.nyc.gov/html/hpd/html/home/home.shtml>. Click on "Tenants" and click on "Check Violations");
- All owners listed on the Department of Finance ACRIS site (www.nyc.gov/html/dof/html/acris.html)
- The Department of Housing, Preservation and Development (HPD) is always a respondent in HP actions (see template documents for contact information to be included).

You should also include other parties such as:

- The owner or managing agent of the building, including individual officers in the corporation all listed on the HPD website;
- Anyone else who might be responsible for the current conditions.

Many of these documents will have to be signed by a notary. There are a couple of notaries at the SRO Law Project, including Marti Weithman.

PHASE I DOCUMENTS

1) Order to Show Cause

The Order to Show Cause is the “title page” for the Phase I documents. It gives the date and time of the court date and requests that the court order the landlord to correct the violations in the tenant’s room or apartment. It is the most formulaic of the documents; you won’t need to make many changes from the template. You should leave the court date blank until a lawyer lets you know when it has been assigned.

2) Petition

The petition is the central document in an HP action. It includes basic information about the tenant and the landlord, along with a detailed list of the conditions in need of repair in the tenant’s room or apartment.

You must be clear and specific when listing bad conditions. The petition will state that, “There are currently a total of [x] violations of the Multiple Dwelling Law and/or the Housing Maintenance Code on record for the subject premises with the N.Y. City Department of Housing Preservation and Development.” It will then list the number of A, B, and C violations.

- A violations are non-hazardous and must be corrected within 90 days
 - e.g., broken electrical fixtures, cosmetic disrepair
- B violations are considered hazardous and must be corrected within 30 days
 - e.g., broken window frames, peeling floorboards
- C violations are considered immediately hazardous and must be corrected within 24 hours
 - e.g., no heat or electricity, serious water leaks

This information is available on the HPD website. Simply look up the building and copy the number of each class of violation (A, B, and C) listed on the building report. If multiple tenants are petitioning, make sure to list the violations by separating them into a paragraph for each apartment and common area. If there are no violations listed in the building report, simply omit that paragraph of the petition.

The petition must be verified and signed by one tenant. If there are multiple tenants involved in the action, only one must verify and sign the petition. The verification of the petition must be signed before a notary.

3) Tenant’s Affidavit

The affidavit is included in support of the petition. In the affidavit, the tenant is swearing that the bad conditions listed in the petition do in fact exist in her room or apartment. The affidavit provides further information about the tenant (address of their room or apartment, how long they have lived there, etc.) and, like the petition, lists the conditions in need of repair in the tenant’s room or apartment. The affidavit should be written from the point of view of the tenant, and to the extent possible, in the tenant’s voice. Stay away from using legal jargon in the affidavit. Instead, make sure it is in lay person’s terms.

The tenant will have to sign the affidavit. Before she signs it, you should make sure it is accurate and complete and offer to read it together with the tenant. The tenant *must* be comfortable with the content and tone of the document, because in signing it, she is swearing that it is true. The affidavit must be signed in front of a notary.

If there are multiple tenants involved in the HP action, there must be an affidavit for each individual tenant because it is important that you meet with and discuss the process with each tenant involved in the HP action. Each affidavit should list only the bad conditions pertaining to the particular tenant whose affidavit it is. If there are bad conditions in the public areas of the building, such violations pertain to all of the tenants, and should be contained in all of the individual affidavits.

4) Request for Inspection

Unless all of the bad conditions with which the tenant is concerned are already included in the HPD database, you will need to file a Request for Inspection with the other HP papers. In many cases, you will want to file an inspection report even if all of the violations are listed in the database; not only can this be helpful in court, but the inspector might also find a new violation.

You will fill out the Request for Inspection at your supervising attorney's office when the tenant comes to sign the petition and affidavit. The Request for Inspection must detail each of the violations that you want the HPD inspector to examine. Use your notes from the initial visit as well as the Petition as guidance. The Request for Inspection must be clear and painstakingly detailed; if it is not, the inspector might miss violations. Remember that some inspectors are more diligent than others. The Request for Inspection form is submitted in court when the HP papers are filed.

Your supervising attorney will contact you to let you know of the inspection date. You will need to make sure that the tenant is very aware of that date in advance and to remind him with a phone call a day or two before the inspection. The inspector may show up at any time during the window period chosen (available windows are daily: 10 a.m.-2 p.m./2 p.m. – 6 p.m./5 p.m. – 9 p.m.; or weekend: 10 a.m. – 3 p.m.) because the tenant will need to be there to let them in. Remind the tenant to stay in their apartment or room on the day of the inspection. If the tenant steps out to grab a cup of coffee, laws of the universe guarantee that the inspector will come during those five minutes.

ATTENDING HOUSING COURT

After several weeks of preparation, the time has finally arrived for you and your client to appear in court. This is perhaps the most challenging and rewarding part of your work with TRP. You will be required to juggle several responsibilities and play a variety of roles throughout your court appearance.

More than anything else, it is important for you to be patient. It will take some time for the case to progress throughout the morning. You may have to wait for the landlord to arrive, for your case to be called, or for your tenant to make up his mind. But the better the outcome during this initial appearance, the less work it will be for yourself and your tenant in the long-run.

Information about the Court

The courthouse is located at 111 Centre Street (note: some online map databases, such as Google Maps, do not accurately place this address!). Take the 1/9 line to the Franklin Street station and proceed east three blocks to the court entrance. The courthouse takes up a full block between Lafayette and Centre Streets. The best entrance from the 1/9 line is on Lafayette between Franklin and White Streets. At this entrance, you will go through a metal detector before proceeding into the main lobby. The HP Court – Room 526, Part B – is located on the 11th floor, Room 1161. After exiting the elevators, go left down the hall and follow it around the corner to the courtroom on the left before the two double doors. Make sure to allow extra time to get up to the 11th floor since the elevators are often very crowded early in the morning.

Talking to the Client

Remind your client. Several days before your court appearance, you should call your client to remind them of their upcoming court appearance. You should tell them to meet you on the benches in the 5th floor hallway at 9:30 a.m.. Make sure your client knows where the court is located and how to get there via public transportation.

Discuss recent developments. It is also important to discuss any recent developments in the case with the client. If repairs have been made or conditions have gotten worse in the building, you need to know before you appear in court. These facts will all be relevant when negotiating with the landlord or discussing the case with the judge.

Mention that tenant may need to testify. Make sure to discuss the fact that the tenant may have to testify in front of the court. The tenant should be prepared to answer a few questions about the conditions of the building. Emphasize to the tenant that his answers should be brief and to the point. Also let the tenant know that you will have time before the hearing to prepare further. Do not alarm the tenant or make the tenant overly nervous about this. Remind the tenant that you will do most of the talking and that the tenant will only have to talk about what she already knows – conditions in her home.

Prepare tenant for her day in court. Finally, tell your client to bring something to read during his court appearance. Your client should be made aware that the court appearance

will likely last several hours (about 2-3) and will involve a good deal of waiting in the court room. The client should have something to read to help pass the time. However, remind the tenant that no headphones or radios are allowed in the courtroom and that all cell phones and other electronic devices have to be turned off while in the courtroom. In addition, you should discuss appropriate attire with the tenant. She need not wear anything too formal (e.g. a suit), but she should look presentable so that the judge will find her credible and will not be prejudiced by her appearance. You should wear a suit to court.

Additional Preparation for Court

Check the HPD website. See if the violation report has been completed by a housing inspector, go to the following website www.nyc.gov/html/hpd/html/online-tools/hpd-online-portal.html. From there, scroll to the bottom of the screen and click the link for HPD online. At this next page you will be able to input your client's home address. If a violation report has been completed, you should print four copies and take them with you to court.

Refresh your memory on the facts of the case. Make a point of reviewing the documents that you prepared for the HP action. Once you get to the courthouse, it will be important to have information pertinent to the case at your fingertips. This will assist you when negotiating with the landlord and/or appearing in front of the housing court judge.

Collect documents for the court appearance. You should bring a copy of the inspection request forms so that you can compare what the inspector noted as violations and what you listed as potential violations. Also, bring some change for copies of the inspection report which will be made available to you in the court room. Bring any pictures you have taken of the tenant's dwelling.

Getting Settled at Court

Check the calendar outside the courtroom. Upon arriving at court, make sure to check the list of cases outside the courtroom. The number of the case is listed between the red lines on the court calendar outside the courtroom. Enter the court room and proceed to the front where the court clerk sits. Inform the court clerk that you are checking in for the "Petitioner's attorney" on the number corresponding to your case.

Find the landlord or his attorney. Check with your supervising attorney as they may know who the landlord is or, more likely, who his attorney is. Often the landlord does not show up on time, as they have until 11 a.m., or sometimes earlier, again depending on the judge, to arrive before the court can issue a default order.

Obtain a copy of the violation report and submit affidavit of service. As soon as you have checked in, you should request the court file from the court officer to make a copy of the HPD inspection report. There you should submit your affidavit of service that the attorney you are working with should have with them. Do not give anything to the court unless you have made a copy of the document.

Request a copy of violation report. Even if you have an online copy of the inspection report, you should obtain an official version. You will need this document for later in your court appearance. Then proceed to the second floor of the building and make four copies of the official inspection report. Copies are 15 cents per page. If the inspection report is not available immediately, it will likely turn up shortly. Make sure to ask the HPD attorney every once in a while if the inspection report has appeared. If on the off chance the inspection report cannot be located, the tenant may have to testify in front of the judge. Though this is an unlikely scenario, be prepared to get your client ready for the possibility.

Negotiating a Settlement

There are a number of scenarios that can occur at court. Don't be overwhelmed: keep in mind that a lawyer will be with you, assisting throughout the process. Also, you should be ready to discuss the matter with the judge. This will give you a feel about her approach to the matter at hand.

- 1) **Adjournment:** The landlord may initially ask for an adjournment for any number of reasons, including the need to find legal representation. Since a judge will most likely grant an adjournment the first time case is on and schedule the case for another date, you should consent as long as the landlord will agree to an interim order to correct the C violations. If they agree, the HPD attorney can draw up that order or give you a consent order form to draw it up. (See below.) If they do not agree to an interim order then don't agree to the adjournment. They will have to make an application to the judge for an adjournment, and you will explain that you have no trouble giving a brief adjournment as long as you get an interim order for the Cs. Obviously, you should know what Cs affect your clients building and unit by this point. The judge may or may not issue this interim order.
- 2) **Default:** If the landlord fails to show, the judge will issue a default order, which must be served on the landlord. You (and the lawyer) must serve this default order to each defendant party via both regular and certified mail.
- 3) **Consent Order:** A consent order is a court-authorized and enforceable agreement between the landlord and tenant that does not require a full hearing. The Consent Order, drafted and agreed between the parties, provides for the specific remedies that the landlord must undertake, as well as the penalties the court can impose against the landlord for breach.
- 4) **Stipulation:** If the landlord does not agree to a consent order, you may try to get the landlord to agree to a stipulation. The stipulation does not carry the legal weight that a Consent Order does, but it does allow for the return to court and the potential for contempt order if the landlord breaches. How willing you are to settle for a Stipulation depends on how much you believe the landlord will do the work.

- 5) **Court hearing:** The strongest negotiating leverage that you have is the threat of a trial. A trial will occur unless both parties agree otherwise. If the landlord refuses to agree to either a consent order or a stipulation, you can push for trial. The case will go up to the bench before a trial date is scheduled and the judge will have a chance to weigh in whether the parties should sign a stipulation, a consent order or have a trial. The judge cannot make either party settle, but she can twist arms. For instance, if the judge thinks your request for a trial is unreasonable and the landlord's stipulation proposal is reasonable, she may suggest doing the trial in 2 months. The reverse is also true and the proposed trial could be just a week away.

Court Hearing

There are two reasons why a court hearing may be necessary. First, you are unable to negotiate a settlement with the landlord and he insists on appearing before the judge. Second, the violation report has not yet been filed with the court. In that case, the tenant's testimony will be required to prove the existence of the alleged violation. It is generally foolish for a landlord to go to a hearing on an HP action, because if the service was proper, the judge will generally order the landlord to do the work and the owner will have wasted money on legal fees for the trial.

Making the case. The tenant will be required to prove service as well as the existence of bad conditions. Service can be demonstrated through production of the affidavit of service, which should already be on file with the court, and proof of mailing (post office receipts). When the tenant testifies before the court about the conditions in the building, you will be asking him questions. This is direct testimony, so the questions must be open-ended. You cannot lead the witness. (For example, you cannot ask the tenant whether there is a leak in his ceiling. Instead, you must ask him to describe the ceiling in his apartment.) The tenant should be asked if each of the conditions still exists and if the landlord had made any attempt to correct the condition. If a violation report had not been filed by the time of the hearing, the tenant's testimony will be needed to establish the existence of the conditions and that they rise to the level of violations.

Ask the tenant your prepared questions. You should come to the court prepared with a list of questions to ask the tenant. These questions should be quite general and should enable the tenant to describe the conditions in his building as well as express the landlord's inability to make the necessary repairs. Ask questions such as: "Please describe the condition," "How long has the condition existed," "Has your landlord had knowledge of this condition," and "How has this condition impacted your life."

AFTER THE COURT APPEARANCE

Contempt Order

If a landlord fails to comply with an order to correct in an HP action, the tenant may seek to compel compliance by asking the court to impose:

- 1) Fines and imprisonment for civil and/or criminal contempt, pursuant to;
- 2) The civil penalties pursuant to the Housing Maintenance Code;
- 3) A rent abatement for breach of the warranty of habitability, pursuant to the Real Property Law; and/or
- 4) Compensatory damages for the tenant.

The tenant may seek one or more of these remedies in a single motion. However, because the procedural requirements and proof of noncompliance differ, depending on the remedy sought, you should make sure that the requirements for each remedy are met.

Below is a brief summary of the key elements of civil and criminal contempt:

Civil Contempt

- Punishment by fine payable and/or imprisonment
- Purpose is to vindicate a private right of a party through compensation and to coerce the party in breach to comply with the court order
- Relevant statutes are §§753-781 of the N.Y. Judiciary Law, §5104 of the CPLR, §27-2124 of the N.Y.C. Admin. Code.

Criminal Contempt

- Punishment by fine and/or imprisonment for, *inter alia*, **willful** disobedience to a lawful mandate of the court.
- Purpose is to vindicate an offense against public justice, to protect the dignity of the judicial system, and to compel respect for its mandates. The objective is deterrence of disobedience.
- Relevant statutes are §§750-752 of the N.Y. Judiciary Law; §5104 of the CPLR; and §27-2124 of the N.Y.C. Admin. Code.

7A Action

In some cases, the landlord may fail to fulfill the court's requirements subsequent to the hearing and a contempt action. If this is the case, the tenants may want to pursue a 7A Action against the landlord – more than 1/3 of the total tenants must agree.

The objective of the 7A is to transfer administration of the property to a city appointed administrator. The administrator will then administer remedy of the violations, the cost of which will become a lien against the property. This can be an incredibly slow process as not a lot of funds are available to administrators to make repairs. Once an administrator is appointed, the tenants are required to pay their full rent to the administrator even if they have not been paying rent before and even if there are still bad conditions. When the violations are remedied, the landlord will have to apply to the HPD for a return of the property. As this procedure is relatively rare and a bit more complicated – though not particularly time-consuming – a lawyer will guide you throughout the process.

EXAMPLE ORDER TO SHOW CAUSE

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: PART B

-----X
TENANT(S) NAME(S),

Petitioners,

ORDER TO SHOW CAUSE
Index No. HP
/10

-against-

LANDLORD(S) NAME(S)

Premises:

123 West 45^h St.
NY, NY 10023

-and-

THE DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT (HPD),

Respondents.

-----X

Upon the affidavit of TENANT(S) NAME(S), sworn to on
___ day of MONTH, 2010, the annexed Verified Petition
setting forth the claims and relief sought by the
Respondent(s) on the subject premises, and upon all the
pleadings and papers in this proceeding, let the
Respondents show cause before me or a judge of the Housing
Part of the Civil Court, New York County, at the courthouse
located at 111 Centre Street, New York, New York, Part B,
Room 1161, on the ____ day of MONTH, 2010 at 9:30 o'clock
in the forenoon, or as soon thereafter as counsel may be
heard, why an order should not be issued granting the
following relief:

1. DIRECTING the Respondents to correct the violations alleged in the annexed Verified Petition, and upon failure to do so within the time set for certifying the correction of such violations pursuant to Section 27-2115 (C) of the Administrative Code of the City of New York, for an order directing the Department of Housing Preservation and Development (HPD) to enter a judgment against the Respondents for the penalties stated in Section 27-2115 (a) of the Administrative Code; and

2. Granting such other and further relief as may be just and proper.

SUFFICIENT reason appearing therefore, let service of a copy of this Order, together with the papers upon which it was granted, be made upon the Respondents by certified mail return receipt requested as provided by Section 27-2115 (j) of the Administrative Code, on or before MONTH _____, 2010 be sufficient. If Respondents are registered with the HPD, mailing may be made to the Respondents at the address indicated in such registration. Proof of such service may be filed on or before the return date of this motion.

Dated: New York, New York
MONTH ____, 2010

J.H.C.

To: Dept. of Housing Preservation and

Development of the City of New York
Housing Litigation Bureau
100 Gold Street
New York, NY 10038
(212) 863-8926
Attorney for Respondent HPD

LIST EACH LANDLORD AND THEIR ADDRESS
678 West 90th Street
New York, NY 10025

EXAMPLE PETITION

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: PART B

-----X

TENANT(S) NAME(S),

Petitioners,

-against-

VERIFIED

PETITION

Index No. HP

/10

LANDLORD(S) NAME(S)

Premises:

-and-

123 West 45^h St.

NY, NY 10023

THE DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT (HPD),

Respondents.

-----X

The Verified Petition of TENANT(S) NAME(S) alleges on information and belief:

1. Petitioner, TENANT NAME, is a tenant of 123 West 45th Street, New York, NY 10023.
2. Respondent LANDLORD ONE NAME, is the owner of 123 West 45th Street, New York, New York, 10023.
3. Respondent LANDLORD TWO NAME is the owner and/or head officer of LANDLORD, LLC.
4. Respondent LANDLORD THREE NAME is an officer of Landlord, LLC and/or managing agent of 123 West 45th Street, New York, New York, 10023.
5. Accordingly, the Respondents are individually and/or collectively owners of the premises as that term is defined by Section 4(44) of the Multiple Dwelling Law and Section 27-2004(a)(45) of the Housing Maintenance Code and, as such, are legally responsible for keeping the premises in good repair, insuring compliance with applicable laws and correcting all violations of these laws.

6. Respondent Department of Housing Preservation and Development is the city agency charged with enforcing housing standards in New York City.

7. The Respondents have violated the Administrative Code of the City of New York and the Multiple Dwelling Law in that:

A. There are currently a total of ____ violations of the Multiple Dwelling Law and/or the Housing Maintenance Code on record for the subject premises with the NY City Department of Housing Preservation and Development. Of these violations, ____ are class "C" (immediately hazardous), ____ are class "B" (hazardous), and ____ are class "A" (non-hazardous). Copies of the violation records for the subject premises, attached herein, are hereby incorporated in and made a part of this petition.

B. The following additional conditions currently exist in the subject premises and have not been repaired: 1) the ceiling in the living room is collapsing in the far right corner; 2) there are rats, mice, and roaches in the apartment; 3) the living room window is cracked; 4) the 2nd floor community bathroom toilet does not work; 4) the 2nd floor hallways are dirty; 5) the light at the entrance to the building does not work.

8. Pursuant to the Administrative Code of the City of New York Section 27-2115 and in accordance with the Directive of the HPD of February 11, 1997, and because the above listed conditions constitute an emergency or a danger to the life, health and safety of the tenants, Petitioners request that prior notification to DHPD be waived.

9. Petitioner has requested of the Clerk of the Housing Court that an inspection of the premises by the Division of Code Enforcement be ordered. Petitioner further requests that:

A. if no inspection report is available on the date of the hearing, that testimony be taken and violations be placed;

B. an order be issued directing the Respondents to correct the violations alleged in the annexed Verified

Petition or found in the inspection, and upon failure to do so within the time set for certifying the correction of such violations pursuant to Section 27-2115(c) of the Administrative Code of the City of New York, for an order directing the HPD to enter a judgment against the Respondents for the penalties stated in Section 27-2115(a) of the Administrative Code.

10. Petitioner TENANT NAME has not made a prior application for the relief sought herein.

Dated: New York, New York

MONTH ____, 2010 Yours, etc.

TENANT LAWYER'S NAME, Of

Counsel

Martha A. Weithman, Esq.
SRO Law Project
Goddard Riverside Comm. Ctr.
51 West 109th Street
New York, New York 10025
(212) 799-9638

To: Dept. of Housing Preservation and
Development of the City of New York
Housing Litigation Bureau
100 Gold Street
New York, NY 10038
(212) 863-8926
Attorney for Respondent HPD

LIST EACH LANDLORD AND ADDRESS AS IN OSC
678 West 90th Street
New York, NY 10025

LANDLORD PERSON TWO
234 14th Street
New York, NY 10001

LANDLORD PERSON THREE
678 West 90th Street
New York, NY 10025

VERIFICATION

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

TENANT NAME, being duly sworn, hereby deposes and says:

1. I am the (or one of the) Petitioner(s) in this proceeding. I have read the contents of the Petition and hereby verify that the contents thereof are true and accurate to my own best knowledge.

TENANT

Sworn to before me this
___ day of MONTH, 2010

NOTARY PUBLIC

EXAMPLE TENANT AFFIDAVIT

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: PART B

-----X

TENANT,

Petitioners,

AFFIDAVIT
Index No. HP
/10

-against-

LANDLORD,

-and-

Premises:
123 West 45^h St.
NY, NY 10023

THE DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT (HPD),

Respondents.

-----X

STATE OF NEW YORK)

:SS.:

COUNTY OF NEW YORK)

TENANT, being duly sworn hereby deposes and says:

1. I am a tenant and a Petitioner in this case.

2. I have lived at 123 West 45th Street, New York,
New York, Apartment A since 1975.

3. There are many bad conditions in my apartment;
some of them are violations according to the Department of
Housing Preservation and Development (HPD). See Violation
Summary Report attached to Petition.

4. There are other bad conditions in my apartment
and the apartments of my fellow tenants, which require
immediate repair.

5. The following conditions currently exist in my room and have not been repaired: (1) the ceiling in the living room is collapsing; (2) there are rats, mice, and roaches in the apartment; (3) the living room window is cracked.

6. There are also bad conditions in the public areas of my building that need repair.

7. The following conditions currently exist in the building and have not been repaired: (1) the 2nd floor community bathroom toilet does not work; (2) the 2nd floor hallways are dirty; (3) the light at the entrance to the building does not work.

8. Since January, 2003, I have told my landlord about the conditions in my apartment on multiple occasions. He has not taken any steps to repair the conditions.

9. Many of these conditions are dangerous to my health and well-being. I fear that I will be hurt by the collapsing ceiling in my room. I cannot keep food in my room because of the rats, mice and roaches. My room is also very cold in the winter because a lot of draft comes through the cracked window. I am also afraid something could happen to me when I am coming home because it is so dark at the entrance of my building.

10. I hope that the Court will order my landlord to repair the bad conditions in my room and in my building.

TENANT'S NAME

Sworn to before me this
__ of MONTH, 2010

NOTARY PUBLIC

EXAMPLE REQUEST FOR INSPECTION

**Department of
Housing Preservation and Development
Division of Code Enforcement
(Form A-B)**

TENANT'S REQUEST FOR INSPECTION

Civil Court Index No.: LT/HP _____

County of: _____

Housing Part: 18 Room: _____

The case of Lovely Sweet Tenant

vs. Big Bad Landlord

will appear on the Court Calendar on:

_____ at 9:30 A.M.

Tenant's Name: Lovely Sweet Tenant

Tenant's Address: 123 W. 45th St. NY, NY 10025

Apt. No.: Apt. A Floor: 2 Tenant's Phone Numbers: Home: (555) 555-5555 Work: () _____

You may gain access by contacting: Tenant, at home th

TENANT'S ALLEGATION OF VIOLATIONS			DIVISION OF CODE ENFORCEMENT
APT. NO. (OR PUBLIC AREA)	WHICH ROOM?	CONDITION(S) — BE SPECIFIC	Inspector's No.: _____ Date: _____ Signature REPORT
<u>Apt. A.</u>	<u>living room</u>	<u>1 Ceiling in living room collapsing</u>	
<u>Apt. A</u>	<u>living room</u>	<u>2 left side of living room - corner pane of window cracked</u>	
<u>Apt. A</u>	<u>all rooms</u>	<u>3 rats, mice, and roaches throughout</u>	
<u>2nd floor</u>	<u>Community bathroom</u>	<u>4 toilet does not work</u>	
<u>2nd floor</u>	<u>hallways</u>	<u>5 hallways are filthy - dirt, plates</u>	
<u>building entrance</u>	<u>building entrance</u>	<u>6 light over door at building entrance is broken</u>	
		7	
		8	
		9	
		10	

In connection with the existing case in the Civil Court of the City of New York referred to above, I, the tenant of the apartment referred to, wish to call the Court's attention to the conditions listed above which I allege are violations, and request that an inspection of the property be made to verify my allegations.

Date of Request: 09/16/03

Tenant's Signature: Lovely Sweet Tenant

Manhattan & Bronx

An inspector will come to inspect these conditions

on: _____

CIV-LT-61 (3/91) (Replaces A & B)

Kings & Queens

An inspector will come to inspect these conditions but you must first call the inspector's office to make an appointment.

Call: () _____ - _____

NOTE: You will complete this Inspection Request form at the West Side SRO Law Office, when the client comes in to sign the other documents you have prepared.