

Advocates Call on City to Remove Illegal East Village Penthouse Addition

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The penthouse addition at 515 E. Fifth Street. (DNAinfo/Patrick Hedlund)

EAST VILLAGE — Penthouse additions sitting atop an East Fifth Street tenement building that were deemed illegal by the city years ago need to be torn down, said tenants and elected officials Tuesday after a protracted battle to have them removed.

Advocates say the sixth and seventh floors at 515 E. Fifth St., near Avenue A, which were added in 2006, pose fire safety risks, have damaged existing apartments and created health hazards such as dust.

The extra floors were declared illegal by the city in 2007 after the Board of Standards and Appeals struck down a Department of Buildings decision that the additions did not violate zoning law.

The landlord then appealed the decision with the state Supreme Court, which ultimately denied the request.

Now, nearly five years later, tenants of the building and politicians who helped press the issue want the city to act on the BSA's ruling and take down the illegal penthouse.



State Sen. Daniel Squadron (r.) gathered with tenants and housing advocates in front of 515 E. Fifth St. on Weds., Oct. 19, 2011. (DNAinfo/Patrick Hedlund)

"You've got to follow the rules — period," said **State Sen. Daniel Squadron**, who gathered with residents and local leaders outside the building Tuesday. "When you don't follow the rules, you put people's lives at risk and you drive them from their homes."

Advocates, including counsel from the **Urban Justice Center**, said that the penthouse additions pose fire-safety risks to the entire building because the rooftop units don't include a fire escape.

Additionally, they violate the city's multiple-dwelling law, which requires the installation of an elevator in buildings higher than six stories, advocates said.

The owner has also faced complications with its nearly identical **penthouse expansion at 514-516 East Sixth St.** BSA ordered the seventh-story addition removed.

At 515 E. Fifth St., the BSA determined that the penthouse violated the city's "Sliver Law," which governs enlargements to narrow buildings.

Tenants of the building, who said that the number of rent-stabilized residents dropped from 10 to four after the building was purchased, also charged their landlord with creating nearly unlivable conditions while constructing the extra floors.

"This landlord has a history of harassing tenants," said Wasim Lone, of the housing advocacy group **Good Old Lower East Side (GOLES)**.

The penthouse work also caused cracks in tenants' walls and ceilings, leading to water damage, while also causing gas outages and filling the building with dust, residents charged.

"They created those conditions to build something they shouldn't have built," said Alice Baldwin, who's lived in the property for 30 years. "We want to stay in the building, but we want the building to be legal and we want the building to be safe," she added.

A lawyer for the landlord, listed as 515 East 15th Street LLC, said the owner poured more than \$3 million into the building's renovation to help improve, among other things, fire safety elements.

"The building is vastly safer than it was prior to any renovations," said attorney Marvin Mitzner, noting that the overhaul included the installation of new sprinklers, smoke detectors, fire-resistant material and egress from the backyard.

"It's certainly improved [things] for a lot of tenants in that building."

A DOB spokesman said that the agency **already issued violations to the owner for the illegal additions** and has referred the matter to the city's Law Department for review.

A spokeswoman for the Law Department acknowledged that the matter has been referred to them, noting that the agency is "looking into it," but declined to comment further.

The Law Department would ultimately need to seek a court order to force the owner to remove the floors.

However Mitzner explained that the owner plans to appeal the case to the BSA to have the current ruling dismissed, arguing that the penthouse additions should be grandfathered into the existing zoning after the 2008 downzoning in the East Village and Lower East Side, which limits building heights, took effect.

"Until that's resolved, I don't think it's appropriate for anybody to take any action," Mitzner said.

Nonetheless, opponents explained that the existing structure is illegal and flouting city law as long as tenants reside in the penthouse.

"I believe the owner is illegally renting these apartments," said **Councilwoman Rosie Mendez**, who first took a tour of the building back in 2006 and has pressured the city to take action. "I believe a lot of landlord-developers in this community use this tactic."

Read more: <http://www.dnainfo.com/20111019/lower-east-side-east-village/advocates-call-on-city-remove-illegal-east-village-penthouse-addition#ixzz1cTn7oS7o>