

Asthma Act Will Help Tenants Breathe Easier

by Eleanor J. Bader

Margarita Pabon's daughter was 18 months old when she began to show signs of chronic illness. "It started with a bad cough," began Pabon, who lives in Sunset Park. "At first we thought it was a cold or the flu, but she kept being sick until one night she could barely breathe." Early one morning, Pabon took her daughter to a doctor, who diagnosed the child with asthma.

As the doctor outlined treatment options, he asked Pabon if there were cockroaches, rats, or mold in her apartment, all of which are known asthma triggers. Her answer was a resounding "Yes."



Photo of Nicolas Castillo by Miller Oberlin.

Unnerved to learn that poor housing conditions were literally making her daughter sick, Pabon immediately asked her sister-in-law, the apartment’s leaseholder, to call the landlord and demand repairs. He promised quick action, Pabon said, but did nothing. Pabon’s sister-in-law then phoned 311 and City inspectors were dispatched.

“There was mold everywhere,” Pabon explained. “The ceiling in the bathroom was coming down, the sink and toilet leaked, and the rug the landlord put on the floor was filthy.” But the inspectors didn’t address the mold and rodent problems. Instead, they removed lead they discovered in one of the rooms, and left.

Pabon’s experience is not unique. Asthma is a potentially life-threatening condition, and a growing public health crisis, but one that experts say City policy has failed to adequately address. Brett Tolley, an Immigrant Advocate at La Union, a community organization based in Sunset Park, said a major obstacle is

the City's definition of indoor allergens as property rather than health violations. "If there is lead in an apartment, a City inspector will find it," he explained, and if landlords fail to act immediately, the city sends an emergency repair unit to get the job done. But mold, cockroaches, and rats are deemed less serious "B violations," akin to landlords failing to paint or clean a hallway, or replace an entry light. As a result, these allergens are often allowed to fester for years with no penalty to landlords.

As part of a larger organizing effort around the issue, La Union has joined the Citywide Coalition for Asthma-Free Homes, an alliance of seven community organizations working to improve housing conditions in the five boroughs. One of the coalition's top priorities is ensuring the passage of the Asthma-Free Housing Act, which was originally introduced in the spring of 2008 by Public Advocate Betsy Gotbaum and City Councilmember Rosie Mendez. The Act currently has 24 City Council sponsors and, as drafted, would amend the Housing Maintenance Code to reduce indoor allergens—rats, mold, and roaches—in units rented by people with asthma, emphysema, or lung cancer. It would also require landlords to inspect apartments at least once a year, and prove that asthma triggers have been removed. Like Local Law 1 passed in 2003, which mandated the removal of brain-damaging lead from housing units, the Asthma-Free Housing Act re-classifies rats, mold, and roaches as immediately hazardous "C violations," and authorizes the Department of Housing Preservation and Development to correct infractions if landlords don't. The Act also requires the Department of Health and Mental Hygiene to encourage healthcare workers to report suspected indoor allergens to HPD on their patients' behalf.

One shortcoming of the Asthma-Free Housing Act is that it only applies to housing units occupied by tenants who are already sick, even though it is well established that respiratory conditions such as asthma often originate with exposure to indoor allergens. Still, advocates support the legislation as a necessary first step in addressing the crisis.

Promises From the City, But Little Progress

Public Advocate Gotbaum said she became interested in indoor allergens after her office began tracking mold complaints and found a whopping 1800 percent increase in calls to the Department of Health and Mental Hygiene between 1999 and 2004. “I was shocked to learn that the Housing Maintenance Code contains no enforceable protocol for mold assessment and clean up,” Gotbaum wrote in an email. “This is a clear-cut public health issue; no one with asthma should have to live in an apartment with pests or mold.”

This conviction was buttressed by further research by Gotbaum’s office revealing that one million New Yorkers, 300,000 of them children, live with asthma. The condition is the primary reason for school absence in the U.S., and the most common cause of hospital visits for those under 14. Not surprisingly, poor and low-income families are at increased risk: A 2003 report by the City Department of Health and Mental Hygiene demonstrated that those earning over \$75,000 a year live in units with fewer allergy triggers than those earning \$25,000 a year.

Make the Road New York, a community group working to improve health conditions in low-income areas of Brooklyn and Queens, got involved in the Coalition for Asthma-Free Homes in 2005. That same year, according to housing organizer Jesse Goldman, the group conducted a study that found that the asthma hospitalization rate in Bushwick was four times that of other parts of the city. The culprit? Bad housing conditions.

“The Act is a way to hold landlords accountable,” Goldman explained. “It’s about a greener home environment and represents a huge potential savings to the City in terms of fewer Emergency Room visits and missed days of school. The lead bill has lowered lead levels in children; the same could be true of asthma if we remove the triggers that make it worse.”

It seems like a no-brainer. Yet the Act has languished in the City Council since its introduction last year.

Brian Kaszuba, Gotbaum’s Deputy General for Intergovernmental and Legal Affairs, blames the lack of progress on timing. “It was introduced late in the 2008 legislative year,” he said. “This session, the focal points of the Council’s

work have been the budget and term limits. The Asthma-Free Housing Act was simply not the main thing on the Council or Administration's agenda."

But the seven-member Coalition for Asthma-Free Homes, which includes the American Lung Association, the Urban Justice Center, La Union, Make the Road New York, the Fifth Avenue Committee, the New York Immigrant Coalition, and the Northern Manhattan Improvement Corporation, are determined to get the Act passed.

Landlords in Denial

This past April, tenants from 346 54th street in Brooklyn's Sunset Park staged a boisterous protest outside the office of landlord Dan Brady. Veronica Mirafuentes lives in one of two occupied apartments in the eight-unit building, and ticks off conditions that would make Jacob Riis weep: black mold, leaks, erratic heat and hot water, rats, roaches, holes in the ceilings, floors, and walls, and garbage piled up by construction crews who began but never finished renovating vacant apartments. HPD lists 301 violations—the roster runs 16 pages—for the building, from faulty boiler valves to broken windows and rampant vermin.

This state of affairs, said Mirafuentes, has exacerbated her son Nicholas' asthma, which he developed as a toddler. Despite near-daily use of a nebulizer and inhaler, Nicholas misses a lot of school and has difficulty concentrating when he is ill. "If his throat is sore or he is coughing, it is difficult for him to pay attention," she said.

At her wit's end, Mirafuentes described call after call to both her landlord and 311. She shrugs, "Nothing has helped."

For his part, Dan Brady pooh-poohs the complaints. "I've never seen evidence of rats," he said. "I could send an endless parade of exterminators and the tenants would love it, but cockroaches are not endemic to buildings. They come from grocery bags and poor housekeeping. Spraying with toxic chemicals would not be doing the tenants any favors."

But advocates and city officials insist that less toxic alternative strategies for managing pests are available. Gotbaum and other supporters of the Asthma Act point landlords like Brady to Integrated Pest Management, a system of complementary techniques that does include the use of some chemicals, but is safer than traditional methods of extermination, and is endorsed by the City's Health Department.

But Brady said that even if he were to decide to fix conditions, it would require him to evict tenants, something he said he does not want to do.

This assertion leaves organizer Brett Tolley virtually speechless. In his view, there is plenty that can be done without displacing tenants. But he's not discouraged. His organization, together with residents, plans to continue pressuring Brady to repair his property.

Toward that end, Mirafuentes recently presented a dead rat, firmly affixed to a glue trap, to landlord Brady. "This should end his denial of the problem," she laughed, adding that she is cautiously optimistic that the double-punch of the rat and office protest will get results.

Margarita Pabon, however, finally gave up, and moved her family to a freshly renovated, pest-and-mold-free apartment. She reports that her daughter's asthma has greatly improved.