



TESTIMONY OF ROBERT SANDERMAN ON BEHALF OF LEGAL SERVICES IN SUPPORT OF ADU AND COMMUNITY LAND TRUST LEGISLATION IN THE STATE BUDGET
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I am a senior staff attorney in the community economic development and housing rights units at Queens Legal Services—a borough office of Legal Services NYC.

About Legal Services NYC

Legal Services NYC is a non-profit organization that fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with deep roots in all of the communities we serve. Our staff members assist more than 80,000 low-income New Yorkers each year and, along with other legal services providers in the city, Legal Services NYC is at the forefront of the fight to prevent evictions, preserve affordable housing, and ensure that our clients' apartments are safe and our clients are not subject to harassment. A significant part of Legal Service NYC's work is in the areas of tenant rights, eviction defense, and foreclosure defense—in addition to a range of other legal matters.

About the BASE Campaign

Legal Services NYC is part of the Basement Apartments Safe for Everyone (BASE) coalition. BASE is a coalition of community groups working to ensure that basement apartments and other Accessory Dwelling Units (ADUs), are safe, legal, and affordable for NYC tenants and homeowners.

Preserving Affordable Housing, Mitigating Displacement and Safeguarding Tenants Through Accessory Dwelling Units

The chronic shortage of affordable housing in New York shapes the lives of our clients and the communities in which they live. In Queens, where the majority of the housing stock consists of small buildings and one to four-family homes that are not subject to rent regulations, our staff regularly sees families priced out of their homes as rents rise. We likewise represent dozens of homeowners each year facing foreclosure because of a single financial setback. Against this backdrop, it is unsurprising that we also see many clients who live in unregulated—and often illegal—basement apartments. Simply put, in a city with so few options for affordable housing, people are forced to assume the risks associated with unregulated ADUs rather than face homelessness.

Basement apartments provide a much-needed supply of affordable housing for low-income individuals and families and a much-needed source of income for low-income or struggling homeowners, particularly in the outer boroughs, where 95% of the dwelling units that have not been legalized are located. There are thousands of basement apartments in New York City—while the exact number of units is not known, eliminating these housing units would likely displace tens of thousands and cause rents to rise even more

steeply, especially among unregulated apartments, as demand for non-ADU units would skyrocket. For many NYC residents, especially immigrants and in communities of color, ADUs serve as the only option for affordable housing in the City. Furthermore, there are presently many more basements that could provide additional affordable housing if homeowners were only authorized to use them. Therefore, the ADU legislation would benefit the most people if it covered new and existing units in NYC.

In addition to being a valuable source of affordable housing, ADUs also provide a critical source of income in working-class homeowner communities. Our Homeowner and Consumer Rights practice serves hundreds of homeowners, predominately in Southeast Queens, which is made up of historically Black homeowner communities and remains among the few neighborhoods in NYC where working class people can still afford to purchase a home. Many homeowners in these neighborhoods remain a single financial setback away from defaulting on their mortgages. Many also rely on boarders or other unregulated rental income to pay their mortgages and property taxes. However, under existing laws, relying on income from an illegal basement apartment puts a homeowner at great risk of default on their mortgage—even if the unit is safe.

The existing laws governing basement apartments leave both tenants and homeowners unprotected. Tenants lack the most basic protections and have no means of redress if their landlord fails to make repairs or maintain the property. If they attempt to report unsafe conditions, they are likely to face a lockout and lose their home permanently. Likewise, if a homeowner attempts to rent their basement in order to have additional income to support their mortgage payment, they risk substantial fines and have little recourse if they are unable to collect rent. Worse, the existing codes do not adequately

differentiate between those units that are safe and habitable and those that are truly dangerous. The sheer number of basement units in the city also presents an enforcement challenge: with so many basement units across the city, DOB is unable to identify and prioritize eliminating those units that actually pose risks to safety—both putting tenants at risk and denying many homeowners the opportunity to rent out habitable and affordable units that would provide desperately needed affordable housing. If the ADU law was passed to permit the legalization of existing ADUs and creation of new ones, DOB could focus its resources on identifying the truly dangerous living situations as opposed to every alleged ADU.

Based on decades of working with tenants and homeowners, we at Legal Services NYC know that safely converting basement apartments would afford greater protections for both homeowners and renters. More importantly, we must ensure the health and safety of the many tenants residing in basement apartments throughout NYC.

Tenants need sufficient means of ingress and egress, among other essential safety measures, in case of an emergency and/or natural disaster. It is imperative for governmental agencies to work with groups such as BASE and climate conscious organizations to save lives and improve the current state of basement apartments to mitigate a future tragedy. Additionally, simplifying the regulations governing ADUs would be extremely helpful in allowing homeowners—and potential homebuyers—to determine whether they can safely add an accessory unit to their homes. Allowing more homeowners to convert their basement apartments into lawful dwelling units will give homeowners a legal option to subsidize their mortgages and avoid foreclosure.

It is essential for eligible homeowners to not be burdened with unnecessary compliance requirements that do not further the health and safety of tenants. For example, a higher tax class for converting a two-family house into a three-family house would be a huge financial burden and disincentive for low-to moderate income homeowners. Providing financial support to homeowners in low-income communities and communities of color will increase their opportunity to build individual and collective equity, have direct involvement in building the resources of their community, and remain in neighborhoods that are increasingly becoming too expensive for low to moderate income families throughout the city.

Creating and Preserving Affordable Housing Through Community Land Trusts

Additionally, community land trusts (CLTs) would greatly benefit our client base. This form of affordable housing for homeowners and tenants would mitigate displacement in our communities. Mitigating speculation and profit driven factors from our housing stock would provide many low-to-moderate income NYC residents and communities of color the opportunity to purchase a home, which is currently out of reach for many. In turn, CLTs provide tenants with truly affordable rents and housing security. The increase of CLTs could decrease the eviction and foreclosure rates in our city.

To close, ADU conversions and the formation of CLTs would benefit our client communities because it would expand affordable housing options while also ensuring that all housing units are safe and habitable. It would also provide a critical source of additional income for moderate-income homeowners. More than ever, we need to preserve

and create safe and affordable housing in order to also preserve the diversity that makes NYC great.